

Daughters of soil: Recognizing women farmers of northeast India

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In northeast India, customary laws[1] are a necessary starting point for any debate on ownership and property relations. They are enforced immediately and impeccably, with violations resulting in community expulsion and ostracism, as well as monetary fines. Socially accepted and imbibed from birth, customary laws are taken as norms and are enforced more successfully than statutory laws.

Customary laws are important in conserving and protecting biodiversity, protecting indigenous knowledge systems, and recognizing the unique cultural patterns, social institutions and legal systems of the tribal populace. Moreover, these laws have been found to be more useful in managing land and water resources and settling disputes. At the same time, they are regressive, restrictive, elitist and gender blind. Male-centered, customary laws do not include women in decision making, and do not give ownership rights to women. Used to reaping the benefits of such male-centric laws, the introduction of modern laws and the idea of gender equality have led men in the region to retain all things traditional and reject all things modern by bringing out the fear of erosion of customs and identity. As a result, the original evolving nature of customary law has been scrapped, with any demand for change now seen as a threat to the identity of that particular community.

While indigenous people across the globe have been subject to social, political and economic marginalization, in northeast India they have been able to maintain a relative political and legal autonomy, especially in terms of land ownership. Women however, do not benefit from this autonomy and ownership.

As mentioned above, in this part of the region, women are customarily not entitled to land ownership. Even in the matrilineal societies like the Khasis and Garos, women are made the custodians of the ancestral land, but have no ownership rights. For this reason, women's groups in northeast India are fighting against the codification of customary laws until village bodies agree to amend them to include the participatory role of women.

It is necessary to understand that land ownership for women is more than just a cry for equality; according to Bina Agarwal, author of *A Field Of One's Own: Gender and Land Rights in South Asia* (Cambridge University Press, 1994), there are overriding practical considerations too. Men often migrate to the cities; women then do all the work, but have no rights. Women are the real farmers, but ownership rests with men.

There are so many practical problems that flow from this. For instance, if the woman wants a loan for water or seed or implements, the official machinery will deny her this on the pretext that she is not the owner. Also a woman pays far more attention to the land with an eye always on saving the earnings, whereas left to themselves men would spend a large part of the income. The world over, studies have proven that if resources are with women, the benefits that flow to the family are far greater [Agarwal, 1994].

Comfortable in their positions, village heads in northeast India have no issues vis-à-vis state policy and their customary law, for instance in the management of forests, as forest land is protected under the Constitution of India. According to constitutional guarantees[2], the land ownership is in the hands of the chiefs as well as the clans; modern land laws have no jurisdiction over lands owned by the tribals of

northeast India. Furthermore, the Autonomous District Councils (ADCs) as well as the chiefs and the headmen in some northeast Indian states can establish their own courts for arbitration. In this customarily accepted system, the judges and village authorities are all men. Women are completely barred from any kind of traditional political authority system.

M A Khan, convener of Chaupal, a 35-year-old voluntary organization working in Sonebhadra, a Naxalite-troubled district of eastern Uttar Pradesh, says both historical factors and present circumstances have conspired to keep women away from land ownership:

Being a tribal area, land rights here were governed by custom and usage, which were women-unfriendly. With Naxalism, hundreds of men were jailed or killed. Their women, illiterate and exploited, were left without any land. When they demanded their rights from the administration they were branded Naxalites and jailed. There are huge tracts of lands for which no ownership records exist. Even land which was donated under bhoodan went back to those who donated it as they were the ones who knew how to claim the land.

Khan lists village exogamy, customary relinquishing of property in favour of brothers, patriliney, and dowry as some of the most common reasons that have kept women away from land ownership.

Pushpa Singh, national general secretary of the Ekta Parishad, a Bhopal-based two-decade-old organization that has built a movement of Dalits and tribals across 11 states to fight for 'jal, jungle aur zameen' (water, forests and land) echoes the group's rally cry: "Aadhi duniya naari hai, zameen pe daavedari hai" (Half the world is female, it has rights over land). "If a woman can run a country just as well as she can run a home, what sense does it make to deny her land rights? So far 270 land reforms laws have been enacted, but lack of implementation means there have been no reforms", Singh points out.

