

The Rev. Andrew Kgasa of Kanye reports the following case:-

He is the son of Motsatsin Kgasa, a respected deacon of the Kanye Church and a life-long Christian who died a few years ago.

Motsatsin gave his daughter, the sister of Andrew, in marriage to a Mosuto, to whom she was married legally. The family of the man wished to pay the Bogadi cattle for her, but Motsatsin refused to accept them. After some years the husband died and his brothers came to his widow and said that as they had paid Bogadi for her they were going to take her to wife according to custom and raise up seed to her deceased husband. To this she objected, and denied that they had paid Bogadi. As she had gone to Basutoland to live with her husband, his relatives took the matter to the Magistrate and asked for his help in securing their customary rights. Upon the widow denying the fact of the Bogadi payment the Magistrate sent to Motsatsin to know the truth of the statement of the widow's brothers, and it was only by virtue of the denial of her father that Bogadi had been paid that she escaped the degrading experience of a Bogadi widow, viz: the promiscuous intercourse of her late husband's male relatives.

The Rev. Andrew Kgasa is a Marriage Officer amongst the Banwaketse of the Bechuanaland Protectorate, where Bogadi is still frequently practised. He maintains that the ceremony of Bogadi is not complete without the sacrifice of an ox in addition to the payment or promise of payment of the actual Bogadi cattle, and his experience there is that many young couples in presenting themselves at the legal Church marriage service exhibit on their wrists the sacrificial cuts made by the heathen doctor at the slaughter of the ox, and subsequently at the bridal feast the bride is arrayed in the sweetbread of the animal. The marks on the wrist are the sign that a Bogadi contract has been entered, and constitute a pledge that the cattle shall be subsequently handed over. In this ceremony the maternal uncle is the doctor, unless too young to act in this capacity, and both the bride and groom are doctored in nature's garb by admixture of blood around the abdominal region. And unless this sacrifice and ritual have been performed, the future children of this union are not allowed to join the Bogwera ceremony or to have Bogadi paid for them when they grow up. Before these heathen privileges can be enjoyed by such children the ox and the allied ceremonies must be supplied and endured by their parents, whereupon the children become ceremonially fit for these privileges.

Mr. Kgasa holds the view that if a Christian says that Bogadi is a good thing he is either not a Christian or is ignorant of what Bogadi really is.

An interesting case has come before me at Kuruman during the past month. A married woman came to me complaining that her husband had gone after another woman and was neglecting her and her children, and asked for my assistance. Her name is Elisa Ramashabago and she was legally married to Caobepo Keisen in 1914. She came to me with her chief, by name Rrampaesele, and in his presence related the circumstances of her husband's cruelty and infidelity. I

requested the chief to take the matter up in his kgotle and to induce the husband to return to his wife. To this the chief agreed, and the meeting was held. At the meeting the man stated that the woman of whom his wife complained was the wife of his deceased elder brother, and that he was only performing his duty in raising up seed to the dead. Upon this the chief and all the heathen men in the kgotle supported the man against the wife, and said that it was their custom and there was nothing to be said about it.

It should be noted that the elder brother had not married by Bogadi, but his father being a Christian he had, like his younger brother, married by Christian rites. Nevertheless the heathen chief had supported his conduct on the basis of Bogadi marriage, which is foreign to the facts of the case. The poor woman thus falls between the two stools; she is deprived of her legal rights and suffers the disabilities of Bogadi customary practice to which neither she, nor her husband, nor her sister-in-law have been a party! It is obvious that some correcting Government action is called for in order to prevent such injustice occurring in the lives of law-abiding and self-respecting women. It is not right that the disabilities of Bogadi customary marriage should fall upon women legally married.

### The Effects of Bogadi.

In estimating the effects of Bogadi in the lives of the native races of South Africa, it would be ungenerous and unscientific to ignore its good work, having regard to the condition of the people at the time of its inception. The following advantages seem to have accrued:-

1. The regulation of family relationships.
2. The control of Child life.
3. The enhancement of the value of child life.
4. Counteraction of childless families.
5. Compensation for cost of upbringing of children.
6. Gave a certain value to woman.
7. Kept control over youth and maidens by their parents and families.
8. Displaced marriage by capture and war.
9. Provided a "modus operandi" for transition from the "Beenah" stage to male kinship through purchase, and its allied "Levirate" form.
10. Made marriage contract subject to the chief's jurisdiction, and thus prevented undue severity from the husband to his wife.

