KINDS OF MEITEI MARRIAGE, CUSTOMARY RITES AND CEREMONIES OF MEITEI MARRIAGE AND DIVORCE

Kinds of Meitei Marriage Prior to Conversion to Hinduism

Marriage is a culturally approved relationship of one man and one woman (monogamy), or one man and two or more women (polygamy), or of one woman and two or more men (polyandry) in which there is cultural endorsement of sexual intercourse between the marital partners of opposite sexes and generally, the expectation that children will be born of the relationship.\(^1\)

Marriage is a union between a man and a woman, such that children born to the woman are the recognized legitimate offspring of both the partners.\(^2\)

Depending upon the mode of union of a man and a woman in marriage, Meitei marriage may be of the following kinds:

1. *Hainaba* (Engagement)

   It was the purest form of Meitei marriage. It was done when a man and a woman had matured enough to establish a family. There would be an offer from either man’s side or woman’s side. Usually the parents or the guardians of a man would offer to the parents or the guardians of a woman to give her in marriage to their son or ward. At the time of offer the parents or the guardians would bring fruits, sweets and other edible items with them.\(^3\) There might be acceptance from

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the parents or the guardians of the woman. If they accepted it there would be an agreement between the two parties to perform the other formalities or steps of the marriage. In the engagement marriage a special offer would be given to the eldest male of the woman's Sagei (clan) and her father. It was known as Mangkat or Kagok Haba and in return to it they would give the family items to the woman at the time of marriage. This presentation of the family items was known as Awoonpot Tamba.

e.g:-
(i) Marriage of Khaba Tarang Khoimucha with Panthoibi.4
(ii) Marriage of Khuiyon Tompok (154 A.D. - 264 A.D.) with Nongmainu.5
(iii) Marriage of Naotthingkhong (663 A.D.-763 A.D.) with Iwanglon Nasunchaobi.6

Usually engagement marriage was arranged between two persons who were not known to each other. But in some cases it might be followed after when they had loved each other.

e.g. Marriage of Nungpan Pompi Luwaopa with Namoinu, sister of Taotigman (264 A.D. - 364 A.D.)7

2. Chenba (Elopement or love)

To search the life partners was the first step of marriage in the society. Chenba (elopement or love) was the searching or finding out of one's own life partner. Usually like-minded persons of opposite sex love each other. There will be

7. Supra note 3 at pp.15-16
meeting of minds between them and intended to share the pain and pleasure of married life. If the elopement was approved by the community as well as the parents of the bride the formalities of engagement marriage except *Nupi Haiba* (begging of the bride) and *Waroipot Puba* (giving the final consent) would be followed. If it was not accepted and approved the consummation of the marriage would be validated only by performing 'Loukhatpa' ceremony.

e.g. (i) Marriage of *Pitanga* with *Naothingkhong* (663 A.D. - 763 A.D.)

(ii) Marriage of six *Khongjomnubi* friends with six Haoku males.

3. *Lanpha* (Capture)

It was the common practice of the Kings to invade to the small kingdom and forfeiting its properties and merging it to the former kingdom. It was a means of establishing a wealthy and prosperous kingdom. Sometimes, not only the collection of wealth and expansion of the territory, the king might also bring women as captives or prisoners of war. If they wanted them to be their wives they did the same.

e.g. (i) Marriage of *Taothingmang* (264 A.D.-364 A.D.) with *Loitongkhu* and *Loitonghal*

(ii) Marriage of *Thangbi Lanthaba* (1302 A.D. - 1324 A.D) with *Yoiren Tompokpi.*

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8. Surpa note 6 at p.3
4. *Namduna Louba* (Ravishing marriage)

This kind of marriage was an immoral marriage. Society regarded this marriage as a marriage of lowest level. It was a marriage of a girl by a boy who had committed the crime of ravishing her either when asleep or when made drunk by administering intoxicating materials or charming her with pretended love or otherwise. It was preceded by sexual intercourse with the girl by fraud.

The Meitei women thought that their private organs were more precious than their lives. So, when a man touched their private organs they always tried to keep it unknown to others due to fear of the society. Consequently they involuntarily agreed to the marriage with the so called criminal. Such kind of marriage against the free will of the bride was very common when the Meiteis had converted to Hinduism and later on it is known as “*Nupi Chingba*”.

e.g. Marriage of *Khongjromba* with *Penu Leimaren*, daughter of *Soraren*.12

5. *Munduna Louba* or *Tuman Louba* (Marriage with one’s spouse)

This kind of marriage was very common during the kings’ reigns but was regarded as unholy marriage among the *Meitei* community as it was known as “*Tuman Louba*” (Marriage with one’s already married wife). It was the forcibly taking away of one’s spouse against the will of the husband. The kings of powerful kingdoms forcibly took away one’s spouse other than his property if they wanted to marry with her.

e.g. (i) Marriage of *Naokhamba* (411 A.D. - 428 A.D.) with *Yaoreima Chanu*.13

(ii) Marriage of *Pamheiba* (1709 A.D. - 1748 A.D) with *Gomati*.14

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13. ibid p.4
Kinds of Meitei Marriage Subsequent to Conversion to Hinduism.

There are eight forms of Hindu marriage viz. Brahma form, Daiva form, Arsha form, Prajapati form, Asura form, Gandharya form, Rakshasa form and Paishacha form. But after investigation, it is found that after conversion of Meiteis to the Hinduism, they do not strictly follow any kind of Hindu Marriage in its strict sense, though the resemblance may be there. In fact after conversion to Hinduism, Meiteis have a mixture of marriage, mixing the Meiteis’ old customary marriage with Hindu marriage especially in the matter of performance of rites and ceremonies. Many foreign ingredients (based on Hindu philosophy) are added to the performance of Meitei customary rites and ceremonies of marriage. It is due to the mixing of two faiths of Sanamahism and Hinduism.

However, depending upon the mode of the initiation or arrangement or way or motive of bringing the parties to the tie of husband and wife, Meitei marriage may be classified into four kinds:

(i) Hainaba (Engagement).
(ii) Chenba (Elopement or love)
(iii) Chingba or Phaba (Capture)
(iv) Namduna Louba (Ravishing marriage)

The above listed kinds of Meitei marriage are almost similar in substance to those kinds of Meitei marriage before they converted to Hinduism. The Lanpha (Capture) marriage during Sanamahism is known as Chingba or Phaba (Capture) marriage in the later period. The only distinction between the two kinds of marriage is that in the former case there is an invasion or forfeiting one’s
property and abducting a female for marriage as a show of succeeding the invasion or war but in the latter case the only prevalent custom is to restraint or abduct a girl by using physical force and compel her to marry with the boy who has abducted the girl. It must be noted that Munduna Louba or Tuman Louba (marriage with one’s spouse) marriage of Sanamahism period has become completely obsolete when the Meiteis have converted to Hinduism.

Till now the Hainaba (Engagement) marriage is regarded as the purest form of marriage amongst the Meiteis. It is equivalent to the Brahma form of Hindu marriage and it is performed when all the correct procedures are carried out. Chenba (Elopement or Love) marriage today is very common form of marriage and it is closer to the Hindu Gandharva form of marriage. It should be noted however that this is not elopement in the strict sense of the word. The girl’s parents are very often aware of the situation and give consent if they approve of the man of her choice. The couple do not live in the man’s house prior to the ceremonial, but stay in the house of a close relative or friend on the man’s side. Both the families are informed of the situation and marriage takes place in the usual way. The action of the girl in leaving her parent’s house is not regarded as morally reprehensible, nor is any stigma attached to this kind of marriage. However, ‘elopement’ of this kind is regarded as binding, and if for any reason the wedding did not take place a girl who had acted in this way would not be acceptable as a bride to another man.15

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Customary Rites and Ceremonies of Meitei Marriage before Conversion to Hinduism

On the day of marriage the parents, relatives and elderly local men and women came together, with the bridegroom at the home of the bride. The bridegroom’s party would bring Chengluk Nungsang (a basket containing banana and others), Ngapa (a pair of Latafish) by keeping in the hole of a bamboo, a pair of cow or more as price of the bride, well arranged Heikru (Amla) for Kujaba, one or more Khum (pots containing pukyu, country made wine) and Ngankha (a large earthen pot hanged by making papot, a hanging structure made of bamboo).

It was written in Meitei Puya:

........... Chengluk Lamkoi Su,
          Ngapa Poutong Yan,
          Kaoren Sanphang Hoi,
          Heikru Pottam Sem,
          Khumlong Nakthanglon,
          Ngankha Lamlong Sin .............16

The Chengluk Nungsang was for keeping at the Phungga Lairu (a fireplace in the centre of the main room of the house) for five days and to read the future prospects of the couple. The Ngapa would be set free in the water and the future livelihood of the couple would be read by observing the movements of the fishes in the water. The well arranged Heikru (Amla) was for offering to the Yumlai (family God) and Lamlai (local God). The Khum containing wine was the present from the bridegroom’s side for the presentees of the marriage ceremony after

first offering to Gods. After sitting for a while the parents or the guardians of the bride would hand over the items brought by them to the parents or the guardians of the bride. After that the bridegroom was introduced to the bride as her husband. The parents, elders and invitees took together the presents brought by the bridegroom's party and the bride was taken home by the bridegroom as his spouse. On the arrival of the bride at the home of the bridegroom she would be welcomed by burning *Khoiju Leikham* (a kind of herb) into the sacred fire taken from *Phungga Lairu* (a fire place). In the later period it is known as *Duty Okpa* (welcoming the arrival).

