

Traditional Institutions of Land and Nature of Property Rights in the Tribal Society of Assam, India, With Special Reference to the Karbi Tribe

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Abstract

The Karbi tribe is one of the major ethnic groups in northeast India, especially in the hilly areas of Assam. According to the customary law of Karbis, the land was viewed as communal property and managed by the community through various sets of customary rules over generations. Traditionally, the tribal villages in the hills did not have fixed or recognized territorial boundaries since the people shifted from place to place according to the need for *jhum* (shifting) sites. This study concluded that the Karbi's land was viewed as communal property and managed by the community through various sets of rules practiced over generations. However, it is an accepted phenomenon that hill tribes are yet to receive legal entitlement over land in many areas since they have been cultivating for decades under communal ownership of the land. In this context, this paper analyses Karbis' institutions of land and the nature of property rights while exploring the various concepts of landholding system. Since this study is historical, the paper has been developed with the help of the historical method, which is an important method to interpret historical data and oral history sources. Oral interviews also merged with historical methods while dealing with different sources in the construction of this study.

Keywords: Community ownership of the land, customary laws, Hill tribe, Karbi Anglong Autonomous Council, Shifting cultivation.

1. Introduction

Land is one of the most important resources in all agrarian societies. It is seen that the basis for decision-making regarding land holding, usage, management, and inheritance of land is closely associated with the social and kinship structures of their community (Stack 1908, Fernandes and Barbora 2008). However, it has been changed due to socio-economic factors. Traditionally, the tribal villages in the hills did not have fixed or recognized territorial boundaries since the people shifted from place to place according to the needs of *jhum* sites. The land was seen as communal property in tribal society and was controlled by the group through numerous sets of laws practiced over centuries. (Bordoloi 1991, Phangcho 2003, Devi 2006, Boorah 2007, Teron 2008, Baruah 2010, Das 2011, Dhanaraju and Teron 2020). The traditional Karbi society was no exception to this. This paper discusses the importance of land and how it is controlled by the Karbi social instructions. The Karbis have well-developed customary laws governing the landholding system. These rules do not alter dramatically from one location to the next, from one tribe to the next, or over time and generations. This study

also discusses collective ownership of land as well as the historical significance of the land and also explored the various land ownership patterns; land usage patterns in Karbi communities, and the many sorts of farming practices.

2. Materials and Methods

The Karbis, originally known as the Mikirs, are the largest community in the Karbi Anglong area. Low hilltops and gentle slopes characterize the Karbi habitat. Their communities are spread throughout the hilly terrain. The Karbi habitat is characterized by low hilltops and gentle slopes. Their villages are scattered in the hilly habitat. The Karbi Anglong District is one of the two Autonomous Hills Districts of present Assam, the other being the North Cachar Hills District. This study employed a combination of methods and techniques to gather the required information. However, the data is collected from primary and secondary sources, but both the information is merged in the course of research. The primary source for collecting data for the study is based on oral sources and archival sources such as government reports, gazetteers, Administrative Annual Reports, Statistics, etc. The secondary source material includes the relevant published or unpublished written material such as reports, articles, books, pamphlets, etc. For analysis of the research questions and objective of this study various methods, tools, and techniques are employed. Being history research this study employs the historical method in the use of both the primary and secondary sources in the research process. Thus a systematic and depth study was conducted for the interpretation of research questions. The collected sources are analyzed through critical analysis and interpretation methods. Both primary and secondary data are used with systematic analysis with the help of qualitative approaches. Oral interviews also merged with historical methods while dealing with different sources in the construction of this study. The historical method is a set of tools and standards that historians use to explore and write about the past. This study uses this historical method to interpret the collected sources and place them in the present context of the study. This study uses historical methods to understand the changing discourse of land and the factors that were responsible for such change.

