



The concept of landholding system: A case study of Karbi Tribe of Assam

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Abstract

The landholding system in hill areas of northeast India has remained a complex issue for decades. It is accepted phenomenon that hill tribes are yet to receive legal entitlement over land in many areas since they have been cultivating for decades under the communal ownership of the land. In this context this paper analyzed the concept of the land and inheritance of property right in Karbi society while exploring the various concepts and issues involved in landholding system. The Karbi tribe is one of the major ethnic groups in northeast India, especially in the hill areas of Assam. According to the customary law of Karbis, land was viewed as communal property and managed by the community through various sets of customary rules over generations.

Keywords: Communal property, customary laws, Karbi Anglong autonomous council, shifting cultivation

Introduction

The landholding system in tribal areas has remained a complex issue for decades in India. Hill areas of the tribals are yet to receive legal entitlement over land in many areas since they have been cultivating for decades under the communal ownership of the land. The tribals did not experience any scarcity of land since their headman allotted large amount of *jhum* land according to the need of the community. There was also no monetary value attached to these lands as these were not considered 'valuable property' rather community property. Its ownership is vested with the community whose leader distributed *jhum* land to each family. No outsider could claim any plot of land within their territory. They considered it their sacred duty to protect their traditional boundaries. This paper deals with the concept of land and inheritance of property rights in Karbi society while exploring the various concepts and issues that are involved in land holding system. According to the customary law of Karbis, land was viewed as communal property and managed by the community through various sets of customary rules since its time immemorial.

The Concept of Land in Karbi Society

Land is one of the important resources among all the 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 structure of the society. 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 of *jhum* sites. Land was viewed as communal property and managed by the community through various sets of rules practiced over generations. The traditional Karbi society was not an exception to this.

According to Charles Lyall (1908) ^[11], the *mei-pi* (the "great council") is also presided over by a mauzadar (revenue collecting agent over a cluster of villages), usually an influential man. Edward Stack has also mentioned in his work, *The Mikirs* about the nature of the land holding system of the Karbis. He argued that "Villages have no fixed or recognized boundaries, but are moved from place to place according to the need of cultivation. Only house tax is paid except by Karbis cultivating land with the plough in the submontane tracts, which are treated in all respect like other Assamese *rai-yats*". The cultivable land at the first settlement of a village in a new locality is divided among the householders by the *Mei*, or village Council, presided over by the *Sarthe* (or *Kangbura*), the head of each household choosing his own land for cultivation. Any dispute or disagreement that arises are referred to the *Mei* for adjudication and should the dispute not be settled in this manner, the decision of the majority prevails, and the dissident households if they do not acquiesce, may move elsewhere and set up for themselves a new village with a *Sarthe* of their own.

Nature of Landholding System

The cultivable land was divided among the households by the *Mei*, or the village council, at the first settlement of a village in a new locality. The *Mei* under the leadership of the headman selected the sites for *jhum* cultivation from the community owned land. Usually the villages are named after the village headman and his post is generally hereditary. 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 (Walter Fernandes and Sanjay Barbora, 2008) ^[8].

The village council settles all kinds of social disputes by a majority decision. In case a section of the villagers does not agree with the majority decision, the dissenting group is allowed to migrate and set up its own village. But they have to honor this decision as long as they remain in the village. Several Karbi villages constitute a traditional administrative cluster under the headship of the *Habe*. All inter-village disputes are settled by the *Habe* and the meeting convened for this purpose is called *Mei-pi* or the great council and is attended by all the village headmen under his jurisdiction. According to Lyall (1908), the *mei-pi* is also presided over by a *mauzadar* (revenue collecting agent over a cluster of villages), usually an influential man. The *Habe* reports to the *Pinpo* (an official above the *habe* in the traditional hierarchy) who is otherwise under the traditional Karbi chief *Ronghang Lindokpo*. Thus the traditional Karbi administrative system is headed by the chief or king at the top with a number of *Pinpo*, followed by the *Habe* and the village headmen. At the base of this pyramid-like structure of administration lie the Karbi common folk. The remnants of this hierarchical structure are still visible in social transactions (Walter Fernandes and Sanjay Barbora, 2008)^[8].

After establishment of modern type of administration, “from amongst a number of headmen (*Sarthe* or *Kangbura*) the government nominates one influential man to serve as *Borgaobura*, who are known as *Sorkari Gaon Buras*, (*SGBs*) for the village concerned”. The *borkangbura* deals with the government on behalf of the villages and is exempted from paying house-tax. He presides over the *Meipi* or the great council to settle any inter-village disputes or some individual cases of a grave nature. The approval of the *borkangbura* is required for the establishment of a new village. Thus the *borkangbura* is almost a modern version of the traditional *Habe* (Walter Fernandes and Sanjay Barbora, 2008)^[8]. However, it should be noted that the *Sorkari Gaon Buras* do not have any affiliation in the traditional political system of the tribe.

Categories of Land

Following categories of land are prevalent in the Karbi society. These are -

a. Village Land: It is used for public institutions like playground, graveyard, worshipping place etc. The wasteland without any structure belongs to the whole village. The village land is the joint property of the villagers and all people who belong to that particular village have the right to use it for *jhum* cultivation. Besides, each village has a small forest land to provide raw material for construction and repair of the houses.

b. Individual Land: It is either inherited or acquired land. There is no limit in the size of such holdings. It also included the dwelling complex. Most rich people hold more land and lease out to those who do not have land or enough land (P. Binodini Devi, 2006: 63-64)

