

CUSTOMARY LAW OF THE BODO FROM GENDER PERSPECTIVE: A FRESH INTERPRETATION

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ABSTRACT

Till recent past belief, custom, narrative and history of the Bodos transmitted orally from one generation to another. The Bodos probably had no system of writing or recording their past account but the only way was the parents telling their children about their tradition, institutions and system, which they inherited from their forefathers. The Bodos are endogamous tribe and were fond of living isolated from other tribes with their own customs and tradition. Writing of traditional culture of Bodos has occurred in the much later time, since last few decades. They need to be re-examined carefully to find the actual meaning.

Keyword: Bodo, tradition, gender, customary law, Bathou Brai.

LITERATURE REVIEW:

No serious research based study on customary law of the Bodo from gender perspective has yet been made by any scholar by utilizing all the available sources. In fact, some scholars have been brought to light on the subject matter in their respective works. However, still await thorough investigation and treatment within a wide canvas.

METHODOLOGY:

The methodology of the study is historical one which is mainly based on primary and secondary sources. The collected data -both primary and secondary have been analyzed both quantitatively and qualitatively. Comparative study is also made whenever it is necessary to bring an accurate picture of the subject.

Though gender is relatively recent concept in social science, in the traditional society social role, behaviour and individual relationship of men and women are sanctioned by the society. Gender role are predominantly exercised within the family and society as gender stereotype. In the traditional Bodo society,

though not rigid, gender decides power resources of male and female. Being in patriarchal society male inherits the paternal property and become the head of the family. Unlike the other Hindu societies Bodo women were actively involved along with man in the economic activities like services on agriculture field, livestock, gathering essentials for household from forest and meadow.

In the traditional Bodo society right from the birth, children learnt gender stereotype system from the role of their parents, family and surroundings. Boys learnt to perform tough physical work with skills and took part in the social functions to exhibit their masculinity. On the other hand, girls in spite of doing domestic work and helping family in economic activities they learn to present themselves as objects to be viewed. The difference of behaviour among boys and girls form the basic character of male and female.

In the traditional society male female polarity distinguishes two genders to attain separate sphere of influence and characters. The male was given more importance in the society, masculinity attributed for strength, courage, assertiveness, creative action, self confidence etc. the female was attributed as quality of nurturing, caring, compassion, emotional sensitivity, vulnerability and instinct. Being in patriarchal society they were given inferior status anything that womanly or feminine in the Bodo society. Male female polarity and division of labour between the two led to the development of male dominated societies. Women had to bear responsibilities of child caring, housekeeping, health care and maintaining rituals and culture. On the other hand men command socially higher positions dominating decision making, earning and skillful community activities. How such polarization gender role results in the process of productive activities in the rural society of the Bodos and in sustaining the morale of the traditional society are the areas to be investigated.

In every society, community or tribe of the north eastern region of India, they have their own tradition culture and follow their task and practice as directed by their customs relating to gender roles regardless of their being in the backward tribe or economically affluent advanced societies. To articulate about the Bodos, apparently, it is said that though majority of the Bodos are within the fold Hinduism yet they are out of the gender discrimination in their traditional society, but a little bit careful study would reveal that the statement might not be entirely correct. In the traditional Bodo society, both man and women have their own roles to play as sanctioned by their customs, rituals and belief, in every sphere of religion, economy, family, society and their relation with outsiders. The Bodo women work in the paddy field along with man but do not plough, which is a part of man.

In *Kherai puja*, *Daodini*, the female Shaman, worships *Bathou Brai* (Siva) and *Mainao Brui* (Lakhimi) by performing shamanistic dance around the alter of *Bathou* and speaks prophecies and advices the villagers to live

in righteous and virtuous path. In *Rupamoni Bathou* Dharma and other sects of Traditional religion women become priests and perform *yajnahuti* and other *pujas*. In the Bodo family wife maintains the household business and can share her opinion with others and on the contrary husbands are responsible for village and social management and to enforce the customary rules in the family and society. Unlike their Hindu counterparts, the Bodo women also take part in monetary affairs by helping their husbands in farming vegetables, cash crops, and rearing animals even selling their products. In the Bodo society, there is no restriction for Bodo women in undertaking economic activities.

But indeed, a little careful study would highlight the gender biasness in the rural Bodo society. The Bodo family is basically patriarchal, and sons inherit the parental land property and daughters generally do not get share unless parents have mercy on them. In a traditional family daughters are regarded as belonging of others so their liberty is lesser to sons. Most rural guardians preferred better educational institution or better education for their sons than their daughter. Because they feel sons have to look after their parents during old age but daughters would take care of their in-laws. Still then there was no social code to devalue their daughters.

To talk about the customary laws relating to gender issue in Bodo society one has to delve on the concept of customary law and its effectiveness in the society. The customary laws are common rule and practice in the traditional society of indigenous and local communities, which become an essential part to be accepted by the community and they are expected to perform in the society as a legal obligation. Customary laws are embedded in the culture and values of a community or society and they govern acceptable standards of behavior to be actively enforced by members of the community. Most customary laws deal with the ethics of community that has been long continuing in the given conditions. Many a time the customary law would have supportive court rulings and that has developed over a time to give additional weight to their rules as law. The modern codification of civil laws developed from the tradition and collection of customary laws, that developed in particular communities and written down by a local jurist.

