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Ao Naga property and inheritance laws: Views through patriarchal lenses

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Abstract

Age old customary laws of the Ao Naga tribe of Nagaland (India) give legitimacy to social practices which wholly supports and promotes patriarchy. Within these non negotiable social norms is the very important issue of property and inheritance laws. The paper has made an attempt to revisit these inheritance laws and in its process have rediscovered the deep hold of patriarchy within Ao society, still permeating every village and every household. Although daughters are treasured, male heirs continue to be given a special position within family, village and clan structure. Even with the passage of time there has been no dilution or erosion or alteration of property inheritance laws both for the sons as well as for daughters. In principle the Ao tribe continues to fiercely defend its customs and practices. Inheritance laws by default have been uniformly adopted by all the Ao villages in Nagaland. Despite the adoption of modern education and Christianity, social customs and practices for the Ao tribe remain the same. Within this entrenchment of patriarchal tradition and its unbending hold, lies the very identity of Ao tribe.

Keywords: Patriarchy, property inheritance, male heirs

Introduction

The Ao tribe is a major tribe among seventeen tribes and other sub tribes of Nagaland state in India. Historically the Aos have occupied six ranges of Ao territory, which earlier had stretched into Sema territory to the South and Lotha territory to the South-West of their present boundaries (Temsula: 1). All Ao villages were thus placed as per their proximity under six ranges namely Asetkong Range, Ongpangkong Range, Langpangkong Range, Jangpetkong Range (earlier Changkikong Range), Japukong Range and TsÜrangkong Range.

The Ao inhabited area now is much smaller than it was in the past and at present is known as Mokokchung district of Nagaland. The 108 Ao villages (2011 Census of India) are thus still strongly entrenched in their traditional customs and practices. The Aos have a patriarchal form of society and the foundation of Ao society is the concept of clan. According to Oral history of the Aos, they originated from Lungtorok (six stones) in Chungliyimti village, at present in Tuensang district of Nagaland. Dwelling there for many generations Ao legend claims that there emerged three distinct clans from the first three men who emerged out of the earth, namely Pongener, Longkumer and Jamir. Even today these are the three main clans among the Aos. Although there may have emerged other clans with separate designations derived from the manner of their origin, whatever the subtitles they carry, their blood ties can always be traced back to one of these main clans (Temsula: 31). The Ao society is patriarchal and therefore father's clan determines that of his children.

Gender norms are present in all human populations, although it may vary across cultures and through time. Gender equality in inheritance also varies across cultures and through time. Inheritance rights may differ between communities, especially if it's between patriarchal and matrilineal societies. Patriarchy is traditionally defined as "a community of related families under the authority of a male head called a *patriarch*; applied more generally to any form of social organization in which men have predominant power" (Oxford dictionary). Sociologist Sylvia Walby defines patriarchy as "a system of social structures, and practices in which men dominate, oppress and exploit women" (Walby 1990:20). Patriarchy has been viewed through different lenses depending upon the school of thought of thinkers and writers.

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Generally the concept of patriarchy has usually been approached to describe the relative position of men and women in society, understanding the inequalities of the past and the present, and attempting to change it. It has also undergone much scrutiny through the lens of feminist critiques pointing out its theoretical and historical flaws (Miller: 2). Gerda Lerner the feminist thinker says, “patriarchal as a system is historical: it has a beginning in history. If that is so, it can be ended by historical process” (Lerner: 7). The paper does not attempt to convince readers to abandon or continue using the concept nor does it linger on discussions on the conceptual framework. Rather the paper makes an attempt to use patriarchy as a tool to think with, in understanding social framework of inheritance rights of the Ao Naga tribe, beginning with the past and observe changes if any.

In the life of a community such as that of a tribal society inheritance rights occupy an important place. According to Customary law (customary law is a set of customs, practices and beliefs that are accepted as obligatory rules of conduct by indigenous peoples and local communities -WIPO, 2023) the Ao tribe being patriarchal, inheritance rights called “senmang” and ancestral property is transmitted only along the male lineage.

Materials and Methods

This paper is based on primary data obtained through field study and interviews. Secondary sources involve published books and articles obtained from archives, libraries, and other repositories. The approach throughout the paper was descriptive, analytical and evaluative in nature.

Death and Inheritance

According to traditional belief of Aos, one of the most deplorable conditions to be in is of a man dying with no male heirs. For only a male heir is entitled to offer prayers to MeyutsÜngba, Lord over the dead, the god of judgement, who judges man on the day of his death. Every person keenly aware that they had to eventually pass through MeyutsÜngba’s courtyard for final judgement (Jamir & Longkumer: 48, 49) felt a deep need to have a male heir who would guarantee prayers to MeyutsÜngba to see that all earthly scores are settled, so that the departed soul is relieved from burdens of torment in the land of the dead. With this tormenting fear in view, a person who had no male heir, would reserve a part of his property for a male relative, who, in receipt of the property, would perform the ceremonies for the deceased. Females were prohibited to perform any ceremonies for the dead.

Nokenwala, an 89 year old Ao woman, narrates about seeing as a little girl such death rites in her village, Longkhum, circa 1940’s. The village divided into three different khels had numerous village gates. Whenever there was a death in any family, a male member of that family would immediately accompany the spirit of the death beyond the gates of the village. If the death occurred in the daytime he would carry “nok” (machete) or “knu” (spear) or if it occurred at night he would hold “milen” (fire torch). He would then speak to the spirit of the dead person saying “do not be afraid, spirits of our ancestors will come from the land of the dead to welcome you”.

