



Customary Laws and Gender Bias in Galo Tribe of Nari, Arunachal Pradesh

Deviak Gamlin

Research Scholar, Department of Sociology Nagaland University, Email: dabgamo95@gmail.com

Raja Darang

Research Scholars, Department of Sociology, Nagaland University, Email: rajadarang@gmail.com

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ABSTRACT

The Galos like any other tribe inhabiting the state of Arunachal Pradesh has its own set of rules that govern the social, political and cultural affairs within the community. Over time, these sets of rules have become an enforcing agent in dispensing justice, maintaining social order and regulating the behaviour of its members. The Galo society is patriarchal in nature and hence the customary laws which govern the socio-political affairs operates in such a way that positions male member at higher advantage as compare to female members in the family. Due to these accepted practices in the name of ‘customary law’, many a time women like marriage, divorce, inheritance of property and custody of the child.

Introduction

A Law Dictionary by John Burke defined customary law as: “Custom is a rule of conduct, obligatory to those within its scope, established by its usage. A valid custom has the force of law. Custom to the society is what law is to the state. A valid custom must be of immemorial antiquity, certain, reasonable, obligatory and not repugnant to statute law, though it may derogate from the common law” (Bruke, 1981). Customary laws are not compiled or codified in a book, unlike the modern legal system. Customs and traditions are an important part of all tribal inhabiting the state of Arunachal Pradesh. Sometimes the



identity of a tribesman is determined by the customs or traditions he/she follows. It is the age-old customs and traditions of each tribe that makes all of them unique. The customary laws are believed to be as old as the tribe because these customs have been passed down from generation to generation. Oxford Dictionary defines customary laws as “the traditional law of indigenous peoples, generally oral, sometimes narrative or based on established performative practice, including song and dance, rather than in written codes or principles”. Macmillan Dictionary defines it as a “set of rights that exist simply because things have always been done that way and have been accepted as normal practice”. The nature of customary law is both rigid and flexible; the rigidity nature can be manifested in its patriarchal outlook and the flexible nature of the customary law has been witnessed over a period of time as many judgements have been delivered to accommodate the changes.

No society exists without a framework of social regulation. Customary law is a social institution that is accepted by members of the society as social norms that govern the conduct of an individual and enforce desirable behaviours among its members so to maintain order in the given community. Customary laws are necessary to protect an individual as well as to safeguard society from chaos. It is an agency through which social order can be established and sustained. In each and every society, customary law plays an essential role to control the conduct of individuals and to establishing social equilibriums.

The Galos is considered to be the descendants of Abotani; a mythological figure among the Tani Clan of Arunachal Pradesh and historically it is believed that they have migrated from South Tibet now occupied by China. In the state of Arunachal Pradesh, the Galos usually reside in the district of West Siang, Lepa Rada, Lower Siang and a small proportion of the population is scattered in the district of Upper Subansiri, Namsai, Lower Dibang Valley and in the district of East Siang.

This paper will focus on the customary practices of the Galo tribe, in view of uplifting the status of Galo women, especially, in affairs relating to divorce, marriage, inheritance rights and custody of the child in case of divorce or untimely demise of the husband. Galo customary law can be understood in terms of popular practices, norms and customs governing the life of the Galo tribe since time immemorial.

Objective

1. To understand how customary laws induce gender inequality through Child Naming, Justice Delivering System, Properties inheritance and marriage.



Methodology

This present approach is qualitative and descriptive in nature. The participant observation technique was used for the entire period of the study. In order to understand this study, primary and secondary data were used. Primary data was through focus group discussion among the male and female members of the community and secondary data was collected from books, journals and so forth.

The study was conducted in Nari village of Lower Siang, Arunachal Pradesh, India. Nari is a village inhabited by the Galo tribe situated in the district of Lower Siang, Arunachal Pradesh. According to the 2011 census, a total of 129 families resided in the village. The Nari village has a population of 702 out of which 350 are male and 352 are females as far 2011 census. The population of children in with age 0-6 is 93 which constitute 13.25% of the total population of the Village. The average sex ratio of Nari village is 1006 which is higher than the Arunachal Pradesh state average of 938. The literacy rate of Nari village as per the 2011 census is 64.04% which is lower than the state average of 65.35%, male literacy rates stand at 72.09% while the female literacy rate is 56.17%. During the course of the study, persons of different age groups from the native of Nari village residing outside the village and within the village were interviewed particularly from the age group of 16-60 years. The educational background of the participants ranges from illiterate to postgraduate. Most of the participants come from different socio-economic backgrounds and hence they had given their responses based on their lived experiences which were subjective without any influence from the researcher.

Findings and discussions

Distinct Name Keeping Practice

While naming new borne child, Galo tribe has a unique custom of adding the suffix of the father's name to the child's name. If name of the father 'Mijum', then child name will start with last three letters of the father's name like, Jumpi, Jumpe, Jummi etc. There is no practice of naming the child's name after the 'mother's' name. This practice is not based on individual preference but is govern my customary law of the communities. This practiced cemented by customary subtly reflects the gender disparity begins with the naming of a child giving priority to Father's name by not considering mother's name.