It may be conceded that in the rude, uncivilized stage of primitive man the above advantages were of considerable value. But when the content and implications of Bogadi are considered in the light of present day conditions in South Africa, where the native races are living side by side with European civilization, compelled by choice or force of circumstances beyond their control to assimilate its standards from religious, social or economic necessity, it is abundantly apparent that it is a system inimical in every essential to the welfare of the natives themselves, to the Christian Church and to the State. For the practice of Bogadi embraces the following uncivilized and unchristian features:-

1. The incidental purchase of woman, or of her generative ability.
2. Woman subjected to general sexual commerce of the Bogadi contributors.
3. The loaning of wives to friends.
4. The wife is inherited after death of husband by male relatives.
5. The female relatives of wife are bound by contract without consultation.
6. Family jealousy created by promiscuous commerce regarding paternity.
7. It substitutes purchase of children in place of paternity.
8. It binds the woman to a family as a sex slave, while it leaves the man free to enter into many other wife contracts.
9. If re-married after the death of her husband, her children belong to the Bogadi relatives, and she is deprived of her own issue.
10. Bogadi is not given to her parents, but to her mother's relatives, and her own father is a nonentity, accepting what is left by the other relatives.
11. Bogadi is not a thanksgiving to the parents; this is called "Telekèlò".

12. Bogadi is a double form of looting, a relic of marriage by capture.
13. Bogadi ratifies a vow of parents. It denies a woman freedom of choice and self-determination.
14. It rides rough-shod over a woman's prerogatives to her greatest detriment.
15. Bogadi contracts are sometimes made when parents are drunk, or on account of illicit relationships of the parents of the girl or boy.
16. Bogadi is impregnated with the practice and spirit of polygamy.
17. A Bogadi wife is inherited at the death of her husband by his heir.
18. Under certain circumstances both the mother and the father may be deprived of the possession of their own children.
19. Bogadi gives no decent status to a woman in her home as is requisite and fitting for a civilized or christian life.
20. Bogadi ceremonies include doctoring of the home, etc., of the bride and groom.
21. The reflex action of Bogadi on native Christians is bad, as they fear that, notwithstanding their Christian or legal marriage, heathen relatives will claim their children on the ground that Bogadi has not been paid. This is responsible for much secret handing over of cattle by native Christians at the time of, or subsequent to the marriage service.
22. Bogadi frequently denies the natural right of primogeniture.
23. In polygamous families Bogadi creates a difficult position for the male children of the older wives; for their father's young wives are frequently of their own age, or younger, and as these are a part of their anticipated inheritance at the death of their father, many illicit relationships are formed between them, even during the lifetime of their father.

#### The Bogadi Marriage Ceremonies and Procedure.

The preparation of the Secwana marriage begins at the time of the puberty rites of Bogwera and Boyali, which are the initiation ceremonies of boys and girls. Here at the tender age of puberty the boys are circumcised and taught by song and parable the secrets of marital relationship, and the girls have the virginal membrane ruptured by the introduction of an elongated wild tuber, and are subjected to fatiguing tests of endurance against the period of child-birth, and are explicitly instructed in matters of sex relationships by the old woman master of ceremonies. Cruel, crude and revolting as these ceremonies are, they do prevent the lamentable lack of elementary knowledge on sex matters amongst the initiates, which is so prevalent amongst Europeans.

When the preliminaries of a Bogadi marriage have been fulfilled, either by the "Tempampa" arrangement before birth, or by the betrothal by means of the "Pèèlèlò" or "Mokwele" slaughter animal, the two families are in contractual relationship. The future bridegroom takes his place in the bride's family by sewing karosses, ploughing the garden lands, etc., though he still lives with his own people.

In due course the bridegroom's family sends a message to the bride's family that they are to get ready for the marriage. They thereupon prepare large quantities of food for the marriage feast called "The feast of the Molato," i.e. the feast of the Debt, to which all the relatives come.