It is believed that the above mentioned ceremony of *Meitei* marriage was the prevalent custom before the reign of *Khagemba* (1597 A.D. - 1652 A.D.). During the period from *Khagemba*’s reign upto *Pamheiba*’s reign (1709 A.D. - 1748 A.D.) some additional formalities were added to the customary *Meitei* marriage e.g. *Khurum Khajanaba* (bowing and embracing), *Phiruk Nungshang Kaiba* (reading the future fortune of the couple by seeing the contents in the *Phiruk Nungshang*, a basket), *Sanamahi Khurumba* (praying *Sanamahi*), informing the deceased ancestors and Gods by playing *Pena* (a *Meitei* musical instrument) and *Apok Asa Thaba* (devoting to Gods) etc. It is very difficult to trace exactly when the *Leichaiba* (casting flowers to the bridegroom by the bride) and *Leihukpa* (garlanding) were innovated at the marriage ceremony, though they were the very old traditional customs of *Meitei* marriage. Probably it may be due to the lack of sufficient documentary evidences after *Puya Mei Thaba*

19. Supra note 17 at p.25
(burning of Puyas). But it is also believed amongst the Meiteis as opined by the Meitei scholars that they were innovated of course, before the Meiteis had been forcibly converted to Hinduism.

The pre-requisites or formalities antecedent to Meitei marriage ceremony before the conversion to Hinduism are:

(a) Haina Chatnaba/Yumjin Kakphei Thaba (Begging the bride).

(b) Heijing Kharai Puba/Sumang Urong Khinba Pamela Urai Hakpa
    (Giving the presents)

(a) Haina Chatnaba/Yumjin Kakphei Thaba (Begging the bride)

This custom was not innovated by the man but by the Meitei Gods. For the first time in Meitei society it was introduced when the Imoinu Saphabi, daughter of Leimarel Yanglou Keijenphabi was begged for Lainingthou Soraren.20 It is evident that this custom was prevalent during the pre-historic period and it is also mentioned in many old Meitei mythological history.

    e.g. Begging of Nongpok Panthoibi for Taram Khoinucha21 and begging of Koubaron Namainu for Nungpan Pompi Luwaopa.22

The bridegroom's father or elder brother or any male near relative ordinarily initiated the proposal. He would accompany with some elderly men and women. They would go to the bride's house with fruits which were available by that time and other edible presents.23 The responsible person or persons of the bride would negotiate with the parents of the bridegroom by introducing

20. Thangjam Iboton, Meiteigee Thouram Pareng, (1976)p 1
23. ibid p.16.; Supra note 21 at p.32
themselves to each other. If the bride’s side accepted the proposal, they would arrange for the next formality.

_Haina Chatnaba_ (begging the bride) might be of the following types. Firstly, the parents or the responsible persons of the bridegroom might beg to the parents of the bride in consequence of the persuasion or request of the bridegroom by introducing the bride to his parents. Secondly, the bridegroom himself or his friends might request the bride by expressing to her the bridegroom’s desirousness to marry with her. Thirdly, by begging the bride by the parents of the bridegroom after they had already loved each other, only for taking the consent of the parents of both sides.

In the early period of Meitei society the edible presents brought by the parents of the bridegroom at the time of begging the bride were fruits, _Khoi macha_ (larvae of honeybee), _Pukyu_ (country made wine), _Heikru_ (Amla) and _Ngapa_ (dried fish). Sometimes as agreed by the parties, Coins (Belmetal) also were given as presents. It was known as _Pacha Thouthingba Senku Nanamba_ in archaic _Meitei_ language. If this formality had been performed no male would initiate for begging the female for marriage even if such female had not been given in marriage to the family of the bridegroom.

__(b) Heijing Kharai Puba/Sumang Urong Khinba Pamel Urai Hakpa__ (Giving the presents)

On a fixed day before the marriage the fruits, flowers and wine brought by the bridegroom’s party were sacrificed or devoted to the deceased ancestors,

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24. Supra note 21 at p.35.
26. Supra note 22 at pp.15-16
27. Supra note 24 at p.36.
28. ibid. p.32
Yumlai (family God) and Lamlai (local God) at the house of the bride. On this day the parents of the bride would promise to give their daughter in marriage and the God would also be informed that the bride had been given to the bridegroom. On the very same day, the date of marriage and the Mangkat (price or presents for marriage) would also be fixed by the parents of both the sides. If this formality had been performed the bride was reserved for the bridegroom even if she lived with her parents. The philosophy of devoting the items to Yumlai (family God) was to inform them about the marriage and also to give consent to that effect. And that of Lamlai (local God) was to protect the couples from evils and to be witnesses of the marriage. As a matter of evidence to the fact that the bride had been given for marriage with mutual understanding of the parents of both the sides a Urong (a big timber having branches) would be embedded at the centre of Sumang (courtyard) of the bride. Moreover, on the bark of the big living tree, some marks would be put by both the parties as unrebuttable evidence of the marriage. After the performance of this formality, the Kaojannaba (marriage ceremony) would be performed on a fixed day.

Customary Rites and Ceremonies of Meitei Marriage after Conversion to Hinduism

Leichaiba or Leikoiba ceremony is the most popular ceremony of Meitei marriage. It is performed in case of Hainaba (Engagement) and Chenba (Elopement or love) marriages. On the day before the marriage ceremony a formal invitation is sent to the bridegroom for the marriage. This is done by a boy of the bride’s family, usually by the younger brother of the bride. A garland of kundo

29. ibid p.35.
flowers is prepared along with betel leaves and nuts carefully for the purpose. The boy gives them to the bridegroom and garlands him. The bridegroom, prepared for the purpose, receives the invitation. This is known as *Bor Barton Touba* (inviting the bridegroom for the marriage).

On the day fixed for the marriage, at the residence of the bridegroom certain rituals are observed. On the *Mangol* (verandah) there is the preparation of *Ishaiphu* (earthen pot) conducted by an expert. In the earthen pot, full to the brim, one bud of *Sangbrei* (a plant having sweat smell), one bud of *Langthrei* (a plant usually used in religious rites) and a white flower are placed. Wax candles are lighted. Fruits, betel leaves and nuts are laid. The person conducting the prayer first makes himself sanctified and then sanctifies the bridegroom by sprinkling the water with hymns. Then he makes impression on three places of the body of the bridegroom: one on the forehead, one on the centre of the breast and the other just below the navel. The symbolic name of God 'Ha-Hung-Hei-He-Hung' is administered on the aforesaid places by the ring finger of the right hand. Then the person conducting the prayer asks the bridegroom to pray and worship *Salailei Sidaba, Letimalel Sidabi, Lainingthou Sanamahi* and his parents. The parents of the bridegroom bless their son. As a measure to ward off evils the person conducting the ritual utters the hymn to drive away the evils to the south. After all these rituals are over the bridegroom starts for the bride’s residence when his breath is on the right nostril moving the right leg first.30

30. Dr. L. Bhagyachandra Singh, op.cit. p 117.
The wedding ceremony is usually performed at the residence of the bride. After facing smokes of cultic herbs called *Khoichu-Laikham* in order to be protected from evil spirits the bridegroom will be received by the mother of the bride and other women. He then takes his seat at the south-western side of the Mandop (paddle or ceremonial place). After the completion of rites performed inside the house of the bride, she will be allowed to come out at the Mandop. She, then takes her seat at the north-eastern side of the Mandop. The reason is that according to *Meitei* mythological belief the bridegroom represents the sun and the bride represents the earth and moreover in every *Meitei* home the *Sanamahi* as great as sun is kept at the south-western corner of the home and the *Leimalel Sidabi* as great as earth is kept at the north-eastern corner of the home.31

Then the five fingers, each from both the bride and the bridegroom, are tied together by a garland or thread composed of permissible *Yek-Salai* colour and on it the *Kujapot* is placed while various mantras are cited and the geneology of the couple is rehearsed. It is the starting point of a new life to share the burden of life.

The most important ingredients of *Meitei* marriage ceremony lies in the concept of "*Kujaba*", which construdes with one big earthen plate called *Kambi*, containing the prescribed quantity of husked rice, a banana hand of odd numbers, the prescribed fruits and flowers having good smell, permissible loin cloth (*dhoti*), shirt, turban, comb, scissor, nail cutter and knife.32 This is a gift first given by the bridegroom to the bride on the day of *Heijingpot* ritual function and secondly it is given by the bride to the bridegroom on the day of marriage.

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solemnization. The theory of having the earth, the food grains, the cloth and the accessories in the Kujapot is that the couple will require all these elements for their livelihood. The underlying significance of Kujaba is that both the newly married couple have acquired equal shares of life's burden under a joint hand. The tying of the knot shows that while achieving these life elements, both the bride and the bridegroom have been divinely united into one blood belonging to the yek-salai of the bridegroom.33 Marriage is the act of giving daughter to another salai without changing her yek-salai. Kujaba is the blessing for starting a new life, the winding up of a past chapter of life and changing the head of the family from father to husband.

