

## Customary Law and Women Status of North East India: With Refer to Poumai Naga Tribe

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**ABSTRACT:** This paper deals with customary law and women status of the Poumai. Despite, in the Northeastern region women has enjoying a higher status when it compared to women of other states of India, yet in reality within the bordering of the traditional customs and customary practices women have been discriminated and oppressed in many ways. The paper aims to look the gender bias in relations to Poumai society and explain how women are still caught up in the traditional and customs ways of life where women has been restricted in many ways. Although today most of the Poumai have embraced Christianity yet certain traditional practices are still prevalent including customary laws.

**KEYWORDS:** Customary, customs, usage, traditional, religions social, Political, economy, cultural, status, institutions, council, gender, inequality, inheritance property.

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### I. INTRODUCTION:

Customary law is the positive law governing all the phases of tribal life; it consists then of a body of binding obligation, regarded as a right by one party and acknowledged as a duty by other, kept in force by a specific mechanism of reciprocity and publicity inherent of their society (Malinowski,1926,p.58). According to Malinowski, customary law is all pervasive and covers all phases of an individual's life in a society. Thus, customary law reflects societal norms and values it evolves out of area-specific traditional usages and practices. It reflects the cultural ethos and traditions of a particular group of people.

The customary laws are primitive rules of conduct inter Se as there are in operation since time immemorial but we may restrict to one's memory or oral tradition. The customary law with its primitive origin includes both the law of crimes and civil laws. Therefore customary laws are *laws of wrongs* and more appropriately it could be termed as tort (private wrongs or injuries). In case, of other offences, whether civil or criminal as we term today, the practices are that, the person aggrieved or injured, files a suit against the wrongdoer by ordinary civil actions and recovers compensation in the shape of pecuniary damages if he succeed. The tribal customary law is intrinsic to tribal identity in a multicultural system. This is mainly because the tribal communities have shown considerable resilience in adapting their institution and their laws to the challenges they face. The functions of customary law is to help maintaining peace and order of the society irrespective of caste, creed, colour or sex etc., without having any bias in gender.

Like in any other patriarchal society where women do not enjoy a significant role in the decision-making process, *Vesiikai/Stiimai* in the Poumais traditional customs is always a male-dominated institution where the women folks are never included in the traditional village council and all the important decisions pertaining to the community was taken by men.

### Customary law and Gender Relation

In today's highly competitive modern world a revision in gender relation is a serious challenge for both genders. We have come across that there is different stereotype role of both men and women which play a vital role in the society and need to be dealt with much attention. Even in the 21<sup>st</sup> century women are barred from performing both in the public domain as well as in the family even for personal good. Her free movement and mingling either with both men or women during the day or even during the night in social groups such as in the *morung*, notwithstanding or getting certain properties during marriages, or protections given to her by her brothers/clan members even if the girl get divorce and return to the family/clan members, the male supremacy overrides female liberty in almost every spheres of life in Poumai Naga society. For instance;

- Economically and financially their man takes the final decision of all transaction in spite of her being the sole monitor/steward of the house.

- Politically she is instrumental to gain majority without fully recognizing her political rights to decision making and freedom of speech and choice.

- Culturally she is considered unfortunate to spearhead and be in the front line in any of feasting ceremony, but in time of war they were compelled to be the ambassador of peace for the society.
- Religiously she is compelled to disown her right to leadership and to serve. Although they are better positioned when compare with other society.

In the socially construed social strata, there is a division of labour between men and women. Men do the jobs that are considered 'heavier' and 'strenuousness while women do jobs that are considered 'lighter and needs "fragile caring'. In the olden times, during the head hunting days, it was the women folk who oversee both domestic and paddy fields work while men folk would hatched plan to attack the enemies village or plan how to protect that village from being attack or they would simply go for warfare even days altogether, leaving womenfolk and children in the village. The social stability and harmony of the Nagas is enhanced by the hardworking women, from rearing of children to maintaining family household chores. Through their hard work, lowliness, patience, sincerity and morally upright life, women instil the intrinsic values of the Naga life to their children thereby play an importance role in the society in general and in the family in particular.

Women are restricted in various ways by the functioning of the customary laws. They do not have much say either in the family or in the village administration as to voice freely with open mind when it comes to any important decision making. Women sometimes may have better ideas and knowledge and contributed much to their male counterpart. They are treated as inferior and occupy lower position in every sphere of life. Due to the patriarchal systems the society inferring of women leading inferior and subordinate to men, includes any social, political, or economic mechanism that evokes male dominance over women.

