

CONTENTS

Foreword		
I. Introduction	...	1-6
The State of Meghalaya	...	1
Economy	...	2
Education, literacy and language	...	2
Religion	...	2
State of research	...	3
Importance of customary law and post-Independence studies	...	4
Areas of study	...	5
The theme of autonomy	...	6
II. The Constitution and the Tribal Areas	...	7-16
Position before the Constitution	...	7
The Constituent Assembly and tribal areas	...	7
Post-Constitution developments	...	11
The Constitutional scheme for the tribal areas	...	13
The Constitutional scheme as to the judicature in tribal areas	...	14
Miscellaneous	...	15
III. General Observations and the Sources of Law	...	17-27
The preservation of autonomy	...	17
The problems of the researcher	...	17
Hierarchy of courts	...	18
Constitutional history	...	19
Autonomous status	...	19
History of judicial administration	...	20
Three major sets of Instruments applicable to Khasi and Jaintia Hills	...	25

Three major sets of Instruments applicable to Garo Hills	...	26
The law applicable	...	26
IV. Judicial System in the Garo District	...	28-40
Constitution of Village Councils	...	28
Constitution of courts	...	29
Village Courts	...	29
Subordinate District Council Court	...	30
District Council Court	...	31
Powers of courts	...	32
Village Courts	...	32
Subordinate District Council Court	...	33
District Council Court	...	37
V. Judicial System in the Khasi and Jaintia Districts	...	41-55
Constitution of courts	...	41
Village Courts	...	41
Procedure and appearance of counsel	...	42
Subordinate District Council Court and Additional Subordinate District Council Court	...	43
District Council Court	...	44
Powers of courts	...	45
Village Courts	...	45
Subordinate and Additional Subordinate District Council Courts	...	46
District Council Court	...	51
List of Khasi States	...	55
VI. An Evaluation of Village Courts	...	56-58
VII. The High Court	...	59-60
VIII. Significance and Salient Features of Tribal Law	...	61-74
Provisions as to the law applicable	...	61
Custom and its anthropological meaning	...	62
Salient features of tribal law	...	63
Legislative precedent from East Africa	...	64
Need to base code on concepts of the people	...	65
Scope for comparative study—the example of District Council	...	65

I.L.O. report and kinship with customary institutions	...	66
Importance of custom	...	66
Custom affecting private lives	..	67
Selected judicial decisions on customary law in Meghalaya	...	67
Discussion in Constituent Assembly	...	68
Plurality of legal systems	...	68
Customary law amongst the Garos	...	69
Customary law amongst the Khasis	...	71
Applicability of customary law to Khasis converted to Christianity	...	72
Transformation of custom	...	73
IX. The People—Khasis, Jaintias and Garos	...	75-82
The Khasis	...	75
General	...	75
Who is a Khasi	...	75
The Jaintias	...	81
The Garos	...	81
Theories about origin and abode	...	81
X. The Matrilineal Society	...	83-84
Pattern of residence	...	83
The female heiress	...	84
Matrilineal societies and mother-right	...	84
XI. Khasi Marriage, Divorce, Maintenance and Conjugal Residence	...	85-93
Marriage	...	85
The rule of exogamy	...	85
Prohibited relationships	...	85
Cross-cousin marriages	...	86
Marriage ceremonies	...	86
Preliminary scrutiny	...	86
Engagement ceremony	...	87
Marriage	...	87
Custom in Jowai	...	87
Monogamy	...	88
Christian marriage	...	88

Divorce	...	88
Grounds	...	88
Formalities for extra-judicial divorce	...	88
Re-marriage after divorce or on death of spouse	...	89
Maintenance	...	90
Maintenance claim by a non-Christian wife		
against the husband	...	90
Maintenance claim by a Christian wife	...	91
Conjugal residence	...	92
XII. Inheritance Among Khasis and Jaintias	...	94-112
Khasis	...	94
Classification of property	...	94
Youngest daughter as heir	...	95
Importance of the woman as the source of the clan	...	95
Khasi khadduh and Hindu karta	...	96
Khadduh's rights as custodian	...	96
Death of the youngest daughter	...	97
Youngest daughter abandoning her claim	...	97
Preference to female heirs	...	98
Husband's right in wife's ancestral property	...	98
Male's right as manager of family properties	...	99
Khasi male's ownership over self-acquired		
properties and succession thereto	...	100
Jaintias or Syntengs	...	102
Succession to males	...	102
The custom of kit-kih and ri-shieng	...	102
The Nongtalang case	...	104
Shella Wars	...	105
Ri-shieng land	...	105
Succession to ancestral property of males	...	106
Self-acquired property	...	106
Synteng Wars	...	106
Disqualifications	...	108
Grounds of exclusion	...	108
Murder	...	109
Unfit for management	...	111
Christians	...	112

XIII. Khasi Adoption and Guardianship	...	113-115
Adoption	...	113
Requirements of a valid adoption	...	113
Consequences of adoption	...	114
Rape	...	114
Ceremonies	...	114
Guardianship	...	115
XIV. Garo Marriage, Divorce and Maintenance	...	116-130
Marriage	...	116
Exogamy	...	116
Proposal for marriage from the girl's side	...	118
Forms and ceremonies of marriage	...	119
Nokna's obligation to marry boy from father's clan	...	120
The akhim bond	...	121
Release from akhim	...	121
Refusal to marry not to involve payment of dai	...	122
Mother-in-law marriage	...	122
Rationale underlying mother-in-law marriage	...	123
Prevalence of mother-in-law marriage	...	123
Polyandry and polygamy	...	124
Divorce	...	125
Party at fault to pay fine	...	125
Desertion by wife	...	125
Desertion by husband	...	127
Separation by consent	...	128
Divorce amongst Christians	...	128
Maintenance	...	129
Maintenance under customary law	...	130
XV. Garo Inheritance	...	131-154
Basic principles of inheritance	...	131
The nokna and her rights of inheritance	...	133
The heiress ordinarily the youngest	...	138
Self-acquired property of male	...	139
Successor wife	...	139
Nokna to override claim of successor wife	...	140

Second wife of a different clan	...	141
Agreement with second wife as to distribution of first wife's property	...	141
Female selected by machong as heiress	...	142
Rights of males	...	143
Father	...	144
Husband	...	145
Son	...	146
Forfeiture	...	147
Separating from the household	...	147
Separation forced by circumstances	...	149
Unchastity	...	150
Disqualifications for inheritance	...	151
Nokna's refusal to marry from father's clan	...	151
Breach of akhim by widower	...	151
Desertion by wife	...	152
Desertion by nokrom or separation by mutual consent	...	152
Conclusions	...	153
XVI. Garo Adoption and Guardianship	...	155-156
Adoption	...	155
Guardianship	...	156
XVII. Conversion to another Religion	...	157-161
Khasis	...	157
General position as to effect of conversion	...	157
Position of khadduh after conversion	...	158
Effect of conversion as to enjoyment of ri-niam land	...	160
Effect of conversion on the right of a male to succeed	...	161
Garos	...	161
XVIII. Modernisation of the Tribals	...	162-163
XIX. Conclusion	...	164-167
Customs how far changing	...	164
Experience in other countries	...	165
Legislative reform	...	166

Appendices

1. The Rules of 1937	... 168-171
2. Siems and their Jurisdiction	... 172-174
3. Early Judicial and Legal History of the Tribal areas in Meghalaya	... 175-179
4. Miscellaneous Garo Terms	... 180-183
List of Cases	... 184-187
Bibliography	... 188-190
Index	... 191-192

