

Customary law and women: Rights and Participation of women in Traditional Apatani Society.

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ABSTRACT: In most tribal societies across the world women are considered as a weaker section of the society due to reasons like customs, traditions, and attitudes and also due to patriarchal nature of the society. It is generally said that women in northeastern part of India enjoy a better status than their counterpart in the rest of India. However, the customary laws and practices in its application are often found discriminatory in nature against women. Customary law of the Apatanis has great impact in the area of family law, in regards to such as marriage, divorce, inheritance, appointment of traditional offices and exercise of traditional authority in decision making. Like other patriarchal society where women do not enjoy a significant role in the decision making process, Buliang (village Council) - the traditional upholder of Apatani Customary Laws has always been a male dominated institution. The objective of the paper is to highlight the position of the Apatani women in the traditional Apatani Society. The primary and secondary sources have been used in the collection of data.

KEYWORDS: Abotani, Apa, Alo khu, Buliang, Lapang, Nyimw, patriarchal, Tani..

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I. INTRODUCTION

The Apatani is a major tribe of Arunachal Pradesh. They are inhabitant of Ziro valley, the district headquarter of lower Subansiri district of Arunachal Pradesh in India and are considered as one of the most advanced tribes of Arunachal Pradesh. Literally, the word Apatani is composed of two words- *Apa* and *Tani*, according to the local Language, '*Apa*' means display of affection and '*Tani*' means stands for human race. The Apatanis belong to the Tibeto-Mongoloid stock and traces their decent from legendary ancestor the Abotani. The Apatani dialect is classified under Tibeto-Burman language group and does not have a script of their own. Traditionally, they settled in seven villages- bulla (Reru, Tajang, and Kalung), Dutta, Hari, Hija, Hong, Bamin-Michi, and Mudang Tage.

The Apatanis have distinctive cultural characteristics of its own. They have their own Customary Laws and their own way of administration of justice on the basis of which all disputes were settled amicably. They do not have any written law, but they are orally handed down from generation to generation. They are bound by numerous unwritten usages that prescribe the rules of conduct to individuals and regulate human behavior in day to day life. Even today, in village area, cases are heard and settled as per Customary Laws. As and when dispute arises, relatives of both parties, the mediators, intermediaries, Gaon Buras and village council are involved to settle the dispute. After minutely hearing the allegation and counter allegation of both the parties, the cases are settled and disposed as per the Apatanis customs and tradition.

Customary Laws regulate the everyday life of the tribal people in every aspect. It governs person's marriage, inheritance, divorce, child custody and so forth. Customary laws exist in order to maintain peace and bring social order in the society. Therefore, the function of the customary law should benefit every member of the society without being gender biased. However, in a patriarchal society like Apatani, customary law has a great impact on women's position in the society. The women are taken as the bearer of cultures and traditions. The compliance of women or the consent they extend to structures that are discriminatory and oppressive is invisibilized under the notion of upholding traditions or cultures of families or of communities. By conforming to societal norms or codes of conduct they perpetuate discrimination and its restriction in their lives.

Most studies and available literatures on Customary laws find that traditional customs and practices to be discriminatory against women and the consequent poor participation of women in societal life. Against this background, this paper seeks to investigate the impact of Apatani customary law on women.

OBJECTIVES:

To highlight the status of women in regards to women participations in traditional village council, women inheritance rights, and Marriage and Divorce

II. METHODOLOGY:

The study of the area is the Apatani of the Ziro Valley, headquarter of Lower Subansiri District, Arunachal Pradesh. Both primary and secondary data were used in the study. The primary data for this paper have been collected from field work. Secondary sources include books, records, papers from different authors both published and unpublished.

WOMEN IN TRADITIONAL VILLAGE COUNCIL:

Traditionally, no outside authority controlled the Apatani society and thus the same was politically independent. The Apatanis were politically or legally organized themselves through an institutions called *Buliang*. It served as a mechanism through which peace and order were maintained and a proper administration of justice was ensured. It is to be noted here that, *Buliang* did not interfere in disputes between individuals and families. Such disputes were dealt by their common relatives act as *Gondu* (the middlemen-cum-mediator for arbitration). When the normal *Gondu* fails to settle a dispute one of the parties may appeal to the *Buliang* of the village for intervention. In such case, the appellant is bound to honor the decision of the *Buliang*.

