

RURAL WOMEN IN ASSAM AND ACCESS TO JUSTICE: SOME REFLECTIONS

- Dr. Karavi Barman & Dr. Kasturi Bora
Assistant Professors, NEF Law College, Guwahati

ABSTRACT

Access to justice is central to the rule of law and integral to the enjoyment of human right. Gender discrimination in law is rampant across the globe and often prevents women from accessing their rights. The challenges for the vulnerable communities are greater due to reasons- historic, discrimination, economic deprivation and political marginalization. This is particularly problematic for women living in rural areas as they have to add to their concerns- the food security, economic empowerment and general well being of their children. True gender equality is when both women and men have voice. According to the OECD's (The Organisation for Economic Co-operation and Development) Social Institutions and Gender Index, only fifty five out of one hundred and sixty countries afford women the same rights as their male counterparts in law and practice. According to the Food Agricultural Organisation, almost half of the world's agricultural labour is female, although, not much progress has been made in advancing their development. Specially, the socio-economic set up of Assam has not been conducive to the overall development. Districts like Kamrup, Nalbari, Morigoan have not been able to transform the development effort to bridge the gender gap. Women are continuously condemned and demoralised, probably in all sectors because of the old patriarchal attitude persisting in different ways and in different levels of the society. The plight of women and girls living in the remote areas of Assam are deplorable with precarious access to public services including education, health, access to water and sanitation, productive land and access to energy. The ultimate social goal to sensitize people and bring a change in attitude still remains a dream, far beyond. There's a lot more that needs to be done. The need of the hour calls for 'fresh thinking'. Accessing to justice is not only just a matter of accessing to the court. It's a matter of empowering women to realize their basic needs. To put it in the right perspective, justice should not only be done but seen to be done. This paper is a humble attempt to analyse the status of women in the rural areas of Assam and the study reveals that the development process in the state is not gender neutral. Despite the initiatives on the part of the government in this regard, there is a need to create awareness and develop a sense of belongingness by creating a holistic approach towards the issue that derives much attention in the rural areas of Assam. This analytical study is to shed light on the main barriers experienced by women living in rural areas of Assam and unlock solution-both traditional and innovative.

Key words: Gender Neutral, Discrimination, holistic approach

Introduction

“The hand that rocks the cradle, the procreator, the mother of tomorrow.

A woman shapes the destiny of civilization

Such is the tragic irony of fate,

That a beautiful creation such as the girl child is today one of the gravest concerns facing humanity”-

Kumari Dhruti

Gender Discrimination is a complex problem. It affects millions of women, world-wide in a very, very concrete ways. Access to justice to women is far beyond reality in the rural areas of Assam and their plight often remains underdressed and invisible in real sense of the term. The report released by the Expert Group on the CSW62 states- ‘The social and economic injustices rural women continue to experience should not be inevitable; they are the result of global and local policy making intersecting with entrenched patriarchal practices’. Women and girls living in rural areas, particularly in Assam, have multiple identities and far from being a homogenous group, and they experience multiple and intersecting forms of discrimination and violence, including in defense of their land, territories and environment.¹

The experiences in the rural areas point out the myriad of challenges women and girls living in rural areas face on a day-to-day basis. They also point out to the shortfalls of the poverty-alleviation assistance approach often used to empower women and girls in rural areas instead of addressing inequalities in resource and wealth concentration that hinders social, economic and environmental justice. If women do not have access to justice, that directly affects their basic rights- right to food, right to water, right to land, sanitation, health, so, as a whole set of basic rights is potentially at risk due to poor or weak access to justice for women.² This paper presents an analytical study on the impediments faced by the women folk in the rural areas of Assam in accessing justice and identifies the measures that can be taken in enhancing remedies to them – both social and legal.

Key Objectives:

1. To identify the various hardships engulfing the women in rural areas at alarming rate.
2. To unfold mechanisms for the women to realize their basic rights to overcome the negative effects.