Apart from the problems in customary law, constitutional expert Jayant Verma, Oxfam Trust trustee and secretary of Samvad, Society for Advocacy and Development, Bhopal, believes that land reform issues stem from the balance of power lying in favour of the executive.

Forget for a moment the issue of men and women and look at the Land Acquisition Act 1894 which states that if the state wants to acquire a person's land it can do so. Even the compensation is to be decided by the government. It's much like legalized dacoity. The number of ironies in our judicial system is countless. For instance, Public Interest Litigation is supposed to be a people-friendly tool. Does that mean that in normal course, our courts are not guardians of people's interests?

While such criticisms have made the government aware of gender concerns in policies on accessibility and ownership of resources, existing land ownership laws in most states are discriminatory. Although the recent Hindu Succession (Amendment) Act 2005 does away with the gender discriminatory clause on agricultural land, its greatest failing is that it is applicable only to Hindu women. The Muslim Personal Law (Shariat) Application Act, 1937 gives daughters and widows property rights, but agricultural land is kept away from its ambit. Moreover, merely well-intentioned legislation does not yield results. For instance the Ministry of Rural Development's instruction that 40 percent of agricultural land settled under land reform programmes should be exclusively in the name of women, and in the remaining cases, the allotment may be jointly in the name of husband and wife, is not being followed.

The northeast scenario

Unlike many other parts of India, where even villages are in some way connected to the capital markets, albeit through informal means, people in the rural hills of northeast India mainly engage in pre-capitalist sustenance activities, with surplus produce sold in nearby bazaars. The most important and widespread activity is shifting cultivation, of primarily the slash-and-burn variety along the hill slopes. This practice, called *jhum*, usually ensures enough grains and vegetables for the entire year, constituting a large chunk of the labor performed by rural folk in the hilly regions of the northeast.

Along the lines of the egalitarian functioning of most tribes in the region, this form of cultivation has men and women playing equally large roles, with women even playing a dominant role, especially in deciding the distribution of the produce and the selling of the surplus.

Recently however, a new scenario is developing in this region. Firstly, *jhum* is giving way to individual ownership, and secondly, due to the increasing influence of the market economy, the choice of produce is moving from food sustenance to cash crops, in order to enable a greater flow of money. These two processes are leading to greater landlessness and vulnerability; the earlier self-sufficient farmer families are now dependent on the consumerist market economy. In all this women are the worst sufferers. Where previously women always had access to communal land to grow her produce, the move towards individual ownership is rendering her landless, as customary laws do not allow her to inherit.

In the Garo Hills for example, the tradition was of community land ownership. Their matrilineal system is built on land inheritance through the female line. Modern laws and institutions however, issued *pattas* (a piece of land designated by the government) to individuals, recognizing man as the landholder. This affects the very foundation of the matrilineal system.

In the early 1990s, the administration encouraged people to plant rubber. Financial institutions and banks give loans only to *patta* holders however; those without *pattas* are not given subsidies or financial help. Even the ADC that should have safeguarded the A-king land[3] supported this approach and issued *pattas* liberally to those with money, thus depriving the poor of their livelihood. The transfer of A-king land to any individual or even to the State goes against the Garo customary practices (Marak 2000: 185-186). In this case the administration recognized the individual owner as man and considered him the head of the family. That strengthened the process of male domination. Class formation thus gave strength to patriarchy, and the social system began to change from matrilineal to patrilineal.

A recent study of changing land relations (Fernandes and Pereira 2004: 148-149) showed that 79 of 100 families in East Garo Hills had *pattas*, against only one out of 20 in West Garo Hills, where the community tradition remains strong. Reducing land from a livelihood asset to a commodity has impoverished society and marginalized its women.

In Manipur valley, where the majority of the community is Hindu, land inheritance is along the lines of the Hindu Succession Act, under which sons and daughters have equal right to inheritance. If a survey were conducted however, it would be seen that many women, in their attempts to be good daughters, do not demand and forfeit their claim.