Both internal and external peace and harmony were established in the society during those days due to the existence of *Buliang*. He was the highest authority of socio-political and judicial administration of the Apatanis and therefore, people respected and honored his decisions. They do not have absolute power for arbitration or suppressing forcefully unless a dispute becomes a public issue or an individual has appealed to them for justice (Kani 1993:140-141).

Though the *Buliang* were collectively the upholders of their tribal customs, they acted primarily as the spokesmen of their own clans and not as village-headmen with clearly defined functions. Their duties were those of arbiters rather than of judges, and they usually did not take action unless a dispute had become a public issue which had to be dealt with by the community as a whole, be it by mediation or the use of force (Haimendorf 1980:130).

Apatani society is a patriarchal society. Like other patriarchal society where women were seen as a home maker, procreation, a care giver, responsibility of man, harbinger of culture, responsible for carrying out the tasks of other household activities and agricultural fields, the Apatanis were no different. In the Customary laws of the Apatani women have no equal rights with the men in the political or administrative sphere though their role was seen to be very essential for the proper functioning of the society. The fact was that men were largely responsible for the decision-making process pertaining to village administration. The *Buliang* has always been a male-dominated institution. Women do not hold any substantive stake in the Village council proceedings. The reasons for women not partaking in traditional Village Council were that they were not found capable and at the same time such activities were not encouraged for them by traditional values and customs.

The post of a *Buliang* is hereditary and permanent. Traditionally it is held by a male member only. The belief was that women once get married to she becomes a member of her husband. Hence, women cannot inherit the post. The physical disability also plays a major role in distinguishing the role between women and men. Women are believed to be physically weaker than male. For *Buliang*'s role also involves arbitration and negotiation in hostilities and conflicts, the women may not be as physically capable as men in such situation. Another limitation that bars women from participating in Village affairs was, usually *Buliang* members would convened their sittings in a traditional public platform called *lapang*. As per customs it was taboo for women to step on the *lapang* due to their menstruation as it was considered as impure. Further, women were often expected to play their role in village affairs by rendering their services in preparation of *Aping* (food preparation) and making 'O' (rice beer) for the male members in deliberation of important matters.

When a *Buliang* member died, widow of the deceased husband becomes the custodian of the husband post on behalf of their minor son. Until he becomes maturity she would convene and attend all the meetings. She would implement the decision taken by the *Buliang* members. However, the power of the *Buliang* (female) as the Village Council is only nominal. She passes the post to her son as soon as he becomes capable. If there is no male child in the family, after death of the *Buliang*, the nearest male relative of the *Buliang* clan would assumed the charge of the post. Daughter or female are not given the right to inherit the *Buliang* post.

SUCCESSION AND PROPERTY INHERITANCE:

One common practice among Apatanis that tend to hamper on women's right is the land ownership and inheritance law. Apatanis have well defined customs on succession and inheritance of property. The properties of the parents can be categorized into two. The first one is the ancestral properties inherited from ancestors called *Alo Khu*. The second one is acquired properties, which are called *Riinii*. The inheritance of ancestral property is customarily through the males only. The oldest son inherits the largest share of the property. The most of the *Alo Khu* properties go to the eldest son. Other acquired properties are shared among the younger sons. The daughters customarily do not inherit any of fathers' properties. There is a saying in Apatanis that goes- "*Sannw mi Kwdi nwpa, Nyimw mi Nyibo Nwpa*" which means women are for others as she gets married

and the leaves are for the soil as leaves of the tree are bound to fall on the ground. Hence women do not inherit properties. They enjoy the properties of her husband. They are only entitled to moveable properties of their mother such as costly ornaments, clothes and the looms. The women can exercise right over the assets she carry with her from the parental house. Her husband or in-laws cannot stake claim over such property. However rich parents with more property sometimes give acquired property to their daughter but ancestral property cannot be transferred to females. According to custom, if the parents are issueless the landed property will go to the nearest lineage of father side.

Another practice that tends to impact negatively on women's right and participation is the notion of male preference to female. For only a male child can inherit the land property, parents often prefer male to a girl child.

MARRIAGE:

Traditionally, in Apatani, one has to follow the social codes of the tribe endogamy and clan exogamy. once the marriage of a couple is accepted by both the parents, the marriage has to be solemnized through a series of ceremonies, which includes *Mabo-inchi* (visit of bridegroom to bride's parents); *Biinii-ari Pahniing* (exchange of goods); *Ruhutii Piniing* (collection of paddy from the fields of brides relative in return for (*Biinii Ari Pahniing*); and finally *Eli- Bahniing* (procession from brides' house to that of the bridegroom's house).