¹ Rural Women and Access to Justice, FAO’s contribution to a Committee on the Elimination of Discrimination against Women (CEDAW) half-day general discussion on access to justice (Geneva, 18 February, 2013)

² Nayak Purusottam and Bidisha Mahanta, Women Empowerment in Assam,

https://www.researchgate.net/publication/23795415_Women_Empowerment_in_Assam, accessed on 26.04.2020 at 01:02 p.m

3. To provide analysis of the study undertaken in some areas of Assam and the stakeholders bejeweled with pragmatic experience.
4. To suggest remedies and opportunities available for them to rejuvenate.

Methodology

The paper is analytical and draws insight from both primary and secondary sources. Certain questionnaires were designed to elicit opinions, perceptions and experiences on the issues of justice for women in rural areas.

The methodology outlined qualitative approach of data collection that helped to draw comprehensive picture of the accessibility to justice in the selected territories in the rural areas of Assam. Findings and conclusions have been drawn from the data obtained and comments and suggestions made by the stakeholders during conversation and consultation.

The secondary sources include the various reports of law commission, newspapers reports, journals, books and various available online resources. Nonetheless, various research studies have been referred to for the purpose of the study.

Background of the study

Historically and mythologically, women are glorified as goddess. Manu Smriti commented – ‘Yatra Naryastu Pujante, Ramante Tatra Devata’ (where women are Homid, then divinity blossoms) Enough evidences to show historically and mythodologically, women enjoys a higher place and the instances of the prevalence of ‘swayamvara system and Damayanti are worth mentioning. However, biologically, politically, economically and the religious reasons are accountable for the degradation of women. Even the environment in terms of conservation and protection of natural resources are added reasons for their degradation as these cannot be done without the involvement of women.³

Moreover, women in rural areas play the role of nature’s guardian. This stems from women being principally responsible for the subsistence of their families and communities and the need to secure resources to fulfill the responsibility. The difficult situation worsens as men increasingly migrate away

³ <https://www.ncbi.nlm.nih.gov> >pm (visited on 30.05.2020 at 05:09 p.m)

from rural villages into towns and cities whereas women are left in rural areas to work the land and carry out responsibilities both within and outside the houses.⁴

Specific challenges in the gateway of justice for rural women

- **Presence of discriminatory Laws** – Discriminatory laws affect around ninety percent of the country worldwide. It's not just a phenomena that is concentrated in developing countries or in countries with a particular vulnerability or fragility structure. It is a huge problem for women in rural areas in terms of accessing justice and reading their basic rights. Women are not having access to equal land rights and it sets a major set- back in their development.
- **Institutionalized level** – The answer to a woman's subordination for long has been her economic freedom and independence. More particularly, in the villages it is seen that a whole ray of customary practices, emotional pressures, social sanctions and sometimes plain violence prevent them from acquiring actual control over them. Personal laws too curtail the rights of women.⁵
- **Gender Discrimination⁶**- The Constitution of India guarantees equality for both men and women. A variety of rights based laws have been regulated to curb the menace of domestic violence, sexual assault and harassment. But, there is a big gap in the implementation of the laws. Crime against women has been on the rise in the last one decade. Situation of poor and illiterate women are even more worst. Communities discourage women from seeking help and the ones who dare, face stigma and marginalization.
- **Inaccessibility of Formal Court and judicial delays** – The major drawback in approaching the courts to realize the basic needs is the slow process and the expensive the nature that is beyond the reach of ordinary women a specially the ones below the poverty line⁷
- **Lack of awareness and information** – In rural areas most women do not think about their daily conflicts from a right-based point of view. They lack confidence in themselves as the claimants of rights and resources. Practices like female seclusion also obstruct the rural women to claim their rights. In most of the cases the rural women fall prey to the complexities and family pressures thereby adding to the woes in the form of discrimination.⁸

⁴ id

⁵ Mishra Namrata, Understanding Institutionalized Patriarchy, <https://www.jstor.org/stable> (accessed on 05.05.2020 at 10:12 a.m)

⁶ National Crime Record Bureau, Crime in India, 2011

⁷ Increasing Access to Justice for Marginalized People: Gol- UNDP Project, (accessed on 02.05.2020 at 5:09 p.m)

⁸ Rural Women and access to Justice, FAO'S contribution to a Committee on the CEDAW, Geneva, 18th February, 2013 (accessed on 02.05.2020 at 05:09 p.m)

Fundamental yardsticks – analysis of cases

The researchers have made a humble attempt in investigating the problems in some rural areas of Assam and explore solutions for the same.