When the feast is at its height the Rakgadi of the bridegroom, who acts the principal part in the marriage ceremonies, enters the feast carrying on her head the bridegroom's bedding, and hands it over to the girl's Rakgadi who in turn takes it to the bridal hut and arranges it carefully with the bedding of the bride. The two lots of bedding are suitable medicated by the doctor as is the new homestead and the persons of the young couple.

So far the proceedings have taken place in the absence of the bridegroom, but at night-fall he comes to the bride's place alone, or with two of his friends, and is met in silence at the door of the bridal hut by the girl's Rakgadi, and enters to find the bride and her two girl friends awaiting his arrival. A desultory conversation takes place between the company, but the bride must not speak to the husband except through the others, nor may the man address the bride directly, but through his mates.

Some hours later the mother of the bridegroom opens the door and greets the assembled people and departs. This is the sign for the others to disperse, and they gradually retire one by one, leaving the couple and the girl's Rakgadi to themselves. The Rakgadi is not another person, so to speak, she represents the bride's contracting family, and she stays the night with the young couple. Nothing is private to her, she has no eyes or ears unless the bride refuses to fulfil her part of the contract. If she is obstreperous (as very frequently is the case) the Rakgadi uses force or threats or beatings until she submits.

The bride continues to live at her own place till the arrival of the first child of the marriage, and sometimes longer, and the matter of paying the Bogadi cattle is not mentioned till this time. Even then it need not be paid in full, as Bogadi by instalment is common amongst the poorer people, and indeed is sometimes paid when the children are grown up.

When the Bogadi is handed over a feast is held and an ox is slaughtered by each maternal uncle, the bride's uncle killing the ox presented by the bridegroom's uncle and vice versa. There are six principals in the Bogadi ceremony consisting of both maternal uncles, both paternal aunts and both grandparents, and when the Bogadi cattle arrive they select their choice of the animals in this preference order; the actual father of the bride only takes what is left after the others have taken their portion.

At the dance which follows the uncles and aunts each perform, holding an axe over their heads as a sign of their priority in the family.

When a tribe decides to shift to a new place it is the prerogative of the chief to wield the axe in cutting the first tree on the new site, which is recognised in any dispute subsequently, as proof of his right to the chieftain-

ship; and in the dance of the axe at the Bogadi feast the maternal uncles and aunts assert a similar claim to establish the new family on the basis of cattle purchase by killing the ox and chopping off its head with the axe.

Effect of Act 38 of 1927 "For the better control and Management of Native Affairs."

A perusal of the provisions of this Act, more especially those of Chapters 4 & 5, reveal a new legal status conferred on Lobola and Bogadi which I consider inimical to the future welfare of marriage by Christian or legal rites.

Section 10 of Chapter 4 expressly disables the Native Commissioner's Court from dealing with an application for divorce or separation arising out of a legal wedding.

Section 11 empowers Native Courts to adjudicate on cases between Native and Native, and instructs them to do so on the basis of Customary Law, unless such be opposed to public policy or natural justice. But it makes a proviso that it shall not be lawful for any court to declare that the custom of Lobola or Bogadi or any similar custom is repugnant to such principles.

In Section 12, native chiefs are granted power of divorce in cases of customary marriages, but are prevented from exercising the same power even though they have exercised this right previously regarding the marriages of Christian or legal character.

Chapter 5 deals with Customary and legal marriage as affecting succession rights, and generally gives them an equal status before the law. Indeed it gives precedence to customary marriage for it requires preliminary enquiries from Marriage Officers as to any previous customary marriage existing, and required certification of security of inheritance of any children of such marriage, prior to the performance of the Christian marriage under a penalty of £30 or 3 months to the defaulting Minister, and £50 or 6 months to the defaulting native. But no such requirement is necessary for a customary marriage, which can take place after a Christian marriage without penalty, let or hindrance, as far as this law is concerned. And in the case of a customary marriage existing at the time of a Christian marriage, no greater rights are conferred upon the widow and children of the Christian marriage than upon the children and widow of the customary union. In fact it is expressly ordered that legal marriage after the Act shall not produce the legal consequences of marriage in community of property, unless there be no customary union existing, and until application be made for such consequences within the month preceding the legal marriage.