3. Result and Discussion

3.1 Karbi Social Institution and Its Functions

Karbi society is guided by their customary principles, which are observed and followed by the people. The Karbis attach great importance to established norms of human behaviour. The people are governed by customary laws and practices, further strengthened under the provision of the Sixth Schedule of the Indian Constitution. The customary laws are there in the spheres of social issues. The issues include divorce, custody of children, adoption, guardianship, and maintenance. There are two important institutions in the Karbi society, one is called the village council and another is the youth club. The village council is known as *Mei* and the youth club is known as *Terank*. The old custom of Karbis social organization splendidly survives even in the present administrative change. The administration of each village is run by the village council known to them as *Mei*. Each *Mei* is presided over by a headman or Gaonbura called Sarthe. The position of the headman was always coveted as he is the most honored person in any social, religious, or cultural transaction in the village (Phangcho 2003, Walter Fernandes and Sanjay Barbor, 2008). All adult males of the village are members of the *Mei* known as *chakri* or *mekar*. In the *Mei* the number of *chakris* is not limited and each one of them takes an active part in the *Mei* of their village. The *Mei* of the villagers has several functionaries like- *risobasa* (assistant head of the village), *Pherangke* (collector or informer), and *Uvebarim* (adviser of the bachelors), etc. Every sitting of *Mei* is held at Sarthe hem

(Headman chamber), its headquarters. The *Mei* is the primary traditional institution of the Karbi. The *Mei* performs various development works for the benefit of the villager. It is also the trial court of the village. Disputes arising out of land ownership, adultery, thefts, guerillas, etc. are solved through it, and a fine is imposed on the guilty person. The *Mei* maintains law and order in the village and ensures peace amongst the people. The maintenance of unity and cooperation of the people is also another objective of the *Mei*. Fixation of dates for observation of various festivals is done through the *Mei*. Moreover, the setting of the village to a new place due to some circumstance's reasons, distribution of *jhum* sites among the villager, and any works are also taken up through the *Mei*. The Sarthe is appointed by the Habe. The Sarthe played a dominant role in the village-level administration. He has full control over social as well as judicial matters in the village. He is the most respected person in the village. He is the first person to be invited with honor to attend the function which takes place in his village. Sarthe can take all kinds of cases except murder and sex offenses like *kursenem* and *liesenam* cases (marriage within the same clan). The cases of murder and sex offences are taken up by Habe and Lindokpo (chief of the state). The Risobasa holds all charges of Mei in the absence of the Sarthe (village headman). He also takes up all problems of youth. Headquarters of *riso-ejang* (young boys and girls) is the chamber of Risobasa. The *Pherangke* (village informer) is to inform the people when a meeting is summoned but the Sarthe. Moreover, he has to arrange food and lodging for the guest present in the village. As a collector, he has to collect money or coins for any function in the village.

According to customary law, the Recho (king), Pinpo (assistant of the king), and Lindokpo (chief of the state) promoted Habe to Sar Habe. At first, they do with Banta Kekok, which means whom they select should be the Habe. The village Belangso Rongchek Area West Karbi Anglong Longsing Bey was selected as Sar Habe. On the day of oath taking ceremony the village headman will practice religious rituals called Rosot Kethat, or Vo- Kanchelang they offer pig and fowl as well as rice beer and alcohol, Harsun Jirlang (wild Garlic) without this the ceremony will be incomplete. After completing the first step they are going to select the tree for making Jambili Athon (a wooden craft representing Karbi's identity), whenever any death rituals or any cultural program is held in the Habe area they can take the Jambili Athon to represent that they belong to Sar Habe village. In some of the villages in west Karbi Anglong and east Karbi Anglong, when the village headman or chief of the state died they represent Jambili Athon in front of the courtyard for at least one week. As mentioned, Karbi society is guided by their customary principles, which are observed and followed by the people. The family is the basic unit of society. They follow the patrilineal system, tracing their descent in the male line. The children belong to their father's clan. Clan among them is functional as it plays an important role in strictly maintaining exogamy. Among the Karbis, the common form of marriage is monogamy. They have no bride price system. Marriage by negotiation is common practice among the Karbis. However, marriage by elopement (*katpon-jui*) is also prevalent. It is considered a sin if the marriage takes place within the same clan. Earlier, it was strictly opposed. Nowadays, there is a custom to legalize marriage by elopement, even after the birth of children (*bisar-chepa-chok*). Widow Remarriage is socially accepted. The younger sister of the deceased wife is preferred. However, for this her consent is essential. Junior levirates and junior surrogates are permitted. The maternal uncle of the deceased puts forward a proposal for the remarriage of a widow with her husband's younger brother. After remarriage, the second husband takes responsibility for her children, if any. In the same way, a widower following his marriage with his deceased wife's younger sister has to extend her all the rights of a wife. If a widow or widower marries outside the prescribed categories, then they have to pay a fine fixed by the village headman for their social acceptance and recognition (Athparia, 2012). Among the Karbis, it is seen that authority is vested in the senior-most male member of