Women's inheritance rights among the hill tribes of Manipur comprise quite a grim situation. Among the Kuki tribe, a woman who has no son or is a widow cannot demand any share in the property of her husband, which goes to the nearest male relative. The same goes for the Tangkhuls, the Kabuis, the

Marams, the Maos. Ironically, there is a historical legacy of women occupying a seat of power among the Nagas. According to Dr. Jeuti Baruah (2007:45), in times of war a woman named Maram Harkhosita was the supreme commander, villages Kangpot and Thowai had a woman chief and Tolloi village council members were also women. Women were given the responsibility of the village granary. Pukhrelas were the daughters of the village who were given the responsibility of ushering in peace between two warring villages. Hegemonic patriarchal notions seem to have seeped in over a period of time among these communities however. In the present scenario, barring the ritual importance given to women over the protection and decision making regarding the granary, they have not been recognized as possible owners of agricultural land or the chieftainship. They are seen to labor more than the men, but have no rights over the land they till.

Again, it must be underlined that land ownership should be understood as not just an added asset, but as an addition to a person's ability to sustain her livelihood, especially at the lowest level. Moreover, it must be acknowledged that a family's nutrition and health levels are linked to women's income. In the absence of land rights/ ownership, women are forced to get the same benefits for their families under harsher circumstances and fewer resources.

Women headed households

One problem accentuated in the conflict ridden societies of this region, cutting across all tribes and ethnic groups, is that of women headed households. Many widows, single women or families with women-headed households are not taken into account in counting of heads. Since traditionally, women do not own property including land, they are then excluded in the distribution of the same, leading them to further impoverishment. Discrimination during relief and rehabilitation is yet another issue at hand.

According to a report submitted by the National Commission for Women (Land Rights of Women In Tripura: A Monograph based on a Research Study undertaken by Tripura Commission for Women), many tribal women become landless when lands are allotted to tribal families that used to cultivate communal lands. As the allotment deeds are usually made out in the names of adult males, tribal women who cultivated communal lands along with their men folk rarely become allottees. Giving land rights to these categories of women is important to ensure their access to credit and other facilities that can increase the productivity of the cultivated lands. Land titles can make it easier for women to adopt improved technology and enhance their motivation to do so, thereby increasing productivity.

The National Commission's report gave some insightful recommendations which can be adopted by all the northeast states, if they want to acknowledge the existence and importance of women farmers. The report mentioned that certain moves like the codification of the tribal customary laws will have to be resisted by state governments, as this will entrench the hold of patriarchy in tribal society and make it difficult for tribal women to become land owners.

The report also found that a number of tribal women were users of forestlands, over which individuals could not exercise ownership rights according to the terms and conditions of the Forest Conservation Act. While the preservation of forest land by the state ensured its usability by these women, one cannot ignore the precarious situation of these women who are at the mercy of state law enforcement.

Progressive legislation

As in most forest based communities, property rights are not very well defined in the northeast forest communities, leading to insecurity for women regarding land, forests, water and related resources. Lately, they are also being displaced from their ancestral land due to the vested interests of both developmental agencies as well as the groups involved in inter-ethnic conflicts. The limited access to land, no education, and no access to credit systems, along with the baggage of customary laws, is bringing about the feminization of poverty in a large scale in this region. The efforts of women's groups in restoration and conservation of natural resources, as well as in domestication of wild crops and plants are all critical interfaces with forests and livelihoods. The government needs to be more forthcoming in changing policies towards ownership of forests and realize that the people who are completely dependent on the forests will be the last to destroy them.

The women have been tilling the land and feeding the hungry mouths in this region. We need to think out of the box and realize that the term 'farmer' doesn't automatically mean a male. The category of 'women farmers' has to be recognized by the state, society and those who carry and propagate customary law.

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[1] Customary law is the established pattern of behavior that can be objectively verified within a particular social setting. A claim can be carried out in defense of "what has always been done and accepted by law".

[2] The Sixth Schedule of the Indian Constitution is a set of legal provisions designed especially for tribal majority regions of the northeastern hills of India. The Schedule provides for the constitution of the Autonomous District Councils (ADCs) under which all the tribal chiefs and headmen were placed. The idea was to provide a democratic voice to the tribal structures within the modern state. The government introduced the provisions to preserve and uphold the tribal order of things and to protect the poor and the marginalized against the forces of socio economic exclusion.

[3] A-King land is the land traditionally belonging to the mother's clans