

## **TRADITIONAL NORM OF INHERITANCE OF THE COMMUNITIES OF NORTH EAST INDIA WITH REFERENCE TO THE BODO: ETHNO HISTORICAL APPROACH**

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**ABSTRACT:** The original homeland of the Bodo is not yet clearly known but hypothetically it is presumed that they were inhabited earlier in the area between the head waters of the Hoang-Ho and the Yang-tze-Kiang rivers. The Bodo, who are considered to be one of the earliest indigenous ethnoses of Assam are known by diverse terms in various places throughout the North-Eastern India as well as in some parts of Indian sub-continent. The Bodo in North Bengal, Nepal and Bhutan are recognized as Mech or Meche, in between the Sonkos river and the Brahmaputra river are identified earlier as Meches and afterward Bodo, on the Kachari hills they come to be known as Kacharies, in Dimapur they are called Dimasa, in Tripura as Tripuri or Kok Borok and so on. They have their own traditional law of inheritance which governs the society.

**Key words:** Patriarchal, Dongkha Habnai Haba, son, daughter, adopted child.

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### **I. INTRODUCTION**

The Bodo community is one of the non-Aryan tribes of the North-Eastern India. They are the most primitive denizens of Assam. Racially, they belong to Mongoloid origin. Their language is a branch of Tibeto-Burman speech family. The branch of this language includes different tribes, such as Bodo, Kok-Borok, Mech, Garo, Rabha, Lalung, Sonowal, Deori, etc. The Bodos were once ruling tribes. Today they have settled in the northern areas of the Brahmaputra Valley, mainly in Kokrajhar, Darrang, Goalpara, and Kamrup districts. Bodo-Kacharis, popularly known as Bodo or Boro now constitute one of the largest indigenous tribes in Assam. They also inhabit in Bangladesh, lower regions of Nepal, and the other Indian states of northern West Bengal, Bihar, Meghalaya, and Tripura. A democratic people, the Bodos do not have class or status divisions.

Every society has certain traditional rules whether it may be written or unwritten to distribute and transfer the properties both movable and immovable to the descendants during life time or after the death. Many of the tribes of the North-East India pursued their own customary law which has been handed down from one generation to another generation with regard to the distribution of the property. The Bodo also have been applied the old age customary law of inheritance to the division of property. The laws and customs of the Bodo in connection with the inheritance of property seem to be very fuzzy. It is not an easy task to draw an accurate picture on the subject. Sidney Endle (Endle, 2010:32) says that after the demise of the head of the family, all the properties that belonged to the deceased head of the family would be under the control of the eldest son. Becoming the head of the family he should live along with his widow mother, brothers and sisters and look after them till the marriage of grownup children. When the marriage took place the father property was divided into equal share. The eldest one received one share and half and remaining will share reasonably among the brothers. The married daughter cannot claim on the property. When a man died without his male heir, the property goes to his eldest brother who makes some provision for the widow of the deceased man and daughters. However, it is also reported that the deceased person who do not have the male child, the property will be divided among the daughters who can enjoyed such properties even after the marriage (Brahma, 1992:33 & Brahma, 2006:19).

**Objective:** The objective of the paper is to make a humble attempt to present a systematic, comprehensive and graphic description on the traditional norm of inheritance of the communities of North East India with reference to the Bodo

## **II. MATERIALS AND METHODS**

The methodology of the study is inter-disciplinary method. According the work is primarily based on field investigation i.e interview for collecting first hand data and also based on all published works. The techniques of anthropological data collection i.e participation, observation, interview methods are adopted. The collected data both primary and secondary have been analyzed both quantitatively and qualitatively whenever necessary.

## **III. RESULTS AND DISCUSSION**

No serious research based study on traditional norm of inheritance of the communities of North East India with reference to the Bodo has yet been made by any scholar by utilizing all the available sources. But 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. In fact, the Bodo have well established tradition relating to law of inheritance which governs the society. Daughter has no right on her fatherly property as she has to renounce her family lineage after the marriage. However, in certain cases daughter also enjoy parental property becoming inheritor where there is no male issue or male child. In the present society of the Bodo, no hard and fast rule is found for the inheritance of the parental property by a daughter.