Socially, women participation and freedom of expression are limited by way of letting them shoulder all household chores. The pattern of gender of socialization in the region has been shaped by the deeply rooted culture of patriarchy. Gender socialization is the 'process of socialization which teaches children their gender roles' (Basin, 200: 13). From the moment of child is born, gender socialization and gender expectations come to influence the ways boys and girls are treated. Gender socialization thus affects the 'self-concepts of women and men, their social and political attitudes, their perceptions about other people, and their feelings about relationships with others' (Anderson and Howard, 200: 305). The researcher has found that the socialization among the Poumai Naga is begins within the mindset of the mother's by segregating the role of a man and woman through words and actions etc., as they are strongly engaged in cultural ethos.

### **Societal Point of View that Interpret Women as Inferior among the North East Tribal**

The researcher has analyzed with various tribal communities of northeast India how women have been treated as inferior to its counterparts of the male folks. Lucy Vashum has mentioned in her article, 'Status of tribal Women' (2003) that among the tribes of northeast India there are various taboos. They were considered that contact with the women on certain occasions may bring bad fortune to the man. For instance, the Zeliangrong Naga men believe that sleeping with one's wife before going hunting may bring bad luck to whole groups and community. The Zemei Naga males are forbidden to touch the meat of an animal killed by a woman, as it is 'considered that touching the meat would be below their dignity because bravery is quality of men and docility that of women' (302).

Among the Tangkhuls in Manipur there are certain gender taboo such as, 'a woman should not yell in Public, a woman should not climb over roofs, tree etc., ill luck will fall upon a man if he walks below a woman's clothes line' (Kashung. 2012: 11-12).

The oral traditions of many tribes have reflected the broad spectrum of Marginalization of women in the society' (Chakraborty, 2008: 28). There are phrases and sayings among the tribes which indicate that women were not given the same status. The traditional attitude towards Hmar women are reflected in the saying such as *Nuhmei varin tuikhur ral a kai ngai naw* which means that the wisdom of a woman does not extends beyond the bank of a river. Even among the Mizos, there are also certain sayings such as a woman and old fence can be replaced any time. Just as the crab meat is not counted as meat, so also women's word is not counted as word. Non threatening wife and nonthreatening creepers of the field are both unbearable (Dena, 2008). Rose Nembiakkim (2008) has also mentioned that in the traditional Garo Society, women are 'ridiculed with the saying that just as a goat is without teeth, so a woman lacks brain. The Mayon Nagas of Manipur considers 'women as having no principles' since women are considered to have no permanent clan, as her clan changes into that of her husband's after her marriage (12). The Khasis in Meghalaya also had the sayings that 'if the hen crows, the world including the family will change for the worst' (Zehol, 2006: 104)

### **Social and Political Status of Women**

The traditional attitude of both men and women towards women affects the status of women to a great extent. Women play an important role in the society in almost every aspects of life which is undermined by customs and traditions. Women have to live by terms and conditions of the traditional customs. The traditional patriarchy system women have been discriminated and oppressed by male dominant in the society. According

to its traditional customs it was taboo for the women to step on the gossip platform/village courtyard. Women were prohibited to climb up on the roof of the house or on the tree. *chu gwa kekhe chi-e mo, vo gwa kekhe chi* which means dog need not be fenced but pig need to be fenced (Adino, 2003:60). Here dog referred to the boy while pig referred to the girl.

### **Women and traditional Religion**

The study of women and religion typically examines the roles women within particular religious faiths and religious doctrines relating to gender, gender roles and particular women, in religious history. Most religious elevate the status of men over women, have stricter sanctions against women, and require them to be submissive. While there has been changes towards equality, religions overall still lag the rest of society in addressing gender issues. There are fundamentalists within every religion who actively resist change. There is often a dualism within a religion that exalts women on the one, while demanding more rigorous displays of devotion on the other. This leads some feminists to see religion as the last barrier for female emancipation.