the family who has power and authority without ignoring the views of other adult members. It is accepted and obeyed by the rest of the members of the family. His eldest son needs prior approval from him relating to any family matter. However, if he is unable to maintain his authority due to ill health, authority is automatically vested in the eldest son. In case of the death of the head of the family, his eldest son attains the headship of the family but decisions on various rites. But if he marries a girl from the same clan, he loses the right to inheritance of the property of his deceased father and has to reside separately from other family members. In such a situation, the youngest son of the family gets the right to inheritance property left by the deceased father.

Since the establishment of Karbi Anglong Autonomous Council in 1952, the powers of the Council are divided into fourfold system of administration i.e, legislative, administrative, financial, and judicial. With regard to the last of these, there has thus far been no attempt to put this theoretical power into effect, and traditional village-based mechanisms of conflict solution are still in effect (Athparia, 2012). The Autonomous Councils employee, the Borgaonbura or Sarkari Gaonbura acts as the connection between the Autonomous council Authorities and the people. The Sarkari Gaonbura by any implication is not an important personality in the village affairs but he has to be present at the village level meetings. In the sample villages, the *Mei* discharges the duties of village level grievances on behalf of the Autonomous Council. This Gaonbura has no real authority as such, and owes his origin to the British period, where a single figure was appointed as a point of contact between the village and external authorities for the purposes of tax collection.

3.2 Community Ownership of the Land

For various historical and geographical reasons the tribal communities in Assam have been practicing primitive agriculture with communal ownership of land. Adoption of Agricultural innovations has been very slow in this region. There are many institutional factors responsible for the slow growth of agriculture and the slow adoption of agricultural innovations (Gupta, 1991). One of the most important factors inhabiting agricultural development in the region is communal ownership of land. Under this type of ownership, there is no individual initiative in the direction of development and no incentive for the upkeep of soil fertility and land development. Of late, because of the inherent contradictions in the communal ownership of land, privatization is gradually emerging as the main form of ownership of land. Of the various land ownership patterns in the region, we can distinguish three main categories. Valley lands and terraced lands with continuous cultivation have come under private ownership. Homestead lands surrounding the residential house have also come to be recognized as private lands in most parts of the region. Further, the lands under shifting cultivation can be distinguished into two types: 1). Lands where cultivation is practiced for one or two years followed by two to four years of fallow period. These may be called short fallow lands. Here mostly closed burning system is followed. This type of land mainly exists where commercial crops like potato, ginger, and vegetable crops are grown. 2). Lands where 2 to 3 years of cultivation are followed by 6 to 8 years of fallow period. This type of land may be called as long fallow land. Of these two types, in most places short fallow lands have also become private lands for all practical purposes and the latter type, the long fallow lands are still under communal ownership of land (Meghalaya these lands are Ri-raid meaning community lands). It is generally observed that the productivity of land under private ownership is more than is in the two types of lands under shifting cultivation. And further, the lands under long fallow agriculture. These differences may partly be attributable to the type of ownership of land mentioned above and the differences in the technology adopted in different categories of land.