While the kujapot is on the hands of both bride and bridegroom the mothers of the bridegroom and bride, or one or two females from each of the parties to the marriage will arrange for Meetam Nga Thaba (freeing of Lata fish in the water). They will first offer two Ngamu (a pair of Lata fishes) to the Sanamahi and then two Ngamu (one representing the bridegroom and another representing the bride) will be set free in the pond. By observing the movements of the Ngamu in the water the future prospect of the couple is read. If the fishes swim well and together, a happy life for the couple will result, otherwise the couple will have suffering in the married life.34 The concept of Meetam Nga Thaba is that when the Almighty creator tried to create man he unfortunately created fish first. The animals and men are the latter creations. In this universe only the man knows his creator and obeys the norms of such creator. Meetam Nga is the first creation in lieu of man, or the first creation in the attempt of creating

33. Supra note 20 at p.31.
34. ibid p.31.; Saroj Nalini Parratt, op.cit. p.83.
man. Therefore, by devoting such *Meetam Nga* to the Almighty God the future fortune of the couple is begged from Him.\(^{35}\) There is another rite for determining the future prospects of the couple. A *Chengluk Nungsang* (a basket containing rice) is carried by the leading woman of the locality of the bridegroom. It is kept at the *Phungga Lairu* (fire place) of the bride’s house for four days. On the fourth day of the marriage this basket is opened by the bride’s people at the instance of some women of the bridegroom’s family. The rice is at that time poured out on to a *Yangkok* (winnowing fan) and the fortunes of the couple are read according to the contents in the rice. Thus if insects like spider are found, this signifies that the couple will be blessed with a good number of children.\(^{36}\)

While the *Meetam Nga Thaba* rite is performed the father of the bride drops money or something with blessings on the *kujapot* which is on the hands of both bride and bridegroom and it will be followed by the relatives of the bride. After the completion of rite of *kujaba* the ceremony of *Leichaiba or Leikoiba* will follow. The bride then rises up after untying the thread of kujaba and walks around the bridegroom anticlockwise but before the *Ishaiphu* (sacred water pot) for seven times. On the completion of each round she casts flowers on the head of the bridegroom. It will be done for six times. It is called *Leichaiba*. On the completion of the seventh round she garlands two garlands of *kundo* flowers (white flowers) around the neck of the bridegroom. Then she resumes her place and the bridegroom with the help of a priest removes one of the *kundo* garlands

\(^{35}\) Supra note 31 at p.13.

\(^{36}\) Supra note 30 at p.118.; Saroj Nalini Parratt, op.cit.p.82.
from his neck and it is garlanded around the neck of the bride. The immediate families then prostrate themselves before each other and again before their Apokpa (clan God). The couple are then joined to each other by tying together of their Inaphis (nuptial garments) and go together inside the house of the bride. Finally, the couple exchange Kwa (betel leaf with nut) and Kangsubi (sweetmeats), or they place these two things in each other’s mouths. When the garland offering is completed the Meitei marriage is taken to be completed. After that the bridegroom returns back home with the bride. The Meitei philosophical points of taking seven rounds around the bridegroom and Ishaiphu by the bride is that the bridegroom is the symbol of Lord Sanamahi as great as sun and the bride is the symbol of Leimaren Sidabi as great as earth. The bride moves seven rounds of the bridegroom and such seven rounds indicate the movement of the earth around the sun for seven days a week. The white turban of the bridegroom symbolizes the sun and the green shirt of the bride symbolizes the earth. The garlanding by both the bridegroom and the bride represents the sun’s gravitation towards the earth and vice-versa.

On the sixth day of the marriage, the Mapam Chakkouba function is performed, in which both the couple along with their local relatives, friends and family members are invited to a grand feast by the bride’s parents at their residence. The bride cannot take place any work of the kitchen like cooking and fetching the water etc., unless the Mapam Chakkouba function is performed.


Leichaiba or Leikoiba ceremony is performed in case of Hainaba (Engagement) and Chenba (Elopement or love) marriages. The pre-requisites of Leichaiba or Leikoiba ceremony in Hainaba (Engagement) marriage are:

1. **Haina Chatnaba** (Begging of bride).
2. **Pakna Waina Yengba** (Astrological examination of both the bridegroom and the bride).
3. **Yathang Thanaba** (Exchange of consent).
4. **Waroipot Puba** (Giving of final consent).
5. **Heijingpot Puba** (Giving of presents).

But in case of Chenba (Elopement or love) marriage the only requisite of Leichaiba or Leikoiba ceremony is the last one i.e. Heijingpot Puba (Giving of presents). On the day of Heijingpot Puba the Apok Asa Thaba (Solemnization or Rites of marriage) is also performed.

1. **Haina chatnaba (Begging of bride)**

   It is similar in substance to that of Haina Chatnaba/Yumjin Kakhpei Thaba before the Meiteis’ conversion to Hinduism. The only difference is that of edible presents brought by the parents of the bridegroom for the bride’s party at the time of begging her. After conversion to Hinduism the Meiteis bring pan (betel leaves with nuts), fruits and sweets only.\(^\text{39}\)

2. **Pakna Wainaba Yengba** (Astrological examination of both the bride and the bridegroom).

   The astrological examination of both the bride and the bridegroom is also one of the important pre-requisites of engagement marriage. At this stage,

the Meitei Pandits (astrologers) will be concerned and he will predict the future pain and pleasure of the couple after they have become spouses. For example, in case of the couple whose future lives are with pleasure and long life span, according to Meitei astrologers, it is called as "Nga Ga Ishing Ga" (Fish with Water). Fish represents the bride and water represents the bridegroom. It is believed that fish will enjoy its life so long as it is in water.40

Moreover, in Meitei customs of marriage there is prohibited degrees of relationship viz. Yek tinnaba (surnames having a common ancestor). Mungnaba (persons having a common maternal grandmother of the fifth degree and persons falling within three different surnames with a common maternal grandfather). Pendinnaba (persons belonging to different yek-salais but having a common maternal grandmother), Shairuk tinnaba {persons belonging to the same Shairuk (clan)} and Pee tinnaba (persons having a common maternal ancestor) etc.41 If the bride and the bridegroom fall in any one of the prohibited degrees of marriage their marriage will not be arranged.

3. Yathang Thanaba (Exchange of consents)

After the completion of Haina Chatnaba (Engagement) and Pakna Waina Yengba (Astrological examination of both bride and bridegroom) the parents of bridegroom will go to the house of bride to meet her parents for tentative fixing of the day of marriage. The tentative fixing of the day of marriage is known as Yathang Thanaba (Exchange of consents).42 It is the official

42 Supra note 40 at p 17.
giving of consent to the marriage. The negotiating males show their agreement to the union by prostrating themselves before each other.43

4. Waroipot Puba (Giving the final consent)

In engagement marriage, bridegroom’s father ordinarily initiates the proposal. The bridegroom’s father or his elder brother or any male near relative with some elderly men and women go to bride’s house taking with them fruits, sweets and *pan* (betel nuts with leaves). Bride’s parents and some neighbours remain waiting at the house of the bride. Then dedicating some of what are brought to the family God and others, they are distributed to all the presentees and the parents of the bride and bridegroom embrace each other and prostrate to one another. Thus the function is finished and the bride and the bridegroom are thus betrothed. This ceremony is called *Waroipot Puba* (Giving the final consent).44

*Waroipot Puba* is the last stage of engagement in the sense that on this day the date of *Heijingpot* and marriage will be finalized. After *Waroipot Puba*, if the bride has eloped to another person it will be the fault of the bride’s parents, so they take care of it. Sometimes, if so happens the bride’s parents give another bride to the bridegroom by presenting free of cost the *Awoonpot* (gifts of marriage) which were already arranged for the former bride. The underlying idea of this is that after *Waroipot Puba* the duty of taking care of the bride is with the parents of the bride.45

43. Saroi Nalini Parratt, op.cit, p.18.
44. Supra note 39 at p 20
45 Supra note 42 at pp. 17-18.
5. Heijingpot Puba (Giving of presents)

Waroipot Puba and Heijingpot Puba are similar in substance. But in case of Heijingpot Puba the items and quantities of the presents are more than that of Waroipot Puba. On this day the items for Sagei Lai (clan God) and Lam Lai (local God) are also brought by the bridegroom’s party. On a fixed day for Heijingpot Puba the bridegroom’s party bring seven to eight or more Phiruk (baskets made of bamboo) containing fruits and others along with the items of Apok Asa (clan and local God). By dedicating such items to Lamlai (local God) and Sageilai (clan God) it is made known to all that the bride is given to the bridegroom.

Apok Asa Thaba is the most important and essential religious ceremony of Meitei marriage. This is the obligatory offering to the first ancestors of the bride’s family (Sagei). The most essential items of Sageilai or Apokpa (clan God) are Heikru (Amla i.e. Emblica officialis), Heining (Spondias magnifera), Heijang (good smell fruit), Banana hand of odd number, Sugarcane, Leisang (a green leaf), Coconut or papaya, Kabok (husked rice), Pan (betel nuts with leaves), Pannao (Arum), Ginger, Yetkon Oikon (rounded thread like structure) and Lasing (cotton). And that of Lamlai (Local God) are Kabok Matum (husked rice), Banana hand of odd number, Sugarcane, Hei Manam Naiba (fruits of good smell) and Pan (betel nuts with leaves). The items which are dedicated to the Apokpa (clan God) will be eaten only by the household members of the bride because others are strictly forbidden to take them. But the items offered to local God can be taken by others also.

