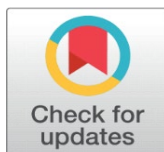


A META ETHNOGRAPHIC ANALYSIS OF STATUS OF TRIBAL WIDOW REMARRIAGE AND IMMOVABLE PROPERTY RELATION

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ABSTRACT

Jharkhand government's declaration to the widow remarriage incentive scheme 2024 (Ranjan 2024) is an eye opener to rethink in the matter of right of tribal widow's remarriage. Because, many tribal communities, widow remarriage receives positive sanction as a custom in practice. The central argument of this research paper is that in which kind of situation tribal widows require incentive for remarriage when communities have positive sanction to widow remarriage. To understand the nature of the problem it aims at comparative study to see patterns of widow remarriages in different tribal cultural practices. Most of the communities are referred in the discussion are from North East India and Central India. Reason behind selecting these communities is that they are predominantly tribal state under 6th schedule and from Central India states have 5th schedule provision. To understand economic vulnerability of widows the parameter- "the nature of land inheritance" in their respective communities is taken into data analysis

Keywords: Widow Remarriage, Widow Land Right, Widow Remarriage Incentive, Customary Laws



1. INTRODUCTION

1.1. STATEMENT OF THE PROBLEM

Widow remarriage is a customary practice in many tribal communities. The recent (2024) incentive scheme of the Government of Jharkhand for widow remarriage is a matter of concern in recent time. In tribal communities widow remarriage receives positive sanction, unlike the neighboring Hindu communities in which this tradition was absent in the previous centuries. The main research question is that why an incentive required for a traditionally established social custom? The present study taking the parameter and that is "nature of widows land inheritance rights" to understand deeper realities of widow remarriage intensive scheme of the Government of Jharkhand. To begin this argument a comparative situation is taken in to account. That is precisely the status of widow and land relation in the tribal and non tribal communities in India. Traditionally in both the situation women never inherited landed property from parents. In the tribal communities the widow enjoys usufructuary right of deceased husband's for survival in case she does not have son. Her sons' inherit father's landed property. After legalization of Hindu widow remarriage act in 1856 also, widows were sent to Varanasi and Vrindavan for salvation. It continued after Hindu Women (widows' right) Rights to Property act-1937/ Hindu Succession Act-1956, childless Hindu widows once sent to these pilgrimages to take

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abode on the God's feet, never came back to claim husband's immovable properties. In contrast the tribal women who had huge contribution in the agricultural production systems usually enjoy the customary right of remarriage. One aspect is common for all tribal women in these customary practices that widows do not inherit cultivable lands/immovable property from parents. Marriage and widow remarriage related customs and practices apparently declare protective measures. Customs of bride price and dowry claim that these customs protect women. The status of married women changes if they lose their spouse. This kind of situation suddenly disempowered her in the family. The sonless widow's situation is the worst among all. Educational and occupational facilities of the present time could not assure equal status of widows with widowers in general due to lack of immovable property inheritance rights for women.

The indigenous communities throughout the world (at present) share a common history of land alienation and resources exploitation and the worst victims of this alienation are women (Erni, 2012). Customarily, women are kept away from the inheritance of landed property, holding posts in politics, and in religion. The Indian Constitution despite of creating equal opportunities to both men and women, reservation policies for women that needed to create space for women land rights. Throughout her life, tribal women contribute to food security of family but always less privileged. Land rights for woman crucial to have equal opportunity and empowerment. Land ownership of male not certainly assures women's security. Land in the hand of women can benefit children's too. But the popular notion is that women are for maintaining property not for inheritance or control. Women in any role whether daughter, wife, widow or mother usually rarely inherit landed properties including tribal communities. Women "subordination" (Beauvoir 2015) controls women's freedom is the root of social inequalities in patriarchal system. Indian tribal communities suffer from a worry that the non-tribal men will try to marry tribal women if they get ancestral land inheritance right. It might be a reality in the states like Meghalaya, Assam, and Jharkhand (Fieldwork experience).

2. REVIEW OF LITERATURE

Jharkhand government launches India's first ever financial incentive scheme to encourage widow remarriage. This scheme offers women who chose to remarry after her husband's death will receive an incentive of Rs.2 lakh from the government. This scheme launched on March 7, 2024 by Chief Minister Champai Soren. After the marriage within 1 year women can apply for the money. Only death certificate of former husband is required. The motive behind this scheme is to provide financial support "in order to empower the women under Vidhwa Punarvivah Protshan Yojna" (Ranjan 2024).

The report, *This is not Your Home* is an assessment on land rights of tribal women (Deo 2021). She writes that men and women both plays important role in the patriarchal societies but the ownership of productive resources goes in the hands of males and it is globally accepted gender reality. The biased social norms and deeply rooted gender inequalities creates barriers to female land rights. In case of Jharkhand the dual system of statutory law and customary law makes situation more complicated. The question of land right of Adivasi women in today's Jharkhand is apparently complicated by the nature and extent of changes which have come about in their social, cultural and politico-legal life over the centuries (Deo Quotes Karna 2017:8). Overall assessment of Deo is the radical change happened in tribal life and living with the intrusion of British policy of individual property rights in tribal territories. This introduced the system of private ownership of land. Highlights land as a commodity not as a shared resource which produces food, fodder and timber and in this arrangement; men got the exclusive rights as women were already excluded from land rights customarily and relied on men. She further highlights about the contradictory constitutional provisions. Deo compared the Constitutional provisions in general with the 5th, 6th and 9th Schedule facilities. She finds that the above schedules while protecting customary rights of the tribal communities, 9th schedule stopping reform activity. Deo appreciates the Indian constitution provides equality before law for women in article 14. No discrimination against any citizen on the basis of religion, race, caste, sex, place of birth or any of them in article (15(i)). The state can make any special provision in favour of women and children in article (15(iii)); Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state (Article 16); The right to adequate means of livelihood for men and women in (Article 39(a)); and equal pay for both men and women in (Article 39(d)). Article 39(a) to promote justice on the basis of equal opportunity and to provide free legal aid by suitable legislation. In 1938, a national sub-committee on women's role in planned economy proposed that so long as the system of private property remains the system of social structure; women shall have the same rights as men to hold, acquire, inherit and dispose of property (Deo refers Kasturi, 2004). Woman's inheritance rules depend upon the personal or religious laws applicable to the religion to which she belongs. The inheritance matters of tribal woman are governed by their customary laws.