### **Property of Father**

The Bodo society firmly accepted the patriarchal family system. They considered the father all in all in the family since he is absolute authority over the family property and rights. The father enjoys the supreme and exclusive authority to deal with and give share of his properties to his family members including sons, brothers, daughters who so ever and also to dispose of (Boro, 2001:10 & Machahary, 2004:95). All the family members are living under his controlled. The family property have been divided after the death of the patriarch among his sons equally or as determined by father before his death. The closest one to the father or the one who look after aged parents may get lion share or more share. No son has the right to claim or inherit the property of the father during the life time of the father. However, it is the right and duty of the father to give some portions of his property to any married son because he is allowed to live separately by bifurcating from the original family as separation is permitted by the Bodo society. In some cases, the father is not willing to hand over the properties to his son, the son may not get the parental property as it is absolutely under the control and authority of the patriarch of the family. So the father (head of the family) has not merely a right to distribution or partitions his properties but he also got the authority to effect a division of the property among the sons *inter se*. It is to be noted that the head of the family of the Bodo, being a patriarch, he might or might not be seeking advice from any of the family members regarding to the distribution of the property that belong to him. While exercising the power the opinion or dissent of the family members especially sons are immaterial but the father must act bona fide and should treat all his sons equally and should not cause any hurt to any member of the family by way of his conduct. He should not act unfair to his subordinate members of the family. During the life time of the patriarch, if he settled the matter relating to his property division among his sons or who so ever entitled to the property, there would be no problem after the death of the father except the authority to maintain the joint family (Gopinath Bargary, 2016).

### **Woman:**

Woman property is known 'Stridhan' by the Hindu. In the history of the Hindu law the woman's right to hold and dispose of the property has been well established recognized law. The right of the woman on the property is recognized by some of the ancient Indian law givers in their respective works. Manu Smriti (Manu Smriti, IX:194) also has been mention woman property right enumerating various kinds of woman property. Yajnavalkya furnished the information referring to the woman property as "what was given to a woman by the father, mother, her husband or her brother or received by her at nuptial fire or presented on her supersession and the like is dominated woman's property" (Yajnavalkya, II:143). Smritikars also mentioned stridhan which include mostly movable property as well as the gift made to her by stranger at the time of the marriage before the nuptial fire or at the time of bridal procession (Diwan, 1972:383). It is unambiguously recognized woman's right to hold and dispose of property (Gautama, XXVIII:24-26).

Customary law of the Bodo implicitly recognized the woman property right. Society permits the woman to enjoy the property right and a female may inherit the property either from her parent side or from her husband side or from both sides. So far the woman property is concerned it is included movable as well as immovable. It is true that wife may not be entitled to have any share of the property of her husband during the life time of the husband; however, it is the absolute right of the husband to give some portion of his property to his wife for the future security (Brahma, 1992:33). The law of inheritance of the Bodo keeps some provision for the woman property right nevertheless at no time the quantum of her property may be anything but skimpy or

small in quantity. The important thing to be highlighted here on the basis of the present scenario is that some family property, not the immovable property, like pig, fowls, duck etc. are under the absolute control of the wife (Brahma, 1992:33) for the management of the family which seems to be old age practice and it is still in continuity till date. A Bodo woman who is the owner of the property has full right of disposal but the consent of the husband is always predominant. And the husband got the power to use the property of his own wife.

In case a man practiced the polygamy by fulfilling all the social norms of the Bodo, all the wives are entitled to receive equal share of property of the husband when the patriarch death whether they are childless or not, does not matter. However, wives whose marriages are not recognized by society, they are debarred to entitle husband's property after the death of the husband. A woman who married to a widower by fulfilling all the social norms but she is childless may claim a share of property during the time of partition after the death of her husband for her future maintenance. In such a case her husband's offspring of first wife may not raise any objection to give a share of the property to their step mother (Boro Somajni Songbijid Arw Nemkhanthi, 2005:34 & Boro Somajni Nemkhanthi, 2001:8-9). According to R. N. Mushahary (Mushahary, 1986:237), a widow who owned a portion of her deceased husband's property has a right to confer to any one at her own will or she can dispose it. Generally the property which received from the deceased husband will be transferred to her children if they have the children as and when the children attain the age of maturity. It is also to be noted that after the death of the widow all the properties which owned by her will pass to her own heirs. Issueless widow, who did not re-enter into the second marital life, may inherit the deceased husband's property only for her lifetime. After her death, relatives of her deceased husband family has right to inherit the property as she does not have any legitimate successor or inheritor.

