

TRADITIONAL MIZO CUSTOMARY LAW WITH SPECIAL REFERENCE TO MARRIAGE AND DIVORCE

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ABSTRACT:

From time immemorial, the Mizos had their own Customary Laws. Marriage and Divorce are their old customary law which still existed till today. Many of the practices are still existed. Many steps are followed for the outcome of marriage celebration. As marriage price existed among them, sometimes it became a hindrance for the marriage celebration. The mediators played a very significant role for the success of the marriage celebration. As marriage occurred among them, divorce was also common among them. A man can easily divorce his wife. There are many grounds where a husband and wife divorce from each other. In this article, attempt is made to highlight the Customary Laws of the early Mizos in regard to the different steps to be followed for marriage and the different grounds for divorce.

Key Words: Mizo, Customary Law, Marriage, Divorce.

I. INTRODUCTION:

The Mizos had their own distinct traditional Customary Laws from time immemorial. However, many of those traditional practices have undergone changed with the occupation of the Lushai Hills by the British and set up their administration. In this article, an attempt is made to study the traditional Mizo Customary Laws with special reference to Marriage and Divorce during the Pre-British period.

II. MARRIAGE:

Marriage among the early Mizos was a civil contract and was normally arranged by the parents. The parents exercised utmost care and solemnity in the selection of a life partner for their children. They did not look only at the outward character and accomplishments for the life partner of their children. They carefully enquire into his or her lineage, the reputation of the parents, grandparents and even the earlier ancestors. Many

characteristics such as insanity, epilepsy, talkativeness, thieving, drunkenness or laziness are considered hereditary and the children of such persons have a lower value in the marriage market. Usually, the Tlangvals or young men like to marry only those whom they have not had any part in pre-marital sex.

(1) Courting or Nula-Rim:

Nula-Rim is a Mizo word for courting. It is a common practice among the Mizo boys. Usually, a young man who is courting a girl goes off to the girl's house at night. If the man felt like seeking the girl in marriage, he will mostly suggest that they should in the future help each other in their work. If the girl agrees, they came to a definite understanding and the man will escort the girl while bringing fire wood or water for her parents' family. During this time, the girl had the opportunity to judge her suitor whether her suitor is likely to make her a good husband or not and if she thinks that he is likely to be a satisfactory husband, she yields to his advances which might even take the form of premarital sexual relationship. Once this happened, the young man will visit the girl in her house every night after her parents have gone to sleep and the girl will keep the door open for him and sit up and wait for him, while the boy will come and slip into her bed without the knowledge of the parents. If the girls' parents get wind of what is going on, they will wait up one night and catch the man as soon as he gets on to the Khumpui (main bed) and will claim Khumpui Kaiman (fine for going on the main bed). The man will either have to pay Khumpui Kaiman or else marry the girl.

Since Nula-Rim became so much a part of their life and custom, the young man should take proper precaution and suitable restraints to enable him to take a stand against any possible unfair attack. For this, he would take a young boy from the Zawlbuk (Bachelor's Dormitory) who is known as PuarAk (witness between lovers) while courting his loved one. The main duty of the PuarAk was to act as a witness to the whole issue of the intimacy between the lovers in case of occurrence of any dispute or misunderstanding between parents or lovers themselves. In the absence of PuarAk to act as a witness to the whole issue of the lover's intimacy, the young man was liable for payment of a fine of Rs.40/- to the girl for defaming her. However, in spite of the freedom in regard to premarital sexual relation, a girl who is still a virgin when she gets married is more highly esteemed and was more sought after than the others.

Courting was also practiced by the young married man known as Pathlawi (divorced married man). The girls often preferred these young married men to the unmarried men because of the more mature ways of practicing the art of love and greater experience by the former. The girl's parents were also less suspicious of their daughter's mixing with the young married men as they think that the Pathlawi were visiting them and not

their daughter. On the other hand, the unmarried girls found it possible to make their relationship more close to the married man on account of their parents' attitude to the married men to be freer with them without being shy. However, a married young man had to be very cautious against being ensnared into a position of paying heavy fines on his inability to marry a girl who allowed his advances on such assumptions.