The Constitution of India, under Article 13, treats customary law along with other branches of civil law. A custom or usage if proved would be law in force under this article. These customary rights having the force of law can be taken judicial notice by courts under Section 57 of the Indian Evidence Act 1872.

The relation between people and nature is very old. Since the ancient days communities throughout the earth tried to husbanding natural resources and adapted to natural environment for their prosperity. The practical knowledge gathered out of the struggle to control the nature enable communities to live within the perimeter of

their local environment and pave the way to build their social customs and spiritual lives. So the endeavor to preserve nature and flora and fauna was a junction between nature and culture. “Justice has emanated from nature. Therefore, certain matters have passed into custom by reason of their utility”– Cicero.

The Bodos have their own customary laws since time immemorial, which regulates the fabrics of their family and society. But these customs have passed through a number of changes in some points of time due to force of environment. Some distinct Bodo customary laws in view of gender connotation can be affirmed on some aspects such as laws of inheritance of land property; bride price (*pon takha*); divorce (*pathoi lai bisinai*); widow remarriage system (*dongkha habnai*); and five laws of punishment for social offences. These could be enlightened concisely as follows:

The system of receiving **bride price (pon thaka)** has been customarily practiced in the Bodo society. In the past days *pon takha* was unlimited and compulsory depending on the demand of the family of the bride. Sometimes amount was so high that a man was compelled to sell his property or valuables to get a bride of his choice. This system was prevalent in Bodo society till the first half of 20th century. Nevertheless, Bodo society has discouraged the system of bride price and nowadays, it has become nominal. The society has realized that bride cannot be identical to commodities. But receiving bride price still exists as symbolic form of offering a pair of coins or areca nut to the parents of the bride. The parents of the bride return the coins and accept areca nut for the reason that they have not sold their daughter but give into marriage.

The Bodo customary law allows **divorce** between husband and wife on certain grounds, by performing a ritual of tearing a betel leaf into two halves in a huge gathering of *Samaj*, which is called *pathoi lai bisinai*. Bodo society is very strict about the marital lives of man and woman. They are bound to stick to traditional norms to maintain sanctity of the institution of marriage. In normal cases, Bodo society did not allow anybody to get divorced or if anybody defies the village society he/she would be inflicted punishment like social boycott. Divorce was allowed only on inevitable cases. If husband divorce his wife for a minor reason he has to pay compensation and support her livelihood for a certain period until she gets alternate means of livelihood. Divorce takes place only when both husband and wife express their willingness to be separated from each other.

Though most of the people today take the help of judicial court for such cases, spending lots of money and time the rural society hardly concede it, if the court verdict contradicts with the customary law. If village council does not agree with it, they remain out of such family observing strict non-cooperation. The social code of the Bodos had been framed by their forefathers and passed on generation after generation orally in the form of

rhymes or proverb. In the first quarter of 20th century some of these traditional codes were jotted down by Boro *Samaj* of different parts and called it *Boro Samajni Pandulipi* (social code of Boros) or *Boroni Ayen* (Laws of Boros). The Bodo customary laws sanctions divorce between husband and wife on the following grounds of serious nature after the village council or the Boro *Samaj* judging the matter in the assemblage of many people.

- i) When one of them is suffering from incurable disease like leprosy and the affairs become unmanageable for family.
- ii) If one becomes mad or one of them have no sex potency.
- iii) If the husband is cruel or always torture his wife without any reason.
- iv) If either of the husband or wife is proved to be a man or woman of bad character like thief, dacoit or prostitute, etc.
- v) If husband and wife are uncompromising or they always quarrel and deceive each other or they have no mutual faith, etc.

In all these cases the Boro *Samaj* has the right to pass verdict supporting divorce and inflicting punishment. Such cases happened rarely in the society as the customary laws were very strict in the rural areas.

Since time immemorial, the customary law of the Bodos allows the widow or widower remarriage with some restrictions. In the traditional society a widow could also remarry the younger brother of the former husband but the custom did not permit a remarriage with the elder brother of former husband. Similarly a widower could remarry his deceased wife's younger sister but not the elder one, which conventionally he should respect as mother. If a widow remarries other than related to her then she would lose the right on the property of her deceased husband. The male child is entitled to get the property of his deceased father. The system is still prevalent in the rural areas.

Another customary remarriage is called *Dongkha Habnai*. In this system if a man express his willingness to live in the house of widow and help her in all agricultural work with an intention to marry her. The society allows them to get married if their intention is true, which is called as *Dongkha Habnai* and in this system, such husbands are entitled to enjoy the wife's property. In such system if a man wants to marry a widow offers silver coins as a token, which is called *Gongkon Habnai* and if accepted they come to an agreement. They have to perform religious rites and a feast to the society. Such marriage is very rare and takes place when the widow has none to look after the property.