Kumari &Chaudhuri (2024) in their article ‘Poverty, Rape Victims and Social Structure: A study on Marriage Institution in the Interface-Case Studies of Khunti and Gumla Districts of Jharkhand’, finds that Dhuku is a tradition which allows couple living together keeping marriage rituals pending. Tribes of Jharkhand economically not affluent and they depend on peasantry. They need to earn their living by working as seasonal migratory labour/wage labour due to unfertile soil in cultivable lands, and they usually have 2-5 children. With so many problems the rituals in a marriage is not a priority rather less important choice. Outsiders not considering economic hardship blame marriage institution (Dhuku) as reason behind crime of sexual harassment and rape (2024:100).

Anthropological approach particularly to study socio-legal backgrounds of customary law is covered by Dr. Jeuti Barooah, in around 59 community specific monographs in between (2007-2012). The books precisely followed a participatory approach, group discussion, workshops and fieldworks to document customs and practices. Tribal community specific social institution, social organization, pattern of inheritance, pattern of land holdings, pattern of political systems, pattern of justice dispensation related customs and changes created a database to study roles and status of woman in the North East Indian tribal communities and they are not written from gender perspectives. Among these books 28 books are consulted for the secondary source of data to understand status of widow and their immovable property inheritance. Barooah 2007(a,b,c,d,e,f,g,h,i), 2009 (a,b), 2011(a,b,c,d,e,f,g,h,i,j,k,l,m,n), 2012(a,b,c).

Much before Dr. Jeuti Barooah (an Anthropologist and Lawyer) another anthropology professor B.N.Sahay (with a law degree) studied customary laws of the Maler- a Study in Nature Man-Spirit Complex of a hill tribe in Bihar, written by L. P. Vidyarthi (1963:213-217). This study precisely discussed the judgment dispensation on punishments related to theft (kalwi); attempt to commit theft; cattle trespass; adultery; rape (bongtria); to have an illicit relation with an unmarried girl (alakhilalo); rape (langwii); parallel cousin illicit relations (chacho ki tagadi guni); illicit relation with mothers sisters daughter (mosokita gadaguni); illicit relation with mothers brothers daughter (manitaga diguni); adultery by an outsider (guler); with malani (a Maler woman); breach of the kodadda (if the parties have cohabitate with mutual consent and get married with parents’ disagreement); adultery unknowingly; homosexuality; bestiality; inter village dispute of the Maler; marriage; divorce; breach of taking responsibilities of a father to his wife towards her natal family at the time of child birth; widows’ law of inheritance. That widows during 1950s onwards get equal share in the property of her deceased husband equal to that of son. Earlier it was like that after death of a man widow will be under one of the sons and that son will get comparatively larger share of landed property for maintenance of the mother. The share of the mother will be distributed further to the sons after her death. In case of absence of sons property will go to the daughter’s daughter and sons. In the absence of all property will go to the deceased mans brothers family. In the absence of brother of deceased man property will be looked after by the Headman (Pradhan) until a person claims it as an heir (Vidyarthi quotes Sahay 1963: 216-217).

2.1. OBJECTIVE OF THE STUDY

To study empowerment of tribal widows in relation to land inheritance in their communities

3. METHODOLOGY

Data base is discussed here is mostly from the secondary sources and as well as and a few references are primary source like the concept dhuku.

4. STATUS OF TRIBAL WOMEN IN CUSTOMARY PRACTICES: AN ANALYSIS

4.1. THE LAIS OF MIZORAM

Lais is a patrilineal, patri-local and polygynous community follows primo-geniture. In absence of son the property will be inherited by the next kin. Male choose his female partner and after that parents send their formal proposal to the girl’s parents. The custom of bride price is also prevalent. The husband mostly stays with first wife and the offspring of first wife is rightful heir of property. The offspring of second wife are not given property rights. Customarily, a negotiator required to claim a marriage socially sanctioned. Divorce is allowed and practices by mutual consent. Woman possesses movable property. She can buy or sell movable property only with the permission of the head of the family (2007:45). Customary laws of Lai community are gender biased. At present the village court has no jurisdiction over murder, attempt to assault women amounting to rape, illicit intercourse with a minor and unnatural offenses. Earlier, the village

tribal administration can impose fines and settle any matter under the provisions of Lai customary laws. Fines cannot exceed Rs.60/- as per rule 2 of the Pawi-Lakher Autonomous Region (Administration of Justice) Rules. There is no fine for a man for having illegitimate child. Attempt to seduce a married woman fine is Rs. 100/-. Simple assault does not constitute an offence. Beating of a wife by a husband does not amount to an offence but serious injury amounts to an offence. Serious offences like murder, rape, rioting and others are reported to the Deputy Commissioner of the concerned district. (Barooah 2007:53)