Shifting cultivation is prevalent among the hills Karbis particularly those who live in the hilly terrain. It is also practiced to a limited extent in the lower hill slopes in the Digaru-Sonapur and Dimoria foothill areas. *Jhum* cultivation begins in the middle of February or the beginning of March when the *Jhumiyas* (shifting cultivators) began to cut down trees on the hill slopes to be used as *jhum* field. This work is called *ritkepam*. The next phase of the work is *Mekekai* when the dry materials are burnt. This is followed by a complete clearing of the area as well as preparing the soil with the help of hoes. After having prepared the soil the needs of the cereals are broadcast. This is done during April- May when the summer rainfall begins. The principal cereal crop is rice (*sok*), and along with other *jhum* crops like maize (*thengthe*), arhar (*thekek*), cotton (*phelo*) taro (*hen*), pumpkin (*bonghom*), etc. are also grown in the same field. When the paddy seedlings attain some height, there begins the *sokarlu* process of weeding. Throughout the growing season, the paddy and other crops are nurtured, and protected from wild animals like monkeys, wild pigs, elephants, birds, etc. which appear in large numbers and damage the crops. Paddy is harvested generally from September to October and the other crops at different times (Phangcho, 2003). *Jhum* cultivation is virtually dry farming depending solely on the summer rainfall. Although it is injurious to the soil, forest, and the natural environment, the *jhummiyas* find it economic in the sense that apart from rice several crops can be grown in the same field in the same season and at the cost of the same physical labor. In other words, *jhumming* can be regarded as mixing cropping. The *jhum* period varies from six to eight months depending on the nature of cultivated crops (Barooah, 2007). As mentioned, tribes did not experience any scarcity of land as their headman/chief/leader allotted any amount of *jhum* land according to one's needs. There was also no monetary value attached to these lands as these were not considered 'valuable property'. There was no market for sale or lease or mortgage of land. Its ownership was vested with the community whose leader distributed *jhum* land to each family. No outsider could claim any plot of land within their territory. They zealously preserved their territory. Aggression and overstepping on their territory were not tolerated. They considered it their sacred duty to protect their traditional boundaries. The land tenure system varied across communities. To understand the land tenure system among the tribal's, the tribal's can be categorized as highlanders, foothill dwellers, and lowlanders. Highlanders who exclusively practice shifting cultivation had a system of communal ownership of their land and their leader/chief distributed plots of land for *jhumming*. In the two hill districts of Assam, Karbi Anglong and North Cachar Hills, there is still no system of land tenure except the plain areas which were transferred out of the districts of Nowgaog and Sibasagar. In the hill areas of Karbi Anglong and North Cachar Hills, the system of land revenue is yet to be introduced in the areas which are not cadastral surveyed. All lands belong to the District Council, and the village headman distributes them to the villagers for *jhum* cultivation. The holders have to pay only a house tax at a nominal rate irrespective of the size of their holding. They do not have the right to permanent, heritable, and transferable possession. After the completion of the *jhumming* cycle, the land becomes khas land and the power of subsequent disposal vests with the village headman.

The Highlander hill tribes have endogenous land management. The Karbis, the Dimasas, and the Hmars own land communally. The individual ownership of the land is restricted. The village council distributes the land to the villagers as per requirement. The Kukis of North Cachar Hills are ruled by hereditary chiefs. Each village has a hereditary chief who distributes *jhum* sites to his villagers. The allotment of land among the Hrangkhols is done by the headman of the village called *Kalim*. It is he who settles the land disputes. The Rengma Nagas in Karbi Anglong own their *Jhum* lands individually and continue to own them as long as they desire. The Zeme Nagas in the North Cachar Hills have a different system of land ownership. They have three types of land, viz. land owned by the 'Kadeipeo' or the landlord;