If a widow married to another person under *Dongkha Habnai Haba*, the responsibility to look after the family including the children of the deceased husband as well as the property is fixed to the newly married husband (Narzi, 2003:23.). In this case all the sons (born with first and second husband) have equal right on property. In the absence of male child, the daughters from first and second marriage are entitled to the property. After the death of remarried widow and her husband (second) without any successor (no child born from first and second husband) the property is automatically goes to her first husband family, not to second husband family. If a widow run away or eloped with another person and enter into marital life again leaving her deceased husband house than she loses her right on the property of deceased husband. Her remarriage will lead to the forfeiture of the claim of maintenance as well as property right.

#### **Son:**

Generally son inherits the family property. The eldest son is regarded as continuator of family lineage as well as religion or rites and rituals. After the death of patriarch, generally the eldest son inherits all the rights exercised by his father (Brahma, 1992:33). It is the eldest son who will bear all the expenses relating to the marriage ceremony etc. of the unmarried brother or daughter as well as his widow mother. It is customary of the Bodo that eldest son have complete right to inherit the parental property. It is also fact that all the sons are entitled to get equal share of parental property. The parent may decide with whom among their son will live during their old age. The son one who takes care of the parent till death may receive an extra share of land of the parent (Endle, 2010:32 & Mushahary, 1986:237 & Brahma, 2006:19 & Sen, 2009:126).

Another interesting aspect of traditional law of inheritance among the Bodo is that, during the life time of patriarch or father a son cannot insist for property from his father. He can only inherit the property after the death of his father. Sometimes a father may give a share of property to his married son when he separated from his parental home to lead a separate new life with his wife and children or with his family.

#### **Daughter:**

Daughter has no right on her fatherly property as she is to renounce her family lineage after the marriage. However, in certain cases daughter also enjoy parental property by becoming inheritor or by receiving the parental property where there is no male issue or male child. It is remarked that in the absence of sons or any male heir in the family to inherit the parental property, daughters are allowed to enjoy the property of their father even after the marriage. Sometimes, the parent look for a suitable bridegroom and married their daughter in the form of matrilocal marriage which is known as *Garjia Lakhinai* in Bodo and keep the son-in-law in their own house (Brahma, 1992:33 & Brahma, 2006:19). Occasionally all the married daughters along with their husbands lived together in the house of the sonless parent. Daughters enjoy equal right on the parental property. When the family becomes bigger they may be separated by forming their own family distributing proportionate property of the parent. But one of the daughters will have to look after the aged parent. (Pormeswar Brahma, 2016). In the present society of the Bodo, no hard and fast rule is found for the inheritance of the parental property by a daughter. It is the discretion of the father to give away his property to his daughter. Even after the death of father, the daughter also could get their share of property of the deceased father in some family. But in

some family the son of deceased father do not give property to their sisters whether they married or not. In the eyes of the law the daughter also could claim the property of deceased father.

**Minor:**

If father died before the maturity of son or daughter, it is the widow of the deceased husband who looks after the minor children by supervising the property of deceased on behalf of the minor. After attaining maturity if the son is there he can legally inherit the parental property, if not, the daughter may inherit; otherwise it goes to the nearest relatives (Vivekananda Narzary, 2016). With regard to the transfer of the property of the deceased to the next kin, Sekhar Brahma (Brahma, 2006:19) asserted that after the death of childless husband and wife, the property belong to the deceased will be received by the nearest relatives. In general practice, the property of an issueless deceased person is always goes to the brother or brothers or relatives of the deceased whether they live in a joint family or not, it does not matter (Mushahary, 2004:95).