The Bodos have customary laws to inflict punishment to male or female for committing social offences. They are five in numbers *i) Agarbad ii) phongslotbad iii) Daokhibad iv) Khaoli bad and v) Khoulobad.*

- i) If any person of either sex have illicit sexual relation with other person; and if anybody physically assault his/her own father, mother, grandfather or grandmother; if somebody kills a cow; such offence falls under *Agarbad* and the guilty person is punishable by the society and must perform atonement of nine bow method of the society. Illicit sexual relation was believed to be leading towards defilement of entire village and against the judgment of *Bathou* religion. In such offences the guilty persons had to overcome three fold penances first they have to pay penalty in cash to the society; secondly they are inflicted physical punishment and thirdly they have perform refinement rituals, which is harsh in nature, as prescribe by the customary laws and verdict of the of the village council or society. Rape was almost unknown to Bodo society. If someone found involved in the heinous crime like rape, dacoit, murder, etc. was judged by the *Samaj*, inflicted physical punishment and such person was driven out or boycotted from the village. This customary law helped the society minimize the criminal activities in the villages. The Bodo people remain away from committing such acts in afraid of the society.
- ii) If a man molest or touches the body of a girl or women; if someone cuts the leg or tail of the cow; both the cases and such similar offences come under *Phongslotbad*. In such offences the guilty person would be punished by performing penance under the seven-bow method. The Bodo society always laid emphasis on purity and virginity of a girl, which was the first condition to get married with a suitable young man.

On the other hand being in agrarian society the cow is regarded as an asset of *Mainao or Lakhi* (goddess of wealth). In traditional Bodo society one could never think of killing a cow. If someone injures a cow out of anger, because of eating his crops, plants etc. or while doing agricultural work, is a punishable offence as the cow is also regarded as an important component of economic organization. The Bodos also believed that one has to suffer from tumor disease if he or she kicks the cow or spits on it. So they respect cow as an attribute of goddess. In both the offences the village council imposed fine and punishment and performs purification ritual.

- iii) If somebody eats the meat of dead cattle or bird leaving half eaten by vulture or a tiger; if somebody eats beef; if someone eats food prepared by other than Hindu castes; if someone take the low profession of cobbler, barber, etc. would come under *Daokhibad* and must perform atonement under five bow method. All above mentioned conducts were considered as defiled or adulterated

activities in the society as they are prohibited by the traditional *Bathou* religion. Such person was imposed fine and a refinement ritual had to be performed.

- iv) If someone brings home and uses any items or coins left in the cremation ground after the funeral of a dead body; if someone sells the utensils or cloths of the deceased person; the offence would come under *Khaolibad*, and he/she must be punished by performing three-bow method. The items which were regularly used by a deceased during his lifetime must to be burnt in the funeral or donated to the people of lower communities. But none of the villagers were allowed to use that stuffs. Such offender had to perform ritual of purification along with cash penalty.
- v) If someone accuses other person with false allegation without any reason; if one tells a lie that is harmful to society or encourages someone to tell lies; then he/she is punishable under *Khoulobad*, performing penance in accordance with the gravity of the offence. Till recent past telling lies was considered a sin in the Bodo society and faith, that was why they did not even prefer to be businessman fearing to become a deceitfulness in that profession. If the severity of lie goes against anybody's reputation or causes harm to anybody, the wrongdoer was inflicted both fine and punishment. Because of that most of the Bodo people in the rural society were honest hardly resort to lie unless they are in a big trouble.

Any other offences in the society of similar nature and magnitude would be judged by the village elders or the Bodo *Samaj* and would come to a decision to put under any of the five categories and inflict punishment to offender accordingly.

If we critically analyze the Bodo society of yester-age, before the coming of modern global culture, the customary laws had great values in the society, which obligated them to live in peace and harmony in civilized manner. They were not harmful to any other societies in coexisting with them. But some issues like infiltration of illegal migrants, alienation of land property and scarcity of land, due to subdivision and fragmentation of land, for the growing generation has brought lots of imbalances and unrest in the traditional Bodo society.

These are some components of the customary laws relating to gender roles, prevalent in the traditional society of the Bodos. But nowadays the judicial laws have surpassed the customary laws and they hardly survive excepting in the interior rural societies, which needs to be studied afresh. With the emergence of science and technology many customary laws of the Bodo society are likely to become invalid in many areas. The Bodo customary laws do not restrict female from advancement in life and career but the very attitude of many parents

need to be changed towards their daughters. The femininity stands where gender roles overlap them, so, both man and women should be unpretentious, gentle and be concerned with equity of life.

CONCLUSION:

Last but not the least, I believe, by undertaking to study the tradition culture with modern concepts like gender issues or feminism in the context of customary laws one may achieve a new dimension for innovative studies of gender implication. Besides these, there are still prospects of reviving the traditional norms and customary laws and practices of the Bodos from the midst of oblivion before it becomes too late. It would be unwise to allow the modernity to engulf everything that was oral and folk tradition.

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