land owned by the six clans, and the land in possession of the community. The 'Kadeipeo' allows home sites to the villagers and no tax is charged for such land. But for the *Jhum* sites, the individual families are required to deposit a basketful of paddy to the 'Kadeipeo'. The clan land is restricted to the members of a clan only. The community lands are exclusively reserved for purposes like grazing cattle, community festivals, disposal of the dead, etc (Thakur, 2007). The endogenous management of land is gradually disappearing even among the hill tribes who exclusively practice shifting cultivation due to the intrusion of the individual property concept. The foothill dwellers follow a dual system of cultivation, i.e. both *jhumming* and wet cultivation. Tribes who live in the foothill regions such as Karbi, the Dimasa, the Garo, and the Hajong practice this system. They claim individual ownership of wet-rice cultivation areas. The low landers such as the Lalungs, the Rabha, the Bodo, the Mising, the Sonowal, the Deuri, etc. also practice wet-paddy cultivation and have developed a system of individual ownership of the areas they cultivate. So far the land tenure system in the plains of Assam is regulated by the rules of temporary settlement and governed by the Assam Tenancy Act 1935 with its amendments in 1948, 1953, and 1956. Plain tribes, though their customary law is common property resource-based, yet are not recognized as rightful owners of such land. The Bodos, though the autochthones and ruled the major parts of Assam before the advent of the Ahoms, came under the clutch of the zamindari system and today most of them own only small plots of land, some with *pattas* and others without them. The other plain tribes are no exception. Land is taken at the initial stage on a periodic lease from the government and nominal revenue is paid to the government during the periodic lease. After clearing and utilizing for a few years, the occupants apply for a permanent *patta* from the government in their names. Thus, most of the agricultural lands of the tribal are in the plain districts of Assam fall under one or the other system of land tenure.

3.3 Nature of Property Rights

Most of the tribal's of Assam are patrilineal in their family structure and the lines of descent are traced through the father who is the head of the family. All the male members of the family enjoy property rights. After the death of the father, the sons become the rightful owners of the family possession. The daughters and wife are not eligible to inherit them. If the father dies without any son, the property passes on to the nearest male relative of his clan. The father can adopt a son who is entitled to inherit the family property. Again, if the father dies leaving behind minor sons, his brother, whether younger or older, will act as custodians and when they come of age to look after themselves, he hands over their property but he is never entitled to be the owner of his deceased brother's property. The tribal groups who follow these common traits include the Deoris, the Karbis, and the plain tribe: Lalungs, the Rabhas, the Sonowal Kacharies, the Thengal Kacharies, the Rengmas, the Chakmas, the Hajongs, etc.

Karbi family possesses some movable and immovable properties as their own and the head of the family is the owner and manner of it. In case of the death of a person without any male issue, his property is inherited by the nearest male relatives of his clan. However, a daughter can also inherit parental property, if there is no son in the family. Divorce (*chekak* or *cheti*) is not common among them. However, it is permitted. Any of the grounds for an extra-marital affair, cruelty, barrenness, etc. are available to a husband which may lead to divorce. On the other hand, a wife can also seek divorce from her husband on grounds of extra-marital affairs, drunkenness, physical abuse, and non-maintenance of the family. If a couple mutually agrees to separate, there is no trial. In case of a rift between the husband and the wife, the matter is informed to the village headmen (Gaonbura). If the village headmen come to know about the case of divorce either from the husband or the wife, then all the elderly members of the village and the relatives of the husband and wife are invited as witnesses and the issue gets settled

accordingly. If the Gaonbura cannot take a final decision, he can refer the case to the Sarkari Gaonbura. He can impose a fine upon the husband or the wife if they are found guilty. According to the customary law an amount of Rs100/- and 50/- are to be paid but the husband and the wife respectively as a fine or compensation fee. After divorce, the husband gets custody of grown-up children while the wife is responsible to take care of the minor children. The children may also stay with their mother if she does not remarry. If she marries again, all her children are bound to go back to the father. In the case of maintenance, it is seen among the Karbi that a widow is entitled to receive maintenance from her deceased husband's family if she resides separately. The deceased husband's family is bound to maintain her so long as she does not remarry. However, she has lost the right, if she marries again. If a wife deserts her husband, she is not entitled to maintenance.

