

Legal Awareness Series – 4

***Tribal Customary Laws in Northeast India:
Gender and Class Implications***

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We dedicate this booklet to all 500 respondents and their families, the tribal leaders and others who allowed us and our investigators to interview them and gave them much of their precious time to discuss what they thought was a theme with major implications for their identity.

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February 2008

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Chapter 1 : Customary Law in Northeast India

This book on the gender impact of the interface of tribal customary laws of Northeast India with modernity is a summary of a study done in 2004-05. Its starting point, based on past studies, was that the encounter of the tribal traditions with modernity without adequate preparation can have a negative impact on their communities in general and on women in particular. Since modernity has both positive and negative impacts, one cannot either stop it unconditionally or impose it on the tribal communities without measures to counter its possible ill effects. Without such a precaution, the changes that modern inputs introduce, far from benefiting the tribe in general and women in particular, can result in the deterioration of their status. Starting from this hypothesis the effort in this study was to find out whether this interface has improved women's status or has resulted in its deterioration.

The Background of the Study

That was the background of this attempt to understand the processes that result in the improvement or deterioration of tribal women's status. Studies on *Modernisation and Changing Women's Status* (Fernandes and Barbora 2002) and *Social Change in the Northeast* (D'Souza and Khekhrieseno 2002) had indicated that modernisation of the tribal societies without measures to counter its ill effects can result in class formation and strengthen patriarchy. In other words, modernisation is not negative in itself but it has negative impacts when it is imposed on an individual or a community without preparing them to face it. This hypothesis was tested in the present study in order to suggest possible measures to counter the possible ill

effects of modern inputs if some of them went against gender equality. This theme is basic to the Northeast in which many tribes are re-asserting their identity through a return to their customary law.

To a great extent it is in reaction to the real or perceived ill effects of the encounter with the formal law whose worldview is different from that of their customary law. Most tribal traditions were community-based and accorded a relatively high status to women without considering them equal to men. Most modern land laws, on the contrary, are individual-based and ownership is by and large with men. Past studies indicate that because of this interface with the formal law many tribes that consider their customary law intrinsic to their identity go back to it with a fundamentalist interpretation, especially on the gender issue. They re-interpret it from a male perspective alone, accept exclusively individual ownership of land and justify it in the name of their customary law. Thus the tradition-modernity interface can go against women and result in class formation in their egalitarian societies (Fernandes and Pereira 2005: 27-29).

With this starting point the effort in the study was to identify the impact on women of the tradition-modernity interface and of the trend to go back to the customary law. It was a comparative study of five tribes that are at different stages of the interface and live under a variety of legal systems. The Dimas of Assam and the Garo of Meghalaya come under the Sixth Schedule that recognises community ownership (CPRs) but they have to interact with the individual-based formal laws (Bordoloi 1984). The Aka of Arunachal Pradesh are close to their tradition and are governed by their customary law but the Sixth Schedule does not apply to them. So there is a hiatus between their social and legal realities. Article 371A of the Constitution recognises the customary law of the Angami of Nagaland (Barooah 2002) but there are indications that because of their interface with modernity men interpret it in their own favour. The *Adibasi* whose ancestors came from Jharkhand, Chattisgarh and other regions of Eastern India as indentured labour to work in the tea gardens of Assam, have for all practical purposes lost their customary law and even their tribal identity (Sharma and Kar 1993: 133-135). They are

trying to regain it. The demand for a scheduled tribe status that ended in violence on November 24, 2007, is linked to this effort.

An understanding of this variety was important in order to analyse the changes that have occurred among these tribes and the evolution of their customary law in response to them. In this study the evolution of the customary laws and the processes of modernisation were situated in the context of their demographic, educational and occupational status, all of which have a gender dimension. For example, the sex ratio, educational status and occupational pattern are indicators of women's status. In order to understand their role in the family and society, special attention was paid to women's role in children's upbringing, health care, discipline and education. Their role in agriculture and handicrafts production gave one new insights in their role in the family decision-making processes and economy.

In every component the researchers tried to look at their tradition and the changes that have occurred in them in recent decades. The methodology was adapted to this need. During its first two months the focus of the study that began in November 2004, was on the secondary data of the Northeast and of these five tribes. Based on this background and prior knowledge based on visits to these areas, five villages were chosen for each tribe, some of them remote and others close to a road. The assumption in this choice was that the remote villages are relatively close to their tradition and that it would facilitate a comparison of the impact of various degrees of exposure to modernity.

In order to get a good grasp of the situation, individual interviews were combined with group discussion and participant observation. The sample was not individuals but families from which one person was chosen as the main respondent. The experience of past studies in the Northeast as well as in the rest of India shows that in a rural set up it is not possible to interview an individual without the respondent's family members as well peer group intervening during the discussion. Besides, the interview in the presence of the family also becomes a reflection on the theme and turns the discussion on themes like the customary law into an awareness building exercise on its gender implications.

Table 1.1: The Tribes, Villages and the Sample of the Study

Tribe	Aka		Adibasi		Angami		Dimasa		Garo		Total		Total
Gender	M	F	M	F	M	F	M	Fe	M	F	M	F	
Arunachal Pradesh West Kameng District (Aka)													
Palizi	11	9	0	0	0	0	0	0	0	0	11	9	20
Baliphoo	11	9	0	0	0	0	0	0	0	0	11	9	20
Thrizino	11	9	0	0	0	0	0	0	0	0	11	9	20
Sakrin	10	10	0	0	0	0	0	0	0	0	10	10	20
Bhalukpong	10	10	0	0	0	0	0	0	0	0	10	10	20
Assam Tinsukia District (Adibasi)													
Konapathar	0	0	8	12	0	0	0	0	0	0	8	12	20
Khatalguri	0	0	7	13	0	0	0	0	0	0	7	13	20
Khatangpani	0	0	5	15	0	0	0	0	0	0	5	15	20
Pengree	0	0	7	13	0	0	0	0	0	0	7	13	20
Phuphulajan	0	0	7	13	0	0	0	0	0	0	7	13	20
Nagaland Kohima District (Angami)													
Phesama	0	0	0	0	10	10	0	0	0	0	10	10	20
Jakhama	0	0	0	0	11	9	0	0	0	0	11	9	20
Viswema	0	0	0	0	10	10	0	0	0	0	10	10	20
Khonoma	0	0	0	0	11	9	0	0	0	0	11	9	20
Jotsoma	0	0	0	0	11	9	0	0	0	0	11	9	20
Assam N.C Hills District (Dimasa)													
Thereh	0	0	0	0	0	0	10	10	0	0	10	10	20
ChotoWaphu	0	0	0	0	0	0	12	8	0	0	12	8	20
Baojen	0	0	0	0	0	0	12	8	0	0	12	8	20
Gidingpur	0	0	0	0	0	0	10	10	0	0	10	10	20
Jembru	0	0	0	0	0	0	10	10	0	0	10	10	20
Meghalaya Garo Hills District (Garo)													
Jampara	0	0	0	0	0	0	0	0	10	10	10	10	20
Dilma A.Pal	0	0	0	0	0	0	0	0	10	10	10	10	20
Dagal	0	0	0	0	0	0	0	0	10	10	10	10	20
Dadenggre	0	0	0	0	0	0	0	0	10	10	10	10	20
Jengjal	0	0	0	0	0	0	0	0	10	10	10	10	20
Total	53	47	34	66	53	47	54	46	50	50	244	256	500

Thus, a balance was kept between the individual and the family. While interviewing the 500 main respondents, the views of their peers and family members were not ignored. The investigators were instructed to write their views separately under “field notes” or in other forms. These views were used extensively in the report. Moreover, one had to be aware that the views of men and women differ on most issues particularly on a sensitive issue like the gender implications of the customary law. To ensure that the views of both were got a more or less equal number of men and women were chosen as the main respondents. The sample included 244 men and 256 women (Table 1.1).

