



Customary Law and Women in North East India

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Abstract

The function of customary laws is to help maintain peace and order irrespective of caste, creed, sex etc., in a society with each member but regardless of its function gender biasness is seen. The paper talks about the gender biasness that happens within the customary laws taking the example of Northeast tribal women in particular. At times it becomes difficult for women to exist in the same society as their male. The patriarchal set norms and the society inferring of women being inferior and subordinate to men, all socially and culturally discriminate women and thus structure their social world. In order to study the customary laws of the people their age-old customs and traditions have to be taken into considerations including women and men's stereotype roles in the functioning of the customary laws. The roles that women play in the various socio-economic spheres and their contribution in the nation building are also to be taken into consideration.

Keywords: Customary law, gender, women, bias, patriarchal.

Introduction

Customary law, which is believed to help its members maintain peace and order with other fellow member in the society where one belongs, is biased. At times this becomes inconsistent by bias attitude instead of safeguarding the interests of the members irrespective of caste, creed or sex women suffers tremendously in many different ways. The treatment that men and women experience is not the same. The society set customary norms and rules is not at all equal. The society at large and family in particular set norms and values are patriarchal in nature. This patriarchal structure sidelines women by male dominance in almost everything where women's identity is intrinsically linked to man. The status of tribal women is believed to be far better off compare to the rest of the world, in particular Northeastern tribal women are said to enjoy more freedom as equal to their male counterparts. But this is not as great as it sound in reality. Though Northeast women may enjoys equal status to men to certain extent but is not in all. No matter whatsoever status or whichever communities they belong to women are women. Their status will always be the same where women are to remain subservient to men. Though slight leniency appears in some cases but when it comes to general understanding of the position that they hold in the society they remain in the inferiority complex.

Customary law and Gender

In today's highly competitive world a revision on gender relation is a must-required field of study. The different stereotype role that both men and women play in the society and their contribution should be dealt with much attention. The stereotype notion of women being inferior to men still exists as is clearly seen in the traditional idea of women being confined to domestic domain only. Women are barred from performing

various rituals even if it is to do for their own good. The male supremacy overrides female in almost all important sphere be it in home where women is taken as king of the kitchen theoretically but this is not so in practical terms. Even in this juncture women are governed by certain male dominance. For instance being the king or queen of the hearth she is not free to think what to do and what not to for their mind is not free to think what to cook for the meal since they fear whether the family will like it or not. This sense of fear ultimately arises out of the inferiority complex where the patriarchal structure denotes women remain submissive to their men no matter what so ever the situation is.

In the socially constructed division of labour men do the jobs that are 'heavier' and 'strenuous' while women do jobs that are 'lighter' and needs 'fragile caring'. Besides men and women experience life differently; women are gentle, tolerant, whereas men are authoritative, impatient¹. Likewise in the social division of labour women are to engage themselves in domestic chores while their men goes and capture the outside world which is believe to be dangerous and wild. One reason for keeping women at home is that they are taken as weaker section of the society as compared to men. But in fact there are women who are competent to their menfolk to certain extent at least if not in all. Having given differences socially between the two how can we expect them to be equal? This division is clearly seen within the customary laws. Women not only carry out their work assigned but they also help their men in conducting various manly works; in spite of all these contributions, why are women still pushed in the borderlines with all the societal fabricated bias norms?

Women are restricted from various type of the functioning of the customary laws. They do not have a say neither in the family

nor in the village administration freely with open mind when it comes to decision-making. Though they may give the most valuable ideas and knowledge about the concern subjects to their men they are no less given place and mentions anywhere in the traditional set ups for their contributions, formally.

