

Customary Law and the Rabha people of Assam: An Overview

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Abstract: Customary law can be termed as the rules related to the societal life of an ethnic group of people that are related to and associated with the customs, observances, and beliefs. Customary laws are the rules and norms that are created to govern a society. The customary laws are traditionally created set of rules that are evolved and formulated for the maintenance of a society. Customary laws are related to the way of life of people. There are certain customary laws that are also considered or accepted as legal laws, which are executed in different matters such as in the matter of the inheritance of property, in the practice of life cycle ceremonies and so on. Rabhas are one of the major schedule tribe of Assam. The tribe has their own unique colourful cultural heritage, social rule and regulations and customary laws related to different traditions and rituals. Here, in this paper effort is being made to understand the concept of customary law in general, the customary laws of the Rabhas in particular and the customary laws related to the life cycle ceremonies of the Rabha people of Assam.

Keywords: Rabha, Customary law, Pandulipi, Rites and Rituals

Introduction: Customary law is a set of customs, practices, and beliefs that are accepted as obligatory rules of conduct by indigenous peoples and local communities. Customary law forms an intrinsic part of their social and economic systems and way of life. What characterizes customary law is precisely that it consists of a group of customs that are recognized and shared collectively by a community, people, tribe, ethnic or religious group. This contrasts with written law emanating from a constituted political authority, the application of which is in the hands of that community, generally the state(Customary Law and Traditional Knowledge, WIPO, 2016). Customary laws exist in all traditional and ethnic societies. However, tribal societies adhere more to customary laws for the maintenance and governance of the society in traditional way.

Tribal Customary Law has been studied as a part of the study of tribal society. In the process, a distinction has been made between sanctions in primitive society and the law of the more advanced society; between the modified, unwritten customary rules recognized as binding

by a tribal community and the larger corpus of the law enacted and enforced by the formal state system. The critical role of tribal customary law in the maintenance of tribal solidarity and now tribal identity has generally been overlooked. The study of tribal customary law in all aspects has remained a relatively neglected area of tribal studies in the country(Singh, 1993). In this connection Saussine & Bernard holds that some jurists and philosophers argue that customary practices are all we have to guide us in aiming to solve practical questions: moral principles, written laws, legal doctrines, and philosophical writing are all articulations of pre-existing customs. Such accounts are deeply skeptical of arguments in the name of reason, arguing that those who claim a priority for rational principles said to be manifest within a set of conflicting customary practices are claiming priority for their preferred doctrines, doctrines which are themselves nothing but a rationalization of a set of customary practices having no special status or claim to allegiance(Saussine& Bernard, 2007).The customary law of a tribe is built upon its experience and naturally alters to meet new circumstances as they arise. A new step in evolution affects the law, in that it may put existing laws out of date, and equity demands that the judgments givenshould fit the changed conditions. In time, these changes pass into law because ofbeing the accepted view of all courts on the subject and the old rules are tacitlyabandoned.Changes in customary law occur mainly for the following reasons:

1. Owing to new conditions of life, superimposed on the people by outsideinfluences, which create new legal possibilities, e.g. bankruptcy.
2. Through the changing of a basic principle owing to modern influences, e.g. theinheritance of land by women. (Territory, 1971)

Hence, the set of laws once created for the smooth maintenance of a society and culture are known as customary laws, which are also well recognized by the present organizations. Every ethnic community performs their traditional activities by following their customary laws more or less.

Assam is a territory of a diverse ethnic group of people. The tribal communities of Assam are divided into two groups i.e. Plain tribe and Hill tribe. People who live in the plain areas of Assam are known as the plain tribe and the people who live in the hill areas of Assam are known as Hill tribe. The Bodo, Garo, Missing,Dimasa, Karbi, Rabha, Hajong, etc. are the tribal people

who are found in almost all the districts of Assam. In this present article, the effort is being made to throw light on the customary laws related to the life cycle ceremonies of the Rabha people of Assam.