**Adopted son or daughter:**

Customary law of the Bodo does not make any distinction between natural and adopted child. The right and obligation of both types of the children are all same. Like the natural child, an adoptee (adopted child) have equal right, equal obligation, equal duty, etc. towards the parents and family as well as in society. In general rule of law, the adopted son or daughter is not need to have biological recognition but social recognition is must and mandatory for the person who is being adopted to inherit the property or family lineage of the adopter. It is clearly mentioned that adopted son or daughter is considered in every where as one's own biologically produced offspring. A couple who do not have their own offspring may adopt a son or daughter preferably son with the motives to take care them when they become old, to inherit property and to perform last dead rites and rituals. Adoption is an old age tradition among the Bodo which is still prevalent and practiced by many childless parents to fulfill their desire to have child. It is clearly affirmed that the adopted children, treating them as a natural children, are entitled to inherit the property belonging to the adopter (Brahma, 2006:19 & Brahma, 1992:71 & Brahma, 1989:8 & Mondal, 2011:180). Not only the male adopted child but also the female adopted child could inherit the property of their foster father (Brahma, 1992:72 & Brahma, 1989:8).

Among some communities of the Mongoloid tribes of North East India, an adopted person has the right of inheritance of the property and as it is duty and obligation of the adopted person to take care his or her adopter when they are old age but they could not become head of the clan or sub-clan or clan chief. In the case of the Vaiphei tribes of North East India this is very common practice. It is stated that the customary law of Vaiphei does not permit the adopted person to be the head of the clan or sub-clan or chief but allowed him to inherit the property of whom he is adopted and to look after the adopters during their old age (Vaiphei, 2008:98). But among the Bodo, it is uncertain whether such custom of the Vaiphei tribe i.e. to become head of the clan or chief by the adoptee has followed or not.

**Duty of inheritor:**

It is the obligation, responsibility and duty of inheritor to perform last rites of the parent. He is also bound to take- care the widow and the children including unmarried one of the deceased. The inheritor has to be made the payment of all the debt of the deceased parents. If inheritor failed to discharge the duty of inheritor to the best satisfaction of the society or he failed to perform the duty prescribed by custom and tradition or refused to abide the duty of inheritor fixed on him such as performing of last rites, repayment of debt if any etc., the property of the deceased pass to the next legitimate heir who can successfully perform the duty of inheritor.

**Legitimate and illegitimate of the Inheritor:**

The question of legitimate or illegitimate arises mainly at the time of the inheritance of the property and succession. The legitimate child is the person who is born by performing all the norms of the marriage by the concerned parent. A child who is born within a law full wedlock is known as legitimate child since he or she is born after fulfilling all the social norms of marriage and that marriage has been approved and recognized by the society and the child is related to the parent by legitimate relationship. On the other hand, an illegitimate child is the child who is born without fulfilling of the social norms of marriage. In another word, a child born outside the law full wedlock or outside proper norms of marriage or born from the illegal sexual relationship is called illegitimate. The illegitimate child is related to his or her parent by illegitimate relationship. A natural son or daughter or legitimate son or daughter has absolute right and duty and privileges on the property of the father or family property as well as other individual and social obligations. As the illegitimate child falls outside the category of legitimate inheritor, he or she has not right to claim the property and could not be enjoy the benefit which enjoyed by the legitimate offspring. In the case of the Vaiphei tribe any male child whether he may be the eldest but could not inherit if he is illegitimate because he is born out of incestuous relationship or illegal marriage, considering him as illegitimate son in the matter of inheritance even though he may be the real blood of the ego. It comes to the notice that a genitor is not equated as a father who confront with the marital norms whereas the genitor knowing it void (Vaiphei, 2008:91-92). R. N. Mushahary (Mushahary, 1986:237), while

writing about the law of inheritance among the Bodo, mentioned that no clear cut distinction is made among the sons by marriage, adoption or concubinage or concubine.

#### IV. CONCLUSION

Thus, the Bodo have well established tradition relating to law of inheritance which governs the society. Daughter has no right on her fatherly property as she is to renounce her family lineage after the marriage. However, in certain cases daughter also enjoy parental property becoming inheritor where there is no male issue or male child. In the present society of the Bodo, no hard and fast rule is found for the inheritance of the parental property by a daughter. It is the discretion of the father to give away his property to his daughter. Even after the death of father, the daughter also could get their share of property of the deceased father in some family. But in some family the son of deceased father do not give property to their sisters whether they married or not. In the eyes of the law the daughter also could claim the property of deceased father. The property of childless husband and wife will be received by the nearest relatives. In general practice, the property of an issueless deceased person is always goes to the brother or brothers or relatives of the deceased whether they live in a joint family or not, it does not matter.

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