(2) Khawnthiang:

In the selection of a bride, the early Mizo society did not confined itself to one's own village. In fact, the search for a bride from other villages is considered to be a sign of wealth, power or something above the ordinary and most of the young man wanted to search in other villages. If a young man court a girl from other village and at the same time, the girl's parents knew that the man wanted to marry their daughter, the girl's father can make it Khawnthiang for his daughter and her suitor. It is a kind of formal engagement between them and after performing it, the boy must marry the girl. It cannot be done if both the boy and girl were from the same village. Therefore, those who can do Khawnthiang were very proud of themselves.

(3) ZawlPuanPhah:

It is just like an engagement when a marriage cannot be solemnized for some unavoidable circumstances. It was done with the knowledge of the girls' mother. For this purpose, the girl's mother will spread on the floor of the house in a separate place from the usual sleeping place, a shawl where the boy and the girl were allowed to make love usually during day time. After this, they were to marry at the earliest convenience. However, if the boy refuses to marry the girl for any reason after this ZawlPuanPhahhe is liable to a fine of one mithun. There can be no excuse for this.

In searching a bride for the son of a chief, the hand of a girl from another village, preferably the daughter of a chief is sought. The son of a chief will go to another village to look for a girl. The girl then will hang a cloth round the bed and only with a skirt; she will go to the bed. There, they will look at each other whether there were some marks or any disfigurement in each other. If they agreed to marry, the male side will send Palai (mediators) who will fix the marriage date and the entire marriage price. After this, both sides will make preparation for the marriage ceremony.

(4) Preparation for the Marriage:

In the early Mizo society, the form of marriage was 'marriage by purchase'. As marriage was by purchase, if a man wanted to get married, he would send two mediators called Palai to the girl's parents to know the

willingness of the girl and to consider a reasonable marriage price which the boys' family were prepared to pay. The girl's parents then will ask their daughter whether she is ready to accept her suitor or not and if the girl is ready to accept the proposal, the parents will inform the Palai and from that time onward, they are considered to be betrothed. The wedding date depended on the agreement between the parents of the boy and the girl. It should, however be mentioned in this context that though in the early Mizo society, boys and girls enjoyed ample liberty in selecting their mate for marriage, but sometimes, the parents, specially the girl's parents would interfere in the matter and select a groom for their daughter according to their choice. Thus, the institution of marriage in the early Mizo society made room for couple's own selection and also the selection by parents. Of course, the more prevalent practice, rather the usual practice was couple's own selection. However, either of the party can breach off the engagement if they wishes between the date of betrothal and the marriage date without incurring any penalty.

It is obligatory for a bride to provide herself with some of the property before marriage and take with her on the day of marriage. These includes (i) Pawnpui, a kind of rug used by the Mizos as a blanket, (ii) Thul, a kind of basket made of bamboo for keeping valuables by the Mizos and (iii) Zawlkenpuandum, a special kind of black cloth for wrapping the dead body of her husband in the event of his death. If the girl did not have any one of the three, he will try to have it before the marriage ceremony. It is considered extremely disgraceful on the part of the girl if she cannot go to her husband's house without such possessions. However, she can prepare them in her husband's house but if she makes them in her husband's house after marriage or her husband buy a Puanpui and Thul, her marriage price is reduced to a Tlai or Rs.20/-.

(5) Marriage Price:

As marriage price existed among the early Mizos, marriage price has to be settled before the marriage celebration. Originally, marriage price varied from clans to clans, the highest being the price for girls of Sailo chiefs. However, it also depended on the mutual agreement of both the parties whether price is required to be paid or not. Usually marriage price was calculated in terms of mithuns. The price which the Sailo's had determined in terms of Sial (mithun), which was of three kinds are (1) SepuiNgalkal (grown up mithun) (2) TlaiSial (young mithun) and (3) Puisawmsial(a newly born mithun).