In summoning up the provisions of this Act as affecting legal and customary marriages, the following points arise:-

1. The practices of Bogadi are declared to be according to public policy and natural justice.
2. Customary marriages enjoy preferential treatment
  - (a) By legal provision for easy and inexpensive divorce

1. In Native Commissioners' Courts,
2. By duly appointed chief - without cost.
3. By the definite exclusion of legal marriage from these provisions.

- (b) By the absence of restrictions or conditions of such marriages.
- (c) By making widows and children of customary unions equal inheritors of the estate.
- (d) By restriction of freedom of legal marriage where customary unions exist.
- (e) By refusing legal marriages the consequences of community of property, except by petition.

The aggregate effect of these provisions is an appeal to the natives to patronise customary unions, and a deterrent from entering into Christian marriage. To refuse to allow aggrieved parties of a legal marriage access to the native courts for justice, thus compelling them to seek redress in an European court with its prohibitive costs, is unjust and calculated to prevent them entering into legal unions. It is in fact a wilful deterrent by law, and an appeal by Government for natives to enter customary or Bogadi marriages.

The degrading of native Christian marriage to legal inferiority to customary Bogadi unions, and the differentiation in the results of legal marriage of natives from those of legal marriages of Europeans, appears to be the effect of a policy of segregation in justice and of the introduction of a colour bar into marriage legislation. It is a reflection of the pseudo-scientific slogan "Let the native develop on his own lines," which really means "but let him not copy our Christian civilization!" It will be a bad day for South Africa and for the Christian Church in our beloved land should the natives adopt the suggestions of this Act. The reflex action on the European children and homes of an unmoral standard of native marriage and home life as is shown in the Bogadi practices would be disastrous.

Is Bogadi desirable and possible under present conditions?

This is in some measure an academic question, and as such can be answered in different ways. My own view is that if any other system of marriage contract is possible, then Bogadi marriage is undesirable. For I think it is obvious that Bogadi marriage is so weighted with disabilities to both the bride and the bridegroom, and its implications so wide and indefinite as to constitute a great impediment to the social welfare and progress of those under its jurisdiction. Indeed, it would appear to occupy a place only as a substitute for the still lower form of casual marital relationships which have existed amongst more primitive peoples.

As a part of tribal organisation and under the strong sanction of tribal control centred in the chief, it was at any rate a workable system and played a part in the growth and domestic development of the tribe. But under present conditions, when the powers and authority of the chiefs have been, or are being broken down, where the young people are more and more getting out of control; when travelling has become a feature of modern native life; when the economic pressure is forcing most able-bodied men and women to go

to the labour centres; when the Government of the land is European, and land provision insufficient for the needs of the people, or for grazing their cattle; when money is fast replacing cattle as the currency of native people; it may well be asked if such a flexible scheme as Bogadi, with infinite local modifications of practice, is a possible scheme, and whether it can be properly allied under the control of a court under the presidency of a European Native Commissioner. And we may have our doubts when the law is silent as to the language qualifications of these Commissioners; and penalties for failure to meet Bogadi obligations will be met in the usual European way of fines and imprisonment.

Speaking as a citizen and not as a Missionary, I have no hesitancy in declaring that the Government has made a serious blunder in legalising the system of Bogadi, and not only have they recognised it, but they have given to it a preferential treatment by declaring it not repugnant to the public policy, nor to natural law of justice. What then, may we ask, is the public policy of the Government? Does it include the communal possession of one woman? Does it include the subjection of one woman to her family guardian for life? Does it allow a woman to be hounded to sexual intercourse with a man to whom she objects? Does it include the handing over of a widow to another man without her sanction or consent? Does it include in its policy the pernicious system of allowing a man to inherit his father's wives? Does it fit in with public policy that a man should be legally defrauded of his birthright by primogeniture because his father has taken another wife after his mother, and pronounced that she is the great woman? Is this not contrary to natural justice? And yet whatever his view of these things may be, the judge has the verdict taken out of his mouth, by a Government declaration, before the case is tried, that such things are not contrary to natural justice nor to the public policy of South Africa! I venture to declare that they would be detrimental to the public policy of any country, and much more so to the policy of our beloved land South Africa, with its six millions of native subjects, to whom the European Government stands "in loco parentis."