47. Supra note 43 at p.81.
After Apok Asa Thaba rite, the bride is considered as the member of the bridegroom’s family even she is with her parents. The philosophy is that by offering the fruits, flowers and others to all the Gods including clan God the parents of the bride beg to them to give consent to the marriage. By taking the Gods as witnesses the bride is given in marriage to the bridegroom.

Loukhatpa (Approval or Recognition)

Loukhatpa ceremony is the ceremony of Meitei marriage showing the fact that the parents and relatives of both the bridegroom and bride have approved or recognized the union of the bridegroom and bride as husband and wife.\(^48\) Such Loukhatpa ceremony may be performed in many cases. Firstly, when after elopement the marriage is performed at the bridegroom’s residence without the actual participation of the bride’s parents. Secondly, when a man and a woman (may be divorcee also) live as husband and wife without performing any customary ceremony of marriage. Lastly, when there is a union of a man and a widow as husband and wife.\(^49\) Unless the Loukhatpa ceremony be performed such so called wife is not permitted to join any social ceremony held by her parents and relatives. She will be called as “Inthoklabi” means outcasted and excommunicated from her natural family and relatives.

The pre-requisites of Loukhatpa ceremony are:-

1. Loukhatpagi Pao Thaba (sending information of Loukhatpa)

It will be done by the parents of the bride. The day of Loukhatpa will also be informed to the parents of the bridegroom.

\(^48\) Sagolsem Rajmuhon Mangang, op.cit, p.126.
\(^49\) Condification committee, Manipuri Customs, p.6.
2. *Apok Asa Thaba* (solemnization of rite of marriage)

It is the most important rite in every kind of *Meitei* marriage ceremony. It is the taking of consent to the marriage from the clan head and the deceased forefathers of the bride. All the items required for the rite will be brought by the parents of the bridegroom as it is done in case of *Heijingpot Puba* (giving of presents).\(^5\) It is also believed that the Gods and ancestors are informed to the fact that the bride has changed her original *Sagei* (clan) to the *Sagei* (clan) of the bridegroom.

3. *Sanamahi Khurumba* (worshiping of Sanamahi)

Both the bride and the bridegroom will worship the *Yumlai* (family God) *Sanamahi*. It indicates that the bride is the member of the family and the bars put to the couple to access to her family will be removed by *Sanamahi* from this day.

4. *Pija Pithakpa* (offering of foods)

It will be arranged by the parents of the bride. It may also be called as *Sagei Chak Khangba* (offering feast to the whole clan) as the members of the *Sagei* (clan) are participating to it. The feast is arranged to forgive the bride and her parents by the clan members for the wrong committed by the bride. The wrong in the sense that the marriage practice which is forbidden by the clan is done by the bride. In this feast the parents and relatives of the bridegroom will also participate.

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5. Khurum Khajanaba (recognizing or bowing each other)

The bride and the bridegroom will bow to the parents, elders and relatives of the bride.\(^{51}\) The parents of both the bride and bridegroom embrace each other and prostrate to one another and thus the function is finished. On this day the *Awoonpot* (dowry or gifts for the family use) may also be given by the parents of the bride.\(^{52}\)

**Keinya Katpa** (giving the bride)

This is a kind of *Meitei* marriage ceremony which is commonly practised amongst the poor families who cannot afford the huge expenditure of long formalities of *Meitei* marriage. In *Meitei* archaic language it is called as "*Langmai Ahong Yumkaba*". It may also be performed in case of some women who are divorcees and widows. There is a *Meitei* saying "*Nupigi Luhongbadi Amuktani, Nupadi Chammarak Hongba Yai*" means a female can be married only once but the male can marry hundred times.\(^{53}\) It is considered as the lowest level as well as the simplest form of marriage ceremony because it does not follow the long pre-requisites of the formal marriage ceremony i.e., *Leichaiba* or *Leikoiba*. And moreover, *Keinya Katpa* ceremony is simpler than *Loukhatpa* kind of Meitei marriage ceremony also. In case of *Keinya Katpa* ceremony a *Phambal* (*Phak* means mat) will be layed on the *Manggol* (varandah) of the bride’s house. In front of it there will be *Ishaipu* (an earthen pot). The hands of the bride and the bridegroom will be tied together before the *Ishaipu* while the chanting of mantras is going on by a priest. After that the bride will garland two

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52. *Supra note 17 at pp.66-68.*
53. *Supra note 39 at p.90.*
garlands of kundo flowers to the bridegroom. The bridegroom than takes out one of the garlands and will be garlanded to the bride. The Apok Asa Thaba rite will also be performed.\textsuperscript{54} After garlanding each other the bride and the bridegroom enter the Bride’s house and prostrate to the Laininghou Sanamahi (family God). In this Keinya Katpa ceremony only the parents of both bride and bridegroom and a few number of relatives and neighbours will witness the ceremony. Though Keinya Katpa ceremony is the simplest form of Meitei marriage ceremony it also follows the essence of Meitei marriage like Apok Asa Thaba. It is true that Meiteis are the orthodoxy believers in religion as well as the worshipers of ancestors. In all sorts of Meitei marriage devotion to them is nothing but Apok Asa Thaba within which the essence of Meitei marriage lies whatever the kind of marriage ceremony may be there.

Marriage Practices Among the Lois (scheduled castes)

There are a few marriage practices in certain sub-communities of the Meiteis. They are generally confined to the territorial limitations of their inhabited village. The titles also carry the name of a particular village. They are more or less similar to the common form of Meitei marriage system. However, most commentators, like Salam Chaoba of Andro, Yumlembam Yaima of Awang Sekmai, Angom Mangi of Pheiyeng and Ningthoujam Ibomcha of Leimalam, opined that these practices still retain or follow the original rites of Meitei system of marriage of Sanamahi religion.\textsuperscript{55} There are eight scheduled castes in Manipur. They are Kwatha, Andro, Awang Sekmai, Pheiyeng, Leimaram, Khurkhul, Koutruk and Tairenpokpi. The marriage practices of five such Lois (Scheduled castes) are discussed below.

\textsuperscript{54} Supra note 48 at p.125.; Supra note 51 at p.47.  
Kwatha Practice.

In Kwatha, Hainaba (Engagement) and Chenba (Elopement or love) kinds of marriage are practised. The marriage ceremony for both kinds is the same. Lai Tin Thaba (devotion to Gods) is an indispensable rite in both the cases. In case of engagement marriage, the presents consisting of Yukhum (country made wine) will be sent for three times by the bridegroom’s party to the bride’s parents. On the completion of the third presentation, a time for the performance of marriage ceremony will be fixed. On a fixed day the bridegroom will come with his parents, elders and invitees at the home of the bride. They will bring fruits and country made wine etc, with them. On the arrival of the bridegroom at the bride’s home, the bride’s parents will pray to the God by devoting certain items consisting of odd-numbered banana hand and Langthrei (a herb). After that the bridegroom’s parents will bow to the bride’s parents and all the presentees will take the edible items brought by the bridegroom’s parents. After marriage, the bridegroom has to stay at the house of the bride known as Yawong Inba. On the completion of four years but before the lapse of five years, the wife alongwith her husband will come back to the house of the bridegroom for living there permanently. Such coming back of the wife with the husband after the completion of Yawong Inba period is known as Yumthokpa (going out of home) or Luhongba (marriage). On the third day from the date of Yumthokpa the bride’s parent will invite both the bride and bridegroom for a grand feast. It is known as Mapam Chakkouba. The Kwatha villagers also adhere to the prohibited degrees of marriage. Among the Sageis (clans) a person belonging to Sorokhaibam Sagei can marry only a person of

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Angom Sagei, Takhellambam Sagei, Laishram Sagei and Ningthoujam Sagei. Inter-marriage within the clans is strictly barred. Likewise, a person of Takhellambam and Angom Sagesi cannot marry each other.57

**Andro Practice.**

In Andro village, marriage by elopement and by engagement are practised. If marriage is by elopement, it is performed with the rite of Heijingpot (giving of presents) only and it is completed by the performance of the rite of Lai Tin Thaba (devotion of Gods) only. For the engagement marriage the rites like Haijapot Puba (begging the bride), Waroipot Puba (giving of final consent), Heijingpot Puba (giving the presents), Mangani Chakkouba (fifth day’s feast) and Thou Chanba (taking part in cremation functions) are performed. In Haijapot Puba (begging the bride) rite the bridegroom’s family brings Pan (betel nuts and leaves), Kabok (husked rice), Banana and Sugarcane etc. They are devoted to Yumlai (family God) and Lamlai (local God) at the home of the bride. For Waroipot Puba (giving of final consent), the peculiar item to be brought by the bridegroom’s party is cooked fish or pork as agreed upon between the parties. This item is in addition to the items brought in Haijapot Puba. On this day also devotion to Yumlai (family God) and Lamlai (local God) is performed. The cooked fish or pork is distributed to all the presentees along with Yu (country made wine).58 On the day of Heijing pot Puba (Giving of presents), wine and cooked fish or pork are excluded. On this day the bridegroom will also come at the home of the bride. On the arrival at the bride’s home the bridegroom will pray