The Poumai Naga tribe has its own indigenous faith along with the followers of Christianity and other religions. The traditional religion believers are known as *Yaosomai* (literally, 'those who drink wine') or *Pupaoh Kinya Pfiyumai* (Those following forefather's religion) who believe in one supreme God called *Rahmai*. He is the all-powerful and controls everything, including all the Gods residing on earth or above. The followers of the traditional faith conduct various rituals and sacrifices to appease their gods at the individual level and the village as a whole. Traditional Poumai religion was referred to rather simplistically as 'animism' in much of the colonial literature and earthly ethnographic writings on the tribe, but what can be said for certain is that Poumai believed in the existence of a number of deities and spirits, both benevolent and malevolent, and that ancestor worship also features in their traditional religious practices. All the important sacrifices, offering and libation, made during feast and festivals are either for the blessings of a bountiful harvest, good health, prosperous and well being of the people. Some deities are done to prevent against natural calamities, such as pest, epidemics, drought and famine. Though all the important rituals are done by '*Napaoh*' (Priest) Poumai women has enjoyed in part takes of traditional rites and rituals of the family. An old woman had played important role in the traditional marriage ceremony as a priest. The ceremonial offerings and the sacramental fasting performed by the priestesses during the observation of the Feast of Merit carry equal significance in the sacredness as that of the village priests (Sounai 2008).<sup>1</sup>

### **Women and Economy Status**

The Poumai forefather's were head hunters like many other Naga tribe in the olden time. During head hunting days, there was a lot of disturbance on farming and agricultural activities and villagers would go to paddy fields for farming and returned back together in the evening.

The main agricultural activities were done by the women in the fields and jhum farming as the man was to guard of the women from the enemy. In that raid of head hunting the headhunters do not spare women and children so as to head count.

Agriculture is an occupation as old as the society, the mainstay of the Nagas and the Poumai society as well. Terrace paddy cultivation is the main agricultural practice, besides; the practice is limited range of shifting cultivation. Their mode of cultivation and production is again closely attached to forest and its resources. So the main reliant of the Nagas and the Poumai Naga society is on land and forest, on whose bosom they depend for their livelihood. Their economy is based on inalienable right to land and forest is preserved from waste and destruction. Naga women have closer attachment to land more than their male counterparts as continued to be the custodian of that vibrant Naga life and culture forming the basis of the essential Naga identity.

From the early morning till dawn women work on land with affection and reverence literally taking it as the mother of humanity. Women work in the terrace field continues from seeds sowing till harvest time. Besides agricultural activities, the women also take up the sole responsibility to collect firewood and also fetch water. They spin and weave varieties of traditional hand-loom clothes for the family and also for sale to generate income.

Apart from the management of kitchen and bringing up the children which exert tremendous stress on them they have to look after the rearing and feeding of domestic animals. In fact Poumai economic life will eventually crumble without women who take care of the economy.

So we have seen Naga woman playing a vital in the family, quietly rendering great service and indirectly helping in removing poverty, fulfilling her duties ostentatiously and handing down a healthy tradition of hard work (Horam 1975:47).

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<sup>1</sup> K.T.Sounai, 2008, Ex-General Secretary Naga Women Union Manipur, Article Poumai Naotumai Me Souvernir.

### **Traditional Political Institutions**

The traditional system of governance among the Poumais is 'geronto-democratic' in nature i.e., governed by selected or elected elderly representative of *khel*. The Poumais is based on the concepts of caste less and classless society. The village is central to the life in Poumai society. An individual identity and roots are usually traced back to his/her village. The village forms a social, political, cultural unit and functions as a compact and well-knit society where traditional customs are observed (Shimray, 2008,p.95). The village economy is self sustaining and administered by rules of indigenous customary laws and governed by the village Council. The village council looks after the overall affairs of the village and its main duties are to uplift the socio-economic, educational, political cultural and judicial affairs.

### **Women in the Traditional Council**

In most of the tribal societies of the northeast India, there are village council that works as a mechanism for ensuring peace and harmony of the society. These village councils have existed since time immemorial and are known by different names in different communities. The Poumai society of every village has their own village council like any other patriarchal society where women do not enjoy a significant role in the decision-making process. The village administration council are always been a male-dominated institution where the women folks were never included in the traditional village council or known as *Vesiikai/Tsiiko*. Women were not even allowing to steps up in the gossip/stone platform or village courtyard. Women has not given space in the decision making body. On some critical issues the minutes of the meeting of the village council were never disclosed to women.