4.2. THE APATANI OF ARUNACHAL PRADESH

Apatani household is usually a patriarchal, patri-local nuclear family, strictly maintain primo-geniture.. Woman play important role in cultivation, household responsibilities, weaving, and preparation of food and looking after family based forest holdings. The marriage of Apatani generally considered personal affair. Parents and kinsmen usually do not interfere in the choice of partners of sons and daughters unless they are of unequal status. They are endogamous and generally practice monogamy but polygamous marriages are also (earlier days) permitted (Barua 2007:11). They follow clan exogamy and class endogamy (Barua Ibid:16). In case of polygyny, the first wife got higher status and children are entitled to inherit property. The rules of class endogamy and clan exogamy must be followed (Barua Ibid:16). Widow remarriage is also permitted. She can stay in family also but she cannot dispose of any property to others; she can use her deceased husband's property till her life (Ibid:72). In case the widow is not maintained by the male heirs, she can destroy the entrance to the bamboo grove of her husband. Such behaviour sanctioned for a widow locates a space for her. Daughters earlier not entitled to inherit ancestral immovable property even if the man does not have any male issues, but parents donate self-acquired land to daughters. In the past cases mentioned (2007: 68) that daughters inherited ancestral land (GandaTapang or Pembodu). Apatani Women Welfare Association advocating for ancestral property for women (Ibid: 69).

4.3. THE KHAMPTIS OF ARUNACHAL PRADESH

The Khamptis, a Buddhist, patriarchal, patri-local, practice monogamy; though polygyny is accepted. Both levirate and sororate are practiced (Barua 2007:38). They prefer the rule of clan exogamy and tribal endogamy and sons stay with parents after marriage. Women perform household and agricultural activities except ploughing, weaving, gathering, and no specific work division between married or unmarried women. The Khamptis are good cultivators and grow good quality of rice. The men take care of house construction and maintenance, fishing, clearing of jungles, digging of soil and planting trees, cutting irrigation channels, ploughing, etc. Sons inherit ancestral property. Women can purchase immovable property by the money she receives from father in her name and that may be inherited son or daughter (Barua Ibid:57). Bride price is important aspect of their marriage. Earlier, wedding ceremony generally took place after symptoms of pregnancy resulting from courtship with the prospective groom. After husband's death widows stay with in-laws family member also by inheriting husband's self-acquired property (Barooah 2007:26). Or, she may be married to her deceased husband's younger brother. No social stigma is attached to a widow (Ibid:26). Divorce rates are less but women have customary rights to seek divorce. For committing rape, the head of the convict was shaved and he was paraded the streets and also was whipped at intervals. It also involves heavy fines in addition to any other punishment like ex-communication inflicted by religious or social authorities.

4.4. THE KARBIS OF KARBI ANGLONG IN ASSAM

The Karbis are the agriculturist, patrilineal, monogamous, practice clan exogamy and ultimogeniture. Karbi women work hard in every steps of family food production systems for food security, weave cloths, and carry out the domestic chores. Rarely widow remarriage and divorce are permitted. The concept of junior levirate and junior sororate is in rule (Barooah 2007:23) The widow can retain the property by marrying her husbands kur(clan). Polyandry is not prevalent but polygyny is allowed though not practiced widely (Barooah 2007:11).Traditionally women followed prohibitions in attending village court proceedings, and abstained from eating along with men in the community feast, stayed away from sacrificing fowls and pigs of any ritual performance, the wife of priest does not join in the performance of rituals. Woman can't be a village head. But woman works more than a man in Kiarbis and they are trying to improve their life with the help of education, tailoring, knitting, embroidering and weaving Daughters can inherit property under certain circumstances.

4.5. THE DIMASAS OF NORTH CHACHAR HILLS IN ASSAM

The Dimasas are monogamous, follow double descent rules of inheritance, and neolocal residence after marriage. Sons inherit father's clan and daughters inherit mother's. Males don't change their patrilineal and matrilineal clans but married woman adopts patrilineal clan of her husband (Barooah 2007:11). The members of a family co-operate in all the responsibilities jointly. Both men and women work in the agricultural field. The domestic responsibilities are borne by the housewives. The authority of decision making lies with the male. Women don't have membership in the village council and enjoy social and religious rights (neither as priest nor as diviner) to a limited extent only (Ibid 2007:23). Both of the patri and matri clans are exogamous. They give bride money (Khalti). Widow re-marriage is allowed (junior levirate). Unmarried women, widows and divorcees can also acquire property. Women can purchase land out of her savings or with money given by her father (Barooah 2007:57).

4.6. THE TANGKHUL NAGAS OF MANIPUR

The Tangkhul Nagas, a patriarchal, patrilineal, patrilocal, and follow primogeniture (Barooah 2007:11). Monogamy is the ideal and general practice. There is no restriction against polygyny. Marriage may be the outcome of courtship followed by approval of their parents. They are strict about clan exogamy otherwise they are free to choose their mates. Those who elope they are bound to come back to their parents and ask for forgiveness. They practice marriage by payment; marriage by exchange (happens accidentally); Secondary marriage (traditionally Levirate). Registration of marriage (with spread of Christianity) is practiced. There are three classification of marriage in Tangkhul society; Valid Marriage (with consent of parents), Void Marriage (prohibited by custom), Voidable Marriage (elopement, lack of consent). Widow remarriage is permitted (Barooah 2007:83). Rape is a serious offence. There are two types of offences, i.e. rape to an unmarried girl; rape to a married woman. Punishment to guilty person may lead from expulsion from village for two three years to death. Rapists are fined to Rs. 25,000/- according to the Tangkhul customary laws. Divorce receives negative sanction (Barooah 2007:79).