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57. Supra note 55 at p.54.
to the Yumlai (family God) and bow to the bride’s parents. After that he will sit on the Luhongphan (a broad chair) laid at the centre of the courtyard of the bride. Reading of Puya will be done by a Meitei priest. The bride and the bridegroom will exchange the Kundo (a white flower) garlands, after sitting together on the Luhongphan. Taking steps round the bridegroom will not be done by the bride. After the completion of exchange of garlands the bridegroom will bow to the devoted items laid in front of him. If it is done the marriage is taken to be completed. On the fifth day of marriage, Chakkouba (fifth day feast) will be performed. On this day both the bride and bridegroom along with the parents and others will be invited for a feast by the bride’s parents at their residence. Thou Chanba (taking part in cremation function) is a peculiar system, not found in other marriage practices of Meitei Community. According to it, any married male just after the completion of six months married life shall start taking part in the cremation function of the village. The unmarried ones are forbidden to join any cremation.59

If two persons of the same Yek (clan) elope, they would be separated. If they do not agree, they would be exiled to Haojongpal village and treated as out-caste. Their descendants are also restricted to inter-marriage with the Andro village. Polygamy is accepted, but considered a disgrace on marriage life. There is no limitations on the number of wives. A male cannot marry the sister of the deceased wife. Marriage with a widowed sister-in-law, either of elder or younger deceased brother, is also not allowed. Marriage with the mother’s sister and with mother’s sister’s daughters are also prohibited. However,

daughters of mother’s brothers and daughters of paternal aunt are not within the prohibited degrees. Remarriage is allowed provided a woman is legally divorced.\textsuperscript{60}

\textbf{Awang Sekmai practice}

Awang Sekmai practice has two forms of marriage viz. \textit{Chenba} (Elopement) and \textit{Hainaba} (Engagement). In \textit{Chenba} (Elopement) marriage, \textit{Loukhatpa} (Approval or recognition) ceremony is performed. In this ceremony the bridegroom’s family will brings fruits and flowers for Gods. The bridegroom and bride will also accompany with them. On their arrival at the bride’s home, both the bridegroom and bride will knee down at the centre of the bride’s courtyard. The fruits and the flowers brought by the bridegroom’s party will be devoted to the \textit{Yumlai} (family God) and \textit{Apokpa} (clan God) by a \textit{Maiba} (Meitei priest). The bridegroom and the bride will bow to the Gods, parents as well as the elders of the bride. On the fifth day of such solemnization a grand feast will be arranged by the bride’s parents. \textit{Chenba} (Elopement) marriage is rarely occurred in Awang Sekmai village. The most popular one is \textit{Hainaba} (Engagement) marriage. For engagement marriage, a rite of the \textit{Lai Tin Thaba} (devotion to Gods) is solemnized. The requisites of such marriage are viz. \textit{Haina Singnaba} (begging the bride), \textit{Waroipot Puba} (giving final consent), \textit{Heijingpot Puba} (giving of presents) and \textit{Lai Tin Thaba} (devotion to Gods). The preliminary functions are similar to that of Andro Practice. Country made wine, meat or fish, sweets, fruits and \textit{pan} (betel nuts with leaves) are the festive articles. For the rite of \textit{Lai Tin Thaba}, the bridegroom’s party will bring fruits and flowers. The bridegroom and the bride also will accompany with them. On the arrival of bride’s

60. Supra note 55 at p.55.
residence, the elders will arrange for Asiman Khangba. Asiman Khangba is a devotion of a little rice and curry items to the deceased ascendants of Mangang, Luwang and Khuman clans. It will be performed at the gate of the bride's residence. Then, both the bridegroom and bride will bow to the Yumlai (family God), parents and elders. This Asiman Khangba is again performed at the residence of the bridegroom when they come back from the bride's residence after the Lai Tin Thaba ceremony has been performed there.

In Awang Sekmai village Lukhrabi Louba (widow marriage) and Tuman Louba (marriage with a divorced woman) are permitted. For them Loukhatpa (Approval or Recognition) ceremony is performed. There is no limitation on the number of wives. Marriage between the persons of same Yek (clan) is prohibited and in contravention of which they will be exiled to Haojongpal village and treated as outcaste.  

Pheiyeng Practice

The Pheiyeng practice has two forms of marriage viz. Chenba (Elopement) and Hainaba (Engagement). In Chenba (Elopement) marriage, Loukhatpa (Approval or Recognition) ceremony is solemnized. It may be solemnized immediately just after the consent of the eloped girl has been obtained. If the parties have consented to the rite of Lai Tin Thaba (devotion to Gods), it may also be solemnized instead of performing Loukhatpa (Approval or Recognition) ceremony. However, the rite of Lai Tin Thaba (devotion to Gods) is a bar to polygamy because those couple whose marriage has been solemnized with the rite

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of Lai Tin Thaba are not allowed another rite of marriage during their life time. This customary rule is not in force in any other Meitei community. 62

In Hainaba (Engagement) marriage, Nupi Haiba (begging the bride), Waroipot Puba (giving the final consent), Heijingpot Puba (giving of presents) and Lai Tin Thaba (devotion to Gods) are performed. When the bridegroom’s party come for Nupi Haiba (begging the bride), they will bring Ngamu Leirou (dried Lata Fish) not less than fifteen in number with Yu (country made wine). They will be put before the Yumla (family God). After one year, Waroipot Puba (giving the final consent) will be performed. For this, Yu (countrymade wine) and Ok Athongba (pork) will be brought by the bridegroom’s party. These items will be devoted to Apopka (clan God) and Yumla (family God). Then these items will be taken together by the elders of both the parties as well as the presentees on that particular day. After one year Heijingpot Puba (giving of presents) will be performed. The only difference from the former is that in this case meat and wine will not be brought instead only the fruits like banana and sugarcane and some sweets are the essential sacred items for offering to Gods. After completing this both the bridegroom and bride will come back at the residence of the bridegroom with friends, relatives, elders and parents. The same items for Gods will again be brought by the bride’s family. When the bridegroom and the bride bow to the elders and parents gathering there at the residence of the bridegroom will complete the rite of Lai Tin Thaba (devotion to Gods). 63

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62. Supra note 41 at p.48.
Leimaram Practice

In Leimaram village there are two important and accepted marriage forms. They are Chenba (Elopement) and Hainaba (Engagement). In Chenba (Elopement) marriage, if the bride’s family has consented to the marriage when the information of elopement has been given to them, they may arrange for Lai Tin Thaba or Luhongba. Immediately the bride will be given back to her parents. After this on a fixed day, a rite of Lai Tin Thaba (Luhongba) will be solemnized. But sometimes after elopement if the bride is brought at the bridegroom’s residence and bow to the bridegroom’s parents and their Yumlai (family God) she will be excommunicated by her parents. It is known as Inthokpa. However, after when the temper of the bride’s parents has been lowered down, they may arrange for Loukhatpa (Approval or Recognition) ceremony. For this Loukhatpa ceremony the bridegroom’s family along with the bride and the bridegroom will come with fruits, sweets and flowers etc. at the residence of the bride. The bridegroom then will lay down straight on the Manggol (varandah) or Sumang (courtyard) as an expression of confession to the bride’s parents. In the meantime the bride will also be there at the left side of the bridegroom. Then both the bridegroom and bride will be embraced by the parents and elders of the bride and they will be allowed to bow to them. In such ceremony a rite of Lai Tin Thaba (Luhongba or devotion to Gods) may also be performed as agreed upon between the two families.

Ningol Haiba (begging the bride), Yathang Thaba (exchange of consents) and Waroipot Puba (giving of final consent) are the three pre-requisite as of Lai Tin Thaba or Luhongba ceremony which is compulsorily performed in Hainaba.
(engagement) marriage. For Ningol Haiba (begging the bride) the bridegroom’s family will bring a Kwa mayom (tied betel nut and leaf) and put before the Yumlai (family God) of the bride. The tied betel nut and leaf will be untied carefully by the bride’s family and the nut will be cut into pieces to read the future prospects of the couple. If the parents of both bride and bridegroom have consented to the marriage, on a fixed day the bridegroom’s family will bring Athenpot (well-arranged presentation) consisting of cooked dry fish of Lata fish with wine. These items will be put before the bride’s Yumlai (family God). After that these items will be consumed by the elders and parents of both families. It is known as Yathang Thanaba (exchange of consents). At the desire of the bride’s family meat or fish will be brought by the bridegroom’s family for the performance of Waroipot Puba (giving the final consent). On this day these items will be devoted to the bride’s Apokpa (clan God), Yumlai (family God) and Lai-Yoi (devil Gods). On a fixed day of Lai Tin Thaba or Luhongba several fruits, flowers and betel nuts with leaves etc, will be brought by the bridegroom’s family along with the items for Gods. Devotion will be done as it was done at the time of Waroipot puba (giving of final consent). In the mean time both the bride and bridegroom will pray to the Gods and then bow to the parents and elders who are present on that particular day. The Laipot (items for Gods) consisting of rice, arum, ginger, salt and wine are put together into a Phingairuk (a container). The Laipot will be kept at the Phungga Lairu (fire place of a house) of the bride’s family for five days. It will be done again at the residence of the bridegroom when they have come back after the solemnization of Lai Tin Thaba or Luhongba ceremony. At this time the Laipot (items of Gods) will be brought by the bride’s family. On the fifth day of marriage the Phingairuk (a container) will be opened and the future
prospect of the couple will be read by observing the things like web, insects etc. present inside the Phingairuk (a container). 64