Objectives: Following are the objectives of the present paper:

1. To discuss and understand customary law in general.
2. To understand the customary law of the Rabha people.
3. To know the customary laws of the Rabha people in relation to their life cycle rituals.

Methodology:

The methodological approach of the present study is essentially qualitative. This paper is based on both primary and secondary data; primary data's are collected in the area of Goalpara districts of Assam. During field study, observation method is primarily used. Formal and informal interviews also carried out with the villagers of the selected areas. Group discussion was also conducted during the field work. Number of Journals, magazines, souvenirs etc. is used as a secondary source.

Analysis and Discussion: The Rabhas are one of the major indigenous tribal groups of people, belongs to the greater Mongoloid ethnic group of Assam and North-East India. The Rabha tribe is a plain schedule tribe among the other 14 plain tribes of Assam. The tribe is concentrated in different parts of Assam, Meghalaya, West Bengal, Bangladesh, Manipur, etc. According to Hunter, "The Rabhas are also an aboriginal people, but they have now no language of their own and speak either Assamese or Bengali. The Rabhas subdivided into several classes or clans. In their mode of living, they resemble the Kacharis, but, unlike them, they do not as a rule live near hills or forests" (Hunter, 1879, p.37). According to G.A. Grierson "It should be mentioned that Rabha appears to be a Hindu name for the tribe and that many men calling themselves, (or called by their Hindu neighbours) Rabha, speak pure Kachari. At one time Rabhas were the fighting clan of the Bara family, and many members of it joined the three Assam regiments before they took to recruiting Gurkhas" (Grierson, 1903, p.105). According to Endle, "The name of this tribe Rabha is of uncertain derivation and in this district (Darrang) the people themselves is sometimes called Totla, which may perhaps be a nick name. Another term used in designating them is Datiyal Kacharis, i.e., Borderer Kacharis (dati-border, edge, boundary); and some hold that their

original home and habitat was the region bordering on the northern slopes of the Garo hills" (Endle, 1911, p.83).The Rabhatrbe has eight different sub-groups, namely- Rangdani, Maitori, Pati, Koch, Bitalia, Dahuri, Hana and Songa.They have their distinct language, literature and culture. They celebrate different types of seasonal as well as religious festivals.

As a primitive indigenous tribe inhabiting Assam, the Rabha tribe has its specific multi-faceted, colourful cultural heritage. Like, the other tribes of Indo-Mongoloid tribal community, the Rabha culture also reflect Indo-Mongoloid culture from different aspects. The Rabha tribe is enriched with its unique and attractive rich socio-cultural heritage.

The customary laws of the Rabhas are cooperatively known as '*Pandulipi*'. The vital social order of the Rabha tribe is ruled by their localcustomarylaws. The social life of the community is enriched with its distinct traditions, customs, usages, practices; religious beliefs, etc. These elements differentiate the tribe from the other group of tribes in their social and cultural life. From the aspect of their social life, the Rabha people are democratic. They are most conscious, traditionalist, well-organized, well-structured, and systematic in their social system. The *Pandulipis* are constructed based on their social customs, traditions, and so on. The subject like-Jurisdical power of the society, the mode of inheritance nature, the different types of marriage, principles of marital relationships, and birth and death rites and rituals are there under the coverage of *Pandulipis*. The *Pandulipis* of the different area may differ from each other. The contents and applications of each *Pandulipis* are prepared depending on the customary practices prevalent in the Rabha local areas. To run their society smoothly as well as in a disciplined way, they have particular social organizations. These organizations have existed in Rabha society from the very early times, and these are at the foundation of smooth administration in preserving Rabha traditional customs, beliefs, practices, and so on.

Family is the basic social unit of the Rabhas like other indigenous tribal and non-tribal groups. Traditionally, the Rabhas practiced the system of the joint family, which comprises one or more than one married couple and their children, grandparent, and near and dear kin members. The families are patriarchal where the elder member is considered the head and guardian of the family. He takes all the responsibilities of the family to maintain the family systematically. He is

also responsible for the welfare of the family. The other member of the family usually follows and obeys the head of the family.