4.7. THE MAOS OF MANIPUR

The Mao family systems are patriarchal, patrilineal, monogamous, nuclear set up and follow ultimogeniture. Mother carries the highest responsibilities at home (Barooah 2007:11). Widow has equal rights in the family. Traditionally, women were excluded from the administrative work. A Mao marriage may be the outcome of youthful courtship or arranged by parents through a match-maker, practice clan exogamy. They pay bride price. Marriage registration and marriage at church they opt after the spread of Christianity. There are two types of marriage prevalent Valid and Void. Whoever commits rape is fined Rs. 25,000. If the rape is committed by a gang or group, a fine of Rs. 25,000 is imposed upon per head of the gang or group. Whoever attempt to rape are fined up to Rs. 5000, if the attempt is made by a gang or group, the fine is Rs. 5000 per head. Whoever commits rape on minor is fined Rs. 50,000 as fine. (Barooah 2007:61)

4.8. THE MARING NAGAS OF MANIPUR

The Maring is a strictly patriarchal, patrilineal, practice primogeniture and both monogamy and polygamy. A widow with a son is treated as family but in the absence of son may be exempted from the paying certain taxes and physical activities of the village. Differentiation of status was intimately connected with polygyny. The first wife is privileged among co-wives. The prevalent marriage forms are; marriage by payment, secondary marriage, elopement, concubinage (Barooah 2007:16-17). After the spread of Christianity the registration of marriage introduced. Endogamy prohibition followed strictly. Marriage can be valid or void on the basis of circumstances. Traditionally the female members do not inherit properties, but they receive movable properties as gift at the time of their marriage. (Barooah 2007:65)

4.9. THE PAITES OF MANIPUR

The Paites are patriarchal, patrilocal, follows primogeniture. Marriage by exchange is prohibited in the Paite society. They are endogamous and exogamous (Barooah 2007:20). Divorce can be initiated by the husband and wife both on the ground of adultery, unsound mind, infidelity, barrenness or maladjustment and incompatibility of temperament

instigation, impotency, cruelty and physical abuse (Ibid 2007:20). A Paite widow can maintain her husband's property with due consultation with husbands family if she decides to not to marry again. Bride price is practiced. In the past there was no particular type of property, which could be inherited by daughter which is movable property of mother. The Paite women status in respect of inheritance and succession was low. But now women too may be given some of the self-acquired property by the parents. Sexual assaults are rare in the Paite society. Any attempt or act of rape of a girl is dealt with seriously and the offenders are disciplined by imposing fine according to the degree of the nature of offence. The fine may amount to- One or three 'mithun' (*Bos frontalis*), and a calf; or A Pig and a sum of money (Ibid 2007:79).

5. THE REANGS OF TRIPURA

The Reangs are monogamous, patrilineal community. They practice primogeniture and maintain nuclear families (Barooah 2009:9). The grown up children leave their parental house after attaining adulthood and marriage. Second marriage is a punishable offence for a man. Parallel and cross cousin marriage is allowed. Divorce and widow remarriage is permissible (Ibid 2009:16) In Reang society, like the sons, the daughters also enjoy the right of inheritance of the parental properties (Ibid 2009:38).

5.1. THE MOGS OF TRIPURA

The Mogs, predominantly Buddhists and some have converted to Christianity in the recent years are patriarchal, patrilineal, maintain primogeniture and nuclear family in which married children do not stay with parents (Barroah2009:2). Widow also gets equal respect. She enjoys and shares the family property as before, but does not have the right to dispose property. Divorce is permitted. Eldest son gets the belongings of father, while the eldest daughter entitled to all belongings of her deceased mother (Ibid 2009:25).

5.2. THE POUMAI NAGAS OF MANIPUR

The Poumai Naga a patriarchal, patrilineal, clan based community is predominantly Christian and like to maintain nuclear family(Barooah 2011:10) If a man marries a woman of his clan or with his nearest kin is considered to have defiled the sanctity of the family and causes a great shame to the family members. A man eloping with a woman of the same blood is not allowed in the family. Polygamy is strictly prohibited. Monogamy is practised and remarriage is allowed to a person only if his/her partner has died or legally divorced (Ibid2011:55). Widow lives equally in the family. Women have no legal rights of inheriting property, even in the absence of male issue in the family. Women are given immovable properties. The practice of bride price and the boy's parents are responsible in all case to initiate marriage proposal. Divorce receives negative sanction in the society. Rape is considered serious issue and the punishment of rape is subjected to huge amount of fine and severe punishment. They are very specific about rape cases or crime against woman. Rape is taken as serious issue and anyone who practised rape were subjected to huge amount of fine and severe punishment. Rape of a married woman- the rapist shall be fined Rupees 25,000/- or Rupees/- each, provided the rapist is more than one. In case if he fails to pay in cash, the offender is subjected to seizure his property worth of Rupees 25,000/- or Rupees 30,000/-. Half of this goes to the victim for recovery of physical damage and in undergoing psychological trauma. Rape of a young girl by young man- the rapist shall be fined a sum of Rupees 25,000/- or more, depending on the gravity of the offence judged by the court. Raped by a group to death- in case of a married or unmarried woman raped to death by a group or gang, rapists are fined Rupees 25,000/- considering the case as an offence and Rupees 75,000/- shall be imposed on each of the accused. Pregnancy due to rape-i) the father of the child should bear all the maintenance cost for upbringing of child. The village authority shall keep a notice from time to time that a reasonable maintenance cost deemed fit for upbringing the child, is borne by the biological father. ii). The accused is the biological father of the child. No further dispute whatsoever arises from this case, once the appropriate village authority declares the paternity of the child. Iii). The rapist who has been declared as the biological father, beyond any doubt, after the child is born whatsoever do not disown the child. If he refuses to pay the maintenance cost, the village authority hears the compliant from the mother and the maintenance cost as specified in the rule shall be done forcibly. Attempt to rape a woman with deadly weapon is a crime and punishable. Rupees 5,000/ - imposed as a fine on the accused (Barooah2011:35-40).