The work in each village began with three group discussion sessions, for men, women and the youth. A single session was held for young men and women since the letter were not inhibited by the presence of men of their age. The purpose of group discussion was to establish rapport with the village and understand its structure. It also made the individual interviews more effective since the respondents knew the purpose of the study. After the fieldwork in January-February 2005, the data were computerised and tabulated. The data gaps were checked in March-April by going back to four tribes but not to the same village. The earlier findings were counter-checked also by interviewing a few tribal leaders. The report was written from June to August 2005 and finalised in September 2005.

Conclusion

This introductory chapter gives the background of the study on the interface between the tribal customary laws and modern inputs. This chapter has already given some indications of changes. That analysis will be continued in the remaining chapters in order to see up to what extent modernisation of their traditions has affected women’s status and class division among the tribes studied.

Chapter 2 : Modernisation and the Family Sphere

The findings, though not conclusive, show some definite trends. Firstly, the impact of modernity on the customary laws and on women is not uniform among the 5 tribes studied. Secondly, some changes have been supportive and others are less so, of gender equality. Thus, the present study confirms the findings of past ones that the interaction between the tribal communities and modernisation is unequal. It is meant to be a contribution to the process of turning it into a relationship of equals, possibly by taking its findings back to the communities for reflection and authentication.

Access to Modern Inputs

Change has not been uniform among the 5 tribes because their access to modern inputs such as education, religious change, commercial forces, administrative and financial systems that expose them to the processes of change has not been equal. One witnesses this disjunction in their demographic and social data as well as in their educational and occupational status. Within each tribe access differed by age group and gender. Literacy is high among the Angami and Garo to whom the Churches had made educational institutions available many decades ago (Sanyu 1996: 94-96). It is low among the remaining tribes, particularly in the age-groups above 30. Today many others have gained access to education, jobs in the administration and a few other modern inputs. That explains the relatively high literacy of the cohorts below 30 compared to those above 30.

Table 2.1: Family members according to Villages, Age Group and Gender

Village	04		59		10-14		15-19		20-29		Above30		Total	Total
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F

Arunachal Pradesh, West Khameng Distrc: Aka

Palizi	6	15	9	8	5	10	3	9	5	9	18	17	46	68	114
Baliphoo	10	14	9	3	15	5	4	10	10	9	22	19	70	60	130
Thrizino	6	10	14	10	4	10	8	4	7	8	19	15	58	57	115
Sakrin	12	6	6	5	7	7	15	8	10	6	19	15	69	47	116
Bhalukpung	5	4	4	9	14	4	6	1	4	8	25	19	58	45	103
Total	39	49	42	35	45	36	36	32	36	40	103	85	301	277	578

Assam, Tinsukia District: Adibasi

Konapathar	5	5	11	7	4	7	4	7	11	10	18	20	53	56	109
Kathalguri	3	4	7	10	4	2	7	1	6	11	18	16	45	44	89
Khatangpani	2	3	5	8	10	9	7	9	9	8	16	14	49	51	100
Pengeree	5	1	9	10	12	12	7	8	7	8	21	22	61	61	122
Poplajan	0	2	2	6	9	14	13	9	6	7	16	18	46	56	102
Total	15	15	34	41	39	44	38	34	39	44	89	90	254	268	522

Nagaland, Kohima District: Angami

Phesama	4	2	4	8	5	2	4	8	14	18	20	22	51	60	111
Jakhama	0	2	3	4	6	4	8	8	11	17	29	23	57	58	115
Viswema	2	2	2	5	5	6	9	8	15	20	27	20	60	61	121
Khonoma	1	3	7	9	6	8	8	10	9	8	23	25	54	63	117
Jotsoma	5	2	2	5	3	4	7	5	7	11	23	20	47	47	94
Total	12	11	18	31	25	24	36	39	56	74	122	110	269	289	558

Assam, North Cachar District: Dimasa

Thereh	6	3	6	10	8	2	7	10	15	12	18	16	60	53	113
Boajen	6	3	5	9	5	4	5	4	6	14	19	13	46	47	93
Choto Waphu	1	3	6	9	7	11	5	9	8	6	17	18	44	56	100
Gidingpur	1	9	11	8	4	5	5	5	10	8	21	18	52	53	105
Jembru	2	5	5	9	7	7	4	8	9	8	17	16	44	53	97
Total	16	23	33	45	31	29	26	36	48	48	92	81	246	262	508

Meghalaya, East Garo Hills District: Garo

Jampara	0	3	7	6	13	17	15	15	11	10	23	24	69	75	144
Dilma A.Pal	4	1	7	4	6	22	12	25	14	15	32	34	75	101	176
Dagal	0	0	0	2	17	19	18	18	16	21	27	27	78	87	165

Meghalaya, West Garo Hills District: Garo

Dadengiri	0	1	1	3	13	9	18	23	17	19	25	25	74	80	154
Jingjal	0	1	1	3	19	20	21	23	25	26	28	27	94	100	194
Total Garo	4	6	16	18	68	87	84	104	83	91	135	137	390	443	833

Modernisation and Occupation

Also the occupational status shows this difference. The proportion of cultivators is relatively low among the *Adibasi*, Angami and Garo but for totally different reasons. A very large number of the *Adibasi* are tea garden workers who have been denied access to education. The Angami and Garo have a substantial number of persons with salaried jobs but landlessness and impoverishment are high among the latter and many of them are daily wage earners. Those who had access to salaried jobs have improved their economic status. Besides, their interaction with the outside world has influenced their customary law. For example, in the Angami tradition the woman was involved in her children's education but men trained boys into adulthood. Girls were denied access to education since it belonged to the social sphere (Vitso 2003: 7-8). However, the political process of the Naga nationalist struggle introduced many changes among them. Young men were absent from the village during the struggle in the 1960 and 1970s. That left women in charge both of the family and society. Those are also the decades during which schools came to their area and girls gained access to them. As a result two thirds of the graduates in the 189 families studied in 2001 are women. However, two thirds of the persons having salaried jobs are men because the Stated the main employer is controlled by men who believe according to their customary law men are family heads and breadwinners (Fernandes and Barbora 2002: 85). This is an example of modernisation of their customary law that goes against women.