There are some customary laws related to the performance of birth rites in the Rabha society. The rites and rituals related to birth ceremonies play a very crucial role in the social and cultural life of the Rabha community. The customs and beliefs relating to birth ceremonies are slightly different in each Rabha section. During the birth of a baby, the delivery is generally performed in their main house. At the time of delivery, no male or children are allowed to enter that particular house. After the birth of the baby, both baby and mother are treated as unclean unless the umbilical cord of the baby is fall. The mother with her baby is restricted to enter the main part of the house, temple, kitchen, and cowshed. After the birth of the baby, the whole family is also restricted to take part in public institutions for seven days for a male baby or five days for a female baby. They are also not allowed to cultivate before the purification ceremony is over. The purification ceremony is of two types-provisional and the final. The provisional purification ceremony is held within one week. On the other hand, the final purification ceremony is performed after one month. On that day the houses must be cleaned and must sprinkle holy water. The purification day is performed after the umbilical cord of the baby falls. On the day of purification, the umbilical cord is tied with a piece of cloth and kept in a bottle. The hair of the baby is touched with a razor on that day. After the completion of the purification ceremony, they sacrifice a he-fowl to the deity *Khetor* for the welfare of both the baby and mother. According to the customary laws of the Rabhas, name is given to the newborn baby on the day of *Pachuti*. *Annaprasan*, *Chudakaran*, etc. are some other occasions related to the child.

The system of the celebration of a marriage ceremony and their customary laws are unique in Rabha society. Like other communities, the Rabhas also consider marriage as a fundamental obligation in human life. The most crucial tradition prevalent among the Rabhas regarding marriage is to know the *barai*'s of both the bride and groom's party because marriage between the same *barai* is strictly prohibited. The Rabhas have some basic customary laws to govern marital relationships. The following are the customary laws for marriage-

1. Marriage is a state-sanctioned by society into which a man and women enter with the approval of their respective families. After that, the couple can beget children and start a household of their own.

2. No man and woman will enter into a marriage state if both of them belong to the same *barai* or *huri*. If it points out that they belong to the same *barai* or *huri*, the couple must be separated. Nowadays, it may be regularized by society with a hefty fine.
3. A man may enter, if he so chooses, into such a relationship with more than one woman even during the lifetime of the wife or wives married earlier.
4. A woman once declared and accepted as a wife of one man cannot marry another man in the lifetime of her husband without a proper and recognized separation.
5. All groups of the Rabhas are socially equal and have no prohibition to eating together or intermarriage.
6. Intermarriage with a man or woman of a superior Hindu caste may be allowed but in the case of a lower Hindu caste may be recognized with a purification.
7. Intermarriage with a man or woman from a community of beef eaters cannot be allowed.
8. Cross-cousin marriage is allowed. For example, a man may marry his mother's brother's daughter.
9. If a man or woman has a premarital or extra-marital relationship with another woman or man of his/her nearest kinship, they are socially ostracized if they do not belong to a close relationship this lapse may accept ritually.
10. Junior levirate system of marriage is allowed, so that a man may marry his deceased elder brother's wife. However, a senior levirate system of marriage is not allowed, so, if a man marries his deceased younger brother's wife, then he is ostracized from society.
11. Similarly, the junior sororate system of marriage is also prevalent in society, so a man may marry his wife's younger sister. However, if he accepts his wife's elder sister as a wife (senior sororate system of marriage), he is ostracized from society.
12. Parallel cousin marriage is allowed, so that both elder and younger brother may marry their maternal uncle's elder and younger daughter, respectively.
13. The accepted rules of procedure are laid down by the custom for selection, proposal, negotiation, and performance of the function that has to be gone through before a man may claim a woman as his wife. (Rabha, 2002)