Legal Necessity of Rites and Ceremonies of Marriage

Though not specifically mentioned as one of the essential conditions of valid marriage under section 5 of the Hindu Marriage Act, 1955 more conditions are implied from other provisions of the Act. Under section 7 of the Act marriage ceremonies are required. Section 12 (1) (c) of the Act shows that free consent of both the parties to the marriage is essential for the validity of a marriage. 65 Section 7 of the Act gives statutory recognition to the marriage under the Hindu law as a sacrament. Sub-section (1) lays down that a Hindu marriage may be solemnized in accordance with the customary rites and ceremonies of either party thereto. From the use of the expression “customary rites and ceremonies” it is not to be understood that one can ignore the shastric ceremonies. That the expression would include and mean all such shastric ceremonies as the caste or community to which the party belongs has been customarily following. When one speaks of the custom it should come within the definition of “Custom” under section 3(a) of this Act. This clause provides that the expression “custom” and “usage” signify any rule which having been continuously and uniformly observed for a long time, has obtained the force of law among Hindus in any local area, tribe, community, group or family. Provisions to this section further lay down that the rule must be certain and not unreasonable or opposed to public policy and in case of a rule applicable only to

65. Prof M. Krishna Nair, Family Law, (Vol 1, 1985) p. 27.
a family it must have not been discontinued by the family. Even under the old law only such customs which are followed since time immemorial and not opposed to public policy were recognized. Section 7(2) of the Act says that where such rites and ceremonies include the saptapadi, the marriage becomes complete and binding when the seventh step is taken. Till then the marriage is not complete and is revocable.

This section speaks of solemnization of marriage in accordance with customary rites and ceremonies. The word "solemnized" means to celebrate the marriage with proper ceremonies with the intention that the parties should be considered to be married. Merely going through certain ceremonies with the intention that the parties be taken to be married would not make the ceremonies prescribed by law or approved by any established custom. Under this section it is sufficient if the marriage is solemnized in accordance with customary rites and ceremonies of either party. Where a marriage is performed according to the customary rites and ceremonies of one party which did not include saptapadi, even though according to the customary rites and ceremonies of the other party saptapadi was an essential ceremony, it was held that it was a valid marriage.

Under the old law, where the factum of marriage was established, the doctrine of factum valet was applied and it was presumed in the absence of evidence to the contrary that all the rites and ceremonies necessary to constitute a valid marriage have been gone through. Even after the Act, such a presumption can be drawn in appropriate cases. Living together for a long period

as hushband and wife and recognized as such is presumptive evidence of a valid marriage.\textsuperscript{69} It does not however mean that there is no necessity to prove that the rites and ceremonies were performed for holding any marriage to be valid. It is important to note that section 17 of the Hindu Marriage Act, 1955 provides penal consequences by attracting the provisions of sections 494 and 495 of Indian Penal Code to punish persons connecting with a bigamous marriage. Under section 18 of the Act, parties to the marriage are made punishable if the marriage is made in contravention of the conditions specified in clauses (iii), (iv) and (v) of section 5 of this Act. To impose punishment, strict proof of necessary facts constituting the offence is necessary. Therefore, it becomes necessary to prove that the marriage which is complained of is a valid marriage. If there is no valid marriage, there cannot be any offence punishable under the Act. In every case where the penal consequences are to follow there is the initial burden of proof the primary facts showing a valid marriage viz. (a) What are the customary rites and ceremonies; and (b) Whether the said rites and ceremonies have been performed. If the custom consisting of certain rite and ceremonies in any particular community or part of the country is recognized by law for a valid marriage, then such custom need not be proved in every case among such community or part of the country. But even in such cases the rites and ceremonies among the particular community have to be proved as having been performed. Accordingly, there must be proof of ceremonies.\textsuperscript{70} In \textit{Bhaorao Shankar Lokhande v. The State of Maharashtra},\textsuperscript{71} it was observed that section 17

\textsuperscript{69} Section 144 of the Indian Evidence Act, 1872.


\textsuperscript{71} A.I.R. 1965 S.C. 1564.
of the Hindu Marriage Act, 1955 makes the marriage between two Hindus void if two conditions are satisfied: (i) the marriage is solemnized after the commencement of the Act and (ii) at the date of such marriage, either party had a spouse living. The word "solemnize" means, in connection with a marriage, "to celebrate the marriage with proper ceremonies and in due form". It follows therefore that unless the marriage is celebrated or performed with proper ceremonies and in due form it cannot be said to be "solemnized". What ceremonies are necessary for a valid marriage would depend upon the custom of the community to which the parties belong.

Under section 11 of the Hindu Marriage Act, 1955, a Hindu marriage in contravention of section 5 (i) of the Act is declared void. For the purpose of declaring a marriage as void, it is necessary to prove firstly, that the second marriage is a valid marriage but for this provision, and secondly, the spouse of the first marriage was the legally wedded spouse and that the marriage was subsisting on the date of the second marriage. Not only is a bigamous marriage void under this Act but bigamy is punishable under section 17 read with sections 494 and 495 of the Indian Penal Code. Strict proof of essential ceremony according to law is necessary in respect of both the marriage so as to bring home the offence of bigamy. The second marriage must be one solemnized by the performance of essential ceremonies. In *Lila Gupta v. Lashmi Narain*, Justice Pathak observed that he did not agree with the view of the majority that there could not be void marriage other than those referred to in section 11 of the Hindu Marriage Act, 1955. This section is silent as to marriages which are in contravention of provisions other

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than sections 5 (i), (iv) and (v) for example marriage which contravene section 7. On the language of section 7 a petition for declaration of nullity cannot be filed in respect of such marriages. It would follow that the remedy in such cases should be only to file a suit for declaration that the marriage is null and void.\textsuperscript{74}

Excepting in Madras in respect of special communities, observance of customary rites and ceremonies is essential to a marriage under the Hindu Marriage Act, throughout India save the State of Jammu and Kashmir. A marriage not duly solemnized by performance of the essential ceremonies under the Act, is no marriage at all.\textsuperscript{75} The marriage in Hindu law is not a mere contract. It is the rite of marriage which creates the indissoluble religious tie between the husband and the wife. The comment of Shri Justice S.T. Desai in D.F. Mulla's Commentaries on the Principles of Hindu Law, XII edition, at page 805 that "non-performance of such rites and ceremonies of prime necessity would be regarded as failure to solemnize the marriage and no valid Hindu marriage can result" is perfectly sound and correct.\textsuperscript{76}

Just as no one is free to innovate ceremonies, similarly no one is free to perform any ceremonies of marriage, even though the intention to be man and woman may be there. This question has come before our courts in bigamy cases. Prosecution for bigamy cannot stand unless the solemnization of the second marriage by the requisite rites and ceremonies is established. The question came before the Allahabad High Court in a very interesting manner.\textsuperscript{77} One Dr. A.N. Mukerji performed three different ceremonies of marriage at three different

\textsuperscript{75}. A.I.R. 1994 (Jrn.)p.198.
\textsuperscript{76}. A.I.R. 1962 (Jrn.)p.28.
\textsuperscript{77}. \textit{Dr. A.N. Mukerji v. State}, A.I.R. 1969 All 489.
times with one Smt. Harbans Kaur (who was a married woman and whose husband was living). The first ceremony was performed in a moonlight night in the open where Dr. Mukherji after reciting a few Sanskrit verses embraced Smt. Harbans Kaur and exclaimed, "Moon you are my witness. I am marrying Harbans and she is my wife and I am her husband". The second marriage ceremony was performed eight years later in a Kali temple where the parties exchanged garlands in front of the deity and walked seven steps together. The third ceremony was performed a day later before Guru Granth Sahib as an imitation of Ananda Karaj. The Court held that the performance of such mock ceremonies of marriage does not constitute a valid solemnization of marriage. Not merely the ceremony and rite should not be a mockery, but it is also necessary that the requisite ceremony prevalent and recognized either on the side of the bride or on the side of the bridegroom should be performed. Under Hindu law it is the solemnization of requisite ceremonies and rites that confers the status of husband and wife, and if requisite ceremonies are not performed, the marriage is null and void, unless custom permits such a marriage. It is well established proposition of law incorporated in section 7 of the Hindu Marriage Act, 1955 that requisite ceremonies or rites prevalent on the side of the bride or bridegroom must be performed, otherwise the marriage will not be valid. This position has been reiterated by the Delhi High Court in Mrs. Sudershan Karir v. State.

All over the world, in all systems of law, for the formal validity of marriage performance of appropriate ceremonies is a mandatory requirement. In some systems, just as Hindu law, very elaborate ceremonies are laid down, while in some, minimal ceremonies of marriage are required. The sacramental character

78. (1977) 2 S.C.C. (Jrn.)p.30
of Hindu marriage is retained as performance of religious ceremonies is still necessary for most Hindu Marriage. One of the matters in respect of which custom is retained is also the ceremonial validity of Hindu Marriage. This means that a Hindu marriage must either be performed with the shastric ceremonies and rites or in accordance with the customary rites and ceremonies. Thus, for formal validity of marriage, two alternative ceremonies are available to the Hindus:

(i) Shastric ceremonies and rites: these rites and ceremonies must be those that are laid down in the shastric Hindu law, and

(ii) Customary ceremonies and rites: those rites and ceremonies may be religious, secular, elaborate, brief or nominal.80

Section 16 of the Hindu Marriage Act, 1955, has the marginal title of “Legitimacy of children of void and voidable marriages”. The present position is as under:

(a) Children of a voidable marriage which is not annulled marriage are legitimate and they are in the same way as children of a valid marriage.