Even the season in which fieldwork is done can condition

the response. For example, the 2004 study was done in the harvesting season while much of the present study was done after the harvest. In 2004 most Dimasa women reported their occupation as cultivators and none identified herself as housewife (Fernandes and Pereira 2005: 94). In the present study, on the contrary, several women declared themselves housewives. The harvesting season was of *jhum* that is the predominant form of cultivation among the Dimasa and two other tribes studied. It is considered women's economy (Fernandes and Menon 1987: 72-74) so they perceive themselves as cultivators throughout the year. What they cultivate and harvest continues to be their sustenance for the rest of the year. So their self-perception continues to be linked to cultivation all through the year.

A second visit to the villages to check on the anomaly of a large number of women declaring themselves housewives in the present study showed that, several respondents were cultivating commercial crops that give financial returns after the harvest but do not add to the food value of the family during the year as *jhum* does. The produce is marketed by men since they have more experience with the monetary system than women do. As a result, though women do most work in the fields they do not perceive themselves as cultivators outside the agricultural season. But it was obvious that most of them were in reality cultivators, so they were included in this category. Only older women who had retired from cultivation after a lifetime in agriculture were excluded from it. Even pregnant women were included in it because they are cultivators who had taken a temporary break from it.

Monetary Economy and Decisions in the Family

This anomaly shows that the monetary economy, which is basic to the modern commercial exchange, has modified decision-making in the family. A look at child upbringing confirms it. With money becoming the interface between the family and society some decisions that were the woman's domain in their tradition, are slowly being transferred to the man. For example, in most tribes the woman

Table 2.2: Occupation of the Family Members above 10 by Age Group and Sex

Age Group	10-14		15-19		20-29		Above30		Total		Total
Tribe / Gender	M	F	M	F	M	F	M	F	M	F	
Cultivators	1	3	11	5	46	11	201	64	259	83	342
Home Based Workers	0	0	1	1	0	8	2	4	3	13	16
Daily Wage Earners	2	5	24	17	23	19	28	41	77	82	159
Domestic Workers	1	4	12	27	5	10	3	8	21	49	70
Business	0	0	0	0	17	4	86	22	103	26	129
Housewife	0	0	0	5	0	72	0	220	0	297	297
Salaried Government	0	0	0	0	38	42	157	70	195	112	307
Salaried Private	0	0	2	4	21	39	16	30	39	73	112
Students	193	197	143	147	46	40	2	3	384	387	771
Unemployed	6	5	14	18	52	31	9	8	81	62	143
Others	4	5	11	20	7	12	6	8	28	45	73
Plantation Labourers	1	1	2	2	7	9	31	25	41	37	78
Total	208	220	220	245	262	297	541	503	1231	1265	2496

continues to be in charge of children's discipline and calls on the man to assist her when required. Traditionally she was also in charge of the family's health care when it was based on herbal and other medicines got from the fields and forests in and around the village (Goswami 1985). Today most have switched over to allopathic medicine or combine religious rites with it. That involves money and the decisions about health care are slowly shifting to men. *Adibasi* women continue to be in charge of health care because they do not have enough money for allopathic medicine.

One can see this change also in education. In their tradition education was an interface with society. The woman was involved in the child's socialisation but the training of boys into adulthood was the man's domain. Money is a requirement of modern formal education. Many Angami and Dimasa families earn it by growing commercial crops such as potatoes and oranges that give them the income required for education. So the Angamis did not need to cut forests as a source of income when their neighbours were destroying

them. However, when they reached the college going age their children had to go outside the State or even the Northeast since their State lacked adequate facilities. So they cut the forests in order to earn money for their college education (D'Souza 2001: 50-51).

Thus, the monetary economy has modified decision-making in the family. In most tribes the woman continues to take decisions about children's education but men decide what commercial crops to grow to pay for it. With it, many decisions in agriculture that were with women shift to men (Zehol 1998: 21-22). Besides, the parents have to decide how best to use their limited financial resources. Many tribes grant equal access to boys and girls at the primary or even high school level. Since they do not have enough money to send all their children for higher education, many send boys to the college because as an *Adibasi* respondent said, they will remain at home and contribute to the family while girls go away after marriage. The Southern Angami families seem to give equal access to boys and girls even at the higher education level. But many respondents from this tribe claimed that, it is a gift they give to their daughters. So it becomes their personal property that they take with them to their husband's house and they should not demand inheritance rights.

Marriage and the Family

Marriage that is an interface with society and a social reproduction system has changed the most. Some changes are positive and others less so. In the past some tribes had partners fixed in advance. For example, the Garo heiress had to marry her father's nephew. Where the partners were not fixed, marriage was through personal choice or arranged with the help of mediators. Most tribes also had marriage by elopement. Some like the Aka did not give much choice to the girl and at times even to the boy because child marriage was not uncommon among them. Once the partners were fixed some got the mother's permission and others of both the parents but in every case the boy or girl approached the father through the mother. After their approval the father took the decision to the village council for its consent. At this stage some tribes allowed the boy and

girl to live together as man and wife. The formal marriage could come much later (Goswami 1986).

These customs have changed enormously because of religious as well as secular influences. Love marriage particularly inter-community, as different from elopement, is not uncommon. However, not every change is positive. For example, education is a factor in inter-community marriages. Where women have had better access to education than boys have, as among the Angami, many girls remain unmarried or marry outside the tribe because the norm that the boy should be better educated than the girl or should at the least be equal, has remained unchanged. As stated above two thirds of the Angami graduates are women. They have the choice of remaining unmarried or marrying outside their tribe. Also the fact that most salaried jobs go to men encourages women to go out of their State in search of jobs and marry outsiders. They do not follow many traditional norms since it is love marriage.

A custom that has been all but abandoned is that of the boy and girl living together immediately after getting the consent of the village council. Only some *Adibasis* in our sample, all of them belonging to the older generation, had followed it. However, it is being introduced in a new form. The ban on pre-marital living together is mainly because of their Christianisation or Hinduisation. Among other customs that have changed is the *de facto* ban on child marriage among the Aka. It has been banned in practice though not formally. Bride price exists among them as well as the Dimasa but many Aka women would like it to be banned because they feel that its nature has changed. In their tradition it was compensation paid to the girl's family for the loss of a worker because she was an economic asset. They feel that today many men view the *mithuns* and other items they give to her father as a price paid for her. She thus becomes a commodity.

Also the formalisation of marriage has changed. In their tradition the tribal priest used to perform religious rituals. After their Christianisation most Angami and Garo and some *Adibasi* have their marriage formalised in the Church. Most Dimasa and the remaining

Adibasi go through temple rituals. However, but for exceptions, after the religious marriage they perform their traditional rituals in their house or village. That grants them social recognition. Thus religious change has not destroyed their culture but has given it a new meaning by bringing about a separation between the religious and social spheres. The church or the temple gives them religious sanction and their customary rituals give them social recognition (Ruivah 2002: 167). Those who have changed their religion get formal recognition from the church or the temple, not the village council. In that sense there is some shift in power. The village council has become the source of social recognition alone.

Linked to marriage is change of habitat and clan. That has remained unchanged. It differs from tribe to tribe. Three of the five tribes studied are virilocal. The woman joins the man's clan and the children belong to it. Among the matrilineal Garo the boy and the girl retain their original clan but the children belong to the mother's line. The Dimasa have both male and female descent clans. By and large the man and the woman retain their clan. In some the children join the father's clan and in the female descent clans they belong to the mother's clan. Similar rules are followed for the family name.