The Rabhas get married by negotiation, negotiation of parents or guardians or elderly persons of the bride and groom's family. However, it is noteworthy that the system of the marriage of every Rabha group is not the same. However, at present, there are seven types of

socially accepted or recognized marriage systems are prevalent among all the Rabhas. These are –*Kambung Bibah or Pouranik Rajasik Bibah: Gopan Bibah or Jachuki Bibah Sadari Ana Bibah: Samajik Bibah or Adhunik Rajasik Bibah, Gharjoain Bibah, Bidhava bibah and Sarkari Registration and Mondirokora Bibah.*

There are different customary laws related to the death rites of the Rabha people. Generally, there are two kinds of funeral rites related to natural and unnatural deaths in Rabha society. In a natural death, the dead body is washed with *santi jal* and then dressed with new cloth. In the case of a male, the dead body must have *a turban* on the head, and in the case of a female, it must have *khadabang*. After that, the hair of the dead female body must be oiled, and put a vermillion mark on her forehead. Then the dead body is kept in an outer house for a night for enabling the distant relatives to attend the last rites. The dead body is buried or cremated the next day. Again, in case of unnatural death, causes either by epidemic or suicide, the dead body is buried not burnt. The whole villagers and family members are restricted not to take food unless the dead body is taken to the ground of cremation according to their customary rule. On the way coming back to the house from the cremation ground, the members who attend the cremation are required to take a bath on their way. They can bathe in the nearest river or at the entering gate of their house, after that they receive some amount of smoke produced by burning cotton and dried leaves of jute. This smoke generally keeps ready for them by the other members of the family at home who are not attending the cremation. This ritual is performed to scare away any evil spirit. The family members are not allowed to eat fish, eggs, and meat unless the death rite is completed and eat boiled rice.

The funeral rites are performed differently by the different sections of Rabhas. This differentiation is due to their traditional beliefs and customs. However, the traditional funeral ceremonies are mainly observed among the Rongdani, Maitori, and the Dahuri groups of the Rabhas. In their society, the whole family of a dead man is treated as unclean unless the death rites are adequately performed for the peace of the departed soul. There are several kinds of death rites prevalent among the Rabha society for their clan or group. Some of them can be mentioned are-*Kalpani, Badungduppa, Farkanti, Masuani, Sarbajanir Sradhakriya, etc.*

Conclusion: Customary laws are central to the very identity of Indigenous peoples and local communities, defining rights, obligations, and responsibilities to members relating to important

aspects of their lives, cultures, and world views. Customary law can relate to the use of and access to natural resources, rights and obligations relating to land, inheritance, and property, the conduct of spiritual life, maintenance of cultural heritage and knowledge systems, and many other matters (Customary Law and Traditional Knowledge No.7, 2016). The customary law is very intrinsic and inherent to the tribal culture of Assam and North-East India. The Customary law of every tribal community is different from each other. The above discussion concerning the Rabha people and their customary laws related to their social and cultural activities divulges that like the other tribal groups of Assam, the Rabhas have acquired implications in connection with their culture and tradition. The unique customs, traditions, rites and rituals established them as an autonomous group of people.

References:

1. Cory, H & M.M. Hartnoll (1971). *Customary Law of the Haya Tribe: Tanganyika Territory*. Frank Cass & Co. Ltd.
2. Customary Law and Traditional Knowledge No.7. (2016). World Intellectual Property Organization.
3. Endle, R. S (1911). *The Kacharis*. St. Martins Street, London: Macmillan and Co., Limited.
4. Grierson, G. A (1903). *Linguistic Survey of India*, Vol-III, Part-II. Kolkata: office of the Superintendent, Kolcutta, Government Printing.
5. Hunter, W. W (1879). *A Statistical Account of Assam*. London: Trubner & Co., London.
6. Perreau-Saussine & Bernard Murphy (eds). (2007). *The Nature of Customary Law: Legal, Historical and Philosophical Perspectives*. Cambridge: Cambridge University Press.
7. Singh, K, S. (eds.) (1993). *Tribal Ethnography Customary Law and Change*. New Delhi: Concept Publishing Company.