Case Study I

In Sikharhati village situated in South Kamrup, a lady was married by following all the customs and ceremonies. Initial years were golden for her but then matters turned worst. Her husband was in some illicit relation with a different lady in that locality. She had to ultimately move out of her matrimonial house with a child carrying in the womb. She is working in a primary school in that area. The solution that was provided to her by the villagers was that all the items that were gifted to her at the time of marriage should be brought back. The Village headman, Bhupen Kalita narrated that even her family left her and so they couldn't provide further assistance.

Observations and Impressions

The educated families should come forward to voice out through proper forums. NGO's can the task in hand of educating these ladies of their rights and they should be made of the legal services available to the needy.

Sushmita Goswami, Bureau Chief, United News of India, Guwahati said that 'The women in char areas and hill areas have less access to all facilities, including basic health, so legal awareness among them is bound to be much lower, even negligible or totally absent at times. Social customs formulated by a patriarchal society dominate them and they abide by these rules, without any inkling that justice and equality have a different colour than they are taught to believe. Education is the key to make the women, not only in the remote areas but everywhere, aware of their rights, specially the legal safeguards they enjoy as governments globally are becoming more sensitive to laws for women. Access to women legal practitioners and law enforcement officers would also play a vital role in ensuring that rural women overcome their apprehensions and discomfort in approaching the authorities'.⁹

Case Study II

In the village of Aunihati in the South Kamrup area, a lady was married in a good family. After six months of the wedding she was kicked out of the house on the ground that she was unhealthy and that she did not carry any items with her from the parental house. She did not get any support from her parental home as they considered a social stigma to keep an married her in their house and also with the fear that there were other female members in the family who would be affected by her presence. The pertinent

⁹ The above statement was made by the reporter in an telephonic interview with the researchers on 23.04.2020 at 10:22 a.m

issue that cropped up in this case is that her position is just reduced to a stray dog. She simply moves door to door in that village for food and has turned mentally unstable.

Observations and Impressions

Ignorance, superstitions and absence of proper recourse has been acting as a curse on humanity and specially among the women folk in the villages.

Dr Navamita Das, Assistant Professor, Don Bosco University and the academic co-ordinator pin pointed that there were number of cases pertaining to domestic violence in that locality and also in the other nearest districts. She further suggested that a cell should be formed comprising female groups, where women members would address the issues so that an awareness medium is developed and the victims could openly come up with their grievances.¹⁰

Ratna Das, The Chief of the N.G.O, 'Sporkho Assam' is of the opinion that their NGO could do the needful provided they are educated of the basic entitlements by dint of which various aid could be availed by the needy women. Minimum laws should be disseminated to them by means of proper forums like organizing legal aids through colleges which would help them act better.¹¹

Samya Baradwaz, journalist, Amar Axom has also opined for the overall development in the rural areas through awareness camps. He focused that the main problem that lies is in the awareness sector in the villages.

Case III

In Maligaon area, a widow is running a shop to earn her livelihood which is taken from in rent. There was an agreement signed by both the parties to let the shop on rent for three years but before the expiry of the said term, the owner is demanding for the increase in the rent or asking to vacate the shop before a new agreement could take place. The tenant is unable to bear such a huge amount to renew the agreement. On the other hand, if she happens to vacate the shop, he has no means of livelihood. In such cases the women is ignorant on the steps to be taken to get herself protected.