Inheritance of Property:

Parental Properties among the Gao tribe in the study area can be broadly classified into two groups:



Moveable Property: Movable property means any parental properties that are movable in nature; that can be carried from one family to another family which includes viz. traditional beads, bangles, jewellers, swords, utensils, car and any other luxuries. Inheritance right in regard to the movable property is to a certain extent flexible and equal among both male and female children. However, this inheritance was not found completely absent from gender discrimination. Not every movable property that can be carried from one family to another family is inherited by the female child, as there are certain social restrictions that sanction that male's property such as swords, beads, jewellery etc. can only be inherited by a male child. A sharp division is made between the properties that can be inherited by male and female children. In the finding, one interesting practice which exhibits more patriarchal colour was found; in a case like, if a family does not have any male child alive to inherit male property, then these properties will be given to an immediate or near male child of the same kins. A female child of the same parent cannot inherit but male kin can easily inherit even if they are not from same family.

Immovable Property: Under this category of property, the subjects like land; rivers, quarries, buildings, forests etc. are enlisted. The nature of property inheritance under these subjects is the epitome of patrilineal society. Female children in the Galo tribe are completely barred from inheriting any of these properties listed above. Even a family without a male heir will not give these properties to their own daughter/female child rather it would be given to the male child of the next kin. In this context customary laws play a pivotal role, discrimination treatment meted out toward the female child is not a choice of any particular family but they are bound by the law i.e. customary laws. It is the customary laws that decide the daily affair of the tribal society.

2. Marriage: It is a basic social institution found in almost all societies practices the institution of marriages as it helps in sustaining and maintaining the continuity of generation. It is one of the universal social institutions established to control and regulate the life of mankind. It is closely associated with the institution of the family. As an institution marriage plays a crucial role in regulating sexual needs, providing economic stability and providing social recognition for procreation. It is an institution that permits two people to come together and establish a family.

The institution of marriage is significant among the Galo tribe of Arunachal Pradesh. It is the institution of marriage that helps the members of the tribe in maintaining cordial relations among the different clans. Marriage is considered a social obligation rather than a matter of choice. Even though there are no written records about the practice of child marriage among the Galo, oral narratives reveal the existence of such



practices. During the course of this study, it has been found that the customary practice of paying the bride price (Aaro) is still prevalent among them. The bride price is the price, to be paid by the groom and his family to the family of the bride in cash or kind. The price to be paid by the groom depends on the social and economic status of both parties. The head of the family especially the father and the maternal uncle of the bride would demand the price of the bride to be paid by the groom. The mother and other female members have no say in it. This practice in particular degrades the status of women to an object as it is the amount of bride price which determines the social status accorded to the woman in society.

This paper also attempts to associate the status of the Galo women through different types of marriage practices sanctioned by the customary law. The common marriage practice of the Galo tribe is monogamy, however, in certain cases the practice of polygamy also prevails. Polygamy is a form of marriage where men and women can marry more than one partner. Polygamy can be of two types: Polygyny and polyandry. The practice of polygyny can be seen more often among the Galo tribe inhabiting Nari village. The reason behind this practice as per the primary sources lies in the deep-rooted patriarchal and patrilineal nature of the Galo tribe. If a woman fails to give birth to a male heir, the husband may marry the sister of his wife or may find another woman to marry in expectation of a male child. On the other hand, there were no instances of customary practices of polyandry among the Galo Tribe.

Divorce: It is a socially recognized dissolution of marriage. The divorce rate among the Galo tribe inhabiting Nari village is low as per the data collected from the primary source. During the course of the interview, it was established that women, even enduring discontent marriages are likely to refrain from calling this major decision fearing the social stigma attached to it. On the contrary, men are more likely to call off marriage as customary law grant more privilege to men as compared to women. The study attempts to associate the practice of divorce among the Galo community which is sanctioned by the customary law in determining the status of a woman in the Galo tribe of Nari Village. A matter concerning divorce in the Galo community is settled through the village council (Keba); the constituents of the village council itself stimulate a concerning argument about the integrity of the decision as village council members comprise exclusively of male Gaon Bura. The arrangement of the institution is such that the opinion of women is surpassed through the majoritarian approach. The customary law governing divorce also determines the custody of the child. The custody right of the male child is entrusted to the father. This setting of customary law reflects the gender disparity nature as there is no rigid obligation regarding the custody of a girl child as she can live with either of the parents but the first preference of



the custody goes to the father. The father usually prefers the custody of the male child over the female child as the Galo community being patrilineal traces its descendants through the male line.

Conclusion

Customary laws practices within the Galo community are Sui Generis. The jurisdiction of customary laws in civil matters encompasses every aspect of the Galo community. It is through customary law that the issues involving Inheritance of Parental Properties; Marriage; Divorce; and custody of a child are settled. The customary laws that operate in the Galo community are often presumed to be a set-up that promotes gender parity but digging deeper have revealed that it has its own limitations and drawback. The study found that, the law at certain aspect act as a source of gender disparity rendering women folk to depends upon their counter parts in civil matters. Rather than an instrument that impart equality, it has own boundaries. This paper doesn't completely rule out the importance of customary laws in given society, but have reflected at certain points where deeper discourse and intervention is called for.

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