Sons and Inheritance

The fundamental nature of inheritance according to Ao

customary laws is the presence of male bloodline and all agnatic descendents are included in the inheritance. Sons in an Ao family are known as “senmangers” (inheritors). Daughters are not recognised as rightful heirs. The eldest son is expected by duty to look after his parents and inherited property, and upon his father’s death, to act as a manager over the family’s undivided property. In case of death of both parents, if the youngest son remains unmarried the family house is given to him; otherwise the eldest son has legitimate rights over it.

Ancestral property and self acquired property as Inheritance

According to the Aos when a village was founded each clan took a portion of the land and held it as common clan land. The tendency has been for some of this to become private property (Mills: 188). For the Aos ancestral property (movable and immovable) is composed of landed property, valuable ornaments made of crystal, carnelian beads, brass bells and conch shells, ivory armbands, ornamented attires, etc. Ancestral property is given to customary heirs; but movable ancestral property is generally inherited by the eldest son or by the nearest agnatic heir in the absence of a son.

Self acquired property (movable and immovable) eventually would become ancestral property too for his heirs. Even in the instance of movable property it is the eldest son who has the real chance of succession. For self acquired landed property, inheritance is jointly shared by the sons. But no son can compel his father to share that property while he is alive. It is totally the prerogative of the father to address the question of whether to give or not and when to give.

Exclusion from inheritance

There have been instances when custom allows the father to exclude a son from inheriting ancestral property on grounds of disloyalty to the family. The oath of the father is final and the son has no privilege to challenge this exclusion by the father.

If a man marries a woman from within the same clan, he is exorcised from the village as well as the clan and he loses all inheritance rights from within the family as well as the clan (Toshi, Longkong village, 04-07-2024). This is a common practice in Ao villages.

Landed property and agnatic heirs

In an Ao family structure, male sons as descendants are taken as inheritors of ancestral property and it is inherited as joint-tenancy. After the death of the father, the property is divided into parts equivalent to the number of inheritors. In the absence of male issue, landed property reverts to the brothers and their descendents, and in absence of brothers, uncles and the nearest agnatic heirs. In case the property owner is the last man of the clan in the village, on his death, the nearest heir of his clan is traced from another village. He is handed over the property as clansmen have the same ancestors.

Debts and agnatic heirs

The Ao tribe has a set of very distinct responsibilities entrusted to agnatic and clan descendants. In case the deceased leaves debts, his heirs are must pay off the debts regardless of the size or proportion of inheritance gained by them. His heirs are made accountable and there is no

alternative choice given to them. The creditor of the debt has a claim to attach any portion of the property of the deceased. Even after, if there remains a balance of debts, the heirs have a responsibility to pay off the debts out of their own wealth.

Women and Inheritance

By default patriarchal customary practices among the Aos does not favour women of the family to inherit ancestral property. Thus women have no say in matters of inheritance. Though a woman can possess property she cannot inherit it. Only in most rare cases, a father having no sons, during his lifetime as an act of affection can give a small portion of his property to his daughter and those gifts would remain valid after his death, provided that the girl makes even a nominal payment for the land. However, if no payment has been made, after her death it goes back to her father's heirs. (Mills: 189, 190). But he is prohibited by custom from distributing the larger part of his property, despite him not having a son as an heir.

Results and Conclusion

Customary laws of all tribes of Nagaland are protected by the Constitution of India under a special provision granted by Article 371(A). Under this Act without the consent of the State assembly, the Parliament cannot legislate on matters relating to the Naga religion, social practices, customary law, land rights, and civil and criminal justice. This recognition and protection of rights has allowed the Ao tribe and its patriarchal system to continue.

However some definite changes have been seen in recent times. The Ao family structure shows more open-mindedness towards inheritance of landed property but only if it has been acquired or purchased (private property). There have been cases wherein daughters have been gifted a property or some property by the father. The assumption is that modern education and Christianity in equal measure has impacted the society of the Ao tribe to allow this shift. One clear observable fact is that in such instances generally there have been little or no voices of resistance or interference coming in from the male heirs or clansmen. On the other hand there have also been cases reported of agnatic relatives depriving acquired or purchased property to women. For instance three daughters of a family from Kohima, Nagaland, at the death of their father, had to face his brothers who came and took hold of their home, and every item along with the home, reminding the daughters that they had no "senmang". In another recent case from Dimapur, Nagaland, upon the premature death of the only son, only preceded by death of the father some years earlier, male heirs and clanmen stepped in and insisted upon transfer of all ancestral and acquired property including a .22 rifle.

It is apparent that there are signs of some openness towards bequeathing of acquired or purchased (private property) towards daughters however inheritance of ancestral property continues to be a right belonging to sons or male lineage and all agnatic descendents. In principle the Ao tribe continues to fiercely defend its customs and practices. Tali, a 91 year old from Changki village reiterates that there is no question of it diminishing in importance and that Ao Naga property and inheritance laws will continue to live on along with the other traditional customs and practices. Perhaps the rationale behind this deep entrenchment of patriarchal tradition and its unbending hold lays the fact that its survival

guarantees the very survival of the Ao identity.

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