Jonali Das, Financial Specialist in Assam Urban Infrastructure Investment Program narrated the above case in her locality and said that 'The literacy rate in the village areas in Assam is very poor and moreover the mentality is not developed yet. Education in respect of girls is still not given priority and especially higher education remains a far beyond reality. Instead, parents accumulate money for marriages. In rural

¹⁰ This was communicated to the researchers in an telephonic interview and via mail on 27.04.2020 at 11 a.m.

¹¹ This was communicated to the researchers via telephone on 27.04.2020.

areas mostly the patriarch society dominates still. Most women are ignorant that they are victimized of many issues and even if they come to know they are dominated by social pressures. The education of old people in the rural areas of Assam could also act as a torch bearer to resolve some of the issues.¹²

Fundamental Route towards accessing justice in light of the Legal Services Authorities Act, 1987

Legal assistance to poor is a sine-qua non of equal justice under our system. Legal aid clinics, legal aid camps and the para-legal volunteers are playing key roles in this regard. NALSA (National Legal Services Authorities Act) has formulated a strategy to provide basic and fundamental knowledge to the vulnerable groups so that they can be educated in terms of the law and know the scope of their rights as a means to take actions and uplift their social status. NALSA has been organizing camps through DLSA in rural and slum areas for educating the weaker section as to their rights for encouraging them to settle their disputes through Alternate Dispute Resolution.

NALSA has been continuously organizing meetings, seminars and providing audio-visual clips and publicity materials to make common man aware of their legal services programmes. Newsletters are also printed and distributed and have been educating people that free legal aid is not a charity but a constitutional obligation of the state and rights of the people. Lok Adalat is also an effective means and has been acting as an enabler for the needy.

It is necessary that the benefits are availed by the rural women in Assam so that they can meet the ends of justice.

Conclusion and findings

Though a number of developmental legislations are targeted by the government, the results are not positive for women. In the process of trying to identify the root causes that deny accessibility of justice to the women in rural areas it was discovered by the investigators that in number of cases the women do not want to leave their superstitious beliefs and embrace dynamism. Their tales of woes have become a part and parcel of their lives and they are also readily showing acceptance to it.

Not to talk about the revolutionary attitude but they don't even want to break the barriers of ignorance in fear of social stigma and taboos. The mindset, still persist that if the girls are educated in the higher sectors, the difficulty of their adjustment in their new families would give rise to more complicated and conflicting issues.

On the other end, some classes living below the poverty line are totally oblivion of the benefits under the schemes provided to them long back by the political heads. Study reveals that there are innovative tactics

¹² This was communicated via mail on 5th may, 2020 at 10:15 a.m

ahead that needs to be addressed to educate these people in real sense of the term. Capacity building programmes that are often initiated by the concerned authorities to aid these women overcome the negative effects are yet to reach their doors.

Possible remedies for upliftment

- The subject concerning fundamentals of law should be made a part of school level education in Assam so that right from tender age, the children get an idea about the basics of law.
- Equal opportunities should be created in order to eliminate the gap between haves and have-nots so that the fundamental rights of these poor women living in the rural areas are not infringed. The Legal Services Authorities Act has made various provisions and it is the duty of the stakeholders to address and clothe the women folk in Assam with right titles by all possible means from their end.
- The role of the law students are worth mentioning in this regard and the authorities could take proper measures in providing them adequate means to render their duties so that women in the rural areas receive proper filtration in terms of the rights and obligations.
- Legal awareness camp should be organized in the villages mandating the participation of women of those areas to enlighten them about their rights.
- Empowering women in the villages should be a must trend and if every women in the village could voice out, that itself is a sign of progress and development.
- Issues where the women folk get victimized should be highlighted and published (via print media, electronic means) widely across the state so that it reaches every nook and corner.

Highlighting the necessity for development of rural women is a must for a welfare state.

“Rural women are farmers, fishers, herders and enterpreneuers; keepers of ethnic identities, traditional knowledge and sustainable practices; care givers, parents and guardians. They are essential to agricultural development, food and nutrition security and the management of natural resources”.- Secretary- General Ban Ki-Moon