5.3. THE ANGAMI NAGAS OF NAGALAND

Angami Nagas are patriarchal community, practice primogeniture, are terrace cultivators, predominantly Christians, monogamous and maintain nuclear family. Very few practice their traditional beliefs. They practice clan exogamy as well as outside the Angami and from another Naga tribe. Both son and daughter leave the parental houses after marriage. After the death of husband the wife shoulders the responsibility of the family. Widow can manage the property but cannot dispose of any property (Barooah 2011:14-15). The Angamis do not register marriage or divorce in any civil court. But the Church keeps records of all marriages. In Angami Nagas virgins were not allowed to keep long hair. In the modern Christian Angami society, no traditional marriage ceremonies are practised. The daughters can inherit mothers acquired or belonged property. Adopted son cannot inherit ancestral land. Parent may give acquired property to them. Rape cases are of two types: a). Rape of an adult where the molester is exiled from the village for five years (applicable only in some Angami villages). b). Rape of minor, which is considered as a serious offence and the molester is exiled from the village for seven years. (Ibid2011:56).

5.4. THE KABUIS OF MANIPUR

The Kabuis a patriarchal, patrilineal, patrilocal traditionally lived in joint family follows the principle of primogeniture but now a day nuclear families are most prevalent. Youngest son inherits the parental property. Daughters have no right to inheritance of paternal property. Daughters can get properties as gift. They follow clan exogamy, monogamy and polygyny also. Widow re-marriage, custom of bride price is practiced in the Kabui society. Divorce receives negative sanction in the society. Kabui women are not directly involved in the village and community administration. (Barooah,2011)

5.5. THE ZOUS OF MANIPUR

Zou are a patriarchal, patrilineal society practices primogeniture (Barooah 2011:8). Daughters do not inherit any paternal property except as a token of love and gift from the parents. Clan endogamy and exogamy both are practiced. They follow the custom of bride price. Divorce is acceptable but it's rare. If a man rapes or attempts to rape a woman, he is bound to a fine the following: (i) a mithun and a pig, (ii) price of misusing the main house Rs 10/- or Rs 100/-, (iii) a pot of rice beer as a token of apology, (iv) in case the man succeeds in the rape and refuses to marry, he is bound to a fine of five mithuns along with a fine of (i), (ii), (iii) as mentioned above. (Ibid2011:55).

5.6. THE AKAS OF ARUNACHAL PRADESH

The Akas are patriarchal, polygynous, community and they follow primogeniture. Their family comprises of the husband, wife and their children. They practice both shifting and permanent modes of cultivation. They follow tribal endogamy and clan exogamy (Barooah2011:7). There don't follow class system. The custom of bride price and divorce is prevalent. Widows are treated equally and can re-marry depending on their age and willingness (Ibid 2011:18). Women may inherit some movable property. Both Levirate and sororate sanctioned positively. It is customary for a widow to start living with her deceased husband's younger brother as a wife. She may live with man of her choice also. There is incest taboo also if any kind of extra marital relation with the restricted group. The violations are strictly punishable by the village community. Women cannot hold any post in village council and the main tasks carried out by woman folk are horticulture and agriculture works, collection of fire woods, production of vegetables and fruits, fetching water, cooking and serving meals, pounding of rice, washing cloth and utensils, weaving, looking after babies and other household duties (Ibid2011:28). Premarital sexual relations are tolerated but not extra-marital relations. Rape punishment is: (i) forced to marry and compulsory payment of bride-price in raping an unmarried girl. (ii) Highest amount of fine is imposed in raping a married woman. (Ibid2011:45).

5.7. THE LOTHAS OF NAGALAND

The Lotha is a patriarchal, patrilineal, predominantly Christian community practice shifting cultivation (Barooah2011:10). They follow polygyny. A man can marry in any clan except his own clan. There is no class distinction.

Due to spread of Christianity and modernization the old institutions are gradually changing. Women fetches water, collect firewood, pounds paddy and work in the field throughout the season. She looks after the children, weaves clothes for the family members, and trains her daughters to weave clothes and cook and feed the children and also the domestic animals (Ibid2011:12). Inter-tribal marriages and divorce receives negative sanctions. Bride price is also prevalent. Property passes in the male line and daughters are excluded from inheritance of ancestral property (Ibid2011:42).

6. THE PHOM NAGAS OF NAGALAND

The Phom Nagas are patrilineal, patriarchal, follow primogeniture and with the advent of Christianity and modern education, the people are becoming more flexible in their approach to changes (Barooah2011:11). They have discontinued most of their traditional rituals, beliefs and ceremonies. They maintain monogamous nuclear family. Marriage between the same clan is prohibited (Ibid2011:12). Divorce and widow marriage are accepted. According to their customary practice sexual assault on womenfolk can be penalized by taking away the land as fine from the accused. In the case of rape, the culprit is beaten and a heavy fine is imposed on him. (Ibid2011:39-40).

6.1. THE CHAKMAS OF MIZORAM

The Chakmas a Buddhist tribe originally settled in Chittagong tracts (now in Bangladesh). The nuclear as well as extended families of the Chakmas maintain strong patrilineal and patri-local kinship bonds and inheritance rules of property (Barooah2011:9). The daughter is also entitled to a portion of patrimony. Widow does not have the right to dispose the property. Chumulong is the only required performance or puja to complete a marriage. Divorce is permitted if the husband or wife found guilty (Barooah2011:12).