(b) Children of annulled voidable marriage and void marriage (whether declared void or not) are legitimate but they will inherit the property of their parents alone and of none else. They are entitled to inherit the property of their parents equally with legitimate children.

Thus section 16 of the Act confers the status of legitimacy on children of Hindu parents whose marriage is void under section 11. If it is void for any other reason the status of legitimacy will not be conferred on such children. Thus if

marriages is void for failure to perform requisite ceremonies, the children of marriage will not be legitimate.\textsuperscript{81}

**Meitei Sociological Necessity of Rites and Ceremonies of marriage**

From a very ancient period Manipur had been a monarchial state. The monarch in power had been the fountain of the administration of justice. He did as he liked in the administration of justice. Law was his command, which he had promulgated according to the circumstances of the case. There was no Code to guide him in dispensing justice amongst his subjects. Justice was "What he loves" evil "What he hates". The society could not do anything what the king hated or disliked.

Since the time of monarchial society in Manipur, the marriage ceremony has been regarded as one of the essentials of a valid marriage amongst the *Meiteis*. Some sort of marriage ceremony is essential in all sort of marriages. Even when a widow or divorced woman lives permanently with a man as his wife, her status is not that of a wife, but that of a concubine or *Byabhicharini*. The children of such woman who is not validly married (i) cannot perform the death ceremonies of their father, (ii) cannot cook the *Sagei* feast, (iii) in the chronicles of the *Sagei* i.e, in the genealogy of the *Sagei* the names of such children are not written under the name of their father but are noted in the margin by the side of their father's name.\textsuperscript{82}

Whoever cohabited with someone without performing the customary marriage ceremony is boycotted by the *Meitei* society and he or she is debarred

\textsuperscript{81} ibid, p.620.
\textsuperscript{82} Codification Committee, *Manipuri customs*, pp.6-7.
from taking part in the social or religious functions. In the olden period some sort of punishments like Khonggojinaba (exposure to the public), Cheina Phuba (flogging) and Loi Thaba (exile) were given to the wrongdoer. Some illustrative examples are taken from the Cheitharol Kumbaba (Royal Chronicle) for reference:

1. One Arambam Chanu Yaithabi committed concubinage act with Laishram Dolai Paba and abortion was done to her for terminating her pregnancy. The male paramour was flogged in the market and the female paramour was exposed to the public.83

2. The female paramour Langmaithemcha Jatrankanta's daughter was exiled to Andro and the male paramour Hao Salei was also exiled to Sugnu for their concubinage act and abortion.84

3. Whoever committed adultery was punished with flogging in the presence of the public;85 sometimes with exile;86 sometimes with exposure (of the man) to the public and exile (of the woman).87

Although the issue of such concubinage is reckoned as legitimate, according to the Municipal law, they are not legitimate issue, according to the religious and social laws of Manipur, upto the third degree. As for example such sons cannot be the cooks of the Sagei Chakchanaba (clan feast) and Lai Chaklon Katpa (annual dedication of food to God); they cannot touch Chakkhum Senak which is the most

84 1st. Kalen, Sakabta 1880, ibid. p.447
85. 8th. Poinu, Sakabta 1873, ibid. p.417.
87. 20th. Sajiphu, Sakabta 1839, ibid.p.246.
highly honoured and coveted service among the Hindu Manipuri community i.e., he cannot give water to Shri Govindaji, give *Pana* (betel nut with leaf) to the king etc. If a man who is qualified to do this service, marries a girl who happens to be the issue of such concubinage, he is forebidden from this service only on the ground that he marries that girl.88

**Customary Divorce Practices Among the Meiteis - Its Judicial Recognition:**

Divorce in broad sense of the term is *Khainaba*, in Meitei law. The method of divorce of the *Meiteis* is one of the simplest in form. In ancient *Meitei* law, there were conditions permitting the husband to commit polygamy and tolerating the wife who established secret cohabitation with a person other than her husband. The customary law allowed divorce from each other and lastly, the legal positivism sanctioned some sort of penalty for infringement of such laws.89

Divorce or *Khainaba* is done at pleasure. It may be initiated either from the husband or from the wife. No formality is necessary in the case of *Khainaba*. It is done on a slight pretext.90 However, there are ancient records enumerating the grounds of divorce:

(i) when the wife does not please her husband:

(ii) when the husband dislikes the character of his wife;

(iii) when any of the co-wives revolted against another;

(iv) when either of the spouses becomes insane;

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88. Supra note 53 at p.90
90. Supra note 82 at p.1.; Supra note 39 at p.91
The procedure for divorce is very simple. Divorce may be initiated either by husband or by wife or it may also be effected by mutual consents of both the spouses. If the divorce is initiated by the husband, the wife is entitled to *Nipa Mamal* (bridegroom’s price); if it is initiated by the wife, the husband is entitled to *Nupi Mamal* (bride’s price). But no ‘*Nipa or Nupi Mamal*’ is payable in case of *Khainaba* by mutual consent. If the divorce is done by mutual agreement, the children should be taken by the husband except the child who is still sucking. The father is also entitled to get it back after the sucking period is over. It means that father is the proper and lawful custodian of the children. The maintenance of children is borne by the father or mother as the case may be in whose custody they remain. If the wife is pregnant at the time of divorce, she is entitled to 12 bags of paddy plus Rs.4/- called *Angang Chakthak* (child’s maintenance) payable by the husband. The wife cannot claim maintenance for her children and herself except this *Angang Chakthak* of the child in the womb of the mother. When the divorce becomes complete or absolute the wife is entitled to her *Awoonpot* (dowry) left at the residence of her husband.

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92 Larenmayum Ibungohal Singh, op.cit. pp.91-92., Dr S.R.Mangang, op.cit.p.56.
94 Supra note 82 at p 2.
95 L. Ibungohal Singh, op.cit.p.93., Supra note 93 at p 95; ibid p.3.
*Wa-Loithoknaba* is the “Confirmation of divorce”. Divorce acquires a binding only after this formality. In this formality both the parents, the *Sagei Pibas* (male elders of the clan) and elderly local men together orally enquire from the spouses. They decide whether divorce is proper. It is a simple form of social recognition of divorce. If any divorce has been confirmed by *Wa-Loithoknaba* then there is restriction as to recohabitation of married life (or the coming back of the wife to her husband’s house). A divorced woman whose divorce has not been confirmed by *Wa-Loithoknaba* shall still be treated as only an absence to their cohabitation. If the wife dies at her parental house before *Wa-Loithoknaba*, her divorced husband must perform all rites of her death as her lawful husband. During the pre-*Wa-Loithoknaba* stage she cannot remarry another man. If she does so, the remarrying man, must pay a fine called *Mangkat* (usually half of the expenditure of earlier marriage ceremony) to the former husband. If the former husband does not agree with her act of remarriage, then there shall have a matrimonial dispute between the divorcees, and the final decision shall only be given by the law court.96

*Khainaba* is a Manipuri term denoting divorce. People commonly translate *Khainaba* into Divorce. As a matter of fact *Khainaba* which is a technical term is not synonymous with the word Divorce in the true sense of the term. There is difference between *Khainaba* and Divorce. This difference is not only from the legal point of view but also from the traditional understanding of the words by the Meiteis. When a wife lives separate from her husband for any reason, as the case may be, it will be called as *Khainaba* but not Divorce. When such *Khainaba* is followed

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by the performance of *Wa-Loithoknaba*, only then it becomes divorce. In other words, divorce in its legal sense with reference to customary divorce of *Meiteis* will mean an absolute dissolution of marriage constituted by acts of *Khainaba* and *Wa-Loithoknaba* (i.e. Divorce=Khainaba+Wa-Loithoknaba). *Khainaba* has the nature of judicial separation of the Hindu Marriage Act.97 That is to say, the marriage is kept suspended by 'Khainaba' and stands dissolved by 'Wa-Loithoknaba'. The distinction between Khainaba and Divorce can be seen from the following instances:

1. A woman after Khainaba remains as belonging to the yek or gotra of her husband i.e. she remains as the wife of the husband until she becomes the concubine of a man (marrying with another man) or her death.

2. Even after she marries with another man before *Wa-Loithoknaba* but after *Khainaba* from the former husband, if she left a male issue of her former husband, her *shradha* (a kind of rite of death) can be performed in the gotra of her former husband. The latter husband and issues to her remain as strangers.