Many changes have occurred also in their traditions on residence (Table 2.3). In their tradition the Angami couple built a new house on land allotted by the husband's father. The Garo are matrilineal and the youngest sister was the heiress. Her remaining sisters were allowed to live with her till they built their own house. The Dimasa husband spent some time in the girl's house and after that period built a house close to her house. But they could not live in his parents' house because it did not allow two women of the same clan to live in the same house. The Aka and the *Adibasi* went to the husband's house. Table 2.3 shows that only the Aka remain very close to their tradition. The biggest change is among the Adivasi. All the Aka began a new family within the husband's house while a third of the Adibasis began a new family away from the bridegroom's house.

Table 2.3: Residence after Marriage

Tribe	Aka		Adibasi		Angami		Dimasa		Garo		Total		Total
Gender	M	F	M	F	M	F	M	F	M	F	M	F	
Bridegroom's House	53	47	3	13	13	7	32	19	0	2	101	88	189
Independent Family in the Bridegroom's House	0	0	15	23	19	21	0	0	0	0	34	44	78
Independent Family away from Bridegroom's house	0	0	15	27	20	17	0	0	7	1	35	44	79
Independent family in bride's house	0	0	0	0	0	0	0	0	3	2	33	34	67
Independent family away from bride's house	0	0	1	2	0	2	0	0	7	11	8	15	23
Independent family away from both	0	0	0	1	1	0	22	27	33	34	65	66	131
Total	53	47	34	66	53	47	54	46	50	50	244	256	500

Today the nuclear family is beginning to become the norm particularly among those who have a salaried job. They build a house away from the parents of both. That too has a gender component. For example, some educated Garo young men with a salaried job are demanding a changeover to a patrilineal, virilocal society. They tend to "take the bride home" to their house in their place of work and at times even give their own family name to the children instead of that of the wife. Secondly, while a nuclear family gives the couple its autonomy it can also deprive the woman of her family support (Goswami 1982).

Finally, the customary law lays down norms for conflict resolution and divorce. The law decides who is to take the initiative in it if the man and woman find it difficult to live together. In some tribes the elders of the two sides try to bring about reconciliation. If they fail in bringing them together, the elders of some tribes fix the conditions of separation and in others they take the conflict to the village council or to some other elders for resolution. In case of divorce the woman gets only limited property rights.

Conclusion

The tribal family feels many impacts of modernisation. Most modern changes also have a gender component. For example, the intervention of a monetary economy tends to transfer some power in the family from the woman to the man. Education can be instrumental in introducing gender equality but in reality the customary law tends to get reinterpreted from a male perspective. One has seen it, for example, in the interpretation given to education as a gift and property that the girl takes with her to her husband's family. New religions introduce a separation between the religious and social spheres but one is not certain that they add to the woman's status because both Christianity and Hinduism are more patriarchal than the tribal system. Over and above the family is the social sphere. It includes control over the resources, inheritance and the political structures. The next chapter will study the changes introduced in them and the impact they have had on women's status.

Chapter 3 : Customary Laws and Interface with Society

The last chapter has taken a look at the transition from the traditional to the modern and the impact of these changes on tribal women. They have affected her role even in agriculture. *Jhum* continues to be women's economy and work division in it is gender friendly. The woman friendly division of work continues also in terrace cultivation but commercial crops have introduced changes in the decision-making role in commercial crops in the sense that men take most decisions about them (Marak 1997: 25-26). Besides, when middlemen are involved decisions in marketing tend to shift to men since they are more familiar with money than women are. Money, marriage and some other components studied in the last chapter are an interface between the family and society. This chapter will take a look at components such as inheritance that can be called fully social.

Inheritance Rights

Change of habitation has implications for inheritance. Only the Garo have female inheritance but they too separate inheritance from management. Women inherit ancestral property but men manage it. The heiress's uncle's permission is required for its alienation. Thus, their tribe has female inheritance and is matrilineal but is patriarchal. Control over the resource and inheritance continues to be with men. More changes are occurring with the State encouraging commercial crops and giving loans and subsidies only to individual owners and heads of families understood as men. That has begun a slow changeover to individual male ownership (Barbora 2002). It is not final but one can call it an important component in a process that can strengthen male power.

The CPR dependent Aka lack the very concept of individual ownership and by assumption, of inheritance. But the village council

made up of men alone controls the CPRs. This right passes from father to son. Thus, inheritance takes the form of social power and control over the resource, not of individual ownership. The remaining three tribes have male inheritance but with some nuances. The Angami woman cannot inherit clan property but her parents can gift her acquired land and she can inherit what belongs to her mother. If the man dies without a son his inheritance goes to his closest male relative. The Dimasa too have male inheritance but if the man dies without a son, his daughter can inherit his property (Barpujari 1997). During this study a modern version of this norm was noticed in village where men divided their property equally between their sons and daughters. The village recognised their inheritance possibly because they already the tradition of the daughter inheriting ancestral property if the family does not have a son. The *Adibasi* too have male inheritance. All the tribes justify it by saying that the girl goes to her husband's house and he inherits his ancestral property. So she does not need to take any property with her to her husband's house.

Male inheritance is limited to immovable property. All the tribes allow the girl to inherit movable property but the norms change from tribe to tribe. By and large what belongs to the mother is shared among her daughters and what belongs to the father is shared by his sons. However, among the Angami the father may gift some items to the daughters but some also use the custom of the girl receiving gifts to justify the exclusion of women from inheritance. As stated above, some also claim that the father has given the girl the "gift" of education and that her qualifications have become her personal belongings, which she takes with her to her husband's house. Among the Dimasa what belongs to the mother goes to her daughters, the father's personal belongings go to his sons and the common belongings are divided between sons and daughters (Goswami 1986).

A major change is that many women are demanding changes in inheritance but neither the demand nor its intensity has been uniform across tribes (Table 3.1). While among the matrilineal Garo it has taken the form of men asking for inheritance rights, in the remaining tribes some women are demanding equal rights. Also the degree and extent of the demand differs by the tribe. Those who are exposed to the forces of modernisation and even urbanisation are quite articulate but it is minimal among the tribes on which these forces have not had

an impact. The Aka and Dimasa do not demand this right as vigorously as the *Adibasi* and the Angami do. The Aka are close to their CPR tradition and continue to be largely guided by the customary laws. Even women among them feel that it is right for men to inherit the CPRs through the village council. The Dimasa respondents too were not vociferous in the demand for equal inheritance rights but for different reasons. Most of them felt that women among them have never been treated unjustly and that male inheritance did not result in the deterioration of women's status. So they do not see the need to demand equal inheritance rights.