6.2. THE SANGTAM NAGAS OF NAGALAND

The Sangtams, have retained their traditional belief in spite of following Christianity. They practice shifting cultivation (Barooah2011:9). The Sangtam maintain nuclear family follow patriarchal and patri-local rules and primogeniture. In Sangtam community monogamy is the norm of marriage. Polygamy is not allowed. They do not marry in the same clan. A marriage is considered valid and recognized when it is executed with the consent of parents or relatives. Marriage without consent of the parents or relatives is considered void marriage. The children out of void marriage do not belong to the village community. The custom of paying bride price is prevalent. Divorce is accepted but it is very rarely observed. The widows has liberal condition but, she cannot sell or transfer the property. Widow is entitled to get remarriage after the period of one year (Ibid2011:18). Fine for sexual assault is of a fertile land and a shield is taken by the village authority as fine for defamation (Ibid2011:40).

6.3. THE POCHURY NAGAS OF NAGALAND

The Pochury is a patriarchal, patrilineal and customarily the eldest son is expected to get married first (Barooah2011:8). The partition of land and property also takes place with marriage. The male members enjoy considerable freedom and authority than their female counterpart. A Pochury woman remains deprived from the privileges of both at family and social level. Marriage within same clan is taboo (Ibid2011:10). Monogamy is the present norm of marriage. A matrimonial alliance with other religion is permissible. They are endogamous in nature. The practice of bride price and divorce is prevalent. A widow, widower or a divorcee can remarry. They follow nuclear type of family. The lineage is in the male line. All landed properties are passed down from father to sons and daughters do not get any share from it. However, she is entitled to inherit mother's ornaments and dresses. With the advent of Christianity the attitude towards the female has improved. Sexual assault or rape is a serious crime (Ibid2011:45-46).

6.4. THE CHANG NAGAS OF NAGALAND

The Chang are patriarchal, patrilineal and hard working people (Barooah2011:13). They mostly rely upon agriculture. They maintain separate dormitory for male and unmarried girls. Their family pattern is of nuclear type and practices primogeniture. Marriage between same clan and sub-clan is not permissible. Polygamy was practised but it is not prevalent now. They practice monogamy. The practice of bride price is still present. Divorce is also seen on certain

grounds. Registration of marriage is done by Church. Marriage without consent of the parents is legalised only after when the parents accept the union (Ibid2011:17). The daughters except through a Will or gift do not inherit a single property. She inherits her mother's dresses or ornaments. The introduction of education to the Chang area has brought changes in the life of females. Rape cases impose heavy fine, victims family claim a plot of land, victims sometimes killed at spot (Ibid2011:39).

7. THE BUGUNS OF ARUNACHAL PRADESH

Buguns follow Mahayana Buddhism. Agriculture is their major economic activity. They also practice horticulture and pisciculture. The Buguns are patriarchal, patrilineal and patrilocal and predominantly monogamous despite polygyny is also permissible (Barooah2011:11). They prefer clan exogamy in marriage and widow remarriage is allowed. Daughters are given valuable property at the time of marriage. The women are debarred from being an authority in dispensing justice because of their lack of knowledge on customary laws. But she can attend as victim or for express their grievances to prove innocence (Ibid2011:37). Rape cases are very rare in the Bugun society, though there are customary laws to deal with the rape cases in the traditional court of social justice of the Buguns. In rape cases the following fines are imposed on the culprit, (i) if the victim is a girl, the accused has to pay one Raching a kind of valuable ornament to purify her body. (ii) According to the customs, the clothes worn during the sexual abuse become polluted; so, the accused has to compensate the victim with a new endi chadar. (iii) One cow or pig is to be sacrificed for the public gathered for Village Council, along with the local wine. On the other hand, in case of women, all the above fines are applicable. Moreover, the accused has to give one additional raching to the victim's husband to maintain his prestige and status in the society. Apart from the above cases, if the rape is committed within the prohibited degree, the fine will be double and an ox is to be sacrificed to offer feast to all the villagers for purification (Ibid2011:43).

7.1. THE VAIPHEIS OF MANIPUR

Vaipheis have rich oral source, folklore and traditional songs. They are patrilineal and patriarchal. After father eldest son inherits the fathers place (Barooah2011:8). Monogamy is preferred mostly. Cases of polygyny and keeping concubine were reported in some places. Marriage between same clan is possible. But premarital relationships are not permitted. Bride price is allowed. Divorce can be granted on major issues. Daughters do not inherit property except gifts of marriage. The parents, when they become old are not allowed to live in the house of their daughter (Ibid2011:38-39). If a man rapes a married woman or several man rapes her, he or each of them is or are bound to a fine of the following: (i) Rs. 3000/- and one pig (salam). (ii) A pot of rice beer (zubel). Raping of a minor girl (below 11 years), he is bound to the following fines: (i) Rs. 5000/- and one pig (salam). (ii) A pot of rice-beer (zubel) (Ibid 2011:45).

7.2. THE CHAKHESANG NAGAS OF NAGALAND

The Chakhesang are patriarchal, mostly nuclear family practice clan exogamy (Barooah2011:14). Father is the head of the family and after his death eldest son takes the responsibilities of the family. They practice monogamy. Polygyny receives negative sanction. Marriages among other Naga tribes are not prohibited. But with non-Nagas is not favoured. Divorce and widow remarriage is allowed. The status of women is not equal than that of men because of patrilineal principle. Women have no right of inheritance nor can they part in village administration. She can get fathers' self acquired property share only as gift. Women are expected to be silent over right to claim the property acquired during her married life. Women cannot claim the children after divorce. Women receive lower wages than men (Barooah2011:20-21).