In the early period, the settlement of bride price was crucial because even though prices were determined in terms of sial, they were usually paid in certain goods or articles which are considered equivalent to sial which sometimes prevented the marriage. However, sometimes they were very lenient and could even accept a very

simple thing as equivalent to sial. For instance, long time ago, when Lianchhiari of Chuauhang clan was about to marry a commoner, Chawngfianga, a Hnamte clan, her father, a chief knowing the pecuniary position of Chawngfianga understandably agreed that he should accept a broken axe as an equivalent of Tlaisial.

A marriage price of the Mizos consists of two parts (i) Manpui (Main price) (ii) Mantang (Subsidiary price)

The Manpui is paid to the bride's father or in his absence to the bride's brother. In case, if she have neither of the two, the main marriage price will go to the one who was responsible for her upbringing, may be her nearest male relative or even her mother provided that they were responsible for her upbringing after her father's death. In case, she was a child born outside conventional wedlock and was not recognised by her father, the marriage price used to be paid to the mother. The Manpui should be Rs.100/- at the maximum and the amount of a bride with Thuam (dowry) was increased by Rs.20/-.

Besides the Manpui, the Mantang or subsidiary price which was distributed amongst different persons consists of the following:

- (i) **Sumhmahruai:** It consists of Rs.20/- payable to the bride's father or brother. It means principal of the bride price. It was given by those who could not give the Manpui, instead gave a TlaiSial (Rs.20/-) which was counted as Manpui.
- (ii) **Sumfang:** It is Rs.8/- and was payable to the bride's father or brother.
- (iii) **Pu Sum:** The perquisite of the nearest male relative on the mother's side or of a person specially chosen as the bride's 'Pu' or protector. It varies between Rs.4/- and Rs.10/- but in the case of a chief's daughter it is a mithun.
- (iv) **Pa Lal:** Palal is a person or man whom the bride may select as an adopted father. In return, the Palal is expected to look after her interest throughout her whole married life. It is much needed when a girl married a man of other village. It appears to have been a measure of additional security in her future difficulties. He was given Rs.5/-.
- (v) **Ni-Ar:** It is Rs.2/- payable to the bride's paternal aunt. If there are several aunts, the eldest takes the Ni-Ar of the eldest niece and the second aunt that of the second niece and so on. It is possible for a niece to refuse to allow her aunt to take the Ni-Ar and to select another person of her own family. If the girl did not have aunt, it was given to her nearest relative who could take the place of aunt.

- (vi) **NauPuakPuan:** It is paid to the bride's elder sister for having carried the bride about in her cloth while she was a baby. Each sister receives this from the husband of her next younger sister. Among Sailo it varies from Rs.20/- to Rs.40/-; in other families, it is only Rs.3/- or Rs.4/- . In the case of the eldest sister, it is taken by some near female relative. If the bride was the lone lady, it was given to some other person who was suitable to take it.
- (vii) **Thian Man:** The 'thian' or friend is a female Palal, but she only receives a small sum from Rs.10/- downwards.

All the marriage prices are never paid off once. It was a custom in the Mizo society to allow it to remain unpaid for many years. However, as a rule, a certain amount of the Manpui was paid before the marriage which is called 'Sum HmaHruai' meaning price before taking.

(6) Marriage Ceremony:

After the Palai had discussed the marriage price, the marriage date was fixed. After this, both the parties prepared Zu for the marriage feast. On the wedding day fixed, the groom would send two of his representatives known as Palai to the bride's parents to pay the agreed amount of the marriage price. On this day, the Khawchhiar (village writer) will record the fact of the marriage, the total amount of the marriage price, the amount paid on the marriage day and the amount still due in the presence of two witnesses and a copy must be given to each party for their future reference. The two Palai were always sought to give evidence in case of any dispute about the marriage price in future. It was very often that the total amount of the marriage price could not be paid in one installment on the wedding day and hence the balance amount used to be paid in easy installments, sometimes covering a very long period of time.