There is no practice of Polyandry in Apatani society. Though monogamy is the rule, the practice of Polygamy or bigamy (*mihi anye-hinge lanii*) cannot be ruled out. Polygamy is practiced if the first wife is barren or the man has no male child. In such case it is practiced with the consent of the first wife. However there are many instances of polygamy in Apatani society even if the man has male child. Marrying many wives was seen as a sign of affluence.

Forced marriage (*Mihi -Senii*) was prevalent in the Apatani society. In such case most girls would give her consent to stay with the boys as his wife simply because of the fear of her image or reputation being seen as spoiled.

Discrimination among Apatani women was also prevalent in divorce (*tatu swnw*) cases. Though the divorce is looked upon as bad and undesirable, the divorce is allowed in the Apatani Society if both husband and wife desired mutually. In case of a divorce, all the children belong to the father. The children can stay with their mother but Women cannot claim ownership of the children. Moreover she is not entitled to any of the marital property they owned during the marriage after divorce.

III. CONCLUSION:

Despite tremendous contribution of women in every aspects of society, the customary laws denigrate women and are often biased. Women rights are marginalized, their participation in decision making body remains insignificant. The patriarchic ideas passed down the generations, through customs, traditions and cultures which act as the vanguard of the patriarchal system. Customary laws and social practices of the Apatani tribe provide them their identity and become intrinsic to their culture. Its main function is to maintain peace and social order and bring harmony in the community. However the system as it exists today is discriminatory and biased. The Apatanis women do not enjoy or occupy the same influential position as seem to be enjoyed by their male counterpart. Unless women are involved in a matter concerning them, it will be difficult to sought changes of the existing situation. Therefore, a positive atmosphere of reflection has to be created among the mind-set of the people and need of introspection of existing customary law particularly in context of women status. Women's remarkable works are required to be highlighted and women issue should be at priority at all level of administrations. Progressive change should be achieved through collective efforts.

NOTES AND REFERENCES:

- [1]. Baharul Islam, K.M, "Issue In Women's Rights- A Practitioners' Resource Book", Allied Publishers Pvt. Ltd. New Delhi, 2014.
- [2]. Biswas, prasanjit and Thomas, C.Joshuo (Eds.), "Peace In India's North East: Meaning, Metaphor and Method-essays of concern and commitment," Regency Publication, New Delhi, 2006.
- [3]. Chakravarti, Uma, (et al)., "Gendering Caste: Through A Feminist Lens", Stree, Calcutta, 2003.
- [4]. Dinsu, Koj, "Women In Traditional Polity: Buliang Of Apatani," IMPACT: IJRHAL, Vol.6, Issue3, 31-38, March 2018.
- [5]. Fernandes Walter, Pereira Melville, and Khatso Vizalenu, "Customary Laws In North East India: Impact On Women", National Commission For Women, New Delhi, 2008.
- [6]. Haimendorf, Christoph, "The Apatanis and Their Neighbours: A Primitive Civilization Of The Eastern Himalayas", Routledge and Kegan Ltd, London, 1962.
- [7]. _____, "A Himalayan Tribe- from case to Cattle", Vikash Publishing House, Ghaziabad, 1980.
- [8]. Kani, Takhe, "The Advancing Apatanis of Arunachal Pradesh" Purbadesh Mudran, Guwahati, 1993.
- [9]. _____, "The Rising culture Of The Apatanis", Himalayan publisher and Distributors, Itanagar, 2008.
- [10]. Kelkar, Govind, and Krishnaraj, Maitreyi, "Women, Land and Power In Asia", Routledge, New Delhi, 2013.
- [11]. Rajan Das, Ranga, "Legal pluralism and Indian democracy: Tribal conflict resolution system in North East India," Routledge India, 2017.

- [12]. Tado, Pura, “ Political Transition Among the Tribes of Arunachal Pradesh: A Case Study of The Apatanis”, unpublished Ph.D. Thesis, Department of political Science, Rajiv Gandhi University, Doimukh, Itanagar, 2001.
- [13]. The Nikung Dapo committee, The Customary Laws Of The Apatanis”, Apatani cultural and Literary Society, Ziro, 2008.