From the early age children of this region and the community had learn what it means to be a boy or a girl. Girls have socialized early into household chores. They are taught to cook, fetch water, carry fire-woods, wash dishes and clothes, and clean the house, looks after their younger sibling while their mothers are way in the fields. Whereas boys are taught them to maintenance chores such as looking after the woodland, paddy fields, cuts fire-wood etc. Girls are expected to remain at home and look after family where they are made to think that the domestic activities and nurturing are women's work while boys are made to work outside thereby depicting the "gender-stereotypical roles" (Laksmi, 2007:213)

The process of gender socialization continues throughout the life cycle. Right from the childhood of a girls till grows up and become a married woman, her sole responsibility is the managing the household.

For instance, though a woman might be just returning from the field it is expected that she has to prepare food and does the needed household chores (Krishna, 2005). Men showed their masculinity by not interfering in any of the household chores. As have been mentioned by Larinchhani (2008) that, though a man might be near the cooking place where his wife has cook something and even if the vessel overflows, he would just watch and call his wife who is busy in some other chores to attend it. Man considered doing 'household chores as a shameful thing' as they don't want themselves to be address as 'henpecked husband' by their fellow men (148-149). This negative attitude of men underlines the patriarchal notion of men.

### **Gender Inequality inheritance of Property**

The Poumai Naga law of inheritance had entitled only to males for inherits of property. The Poumai Naga society male has the absolute rights to inherits of immovable property however, women has the rights to inherits of movable in the time of marriage. All the ancestral and acquired properties are shared within the sons, while the best paddy field is given to the eldest son, he has to leave the parents house for the youngest brother who will remain with the parents and look after them even after marriage. However, among Lepaona circle the eldest son get the best paddy field and house of the parent. Equal distribution are attempted to distribute equally among the sons although perfect distribution may not be met.

It is the duty of the eldest son to look after the parent in time of their old age when the parents were unable to work or at the time of bed riding. The eldest son has the responsible of looking after his younger sibling and arranges their marriage. In the absence of sons, it is the practice of Mao and Poumais, for the daughter to take all land purchased by her father during his lifetime. Except for this case among the Maos man cannot leave land in perpetuity to a daughter, and no woman can permanently inherits land of any sort, be it terrace, jhum land, building or garden land, firewood plantation. Even the purchase land given to the daughter may revert to her father's heirs after her death. If there is no male issue in the family the property goes to the nearest male kin or relatives. In case of no relation being found, the kindred inherit, and failing the kindred, the clan inherits (Hutton 1969:136). But movable properties would be confiscated to the daughters. Man cannot leave real property to his daughters but yet some movable property can be given as discretionary. Personal property including cash and cattle is bequeathed to daughters absolutely. Women's property such as ornaments, beads, crystal and ear ornaments always goes to the daughters. Failing children, a mother her personal property goes to her sister's or in such case, the daughter in-laws i.e. son's wives have the right to distribute among

themselves. However, in terms of inherited of property women do not have the right to get immovable property but they may get only movable property.

### **Widow's Rights of Inherit:**

Among the Poumai Naga community the concept of property came into their minds when they had started an Agricultural activity, hunting, fishing, or gathering of wild foods and fruits, or trapping small animals and birds. After they acquired the knowledge of food gathering such as fishing, hunting a normal form of work were taken place only in one's land and boundary.

A widow is entitled to use her husband's lands, house and others properties as long she remains in her husband's clan. On her death the property does not pass to her heirs but it passes on to the heirs of her husband. In case of remarry to another man than she has no rights to inherit of her first husband's property.

## **II. CONCLUSION AND RECOMMENDATION**

Customary laws regulate the 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 of concerning the individual's interests or sex for the matter. The needs of every member in the society should be dealt with much consideration without being biased and no classifying the states or sections. Every citizen should be treated equally in the way one deserves to. Though many scholars and writers talks about codify of customary laws and gender inequality in the north east among the tribal societies yet, it may takes time to completely change on the patriarchal system. As the economic, political, social and cultural institutions are by and large controlled by men, gender inequality and subordinate of women continue to exist. Their unequal status with men was justified on the basis of customary law which articulates the gendered division of labour. The gender stereotypes like 'women are housekeepers while men are bread winners' while other says women are child bearer and producer while men are bread winners' and Men are decision-makers and women are decision-keeper' are deeply embedded in customary law. Such stereotypical understanding of gender roles is steeped in patriarchal values. The need of the hours for the society is to educate for both males and females from their childhood about gender equality. Gender equality need to be educate to both sex from the very beginning of childhood.