3. The children of a woman who marries again before her *Wa-Loithoknaba* from her former husband has not been performed, are not legitimate issues according to the religious and social laws of Manipur, upto the third degree.98

The customary divorce among *Meiteis* have been protected by the judiciary even before the Hindu Marriage Act, 1955 came into force. This legal protection has not been abrogated by the Hindu Marriage Act, instead it

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98. L. Ibungohal Singh, op.cit, p.88.
safeguards such customs in tact under section 29(2) of the Act. Here, it is noteworthy to discuss some of the cases decided on the enforceability and validity of customary divorce practices and their co-incidents in the ancient Manipuri society. It may show the judicial trend towards the legal recognition of Meitei customs of divorce. In *S.Chauton v.Sanabam Lolit Singh*, it was held that if *Khainaba* was initiated by the wife and if she was unwilling to be restituted she was to pay Rs.50/- to the husband which was commonly called *Nupi Mamal*. This *Nupi Mamal* must be claimed within three years, from the date of *Khainaba*, after three years he could not claim it as it amounted to *Lisang Thaba* (setting free at random). In a recent case a man was grossly unkind and unwilling to take back his wife, *Nipa Mamal* of Rs.50/- was given to the wife. This Nupi or Nipa Mamal is not payable if the Khainaba is effected by mutual agreement. If at the time of Khainaba if the wife be pregnant, then she is entitled to 12 pots (bags) of paddy plus Rs.4/- called *Angang Chathak* (Child's maintenance), being her maintenance for the period during which she was unable to work. This *Angang Chakthak* is allowed even to the concubine, although she lives or does not live in the man's house. Except the *Angang Chakthak* the wife or the concubine cannot claim any maintenance for her or the child or their issues; and she can hand over their issues including sucking child to the man. If the custody of their issues, if claimed both by the husband and wife, the husband is entitled to get it. When the *Khainaba* becomes absolute or complete the wife or the concubine is

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100. *Tonsija v Hera Singh*, D.C.A. No. 102 of 1938.
101. This amount of Rs.4/- should be increased now as the amount was fixed when living was very very cheap.
103. *S. Iboton Sharmav. Ibechoubi Devi*, D.C.A. No. 104 of 1941
entitled to her *Awoonpot* (Dowry) left at the residence of her husband.\(^{105}\) *Puyam Liklai Singh v. Moirangthem Maipak Singh and another*,\(^ {106}\) is one of the most important cases in which the question of attachment to divorce was discussed. In this case it was held that according to the prevailing customs in Manipur, divorce or *Khainaba* was permissible amongst the Hindus of Manipur. It could be initiated from the husband’s side or from the wife’s side. There was no condition attached and it could be done at pleasure and even at a slight pretext. Dismissing the review application the court further observed that:

“The union of a man with a divorced woman is also recognized as a Manipuri local valid marriage. In Manipur the marriage between a divorced wife and a remote relation of her former husband cannot be deemed to be invalid or immoral. The mere fact that the wife may not be able to participate in social functions would be no ground for depriving the husband his right of inheritance as heir to his deceased wife.”

The brief fact of the case is that Puyam Liklai Singh, petitioner had brought suit No.2 of 1954 in the Court of the District Judge, Manipur for a declaration that he was entitled to the properties as heir to Smt. Ibeton Devi. Moirangthem Maipak Singh had secured mutation in his name on the

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105 D.C.A. No. 179 of 1931; D.C.A. No. 79. of 1932; D.C.A No. 15 of 1933; D.C.A No. 90 of 1934; D.C.A No.33 of 1935, D.C.A No. 107 of 1937.


**Note:** All the Darbar Civil Appeal Cases are cited in L. Ibungohal Singh, *Introduction of Manipur* (2nd, edition, 1963) pp.91-94.
properties in question in Misc. Case No. 547 of 1953/54 and it was alleged that this order was legally inoperative as against the plaintiff who was the father of the late Ibeton Devi. Late Ibeton Devi was married to M.Chetei Singh, opposite party No.2, but that marriage was dissolved according to the Manipuri custom of Khainaba and after her divorce she lived with her father (plaintiff) in the ingkhol in question. The suit was contested by the opposite party No.1 M.Maipak Singh on the ground that Smt. Ibeton Devi was his legally married wife. The learned District Judge decreed the suit. This is an application for review against this court (court of Judicial Commissioner) dated 31/3/1955 passed in Civil First Appeal No.4 of 1955 on the ground that there was an error apparent on the face of the record.

In Meitei Customary law there are various forms of divorce, like Kanglei, Andro, Awang Sekmai, Pheiyeng and Laimalam. They are more or less similar to each other. In divorce, both the couple have equal rights. Mutual consent is always considered as essential. If there is divorce it must come to the knowledge of village elders. Within four or five days of the separation between the spouses, the divorce cannot be confirmed. The village chief or elders shall decide the divorce. Before any decision there shall be no remarriage of the wife. After the confirmation of divorce, re-cohabitation of conjugal life is not allowed. However, the confirmed divorced woman may have conjugal life with another man and she may again divorce him afterwards. Such divorced woman may resume her marital status with her former husband. Exceptionally, in Pheiyeng there is a fine called ‘Wakongba’ to be paid by either of the spouse. If the marriage was performed by the rite of ‘Lai Tin Thaba’ then the fine value was
fixed higher than the marriage performed without such a rite. In the case of *Leimalam* the paying of the fine by the initiation of such divorce was always made compulsory.\(^{107}\)

Dr. Kirti has attempted to establish a specific proposition consisting of customary norms of Meitei divorce system and they are as follows:

(i) If the wife voluntarily separated from her husband for full three years, the divorce is presumed as confirmed, and in such cases the husband may rightfully claim compensation from the wife.

(ii) In completion of three years separation may be confirmed by a simple process of confirmation called *"Wa-Loithoknaba"*.

(iii) Unconfirmed divorced wife is considered as having acquired the surname of her husband until she marries a second husband. Otherwise the surname of her former husband is lost on remarriage.

(iv) The son of her first husband shall perform her death ritual ceremonies, in suppression of all her sons born by her subsequent remarriages. viz, second or third, even though all sons are legitimate.

(v) The sons born of the second husband are not allowed to perform personally the rite of *Chaklon Katpa, Tan Katpa* and *Chakkhum Senak* except joining to it, which customary obligation is now-a-days relaxed, as if there is no king of the ancient time to object it.

(vi) Though widow remarriage is compulsorily allowed, widows of any status shall have a distinct dress and way of the life when she lives without a husband in the society. Such dress may however be abandoned when a man has been accepted as her husband for the remaining life.

\(^{107}\) Supra note 41 at pp.64-65.
(vii) In a woman’s life marriage (*Luhongba*) is permitted only once and therefore the second or subsequent marriages are not ‘marriage’ in the strict sense of the form. They are better called ‘male adjusted marriage’, or ‘recoupled life’, or *‘Hanna Yumpanba’*.

(viii) Divorce had no rigid rules, since the wife may voluntarily leave her husband with his consent or the husband willingly ask her to leave him but escorting her to her parental house.

(ix) Any resumption of conjugal life shall be done before the confirmation of such divorce or within three years of their separation, because any resumption of conjugal life is considered bad if done after the confirmation of divorce.

(x) Compensation for divorce shall be paid by the initiator to the divorce provided the wife is given a chance to resume conjugal life.

(xi) Any compensation shall be claimed within three years of the separation or otherwise void.

(xii) If resumption of conjugal life is desired by the wife (though she initiated the divorce) and is denied by her husband, no compensation may be claimed by him.

(xiii) Any divorce done under mutual agreement between two spouses shall have no question of compensation, and lastly.

(xiv) If the divorce is done due to the negligence, ill-treatment or absence of cohabitation of the husband, he is liable to pay compensation to her wife.\(^{108}\)

The literal meaning of "Hanjinnaba" is the re-cohabitation of both the divorcees or the coming back of the divorced wife to her husband's house. It is customarily done before Wa-Loithoknaba. Therefore, here the words 'divorced wife' mean the wife who has lived separately from her husband (i.e. Khainaba) and her Wa-Loithoknaba has also been performed. The words divorce and Khainaba have been used as synonymous words. As discussed above, these two words are not exactly similar to each other with reference to the Customs of Meiteis.

The act of re-cohabitation is free from any binding, because it is always at the choice of both the divorcees. They may establish their married life ignoring all their prestige and marital status. In the meantime any divorced woman who is staying at her parental house is commonly known as Mou Hallakpi (separated married woman), who is again treated as an unmarried wife. In re-cohabitation, the woman has more rights than the man, because the divorced wife even after having had a remarried life, or having lived as a concubine of another person, may again become his wife. However, the practice is regarded as social evil. In this regard the following rules may be noted:

(i) The limitation of conjugal rights is three years from the date of divorce.
(ii) The divorced wife belongs to the surnames or family of her husband until a remarriage with another person is resumed.
(iii) There shall be no formal marriage ceremony for any remarriage of married or divorced woman. Her second husband is always abhorred by the society.

110. ibid. p.60; Moirangthem Kirti, 'Meitei Customary Law', Lanmei Thanbi (Dec., 1983)pp.2-4
(iv) The formal marriage is only once in a woman’s life. However, a woman without a husband has a social stigma and therefore, remarriage of such woman becomes permissible.

(v) There is no hard and fast rule in divorce, because it is effected when the wife has gone or escorted to her parental house, provided her husband has consented to it.

(vi) Any claim of either bride’s or bridegroom’s price (if arises) shall be made within three years from the date of divorce, and such claim shall be void if made after the lapse of three years of divorce.

(vii) No claim of any type shall be made or given by the wife to her husband in case the latter is unwilling to the restitution of their conjugal life. If the divorce is caused due to the negligence of the husband who dislikes to any restitution, then he is liable to pay claim or compensation to his wife. In such also cases the limitation is three years.