But is the Government sincere in this matter? What would be the action of the Education Department in the case where a school teacher took up with the Government action and exercised his legal right to live a polygamous life? Would he be illegally dismissed for exercising his legal prerogative? And on what grounds? And if not, what would be the effect of his conduct on the lives of his scholars and on the work of the Church which appointed him? And what if he chose some of his scholars as the wives for whom he paid Bogadi?

I am not fanatical in my disapproval of Bogadi, nor would I countenance suppression of it by law or force. But I take the strongest exception to Government legislation of the practice. And in my attitude I am glad to know that I have some very good company. For the Commissioners of the Native Affairs Report of 1903-5 take the same view. For instance they say:-

"An important question affecting the status of native



women arises in connection with the custom of "Ukugena", or the taking over of widows by brothers or even in some instances by sons of the deceased. This practice should not be countenanced in any way whatever."

Again they say:-

"Native law and custom confers no majority on native women. She is under guardianship all her life, and is disabled to own property, even the property gained as the result of her own labour. In the Cape and Free State she attains majority at 21 years of age, and this should be made universal whenever circumstances permit."

Again they say:-

"Improvement in the position and treatment of women has been brought about by the influence of Christianity and civilised views on the marriage question in the large section of the Native community who have not formally adopted Christianity or civilized ways of life. The Commissioners recommend the encouragement of religion and education and the adoption of any measures to preserve the inviolability of the marriage tie."

They also express the following opinion:-

"One of the strongest forces in Native life..... is the influence of the women. That influence is strong and would be made stronger and better if she were a free agent and a Christian wife. The Commission is impressed by the importance and desirability of furthering the emancipation of the Native women of full age, and of giving every encouragement to the increase of Christian marriage among the natives; and it recommends that the native women so married should be thereby exempted from the tribal law and custom of guardianship and in the event of widowhood that she should be personally free and independent. It is convinced that these would prove powerful influences in the advancement of the native people."

It is a thousand pities that such wise and profitable suggestions emanating from such an expert body of advisers should have not only been disregarded but their recommendations reversed by the promulgation of Act No. 38 of 1927.

#### Comparison of Bogadi and Christian Home-Life.

What then are the essential conditions of family relationships required by the standard of Christian and civil marriage? In the words of the Native Affairs Commission of 1903-5 "Christianity teaches that marriage is the sacred union of one man and one woman for life, and that fidelity to a single love is as much the duty of the man as the woman." The Christian standard requires that the basis of such a union be voluntary, that it be the union of two

loving and consenting persons exercising their free choice for a life union. It abhors compulsion either moral or physical, it excludes polygamy and polyandry in either regular or promiscuous degrees; it claims complete independence of widows from family appropriations, and refuses to transfer parental authority or possession of children to other than the actual parents. It removes parental authority and guardianship from married persons, male and female, and grants to both a legal majority. It contemplates the loving control, correction and education by the parents of their children, and anticipates a natural development of child life into the discipleship of Jesus in youth and manhood.

Christianity makes no allowance for a break-away from the beneficent circle of its family from generation to generation, and ardently works for the succession of the children to the godly inheritance of their parents. Indeed the Christian view of the home can be summed up in the statement that it is a picture of the Kingdom of God in miniature and that every Christian grace and virtue pregnant in the ideal of Christianity should find its scope and theatre in the Christian home.

Christianity is the most tolerant system of Religion in the world, and has looked in pity and compassion throughout the centuries upon the misbeliefs and disabilities of the worshippers of other religions; but it has never been tolerant of heathenism or heathen practices within its own border, nor submitted its high standard of the home and family to the interference and degradation of the low ideals of the world.

And we who control its affairs in these modern days, to whose defence and protection the Christian standard and high ideals have been committed in trust for the peoples of Africa, cannot give place to the standards of unmorality as evidenced by the theory and practice of Bogadi, without betraying both the Kingdom of God and the infant indigenous Church which is our inheritance from previous generations of Christian missionaries and our sacred trust and charge.

Should the Christian Church sanction the Bogadi status of its male and female members, it would be well to write "Ichabod" over the doors of our Christian assemblies, and to return to the land of our birth and upbringing to re-learn the basic principles of our Faith and practice, for Bogadi is the negation of the essence of the Christian teaching on the fundamental requirements of the Christian home.

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