Table 3.1: Change Demanded in Laws of Inheritance

Tribes	No Change	No, Girls Marry Outside	50% to Women inherit	Yes, if unmarried	No, women inherit	No both inherit today	Total
Aka							
Male	38	8	6	0	0	1	53
Female	32	8	7	0	0	0	47
Total	70	16	13	0	0	1	100
Adibasi							
Male	0	0	34	0	0	0	34
Female	0	0	66	0	0	0	66
Total	0	0	100	0	0	0	100
Angami							
Male	46	2	5	0	0	0	53
Female	33	2	10	2	0	0	47
Total	79	4	15	2	0	0	100
Dimasa							
Male	34	0	0	0	0	20	54
Female	27	0	1	0	0	18	46
Total	61	0	1	0	0	38	100
Garo							
Male	27	0	0	0	23	0	50
Female	25	0	0	0	25	0	50
Total	52	0	0	0	48	0	100
Gr Total	262	20	129	2	48	39	500

The situation is significantly different among the *Adibasi* and Angami. SHGs have helped the former to become aware of their rights. Some *Adivasi* women sounded impatient on this issue. The fact that they have very little to inherit is irrelevant to them. They are aware of their right to be equal and that is what they are demanding. The Angami have got many benefits of modernisation and women have felt some of its positive impacts as their educational and occupational status shows. Their demand for equal rights thus reflects their improved sense of self-worth. The matrilineal Garo women are fighting against the demand for male inheritance.

The Political Systems

Political power too belongs to the social sphere. The manner in which most tribal political systems are managed is indicative of the control men exercise over their societies, both matrilineal and patrilineal. While there was difference between the tribes in components such as inheritance, marriage and conflict resolution, their commonality is the total separation between the family and social spheres. Whether they are patrilineal, matrilineal or of double descent, all of them are patriarchal. The woman may take decisions in the a family and even inherit land in matrilineal societies. But even among them she is only the custodian of property. Men control the resource and take decisions about its alienation.

Nowhere is the patriarchal system clearer than in their traditional political systems through which the North Eastern tribes govern themselves. Its form differed from tribe to tribe. The type of government ranged from the village council to elected or hereditary chiefs, elders of the clan and elected leaders. But in every case the body that ruled the village and interpreted the customary law was made up of men alone. Slow change has begin in this system. Some like a few Angami villages have given a small voice to women by admitting their representative to the village councils but they cannot hope to become presidents of these bodies. At least two Aka villages have women *gaonburrahs*, one of them daughter and the other daughter-in-law of former male leaders. One is not certain that they exercise real power. Some changes may even result in the deterioration of women's status. For example, the Garo heiress had some voice in decisions concerning her society though men controlled

the village council. That voice has declined substantially with the State and financial bodies treating the man as the head of the family and dealing with him alone in matters concerning land and property (Fernandes and Pereira 2005: 174-175). Most changes have occurred because of their exposure to external inputs such as education.

Table 3.2: Women Members in the Traditional Council

Tribe	Only Men	Men & Some Women	Ido Not Know	No Village Council	Total
Aka					
Male	0	0	0	53	53
Female	0	0	0	47	47
Total	0	0	0	100	100
Adibasi					
Male	0	0	1	33	34
Female	0	0	6	60	66
Total	0	0	7	93	100
Angami					
Male	6	47	0	0	53
Female	4	43	0	0	47
Total	10	90	0	0	100
Dimasa					
Male	54	0	0	0	54
Female	46	0	0	0	46
Total	100	0	0	0	100
Garo					
Male	36	14	0	0	50
Female	41	9	0	0	50
Total	77	23	0	0	100
G. Total	187	113	7	193	500

The most important political change at the formal State level is universal adult franchise. It gives women the right of vote and to get elected which their tradition had denied them. Because of inputs such as education and religious change and women's associations some of them have become aware of their rights at least to a limited extent and have started voicing opinions in favour of equality in this

sphere too. The entry of a few of them into some Angami village councils is one of its results. But very few have gone beyond it. Some bodies such as the *Panchayats* and District Autonomous Councils are elective bodies. The Panchayats and Village Development Boards (VDB) have reservations for women but not the DACs.

The law confers on men and women an equal legal right to contest elections to bodies such as the VDB, DAC, State Assemblies and the Parliament but very few tribal women have availed of this opportunity. After initial resistance a few women were allowed to contest the elections but progress is slow. For example the Meghalaya Assembly had its first woman legislator two decades ago and today it has 3 in a total of 60. The remaining four tribes studied have not elected a single woman to the DAC or the State legislature. Nagaland had a *Rajya Sabha* member in the 1970s and none after it. A woman who contested the 2001 Assembly Elections was defeated. Before the 2004 *Lok Sabha* elections some women's organisations wanted to put up a candidate for its only seat but they were dissuaded from doing so. At the time of writing one hears of a demand that women be given tickets for the Assembly elections to be held on March 5, 2008 but most parties are resisting it. For example, some women in Phek staged a demonstration against the denial of a ticket to a woman (*The Morung Express* February 1, 2008).

This limited participation is the result both of lack of awareness of their rights among women and of resistance from men. For example, a major change introduced recently is the 73rd *Constitution Amendment Act 1993* that reserves one third of the seats and posts in these bodies for women. Of the five tribes studied, only the Aka and *Adibasi* have *Panchayats*. As a result, for the first time in their history women have become members of a village political body. Some of them have also been chosen their chairpersons. For example in Palizi, one of Aka study villages, a woman was elected *Pradhan*. However, this legal provision does not apply to the Sixth Schedule areas of the Garo and the Dimasa. The Angami run their civil affairs according to their customary law under Article 371A.

These bodies remain almost fully male dominated (Nongbri 1998: 236).

Denial of a share in the formal political structures is one more example of the customary law being re-interpreted to suit patriarchy. In their tradition men controlled all the political bodies. That norm has been modernised by ensuring that men keep power in the elective bodies in their own hands. It has thus become an obstacle to gender equality. Besides, one cannot be euphoric about a third of the panchayat members being women because legal changes do not result automatically in social transformation. Studies on the implementation of this provision show that the powers that women get in the *Panchayats* are more often than not restricted to the four walls of the Panchayat Samiti (Banu 2001: 145). For example, though Aka women have become members of the Village Panchayats, their status in their society and family has not changed. A law requires a social environment if it is to remove the contradiction between the legal and social reality and lead to social transformation.

Extent of Discrimination and Transformation

The preceding sections show that the change has not been uniform and that not all of it favours gender equity. A positive change is the near disappearance of discrimination at the level of primary education. 492 out of 500 respondents supported the idea of female literacy but one is not certain that the same openness exists about sending girls for higher education. Some tribes are more reluctant than the others in this area. The Garo and Angami have taken big strides by sending girls for higher education but the remaining three tribes do not seem to be ready for this step. Reasons for it are not hard to find. The Aka and the Dimasa are close to their tradition that assigns a higher status to men. Besides, relatively few schools exist in their area. As Table 1.2 shows, literacy is relatively high in the below 30 cohorts and is low above that because some schools have come to their area in recent years. *Adibasi* women are trying to survive amid their impoverishment. So the step of sending girls to college is too big for them to take at this stage because their access

to schools is recent. Whatever money they have, has to be spent judiciously and there is a possibility of their investing it on boys whom they perceive as the future of the family.

