



NATURE OF DIVORCE IN THE GAROS' MATRILINEAL SOCIETY OF MEGHALAYA

Biswanath Roy

State-Aided College Teacher

Thakur Panchanan Mahila Mahavidyalaya

Cooch Bihar, West Bengal

&

Research Scholar, Mahatma Gandhi University, Meghalaya

e-mail-biswanathroy00035@gmail.com

ABSTRACT :

In each every society, divorce is the dissolution of legal and valid marriage. Divorce is admissible in the Garos in spite of severe punishment prescribed by customary laws, such as imposition of compensation (dai) or forfeiture of property of the erring party. The rules and regulations of a.kim plays an significant role in the continuation of conjugal life. The scenario in the Garos is that there are the incidences which happen in this regard seem to be very sensitively noticeable. It is the case that even a.kim bond cannot prevent divorce. Divorce though a legal case in a society is in real ground an unpleasant affair. At times divorce is unavoidable, even after reconciliation and mediation by the chras and maharis amongst the Garos. The researcher attempts to show the nature of divorce and different matters pertaining to divorce.

Keywords: *Valid marriage, Customary laws, Conjugal, Legal case, Traditional laws.*

I. Introduction:

In Garo society, when a wife or husband feels that continuation of married life is no longer possible, the offended party or both can bring the matter into the notice of the chra and mahari. Under such circumstances, the chra and mahari in request the couple to come to an understanding and compromise in the interest of the family. When these initiatives fail, the divorce is the resort.

Divorce may be classified as mutual or unilateral. It is a serious to be noted that when divorce takes place by mutual consent, no compensation (dai) is paid. But if it happens unilaterally, the erring party has to pay dai of rupees sixty (60/-). If it is found that the husband is the erring party, he has to pay dai to the wife. The chra and mahari may play a significant role to find another husband for the divorced woman. In case of the wife's fault, the wife is bound to



leave the house and pay dai of rupees sixty to the husband. At this stage of life her right to enjoy the property is forfeited. She losses not only of the properties she had earned with the husband but also of those properties she had inherited. The chra and mahri approve another wife for him and he is allowed to exercise his authority over the wife's property through her along with the children staying with him. It is very important to note that the daughters who have left the house with the erring mother also forfeit their inheritance and only the daughters who had stayed back with the father can utilize the property.

Jangsan Sangma commented that "divorce can take place by mutual consent when both parties prove to be incompatible and cannot live together. But if one party is to blame, he or she must pay a dai of rupees sixty to the other party". According to Playfair, "Compensation, when divorce is not by mutual consent, is fixed by custom from sixty to one hundred rupees. In past times, the price of divorce was the value of a dakmanda (a black cloth or wrap-around, shaped like an Assamese mekhela) and a ring or a brass gong. Those days are no more today, and a substantial sum of money is now generally claimed. Instead of paying money, the person seeking a divorce may offer a substitute. It is to be mentioned that the husband or wife thus given in exchange must belong to the same clan and motherhood as the person whose place is taken. Divorce is not a matter to be taken place through mutual consent or unilaterally by the couple themselves. It must be done with the knowledge of the chras and maharis. The chra and mahri takes primarily some initiatives when informed about the intention of the party, first attempt to mediate and bring about reconciliation, but if the continuation of marriage is no longer possible, then divorce takes place. According to Fr Costa t, a case of divorce breaks the a.kim bond between the lineages of these couples and hence the divorcing partner has to pay compensation or dai to the divorced couple. This is such a compensation which is called a.kindai. This compensation has to be paid by an accused and or his or her mahari on the break of nuptial engagement and also on the failure of providing replacement for a dead couple. It is to be noted that public payment and acceptance of a.kindai formalizes the end of the a.kim. In case of the mutually agreed divorce and an agreement of replacement of the divorcing partner by the concerned mahri do not involve any payment of dai or the end of the above bond.

Divorce is not generally permitted in the Christian Garo community. It is interesting to note that Christian marriages stress on the sanctity and sacrament nature of marriage. As per the Indian Divorce Act, 1869 governs divorce among the Christians. But a sizable number of



Christians neither approach the court for divorce nor continue with their conjugal life and subsequently separation takes place. At this critical situation of life of the couple, the church usually excommunicates the erring spouse, in case of unilateral divorce, and the couple in case of mutual divorce. Dai-paying is still in practice amongst the Christians in the event of divorce.

II.Objectives of the Study:

- 1) The article wants to show the nature of divorce amongst the Garos.
- 2) The study aims to showcase the approach of the Garos to divorce.

III. Methodology:

The study has been based on Survey Method. For primary data the researcher has conducted survey, interviews, observations etc and he collects secondary data official records, books, journals, census reports etc.