The Karbi have well-formulated customary laws of inheritance of property and succession to office. These rules do not differ significantly from place to place, from group to group, and over time and generations. However, a man can select the person in sharing his property. He can gift a share of his property to his daughters or daughters-in-law or others. In addition, the impact of statutory laws over customary laws was also observed in some of the aspects of Karbi society. The Karbis follow the rules of patrilineal inheritance. If there is no son to inherit family property, the daughter or daughters can inherit ancestral land and other property, the right of inheritance passes on to one's brother's children and other patri kin (parental), in the given order. The prime considerations which govern the rule of inheritance are the fulfilment of obligatory duties and responsibilities by the sons or their substitutes towards their parents. A daughter or an adopted son acts as a substitute for the son born of lawful wedlock. It is customary among the Karbis that the eldest son gets the largest share of land. The younger sons also receive shares of land. The son who looks after his aged parents sometimes get the largest share of the property. The sons have the first right of inheritance of property after the death of their father. As a general rule, sons whether by the same or different wives, equally share the inherited property. After the death of the head of the family, the ancestral property as well as self-acquired property is inherited by all his male children who held it jointly. There are certain movable properties for instance, ornaments cloths, utensils, etc. owned by women which are exclusively inherited by the daughters from their mothers. Such properties may be Ancestral or self-acquired, which are generally the exclusive belongings of the mother. The eldest daughter usually gets a larger share in the distribution of movable properties. All ancestral properties, irrespective of their monetary value, are considered valuable. A woman can purchase land from her savings or with the money given by her father at the time of her marriage. The land will either go to her son or her daughter after her death. A widow has the right to enjoy her deceased husband's share of joint property and self-acquired property. The widow, along with her sons is entitled to the same share. But she is not entitled to inherit the entire property to the exclusion of her sons. She has limited power over her husband's property. She cannot sell valuable property like lands without the consent of her deceased husband other family members or near kin. She can dispose of female properties like utensils, wool, beads, self-woven cloth, etc, for satisfying her petty economic needs. In the absence of the sons of a deceased person, his daughters, brother's sons, male cousins, nearest male kinsmen, and so on, inherit his property in the order shown below. The son takes precedence over the daughter and the daughter over the brother in case of inheritance. Similarly, the brother takes precedence over the brother's son and the brother's sons take precedence over the cousins. The movable property of a Karbi woman, namely ornaments, clothes, and utensils is inherited by the daughter, the property passes on to male heirs of her husband. The components of a woman's property, female property, are gifts and bequests given at the time of marriage by her parents and relatives as well as other items, acquired by way of

inheritance. A woman possesses the absolute right of disposal of the movable properties as her private property. In the case of landed property, which a woman possesses from her father, passes it on to her son. With the establishment of modern administration, “from amongst several headmen (Sarthe) the government nominates one influential man to serve as Borgaonbura (head Gaonbura) for the villages concerned”. The Borgaonbura deals with the government on behalf of the villages and is exempted from paying house- tax. He presides over the *Mei-pi* or the great council to settle any inters-village dispute or some individual cases of a grave nature. The approval of the Borgaonbura is required for the establishment of a new village. Thus the Borgaonbura is almost a modern version of the traditional Habe.

4. Conclusion

This paper finds that most of the tribes of Assam, India are patrilineal in their family structure and the lines of descent are traced through the father who is the head of the family. All the male members of the family enjoy property rights. After the death of the father, the sons become the rightful owners of the family possession. The daughters and wife are not eligible to inherit them. If the father dies without any son, the property passes on to the nearest male relative of his clan. The father can adopt a son who is entitled to inherit the family property. Again, if the father dies leaving behind minor sons, his brother, whether younger or older, will act as custodians and when they come of age to look after themselves, he hands over their property but he is never entitled to be the owner of his deceased brother's property. The tribal groups who follow these common traits include the Deoris, the Karbis, the Plains Lalungs, the Rabhas, the Sonowal Kacharies, the Thengal Kacharies, the Rengmas, the Chakmas, the Hajongs, etc. As far as the Karbi tribe is concerned, the land is a valuable resource in society. It can be verified that the basis for making decisions about land holding, usage, management, and inheritance is intimately related to their family system. However, due to socio-economic considerations, it has been altered. Historically, their villages in the hills lacked fixed or recognized territorial boundaries since people moved from place to place in search of *jhum* places. Secondly, the land was regarded as communal property and was handled by the community according to a system of norms that had been passed down through the centuries. Recently, many changes have taken place in society. The customary communal ownership of land has gradually been replaced by individual ownership along with forcible acceptance of permanent cultivation. However, in the interior hilly areas, where people continue to practice shifting agriculture and may be regulated by the Karbi tribe's traditional institution of the land, as stated in the study.

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