There is uncertainty also on the issue of women taking up salaried jobs. Financial autonomy is crucial for gender equality. Table 2.2 shows that, 285 of the 800 female family members above 20 are employed in the formal sector. It is a good transition because in the past they were totally dependent on agriculture and did not work outside their homes. However, the shift is not uniform. Only 2 out of 127 Aka women above 20 have salaried jobs but 24 men have them. *Adibasi* women get salaries only as tea garden workers. Only 7 of their men and 3 women have other jobs. On the other hand 46 percent of Garo and 31 percent of Angami women above 20 have salaried jobs. The entry of Dimasa women in this field is recent so 14 out of 129 of them have salaried jobs.

The relatively small number of women with salaried jobs also means that education does not necessarily push them into taking up employment. Their educational opportunities are limited and where they exist there may be hidden discrimination against them in employment because of the perception that men are breadwinners and women are subordinates. One has seen it in the case of Angami women who are better educated than men but are denied employment opportunities. That may also explain why only a third of the respondents supported the idea of women taking up salaried jobs. Another third considered it a source of additional income, not a step towards equality.

Conclusion

The discussion in this chapter shows the ambiguity surrounding the modernisation of the tribal customary law in the Northeast. On one side, it is intrinsic to tribal identity. On the other, there is the danger of its recognition leading to greater patriarchy. These and other pitfalls have to be studied while discussing the need to recognise it. The next chapter will discuss its implications.

Chapter 4 : Search for Solutions : The Customary Law Today

The discussion in the last three chapters has been on the nature and importance of the customary laws for tribal culture and identity because of which many tribes want to go back to their traditional law. One can also see in the discussion that this demand has some pitfalls. One has, therefore, to find ways of responding to this demand while avoiding these pitfalls.

Back to the Customary Law?

The first issue arises from the demand of many tribes that the State grant statutory recognition to their customary law as it has done in Nagaland and Mizoram. On the other side is the debate among legal luminaries on whether the customary law should be codified. Not all the respondents could see the ramifications of this debate when it was posed in this form but they knew the importance of the demand for the recognition of their customary law. So instead of discussing its codification, the researchers quizzed the respondents on the importance of their customary laws and the advisability of returning to them. Some respondents did understand the implications of its codification but even they considered the issue of return to the customary law more important than its codification since it is basic to their identity and culture. As a result a threat to it becomes an attack on both.

Most respondents wanted to retain their law and if possible to go back to it. But very few of them were aware of their conservative reading to which an unconditional return to the customary law can

take them. It can be a return to an environment that ignores gender justice. In other words there is some ambiguity in the demand for a return to the customary law. On one side it is crucial for the protection of tribal culture and identity. On the other, it can go against gender and class equality.

Geography is another pitfall. Traditionally each tribe had its own territory. The statutory recognition granted to the Mizo and Naga customary laws was limited to the territories included in those States. Also the Sixth Schedule is limited to a territory. That was possible when one tribe was coterminous with a territory or was a majority in it. It is not the case any more in many districts and even some States. For example, Karbi Anglong was a Karbi majority district when it was brought under the Sixth Schedule. Today it continues to be a tribal majority district but the tribes inhabiting the district include the Dimasa, Kuki and others. So the Karbis do not seem to form a majority in it. The Kuki, the biggest non-Karbi tribe of the district are demanding a Regional Autonomous Council within the district and that has led to a conflict (Damzen 2008).

It is one of many examples, which show that today the link between the customary law or the Sixth Schedule and a fixed territory needs to be questioned. There is the related issue of immigration and encroachment of tribal land. It is a serious question and has to be dealt with. One does not justify immigration into the tribal territory. Measures have to be taken against it and against alienation of their land to non-tribals. The State does not always support the tribal communities in their effort to protect their sustenance (Shimray 2006). That facilitates land alienation. It also explains why most ethnic conflicts are around land. One has to find a way out of it. However, the law cannot ignore the fact that many territories do not have a single tribe and making the customary law coterminous with one tribe can intensify ethnic conflicts.

Implications of Codification

Its codification too needs to be discussed in this context. The first danger is of making their customary law rigid and the second

is that of strengthening its patriarchal ethos. Studies on the personal laws of India show that one of the schools of thought was chosen when they were codified though many more interpretations were possible. As a result, codification has led to the stagnation of these living and evolving laws and has made them rigid (Sagade 1993). The same can happen to the tribal customary laws that are constantly evolving living organisms. There is also a danger of the policy makers either imposing a uniform tribal law in the name of codification or of national unity and integration. Another danger is of the customary law being interpreted according to the norms of the formal law whose foundation is totally different from theirs.

Either of these approaches can destroy the diversity that is basic to the tribal search for an identity based on their past. The relationship of the local to the national continues to be problematic today as it has been for five decades (Telegraph 2005) mainly because many decision-makers perceive national unity as derived from New Delhi. They identify unity with uniformity. This type of an integration has been at work for six decades since independence. It has more often than not come from the top. Its implementation at the grassroots level is usually to the detriment of the local knowledge, customs and cultural practices that should be important components of what constitutes the national.

Is a Solution Possible?

A solution has, therefore, to be found that keeps a balance between these pitfalls and helps the tribes to move towards the future. The first step towards it is to accept the need for statutory recognition of their customary laws. That can bridge the gap between the national and the local on the one hand and between the formal and customary laws on the other. Today there is a hiatus between the two. The State recognises only the formal law except in Nagaland and Mizoram. Studies show that the problem of land alienation is caused mainly by this approach. The tribes live according to their community-based customary law but the State recognises only individual land ownership. That makes encroachment on their land or its alienation or acquisition easy (Fernandes, Bharali and Kezo 2008: 19-21).

Thus, prevention of land alienation, protection of their culture and identity are strong enough reasons to recognise their customary law. Its recognition would also be a sign that the official agencies are ready to respect tribal identity. However, the danger of going back to the past with no change has to be countered because it has gender and class implications. A creative solution has thus to be found by keeping a balance between their customary law and the demands of equality. One possible solution is conditional recognition according to the principle of class and gender equality. The law as a whole may be recognised but not each and every one of its clauses. Some changes such as women's representation in their political bodies need to be introduced, if necessary imposed, as a condition for its recognition.

The basic norm in this approach would also be recognition of their diversity and identity on one side and of the democratic value of equality of classes and sexes on the other. This type of a conditional recognition can also take their customary law away from its conservative past on the one hand and from centralised nationalism on the other. Provision has to be made also to the reality of many communities living in the same territory. One possibility is to separate the territory from the tribe. Each tribe may be allowed to run its affairs according to its customary law under the principle of personal jurisdiction. Every member of that tribe would come under the customary law wherever he or she lives in the Northeast. In this manner, the identity and land of the tribe is protected without territory-based competition for it leading to ethnic conflicts.

However, one cannot stop at legal changes. They cannot bring about social transformation by themselves and cannot be effective without a social environment in their favour. For example, the Aka have banned child marriage but its vestiges remain in the form of women in their teens being forced into marriage. Early marriage adds to their subordination. The Naga and Mizo experience of internalising new values through the political process of the nationalist struggle shows that a social process is required for a community to accept changes particularly since they are linked closely to their identity. Every community needs go through a process of

discernment that may bring out much disagreement but is essential for change. The community has thus to become central to this process.