Women are treated as inferior and lower to men in almost every sphere of life. The patriarchal set norms and the society inferring of women being inferior and subordinate to men, all socially and culturally discriminate women and thus structure their social world. The primacy of the customary laws and practices is to maintain social order while prescribing rules of conduct for each individual, age, sex-wise. Even the customary laws that are set for the welfare of the society have biases. Women in spite of their much contribution to the society in various many ways, be it in the agricultural production and resources or in the nation building, they are not being recognized by the society formally. In fact women are the backbone of the society. Taking the example from the tribal society one can see clearly how a tribal woman contributes to sustain the society at large and family in particular. With their intuitive closeness with the surrounding environment which comes with their everyday contact is tremendously rich. They are consulted by the society to decipher between edible and non-edible food found in the nature. But talking about their status in the society they are nowhere better off than men in any case in spite of all these contributions. They are seldom placed within the inflexible patriarchal structure characterized by all those notions of male superiority. Women are frustrated with these rules and norms that restrict their freedom and at times it creates chaotic situation.

In order to study the customary laws of the people their age-old customs and traditions have to be taken into considerations including women and men's stereotype roles in the functioning of the customary laws. The roles that women play in the various socio-economic spheres and their contribution in the nation building are also to be taken into consideration. Women voices are to be recorded and look into the interests of women with utmost care and help in raising their status at any cost. Only then, one will be able to understand the gender biasness within the customary laws exist and help people in maintaining law and order in the society, traditionally.

When it comes to customary laws even the tribal society, which is believed to have been classless society, are not less exempted. The same freedoms that a man enjoys are not given to the women though the tribal women are said to have more freedom compared with the rest of the societies of the world. "In many instances, women's roles and status were determined by social institutions and norms, ideologies and taboos"². In the name of security women are being isolated from the society. In no case women are to raise voice against men even if they are right. A woman who is found homely is taken as good, obedient, faithful simply without really understanding the social barriers that hinder them. In the matrilineal society like Khasi, Garo, Jaintia

of North eastern states even though women are supposed to be controlling the society in anyways but it is men who holds almost all important platforms. This matrilineal society theoretically is controlled by women but in reality it is men who takes all major decision be it in social or political. Women are just a mere subservient and enjoy same status as any other tribal women. In this matter Laloo³ while talking about the political structures of the Khasis points out that "This *Dorbar Shnongis* an assembly of all adults' males which functions under an elected headman or chief called *Rangbah Shnong*. The *Dorbar Shnong* looks after the welfare of the people and takes charge of the customary practices and imposes discipline among its members. It is through the *kuror* matri-clan participation that the political system developed among the Khasis. In this society a *knior* uncle assumes an important function. He is the sole decision maker and carries out the legal and religious rites in the *Dorbarkuror* clan *Dorbar*". The world view on the concept of matrilineal society is nothing but where women are believed to play at the top level higher to the men. But in fact men are consulted in all important issues and in fact it is the *Dorbar* who takes the final decision for the welfare of the society. No women representation is seen in this organization even though women are supposed to be the one to running the organization if it is a matrilineal society.

Fernandes⁴ writes, "The village Council and the elders continue to interpret their customary law in favour of men". Writing on the tribal women Thakur and Thakur⁵ discuss that even, "Toda women, known to be the most pampered tribal women, get a very kind treatment from the male-members and are never made a target of social contempt. But still they are debarred from ritual ceremonies and sacred duties, which occupy the foremost place in Toda culture. They are even prevented from cooking at least whenever food contains milk as an ingredient. Todas do not touch their women during certain periods as they are considered to be polluted during that period". The whole conceptualisation of Toda women as pampered by Thakur and Thakur is ambiguous because the women are considered as impure too. Vitso² finds that though women are considered to play an important role in the socio-economic development of the village in spite of the fact that they are controlled by customs and traditions their counsel are not recorded when it comes to the village administration. Their voices go unrecognised despite of considerable freedom they enjoy in matters relating to occupation and marriage. The stereotyping of women as inferior to men still exists as is clearly seen in the traditional idea of women being confined to domestic chores only. In the changing situation of development practices, according to Zehol⁶ "in most tribes the woman continues to take decisions about children's education but men decide what commercial crops to grow to pay for it. With it, many decisions in agriculture that were with women shift to men".