The marriage day is known as 'In Sawi Ni', meaning house-shaking day. On this day, some controversies arise almost invariably on account of the marriage price. In his earnestness to be a successful negotiator, a go-between may undertake commitment regarding the payment of the price of the bride beyond the resources of the groom. Quite often also, the dispute may arise if the groom's family had a pregnant she-mithu to offer as the price. The owner would try to delay till the she-mithun calves, while the bride's father would like to take possession before that but these controversies can be easily solved and the Palai will give the marriage price which they can bring. The grand-father of the bride will count the money and will distribute among all those to whom it was to be given. After this it was for the bride's father to kill an animal, a mithun, a cow or a pig for the feast, which was divided into two halves and the heads are given to the groom's side. Feast was given in both the

houses where relatives and friends are fed. If the meats of the animal killed by the bride's family fall short, the groom's family has to help with another animal to meet the shortage. At night, the bride was escorted to the groom's house for the first time which is known as LawichhiatZan which means temporary visit. On this night, the bride was escorted by a man known as Lawichal who was the guardian and protector of the bride, who always calls out "fanufapakanlawipui e" or we are taking along the bride to have many sons and daughters. On the way to the groom's house the young men of the village would try to throw mud, water on felt on the bride and it was the duty of the Lawichal to protect the bride from them. If in trying to save herself, the bride falls down, it is considered a bad omen which resulted in extreme cases, to postponement of the wedding. If the Lawichal hits anyone in his attempt to protect the bride he is within his right and is not liable to any fine.

When the bride reached the groom's house, she was welcome by offering a cup of zu. Then the village priest will tied the hairs of the bride and the groom together and pronounced certain chants and then untie again their hairs. After this, the priest killed a fowl of the groom side and a fowl of the bride side which is known as Rem-ArTalh, meaning 'the fowl of agreement'. It signifies that the couples were really married. The sacrifice of the fowls and the chants are known as Rem-Ar and Arzangtuak.

On the first night, which is known as Lawichhiatzan, the bride and her friends were to return back to the bride's parent's house. However, before the groom offered a cup of zu to the bride, they were not permitted to return back. While offering a cup of zu, the groom said, "Heikatawk a che, nakzan ah lo lenglehangche" meaning 'I welcome you and came back tomorrow night'. After the groom had offered zu to the bride, the Lawichal will escort again the bride to her parents' house.

The next evening, the bride was presented with her belongings to the groom's house to live with him permanently by the Lawichal. This night is known as 'Lawi That Zan'. It is also known as 'In Duh Zan'. On this night, all the family members of the groom had to spend the night in others house and only the couple were to be in the house. Since the groom slept in the Zawlbuk, he was taken to his house at night by his friend. Before they had children, the groom used to sleep at the Zawlbuk and at late night he used to come to his house. But early in the morning, he went back to Zawlbuk. As her husband went back to the Zawlbuk early in the morning, the bride also went to her parent's house and took food there for quite some time. However, she had to work at her in laws house. This kind of marriage is the most common and accepted form of marriage in the early Mizo society.

Besides, the above commonly practiced form of marriage, there were other forms of marriage, namely widow remarriage and marriage without the consent of the parents which were practiced in the early Mizo

society. In these types of marriages, the marriage price may be increase or reduced. Some of these types of marriage are:

- i. **Fan:** If a man live with a girl in her house without the consent of the parents, as her husband, such kind of marriage is called Fan. It is considered very disgraceful for a man to be fan and as compensation to him for the disgrace incurred, the marriage price was reduced by a Tlai.
- ii. **Luhkhung:** It is a kind of marriage in which a girl would voluntarily go an live in the man's house as his wife before they have got married according to custom. It is considered disgraceful for the girl and as a compensation to her for the disgrace incurred, her marriage price was increased by a Tlai or Rs.20/
- iii. **Tlandun:** It means an elopement. It is a kind of marriage in which both the boy and girl run away to another village and get married without the consent of their parents. This kind of marriage is considered very disgraceful for the girl and as compensation, when the marriage is regularized the girl's price is increased by Rs.20/-.
- iv. **CharsutPhawi:** If the younger sister married before the marriage of her elder sister, such kind of marriage was called CharsutPhawi. Such kind of marriage is considered very disgraceful for the elder sister and as a compensation, the groom had to pay a Tlai or Rs.20/- in addition to the usual marriage price.
- v. **Sa ZuMeidawh:** It is a form of marriage without marriage price. Marriage with a widow's daughter was generally called Sa ZuMeidawh. The Palai had no role-play in such kind of marriage. Both the party came to an agreement and would solemnize the marriage.
- vi. **Widow Remarriage:** In the early Mizo society too, widow remarriage was practiced. However, if a widow remarried again after the death of her former husband, her marriage price was only Rs.20/-.

Thus, in the early Mizo society, there were different forms of marriage, some of which gave the couple honour and respect in the society whereas some forms are considered very disgraceful and were looked down upon in the society.

III. DIVORCE:

The Mizo word for divorce is Inthen. There are different ways of divorce practice in the traditional Mizo society.

- (i) **Ma or Mak:** The divorce initiated by the husband was called Ma or Mak. When a man wanted to divorce his wife in this form, he simply says 'Ka ma a che' meaning 'I divorce you' and the woman is then divorced. If a man divorces his wife in this form, he has to pay up the whole of the balance of the woman's

marriage price including the Thutphah. The wife can take all her personal property including her Thuam or dowry. The husband should take his wife to the place where she was to stay if he divorces his wife in this form. It is a disgraceful for the woman to be divorce by her husband in this form.

- (ii) **Sumchhuah:** If a woman cannot remain with her husband and leaves him, this kind of divorce is known as Sumchhuah. In this kind of divorce, the wife was obliged to bear the burden of repayment of marriage price already received by her relatives. She is entitled to take all her personal property including the Thuam or dowry. This kind of divorce is considered to be a disgraceful for the husband.
- (iii) **Sumlaitan:** This is a form of divorce by agreement whereby on the basis of mutual settlement, the whole marriage price will be shared equally by the two parties. This applies to both manpui and mantang. For instance, if the manpui is Rs.120/- and the husband has paid Rs.40/- till the day of divorce, he will have to pay another Rs.20/- to make up half the marriage price which he has to pay. Again, if the husband had paid up the entire marriage price, the wife will refund half the marriage price to her husband.
- (iv) **Peksachang:** It is another form of divorce by mutual agreement. If a husband and wife divorce in this form, the man will not claim the return of any part of the marriage price he had paid to the relatives of the woman nor will the wife not claim any amount that may still be due. However, the woman can take her personal property.
- (v) **Atnavangainthen or Divorce on account of madness:** Divorce on the ground of madness of either husband or wife was called AtnaVangaInthen. This kind of divorce could be possible only after three years' treatment of the person who became a victim of such madness and when the disease was found incurable. For example, if the wife goes mad, her husband had to look after her for three years and after that if the wife had not recovered, he can divorce her as PekSa Chang but if he leaves her before three years, he can divorce her as mak or ma and have to pay the balance of the marriage price. On the other hand, if the husband goes mad, the woman had to look after her for three years and after this period, if the husband has not recovered she can divorce her husband as Peksachang. However if the woman leaves him before the expiry of three years, she is known as Sumchhuah and will have to refund the entire marriage price which were already paid.
- (vi) **Chhuping:** If a wife owing to physical disabilities is unable to have sexual relationship with her husband, the husband had to look after her for three months. Even after three months, if she was the same, her husband can divorce her and can get back the entire marriage price he had paid, the woman leaving him Sumchhuah.
- (vii) **Zangzaw or Impotence:** Divorce caused by impotency in a husband was called Zangzaw. If a man is impotent and is unable to have sexual relationship with his wife, according to the old customary law, the

priest will look after him for three months. After three months, if the man is still impotent, the woman is entitled to a divorce known as Peksachang and will not return the marriage price already paid. However, if the woman cannot live with her husband for the period agreed upon, she is known as Sumchhuah. The woman is also known as Uire if she married another man during the agreed period or has sexual relation with another man during this period. Again, if the woman accuses her husband of being impotent and her husband denies it, a man is placed to sleep near the couple to see whether they can have sexual relation or not. If the man is not impotent and can have sexual intercourse the woman have to pay Rs.50/- to her husband.