The State can support this process of discernment and social transformation by recognising the centrality of their community in other components too such as development programmes. For example, studies indicate that one of the causes of tribal communities breaking up is encouragement given to individual male owners to cultivate commercial crops like rubber in the Garo Hills and coffee in the NC Hills (Fernandes and Pereira 2005: 272-272). Equally important is the purely individual orientation of developmental schemes such as the integrated tribal development programme (ITDP). By and large they are given in the name of individuals, more often than not, to men. That approach can result in class formation and strengthening of patriarchy. A possible solution is to give such schemes to the whole village or clan, not to individuals (Roy Burman 1993: 182-183). The village or clan working together on them to build common assets can strengthen the community.

Conclusion

This chapter has discussed the issue of granting statutory recognition to the customary law in the context of ethnic conflicts and protection of tribal identity, culture and land. One can mention many more solutions. Basic to all of them is the suggestion that official agencies need to respect tribal culture while planning development measures. There is a strong case for granting statutory recognition to the customary laws in order to bridge the gap between the national and the local. But it should be done without their patriarchal ethos that ignores gender justice. Their laws have to be changed to suit this need. That requires a strong grass roots level process of reflection by each tribal community.

Chapter 5 : Conclusion: Recommendations Based on the Study

This study on the interface of the customary laws of five tribes with modern inputs shows its impact on the status of tribal women and on their society as a whole. Some of the changes the interface has brought about in their lifestyle are positive and others are negative from women's perspective. Education has been the main catalyst of change. Other components are the formal legal, administrative and political systems and new religions.

The analysis of women's status in their customary laws showed that many changes have strengthened patriarchy and that most of their traditional institutions remain more or less unchanged. On the other side, one noticed much awareness in a section of tribal women, about their right to equality. Most suggestions for change came from those who were aware of this rights. The present chapter will develop and organise these suggestions based on the analysis of the preceding chapters, of chapter 4 in particular. The researchers do have reservations about a few suggestions and they will be mentioned while making that suggestion. For example, the Aka suggestion on doing away with bride price has to be studied carefully because there is also a move among some families to replace it with dowry. But one accepts with no reservations the basic concern of women's freedom of choice. That is why all the suggestions that came from the people during the study have been given with comments.

Some suggestions are common to all the tribes and others are specific to one. A common thread is the need for a process of

reflection in each tribe in order to internalise the ideology of gender and class justice. For example, the data on political institutions show that even when a tribe accepts the law on one third representation in the elective bodies, it makes no such provision for it in its traditional institutions, other than perhaps token concessions such as making a woman a member of the village council. Very few go beyond it to gender equality. That is the basis of the suggestions.

General Recommendations

1. Accordingly, the first recommendation concerns the process of a serious reflection among the leaders to evaluate their customary laws. For it to be effective, the policy makers should begin by accepting the importance of the customary law for tribal culture and identity. Failure to understand that basic need of theirs can go against serious reflection.
2. Such recognition is important in the context of encroachment of their land by outsiders, immigrants as well as non-tribal local people. Most tribes run their civil affairs according to their customary law but in the absence of legal recognition of this right, outsiders can deprive them of their livelihood with impunity. In order to recognise their community rights, one can look at the possibility of introducing the positive points of the Sixth Schedule, the 73rd Amendment Act and PESA Act 1996 among all the tribes. Land is central to their customary law and identity and it should be accorded legal protection. Simultaneously this right may have to be changed to accord the same rights to women.
3. In other words, recognition of their law as central to their identity and culture is one facet, the other being equality of classes and sexes. Recognition is conditional i.e. of the law as a whole, not of each and every one of its clauses. It is an effort to modernise it by updating their value system. Some components like women's representation in their political bodies may even have to be imposed through legal changes.
4. In thus moving away from their conservative past, one cannot accept centralised nationalism either. Recognition of their

diversity, identity and the democratic value of equality of classes and sexes have to go hand in hand. Changes have to be based on a value system, not on the imposition of the formal law whose worldview is considerably different from that of the tribes.

5. In other words, basic to the recognition of their customary law is recognition of their community ethos. One can mention many instances of tribal communities breaking up because of the individualist approach of the administration. Besides, the administrative systems are also male centred. One has given instances of encouragement given to individual male owners to cultivate commercial crops and the purely individual-based approach of ITDP resulting in class formation and stronger patriarchy. To counter such impacts, the State needs to encourage development based on the community as a whole and not merely on individuals.
6. Education is an area in which nationalism negates their diversity. The historical, social and political systems taught in the Northeast belong to “mainland” India. For example, a student studying at Dimapur in Nagaland knows all about the Fort of Jhansi but nothing about the Dimasa fort just outside Dimapur. Many demands of a return to their identity and customary laws are a reaction to such uniformity that negates their specificity. Education has, therefore to be adapted to their culture. Its contents have to be geared to the need of re-establishing respect for land and for their own history. Its focus can be on the community. History can highlight the role that women have played in their tradition but efforts have to be made to go beyond it towards class and gender equality. It would be modernisation based on their tradition. Their past would thus be the starting point for their journey towards the future.
7. Some feel that *inter-community marriages* are a sign of freedom but there are many problems linked to it, one of them being tribal identity and the fear of land passing to outsiders. The issue has to be studied properly and not rushed

through. In this manner a balance has to be struck between the tribe’s identity and the woman’s freedom.

Recommendations for Specific Communities

The above recommendations apply to all the tribes. One has also to think of individual tribes. One knows that a better understanding is required of their culture and processes of processes of identity formation than one has. However, the risk of making these suggestions is taken because most recommendations are based on feedback got during individual and group interaction with these tribes.

The Aka: Beyond Panchayati Raj

Even some women from the Aka tribe that lives close to their tradition felt that a few of their traditions such as bride price and marriage of teenage girls should change. Some others made suggestions about marriage, land and village councils that have been replaced by the Panchayat. They feel that the *panchayati raj* has helped them to find a voice in the political system but they would like to go beyond it towards full class and gender equality.

Child and Forced Marriage: Child marriage has been abolished but its vestige remains in the form of forced and fixed marriages of women in their teens or just after it. Their exposure to the outside world is minimised because of lack of education. Early marriage adds to their subordination. They feel that the *panchayat* should be mandated to ensure free consent and late marriage.

- Aka women feel that they have got many benefits out of their *panchayat membership* but have not attained equality. Often they are inhibited by the presence of men, especially the leaders. One way of ensuring equality is to respect also their traditional systems and make mandatory women’s full participation in these bodies.
- Some want to abolish bride price but it may not be a solution to women’s subordinate status some hinted that it is being replaced with dowry which is much more oppressive of women in the long run. A possible solution is an awareness-

building exercise on women's status and the role these components play in favour of or against their equal status.