## **REFERENCES:**

- [1]. Agarwal, Bina 1994: *A Field of One's Own: Gender and Land Rights in South Asia*. Cambridge: Cambridge University Press.
- [2]. Ao, Temsula. 2010. Benevolent Subordination: Social Status of Naga Women', in Preeti Gill (ed.): *The Peripheral Centre: Voices from India's northeast* (100-107). New Delhi: Zubaan.
- [3]. Baneerjee, Monica. 2010. Conflicts and Constructive Work: Strengthening Civil Society in the northeast, in Preeti Gill (ed.): *The Peripheral Centre: Voices from India's northeast* (177-184). New Delhi: Zubaan.
- [4]. Basin, Kamla. 2000. *Understanding Gender*. New Delhi: Kali for Women.
- [5]. Bekker, J.C. 1989. *Seymour's Customary Law in Southern Africa*, 5th Edition. Cape, Town, Juta & Co. Ltd.
- [6]. Burman, J.J.Roy. 2012. Status of Tribal Women in India. *Mainstream Weekly* (12) 10th March. <http://www.mainstreamweekly.net/article3314.html> retrieved on 10th January 2013.
- [7]. Chakraborty, Anup Shekhar. 2008. Emergence of Women from 'Private' to 'Public': A Narrative of Power Politics from Mizoram, *Journal of International Women's Studies*, 9(3): 27-45.
- [8]. Dena, Lal. 2008. *In Search Of Identity: Hmars of northeast India*. New Delhi: Akansha Publishing House.
- [9]. Fernandes, Walter and Sanjay Barbora. 2002. *Modernisation and Women's Status in northeaster India. A Comparative Study of Six Tribes*, Guwahati: North Eastern Research Centre.
- [10]. Fernandes, Walter and Gita Bharali. 2009. Customary Law-Formal Law Interface: Impact on Tribal Culture, in T.B Subba et.al. (eds.): "Christianity and Change in northeast India (93-108)". New Delhi: Concept Publishing Company.
- [11]. Gneezy, Uri, Kenneth L. Leonard, and John A. List. 2009. Gender Differences in Competition: Evidence from A Matrilineal And A Patriarchal Society, *Econometrica*, 77 (5): 1637-1664.
- [12]. Gough, Kathleen. 1971. The Origin of the Family, in *Journal of Marriage and the Family*, 33(4): 760-771.
- [13]. Kashung, Shangpam. 2012. Continuity and Change in the Gender Relations of the Tangkhuls of Manipur, *Global South Sephis e-Magazine* 8(1): 7-13.
- [14]. Krishna, Sumi. 2005. Gendered Price of Rice in northeast India, *Economic and Political Weekly* 40(25): 2555-2562.
- [15]. Lakshmi, B. 2007. The Reinforcement of Gender Stereotypes through Modern Education: The Case of Mizoram' in Sumi Krishna (ed.): *Women's Livelihood Rights Recasting Citizenship for Development* (209-225). New Delhi: Sage Publications.
- [16]. Mann, Kamlesh. 1996. *Tribal Women: On the Threshold of the Twenty-First Century*. New Delhi: M D Publications Pvt. Ltd.
- [17]. Nembiaakim, Rose. 2008. *Reproductive Health Awareness among the Tribal Women in Manipur*. New Delhi: Concept Publishing Company.
- [18]. Nongbri, Tiplut. 1998. Gender Issues and Tribal Development, in Dr. B. Janardhan
- [19]. Ndulo Muna 2011. *African Customary Law, Customs, and Women's Rights*. Cornell Law Faculty Publications Paper 187. <http://scholarship.law.cornell.edu/facpub/187>.
- [20]. Rao, Tiplut Nongbri and Livinus Tirkey: Problems in Tribal Society: Some Aspects. RGICS, Paper No. 47: 17-36.
- [21]. Oakley, Ann. 1972. *Sex, Gender and Society*. London: Temple Smith. Shimray, U. A. 2004. 'Socio-Political Unrest in the Region called northeast India', *Economic and Political Weekly*, 39(42): 4637-4643.
- [22]. Sikdar, Mithun. 2009. 'Continuity and Change in Matrilineal Marriage System: Xaxa, Virginius. 2008. *State, Society, and Tribes: Issues in Post-colonial India*. New Delhi: Pearson Education India.
- [23]. Zehol, Lucy 2003. Status of Tribal Women, in Tanka Bahadur Subba (ed.): *Anthropology of northeast India: A Textbook* (293-306). New Delhi: Orient Longman.