7.3. THE GARO OF MEGHALAYA

The Garos are matrilineal, matrilocal, an agrarian, practice jhum cultivation. They prefer cross cousin marriage (Father' Sister' Son), and practice ultimogeniture. Though the youngest daughter may be referred as the legal owner, she is a custodian. A typical Garo family consists of a woman, her husband and their children. Each couple chooses one daughter to become the heiress to the household and the property. She is referred to as Nokkrom and her husband as the A-kim. They are destined to succeed as head of the family. The Nokkrom's sisters receive a small share of the property. The Matrilineal Garos follow clan exogamy. Garos didn't allow marriage within the chatchi, but in course of time inter-

marriage within the chatchi happens (Barooah 2012:19-20). The Christian Garos still adhere to this rule. In a family, the husband or father is the head and source of financial and moral strength of the family. He earns for the family and looks after its welfare. If, she is widow and then remarried within her deceased spouse's clan. The son doesn't inherit any movable or immovable property except the ones that are given to them by the chras and the mahari at the time of marriage. The husband use to have the managerial power of all the property. Polygamy is practiced with the consent of the principle wife and his chras. Though a woman inherits property, she does not wield exclusive right over it and her husband has the final word in exercising authority over her household possessions as well as landed property. A woman can never become a village headman. She also has no role to play in religious ceremonies. The nokkrom or heiress has the right to accept or refuse the marriage. Second marriage arising as a consequence of the replacement, such as the son-in-law married to the heiress daughter subsequently marrying the mother-in-law on the death of the father-in-law cum uncle; the younger spouse replacing their old relatives' in marriage and asking for an equally younger wife or husband. The mother-in-law now the principle wife of a man, remains as the legal owner of the property. On her death, the property passes to her daughter. If the son-in-law refuses to marry the mother-in-law as another wife, he and his wife forfeit all rights to the property (Ibid 2012:28-29) Divorce is permitted on the basis of cruelty, adultery, abandonment and incompatibility (Barooah 2012:32-34).

8. THE KHASI OF MEGHALAYA

The Khasis are matrilineal, matrilocal and their descent is traced through the mother. The youngest daughter (ka khadduh) is custodian of the ancestral property (Barooah 2012:13). In the absence of daughters, the property goes back to the mother's sister, mother's sister's daughter and so on. The Khasis are now mostly Christians. A family usually consist of woman, her husband and their children. Father is the main pillar in maintaining the family. The mother's brothers act as advisor, counsellor, and mediators. No marriage or sexual relation is allowed among members of the same clan. There is no discrimination against widow, widower, divorcee or orphans and illegitimate children (Ibid 2012:18). Traditionally the husband and father do not inherit landed property. The general rule for a man to get married is when he served his time at his parental home with his labour to earn his Kamai Nongkhynraw (bachelors earning). When he attain the marriageable age, they do not stand in his way. There are two ways of marriage first the mutual arrangement by the parents and second through mutual consent by couple to settle down. Polygamy and polyandry are not sanctioned. They follow monogamous pattern of marriage as a rule. Remarriage of a divorcee, widow and widower is permitted and valid. The mother gets the custody of the children, whether minor or major, male or female (Barooah 2012:28).

8.2. THE SHERDUKPEN OF ARUNACHAL PRADESH

The Shertukpen are of Buddhist, patrilineal and patriarchal, usually monogamous and their family consist of the husband, wife and their own and adopted children (Barooah 2012:13). Widows use to have equal rights in the family but she is not entitled to inherit the property. They follow the rule of tribal endogamy and clan exogamy. Customarily, divorce is not permissible among Shertukpens but it is allowed. Polygyny receives negative sanction. The cases of rape or sexual molestation are rare. The society is homogenous and small; so one can't escape after committing the offences of rape. Fine differs on the intensity of offence is committed against women it is settled on the basis of different fines as mentioned here 10,000 +5,000+ 1,500/- (Barooah 2012:59).

8.3. THE MUNDA OF JHARKHAND

When a deceased tribal man leaves behind a widow and adult sons and daughters, custom dictates that the Gram Pradhan must first set apart some land, generally equal to a younger son's share, for the maintenance of the widow (Deo 2021:23).

The widow can use that land for her maintenance but she can not dispose the land. She can live separately from the son and can take benefits from any son then on her death her land is divided equally among the sons. Married daughters do not get inheritance rights in ancestral property. After the death of the father if one or more unmarried daughters left without mother or brother, each unmarried daughter will get the personal property left by their father till their marriage.

Neither a daughter's husband nor a daughter's sons are entitled to inherit. Instead, the property will pass to the daughter's paternal grandfather or uncles once she marries (Deo2021).

8.4. THE SANTHAL OF JHARKHAND

A Santal woman after her husband's death keeps all the properties with her kids to maintain them. The in-laws of widow takes care that she does not sell it. If she remarries she will lose all the property maintenance rights of deceased husbands and her kids are maintained by the family. the widow will not get anything, except sometimes a calf. A childless widow is allowed one calf, one cloth, and a small amount of paddy before she returns to her parent's house, unless as sometimes happens, she is married with one of her husband's younger brothers (Deo2021:24). The brother who marries the widow is not allowed more than one share of the deceased man's property, which he would get in any case. Daughters don't inherit property but a small piece of land is given to the unmarried daughter for her maintenance or if she has left her husband's home, she can construct her house and stay there with her children (Taben Jom system) (Ibid 2021:25). Earlier, the Santal had a custom and practice of marriage in which the son in law stays in the home of father in law (Majumdar and Madan 1958). The family of a daughter received a piece of land for livelihood if that family stayed back for generations with the maternal grandfather (High Court referred a case to examine the customary provisions of the Santal inheritance rules for daughters on the issue of denial of ancestral property to paternal aunt's sons. The case was referred to the Head of the Centre of Tribal Customary Law, Central University of Jharkhand for comments in 2013).