- Women also feel that the punishments that are meted out to them are unjust. The woman is punished more and has fewer rights than the man has in case of divorce. They feel that their customary law has to be changed in favour of equality in marriage as well as in divorce.
- Though legal changes are required, lack of exposure to systems outside their community prevents women from taking up their responsibility of handling modern inputs. One way of preparing them to take it up is to encourage adult and girl children's education.
- It shows the importance that has to be given to the educational facilities in the Aka and other tribal areas. Since it is not easy to get local teachers immediately, persons are brought from outside. They impose another culture and language on them and devalue theirs. With some private schools coming up, good local teachers will be available soon at least at the primary school level. They can restore the importance of their language and culture in their education.
- These steps are urgent because during the fieldwork the researchers were told that the Aka leaders have almost completed the compilation of their Customary Law. They seem to have retained in it the clauses that relegate women to a subordinate position. It is important to recognise their customary laws with changes in favour of women.

The Adibasi: Education, the Schedule and Power

The *Adibasi* are the most exploited community in Assam. Their educational status is low, they are excluded from the schedule though their counterparts in mainland India are treated as tribals. Despite their extreme poverty and oppressed status, many *Adibasi* women too have been demanding equality. Education that has reached them recently and the SHGs have helped them to become aware of their rights. On the other side is the trend among a section of them to stop at reviving the Jharkhand culture without change to suit the

local needs. It can go against women. They need to begin with their Jharkhandi past and move towards an Assam tribal identity. The suggestions emanate from the fact that their low salary, poverty, child labour and exclusion from the schedule add to their low self-identity.

- In order to improve women's status, priority has to be accorded to stopping child labour and preventing the emigration of girl children as domestic helps. Improvement of education and income generation activities are basic to it. They cannot get the benefits of free education because they are not included in the Schedule. On one side the tea garden management has neglected their education and has thus deprived them of the possibility of finding alternatives to work in the plantations. On the other the State deprives them of free education by denying them the scheduled status. As a result, illiteracy is very high among their children. Their status will deteriorate further with more gardens closing down. One way of remedying it is to include them in the schedule and offering them free education.
- Their inclusion in the schedule will also be a step towards the recognition of their customary law that is basic to their identity. However, caution has to be exercised while taking this step. Some of their leaders want to return to their Jharkhand roots while others reject this move for fear that a Jharkhandi identity will keep them as outsiders in Assam forever. There is some truth on both sides. Their identity demands that they recognise their Jharkhand background but it has to be integrated into their reality within Assam. In order to keep this balance they may need to begin with their Jharkhand culture but update it by getting an Assam tribal identity. Recognition of their customary law with changes to suit the local situation is one way of helping them to build an Assamese future based on their Jharkhandi past.
- A major change in the customary law has to be in the norms of gender relations in order to accord equal rights to women. Its examples are their representation in the village councils,

equal inheritance and right to a salaried job. Their inclusion in the customary law will make gender equality integral to their culture. SHGs and other tools can be used to help them become aware of their rights but equality has to be reflected in their customary law.

Angami: Consolidation of the Gains and the Cultural Heritage

Angami men as well as women have got more benefits of modernisation than the remaining tribes studied have done. They have also experienced a political process that helped them to become aware of their right to autonomy and of gender equality. However, its positive effects are wearing off because of competition for land and jobs. Relatively few younger men have internalised the political fervour of the struggle. One notices a trend to strengthen the patriarchal ethos, particularly in their traditional political systems and women's inheritance rights. As women become aware of their rights also resistance to their demands is growing. The Angami customary law that has been recognised gives women very limited rights of ownership and inheritance. So women suggest changes mainly in these components in order to modernise their customary law.

- Women should be given equal inheritance rights with men.
- The village council needs to be democratised by giving equal membership to women. One way out is to ensure one-third membership as a first step.
- The trend of women's access to higher education has to be reinforced.

Dimasa: Securing Legitimate Rights of Women

Dimasa women were reluctant to give any suggestions for the improvement of their status because they did not feel discriminated against. When coaxed further they gave the following suggestions rather hesitatingly. They said that they did not have any grievances. It is understandable because double descent introduces a great amount of ambiguity into their customary law. Thus, a social atmosphere may not be present among them in favour of equality. However, the feeling that women are not discriminated against can provide a non-

threatening atmosphere for a creative discussion on their future, without their leaders falling on the defensive. They said:

- Encourage girls to go for higher education.
- Establish institutions for higher education so that girls too can avail of this facility locally without being forced go out of their area.
- This can be supplemented by ensuring one-third representation of women in their village councils and in the District Autonomous Council.

Garos: Safeguarding and Sharing Women's Power

The Garos represent a totally different dimension of the North Eastern tribal world. There is silent tension among them on the issue of gender-based rights, which a casual visitor may not notice. Men are demanding equality in inheritance and women in the social sphere. In this discussion many forget easily that the real issue is of gender equality, not of one or the other sex getting more power than the other. Equality cannot be achieved by changing inheritance laws alone. Change is needed also in other aspects because their society remains patriarchal despite female inheritance. Besides, though they come under the Sixth Schedule and their customary law is effective at the village level, the individual-based administrative systems and developmental inputs are modifying both. Many Garo women have gained access to higher education and to salaried jobs but on many other counts they remain inferior to men. The law has to work hand in hand with other inputs to remedy this situation.

- Their customary law deserves formal recognition but with amendments in order to ensure that women are equal participants in the village councils and other traditional bodies. There is a strong case for extending 33 percent reservations to them.
- There cannot be much delay in ensuring such representation in the DAC. From there it can go on one side up to the legislative assembly and on the other, trickle down to the village council. This combination can create an atmosphere in favour of equality in other aspects too.

- Any change of inheritance rights should be in favour of equality. That requires change also in the remaining clauses on the control of the resource and of the political systems like the village council and other decision-making bodies. One possibility is to ensure that the control of land is jointly in the hands of husband and wife instead of other men.
- On the other side, hardly any respondent said that the custom of the man and woman continuing to belong to their own clan should be discontinued. There was lack of consensus on which clan the child should belong to. Very few had an opinion on it apart from saying that the present system should continue. Those few who gave an opinion seemed to be in favour of sons belonging to the father's clan and taking his name and daughters belonging to the mother's clan and family name.

Conclusion

The study that is presented in this booklet, shows some of the challenges that the tribes of the Northeast face. Gender equality is one of them. One has to continue this debate within the tribe in order to arrive at a consensus. A positive atmosphere of reflection has to be created among all of them in order to encourage them to face the challenge of finding an identity in the customary law while accepting the imperative of gender and class equality. Thus recognition goes together with the updating of their tradition of equity. The present book is a contribution to the process leading to it.

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Tribal identity search is a major source of ethnic conflicts in North Eastern India. It is closely linked to their efforts to protect their land and other livelihood resources. One of its offshoots is a demand for statutory recognition to be granted to the tribal customary laws. While this demand is legitimate, questions can be asked about its gender and class implications. Studies indicate that modernisation while being beneficial to the tribes on many counts, can go against women's right to equality. This book that summarises a comparative study on the modernisation of the customary law of five tribes, shows that the combination of the individual and male approach of the formal law and the reinterpretation of the customary law by the tribal elite can strengthen patriarchy among the tribes and can have an adverse impact on the relatively high status of tribal women. The solution is not rejecting modernisation or their tradition but updating their past. The book, therefore, ends with suggestions for change given by the respondents of the five tribes studied.

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