- (viii) **Pasalawmlohhlanachhuak:** A divorce on account of long absence of husband from wife is known as PasalawmlohHlanachhuak. In this form of divorce, if the wife was unwilling to live with her husband when he returns from a prolonged absence, she is treated as Sumchhuah. On the other hand, if the husband who returns from a prolonged absence and refuses to live with his wife, he had to face the same consequence as in ma or mak regarding marriage price. However, if a wife cannot get on with her husband's relations and prefers to stay with her own people while her husband is away, she is entitled to do so and cannot be treated as Sumchhuah on this account.
- (ix) **NupuiTlansan:** Divorce which occurs on account of the abandonment of wife by husband is known as NupuiTlansan. In such form of divorce, the wife had the right to acquire possession of the properties of her husband. His children also go to his wife and she will get the marriage price of their daughters.
- (x) **Kawngkasulamak:** Divorce on account of husband's involvement with another girl was called Kawngkasulamak. In such cases of divorce, a man who had fallen in love with another girl and prefers her for his wife and divorces his former wife, same day or the next day marries his new wife. The literal meaning of Kawngka SulaMak is that the old wife goes out of the door as the new wife comes in. In such kind of divorce, the divorced wife will get her full marriage price and certain property of her husband known as Buhbal which includes paddy and maize, rice, millet, kochus. If they have children, they can go either with their mother or their father whichever they prefer and the father cannot stop them from going with their mother. If the couple were occupying the Khumpui or big bed before they divorce, the wife can claim Buhbal and they will divide whatever they have earned in a year into two equal halves. However, if the husband's parents were still there and they were occupying the Khumpui, the woman cannot claim the property of her husband as all the Buhbal belongs to her husband's father.
- (xi) **Uire:** The English word for Uire is Adultery. Uire is considered to be the most serious offences and usually ends in divorce. If a married woman committed adultery either while her husband is alive or after the death of her husband while she is still in her husband's house, she is known as Uire. If she committed adultery,

she has to return back the entire marriage price already paid and she cannot take back any of her Thuam. If the woman committed adultery three months after the death of her husband or after performing the rite of InkaihChhuah, she will not return the marriage price already paid. However, if she committed adultery while she lives in her husband's house, she cannot claim the balance of the marriage price. After the death of her husband, the woman had to perform mitthi chaw pek which means putting aside a portion of the rice she ate at each meal for her husband for three lunar months. The wife, however, as a sign of mourning should not comb her head for three lunar months. At the end of this period, the parents of the widow will perform a ceremony or rite known as Inkaihchhuah to absolve their daughter from the marriage bond. After performing Inkaihchhuah ceremony, she would return to her parents' house and was free to marry any person and in such case, she was not considered as Uire. However, if she desires, she could go back to her husband's house and lived with their children if she had any and it was also up to her to live in her parent's house.

IV. CONCLUSION:

Marriage among the early Mizos was a civil contract and was normally arranged by the parents. However, there was also freedom of couple choice in marriage celebration. For marriage celebration, many steps are to be followed. Under this, determination of the marriage price was the most difficult one which often led to the postponement of the marriage celebration. However, the mediators tried their best to bring the marriage a success one. There are different types of marriage, some of which brings the couple honour and respect in the society whereas some forms are considered very disgraceful and looked down upon in the society. As marriage occurred, divorce was also very common among the early Mizos. A husband and wife can divorce on a very simple reason. Though many of the old practices are followed, many changes had taken place in the Mizo society in regard to marriage and divorce as a result of the influence of Christianity and Education. Besides, unlike in the earlier days, divorce hardly taken place among the Mizo couples nowadays.

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