9. ANALYSIS AND CONCLUDING REMARKS

Widow Remarriage is practiced in most of the tribal communities as mentioned above. Tribal widows enjoy fewer stigmas in comparison to non tribal communities. In tribal communities in Jharkhand, if she is an young widow can intrude (Dhuku) to the house of the man with a mutual consent (Kumari & Chaudhuri 2024). In case of all tribal communities discussed above the land rights are complicated for a widow. She is allowed to cultivate deceased husband's land but no right to sell as per the customary law. This makes tribal women dependent on men for survival and livelihoods. In case of tribal women of Jharkhand, the de facto existence of a dual system of statutory law and customary law presents a complicated environment for women's rights (Deo 2021). At this background, the Government policy of incentives for the widow remarriage in Jharkhand opens up scopes to reinterpret the issue of tribal widow rights. Apparently, the remarriage of tribal widow in comparison to the Hindu widow (in the past), who didn't have rights of remarriage sounds progressive. But while the tribal widow remarriage is examined at the background of inheritance of land rights for widow (that is inheriting her deceased husband's property), it seems that widow remarriage in the tribal societies never empower them economically. They are only handed over from one family to another family to perform their responsibilities. That is for survival and enjoys limited choice. That might be the reason the marriage institution "Dhuku" is usually received negative sanction in the tribal societies and among their neighbours. This marriage valid marriage custom is on the cross road due to mis-conception of the non tribal people as they undermine the choice of a young tribal widow. In reality, 'dhuku' as a custom priorities choice of a couple who are economically in weaker position and so kept pending marriage ritual to be solemnized in future This value found to be attached to the customs in the tribal marriages are misinterpreted in dominant caste communities in India. Officials of non tribal backgrounds have been misinterpreting situations of victims of sexual harassment; rape; (Kumari & Chaudhuri Ibid). The question is whether the progressive act of the Jharkhand Government on the matter of extending monetary support to the widows' really empowers widows after next marriage?

The tribal communities in 5th schedule and 6th schedule areas can maintain their ancestral properties, community ownership over lands, and all cultural ecological resources. That is invariably secured life and living of these minority communities. Tribal state formations directly have benefitting communities. Within that in fact as per community specific references of customary practices discussed in the previous pages showing that in general sharing traditional properties with their daughters within or outside of 5th and 6th schedule areas are rare. In the long run such situation of landlessness for tribal women will lead to poverty ridden situations that might be the reasons Jharkhand government in recent time announced marriage incentive for widows but such facilities will never empower tribal widows. This comparative study on the customs and practices for widows and daughters indicate that they are deprived of land rights within their own cultural geography and ecology. Field experiences find that those women possess prior knowledge on the soil and techniques of cultivation. Over and above in each community's those women receive respect for their

contribution in cultivation and food gathering and as a whole in the food security. The nation building process and Indian constitution ensured land rights to daughters in general but when it is a matter of tribal women including widows who are governed under their customary law and practices, not enjoying equal rights as like as tribal men. Changing land policies in different provinces in India and importantly the legitimate right of government over distribution of lands in many states in India moreover pressure of non-tribal communities over the lands possessed by tribal communities, created enormous pressure on the tribal people. Considering all the facts mentioned above for the protection of equal rights for all members in tribal communities both tribal and non tribal leaders can come forward to reform their customs and practices so that both tribal men and women enjoy equal rights over their immovable properties.

Just after the Independence of India as per the demand of the leaders represented tribal's in the constituent assembly meetings (1949) and debates could able to establish territorial rights of the tribal communities under facilities of 5th and 6th schedules. Communities under 6th schedule areas of North Eastern states through this facility could exercise future options and through demands the tribal communities of North-East India established states like, Meghalaya, Nagaland, Mizoram and Arunachal Pradesh. Tribal communities of Assam and Tripura due to their pre dominant presence could establish their autonomous and territorial council to fulfil their right to self governance. In 5th schedule areas of Central India separate states were formed to safeguard rights for tribal. All these progressive acts in the democratic nation in India could not able to establish rights for tribal women as well as widows contributed in the food security, subsistence economic activities that protected the natural environment and protecting indigenous knowledge generation after generation. After Bosrup(1975) whole world academicians accepted that agriculture heavily relies upon women's contribution. There is prestigious International awards is given in the name of Bosrup to the intellectuals who are working on women contribution to informal sector of economic activities. Despite of such contribution of women to food security to all communities of the world civilization still, women and resource relations are indirect. The women workforce either in family or community based economic organisation have to depend on men's decisions making because means of production (land resources) possess by men. In the patrilineal communities sons inherit properties and in a few matrilineal communities daughters are custodians (the Khasi and the Garo). At least it may be appreciable the custodianship of family property ensures space to all siblings and members of the same consanguinal descent groups.

However, globalization has created a new order and accordingly lands are not perceived as source of livelihood. Development regime considers land as source of profit and growth. Industrial forces have complied developmental growth and still promoting non renewable energy resources production -“Fossil Globalization”(Angus 2019). Despite climate change and global warming, the process of shifting /transfer to renewable energy production and consumption is not a reality in all nations of the World. At this background, tribal habitats of India despite of different types of industries located in their regions have been maintaining forest covers, and indigenous farming heritages and biodiversities. The traditional ethos and practices of tribal people maintaining of community forest, community land, and sacred forest must be accepted as very future oriented and progressive act. In all these activities tribal women have enormous contribution. Fortunately, tribal way of life, philosophy of consumption pattern based on subsistence economy is finely tuned with the millennium goal. UN declaration set the millennium goal to the sustainable development (un.org). That is encouraging conservation of all bio species, organic and inorganic resources which required for survival of all species of the World. This is the moment to remember that in all probability the tribal people of nation India maintain their cultural ecology where different species co-existed. Honouring that futuristic way of life of those people, the intellectuals, policy makers, and Government must take decision required to ensure equity in the land rights to tribal women.

CONFLICT OF INTERESTS

None.

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