IV. Discussion:

It is noteworthy that divorce can be initiated by any aggrieved party in the marriage related to be one or more grounds such as adultery and unchastity, abandonment and desertion, cruelty and ill treatment, incompatibility, barrenness, mutual consent, etc. There are so many reasons for divorce cases amongst the Garos and adultery is one of the main grounds for divorce among the Garos. Adultery does mean having voluntary sexual relation by a married person with any individual other than the spouse. The same situation happens for both husband and wife and there is no distinction if it is committed either of them. According to Playfair, “in former times, this offence was much more severely punished than it is now, the penalty for the woman was to have the lobes of her ears torn through, and her garments reduced to rags, so that she might be an object of scorn to her neighbours.” A special mention should be made that the man was either sold as a slave or killed; for a second offence the woman also was not infrequently put to death. Jangson opine that, “if a wife is unchaste or deserts the husband, he can divorce her and the wife would be liable to pay a dai or rupees sixty to his party,”

Desertion can be either of the spouses. Julius LR Marak said that “if any man abandons his wife and children without any reasonable cause and without her consent or against her wish, or wilfully neglects her and her children for more than a year, and the family suffers from want of maintenance, his wife can sue for a decree of divorce giving sufficient grounds and witnesses. When thus divorced, because of her husband’s fault, he shall have to pay the dai of Rs 60/- to



her and the children”. Ill-treatment or abuse, either physically or verbally by any party is not in practice or is looked down upon. It is interesting to note that when either of the spouses feel threatened or is mentally disturbed as a result of the abuse, the aggrieved party may opt for divorce. Sometimes, the degree and nature of cruelty meted out is difficult to establish, as it may be either subtle or violent. Julius Marak, observes that, “if the chra and mahari of both the husband and the wife find that their lives will be in danger by their continuing to live together and separation is the only alternative, they may mutually agree to separate.” At such juncture of life, if divorce takes place, no dai is to be paid by anyone. In this regard one point should be mentioned that the question of incompatibility usually does not arise. Before having marital bond, the compatibility of marriage is ascertained through examination of the entrails of a hen. If the marriage appears not to work as a result of misunderstanding, unsatisfactory income, poor management of the household, differences in taste and ideals, etc., the spouses may opt for divorce.

It is generally found that, infertility, incurable disease and unsound mind does not approve divorce since the rule of a.kim can take care of these by providing another spouse. A man can keep a second wife, with the consent of his first wife and her chra, when the first wife is barren or suffers from such disability. Adopting a sister’s child is admissible under the customary laws. Infertility may not give a strong ground for divorce. It is the observation of Prof. M.C Goswami, “as a matter of fact, the traditional form of A.chik marriage make no provision for divorce. But at the same time, one of the principal objectives of wedlock being to beget progeny for supporting the aged couple, an absence of progeny after a reasonable period of time may frustrate the couple. They may feel unhappy and restive. On the contrary, an open provision for adoption of an inheritress even for the daughterless couple implies that issuelessness should be no cause for seeking a divorce.” He also observe that incurable disease or impotency cannot be counted as causes leading to separation of the married couple, but the affected person may be provided with a replacement met in appropriate cases which, in the considered judgement of the maharis concerned, deserve such a consideration. It is the observation of Father Costa “sterility of wife may lead to adoption of a co-wife and not necessarily to divorce. In this regard, Jangsan Sangma said that “being hermaphrodite or either party being sterile constitutes ground for divorce by payment of a dai of rupees sixty by the party who seeks divorce.”



V. Conclusion:

It has been found in the study that divorce under tribal customs of the Garos is normally liberal and a simple ceremony effects the same. The divorce cases happen before the village elders, and it is known as bolsekidena. In such cases the husband and the wife take some dust in their hands and swear by Mane, the Earth, to have no dealings with each other. During such divorce cases the priest plays crucial role. The priest is found to take a sword or spear and strikes a tree with it and calls upon it (as a son of the Earth) to be a witness to the oath taken by the two. In this episode of divorce the weapon is provided by the husband. Besides, mutual consent, there may be various other grounds on which the parties may seek divorce viz., sterility, unchastity, desertion, disease, etc. If it is observed that the cause for separation is simple, custom demands that the relations and village elders make an endeavour towards reconciliation. But If, the differences are irreconcilable, divorce is effected. Guilty Party is destined to pay fine. A special note should be made that under Garo customary law the party who is responsible for bringing about the divorce or the strained relations is liable to pay some compensation to the other party. Such cases get illustrated by a few cases arising in the villages, some of which went upto the High Court.

References:

- [1] Allen, B.C 1909 Assam District Gazetteer. Vol X
- [2] Chattopadya, S.K. 1985 Tribal Institutions of Meghalaya. Spectrum Publication.
- [3] Chattopadya, S.K & Sangma M.S. 1984 The Garo Customary Laws. Directorate of Arts and Culture, Meghalaya, sillong
- [4] Choudhury, Bhupendranoth 1958 Some Cultural and Linguistic Aspects of the Garos, Gauhati, Assam: Lawyer's Book Stall
- [5] Costa, G. 1975 The Garo Code of Law. Catholic Church Tura, Meghalaya
- [6] Datta Ray, B (Ed) 1979 Agriculture in the Hills, A case study of Meghalaya: North East India Council for Social Science Research, Shillong.
- [7] Directorate of Arts and Culture, 1989, The Garo Customary Laws, Meghalaya, Shillong.
- [8] Ehrenfels, UR, 1941 Mother right in India (Osmania University Series), Hyderabad, Deccan: Oxford University Press.