Women are the invisible and unrecognised backbone of agriculture. Their contribution can be measured not only in terms of their labour in farm but also in non-farm activities. In

rural areas women are the one who keeps the various rural customs, tradition and values alive with their everyday intimate connections. Their wisdom and knowledge about the natural resources is very rich which comes naturally with their day to day closeness with the ecological niche. The kind of wisdom that women acquire comes with their lives experience which in turn enhance in building the sustainable development. But when customary laws are look deeper one can clearly see the biasness that often cropped in almost every sphere. Regardless of the fact of women giving their valuable advises and suggestions in nowhere they are counted important member formally. Their voices go in vain without the formal acknowledgement.

The low status of women within the ambit of customary law has changed the face of the tribal society thereby strengthening the patriarchal ethos. Women are engaged in cultivation either in the jhum field or kitchen garden throughout the year but they have less access to the produce. The household goods produced are marketed by the men, as men are considered to be more informed about marketing and monetary exchange than women. Though many parents allow children of both sexes equal right to education at the primary level but at the higher level they grant more freedom to the boys. For the girls after their marriage leave the parental home and go and live with the husband. Horam⁷ indicates that this is not the same amongst the Angami Naga. For the Angami Naga considered educating the girl is a gift they give to their daughters in terms of their personal property that they carry along with them to their husband's home after their marriage. In the traditional set up women were in charged in educating the child how to behave in a society in a particular decent socializing ways but training the boys into adulthood was the men's domain. Horam⁷, further says, "Majority of the domestic affairs are in her hands". The lady of the house is the first to witness the dawn and the last to retire at night. Traditionally, gender discrimination can be located more internally within the family. It begins with the psychological acceptance of the father as the male head of the household but not accounting adequately for the woman's position in it. Much less the importance is given to her in their society though women play a vital role in the socio-economic functioning of the society. But most of the women are unable to assert their rightful position in the traditionally male dominated tribal society.

Though it is believed that the status of women in tribal society is higher but in reality the customary laws tends to be in favour of males which denotes the gender biasness within the traditional institutions. In any traditional administration women have no place in the decision making formally rather only mere spectators. Even in the matrilineal society where women have the overall control, customary laws are not in favour of women. The Garo women inherit ancestral properties but men manage it in actual practice. "The heiress's uncle's permission is required for its alienation. Thus, their tribe has female inheritance and is matrilineal but is patriarchal. Control over the resource and inheritance continues to be with men"⁶. Khatso writes⁸, in the

matrilineal Garo society woman is highlighted as the heiress but in actual term she is only the guardian of the property rather it is the uncle who gives consent in any alienation or change in land. In the matrilineal Khasi society too, the Khatduh (youngest daughter) has the right to inherit the parental property but in reality the maternal uncle takes decision in regards to its selling and transferring. The highlight of the study is to argue that whenever there is change in the inheritance rights, the notion of equality must be emphasised and one should ensure that land should be owned jointly by the husband and wife and not by other male members.

Women many a times feel that the punishment imposed upon them is unjust, and less right is given to women in case of divorce. Singh⁹ gives an ethnographic account of the Naga people and says that they still give much importance to their customary laws. He also made a distinction between the uncoded customary rules recognized as binding by a tribal community and the laws enforced by formal state system. A tribal customary law is a special law, which is applicable to a place where the kinship ties are closely knit together in the communities. In all societies relationships are knit together by a regulated body of norms, customs, taboos, traditions, values and moral standards. But the customary laws of many tribes have been changing fast in the recent decades, which are traditional in nature.

Conclusion

Customary laws regulate the everyday life of the tribal people in every aspect. Its main function is to bring social order in the society therefore; formation of customary laws should be according to the needs and interests of the society as a whole not concerning the individual's interest or sex for that matter. The needs of every member in the society should be dealt with much consideration without being biased and not classifying the status or sections. Every member should be treated equally in the way one deserves to.

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