Generally speaking, real estate includes land, houses, and standing trees. Among these three, land is most important, and is basically essential for the very existence of man and other animate beings. Among men of the farming class, in order to earn their livelihood, land is required as the main economic asset. It is needless to say that for the Mising villagers of Santipur, as the tillers of the soil and the rearer of domestic animals and birds, land is the most essential economic factor of life. At present the villagers carry on their cultivation in major part under the *jhuming* method. They require low land for wet *sali* paddy cultivation, for digging up small tanks for fishery, high fertile land for *ahu* paddy cultivation under *jhuming* system and dry highland for building residential and community houses. Moreover, a wider area of land is needed by them for use as burial ground, for grazing of domestic animals and to preserve as virgin forest, land for collecting fuel, for hunting and for future use of their growing population (Phatick Chandra Baruah, 2010: 154)

Inheritance of Property

The Karbis follow established customary laws of inheritance of property and succession to office. These rules will not change significantly from place to place, from group to group and over time and generations. However, a man can select the person in the sharing of his property. He can gift a share of his property to his daughters or daughters-in-law or to others. In addition, the impact of statutory laws over the customary laws is 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 also passes on to one's brother's children and other patrikin, in the given order. The prime considerations which govern the rule of inheritance are fulfillment 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 gets the largest share of 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 properties as well as self-acquired property are inherited by all his male children who held them jointly (Jeuti Boorah, 2007: 55-56).

There are certain movable properties, for instance, ornaments, clothes, utensils, etc. owned by women are exclusively inherited by the daughters from their mother. Such properties may be ancestral or self-acquired, which, generally, are 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 money value, are considered

valuable. A woman can purchase land from her savings or with the money given by her father. The land will either go to her son or her daughter after her death.

A widow has 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 land without the consent of her deceased husband's other family members or near kin. She can dispose of female properties like utensils, wools, beads, self-woven cloth etc., for satisfying her petty economic needs (Ibid).

Order of Succession

In the absence of 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 daughter in case of inheritance. Similarly, the brother takes precedence over brother's son and brother's sons take precedence over the cousins. The brief order of preference of inheritors is as follows:

a. Common Properties

- Eldest son (male properties) – Eldest daughter (female properties)
- Next elder son – Next eldest daughter
- Next elder son – Next eldest daughter
- Next elder son – Next eldest daughter
- Nearest patrikin – Nearest patrikin
- Next nearest patrikin – Next nearest patrikin

b. Succession of Female Property

The movable property of a Karbi woman, namely ornaments, clothes and utensils are inherited by the daughter, the property passes on to male heirs of her husband. The components of a woman's property i.e., 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 case of landed property that a woman possesses from her father, passes on to her son.

c. Exclusion from Inheritance

There are some grounds for loss of the right of inheritance by an heir among the Karbis. The grounds are mainly-

1. If a man marries within a prohibited degree.
2. If a man is proved to be an undesirable person for gross misconduct or if he commits any serious offence.
3. If an heir is disobedient or degraded in moral character.
4. If a widow remarries or if she is unchaste at the time when question of inheritance arises.

Shifting Cultivation

Shifting cultivation is prevalent among the hills Karbis particularly those who live in the hilly terrain of Karbi Anglong, North Cachar, East Khasi hills and Jaintia hills districts. It is also practiced to a limited extent in the lower hill slopes in the Digaru-Sonapur and Dimoria foothill areas. *Jhum* cultivation begins from the middle of February or the beginning of March when the *jhumiyas* begin to cut down trees of the hill slopes to be used as *jhum* field. This work is called '*rit kepan*'. Next phase of the work is '*Me-kekai*' when the dry materials are burnt. This is followed by complete clearing of the area as well as preparing of 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 it other *jhum* crops like maize (*thengthe*), pigeon pea (*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 '*sok-karlu*' - the process of weeding. Throughout the growing season the paddy and other crops are nurtured, and protected from wild animals like monkey, wild pig, elephant, birds, etc. which appear in large numbers and damage the crops. Paddy is harvested generally during the period of September-October and the other crops at different times (P.C. Phangcho, 2003: 125-126)

Jhum cultivation is virtually a dry farming system, depending solely on the summer rainfall. Although it is injurious to soil, forest and the natural environment, the *jhumiyas* find it economic in the sense that apart from rice a number of crops can be grown in the same field in the same season and at the cost of same physical labor. In another word, *jhuming* can be regarded as a form of mixed cropping (Ibid: 126)

Process of Shifting Cultivation

Every agricultural season is preceded by a sacrificial ceremony. A fowl or goat is sacrificed to god *Hemphu*. The Karbi names for the different phases of operations are as follows;

Table 1

<i>Rit Kecham</i>	The initial stage of shifting cultivation when a plot is marked
<i>Rit Kepan</i>	The felling of trees and undergrowths

<i>Me-Kekai</i>	The burning of the rubbishes
<i>Arhek karhi</i>	The clearance of half burnt logs
<i>Rit Kenong</i>	The broadcast of different seeds
<i>Bap karlu</i>	The weeding of plants in July-August
<i>Sok Kerot</i>	Harvesting

Jhum is very much a part of Karbi life and culture, particularly in the hilly areas. They were completely dependent on *jhuming* earlier and still some are dependent on it. They used to migrate in search of new *jhum* lands as and when there was pressure of population on land and when the soil proved to be infertile. Now the trend of migration has declined due to a variety of factors. The *jhum* period varies from six to eight months depending on the nature of cultivated crops (Jeuti Barooah, 2007: 46). *Jhum* land are not always collectively cleared and cultivated by the villagers. Sometimes lands are cleared collectively and cultivated independently demarcating everyone's area in a peaceful manner. If sometimes, cultivation is done collectively by the villagers, the contribution of labor is made by each family. If in such cases, a family fails to provide labor force, as per *hajari* system, other people work and the concerned family pays an amount in cash or kind per head per day by providing mid-day meal to those who work on their behalf. If the lands are not cleared and cultivated collectively, an individual can choose a portion of his choice to cultivate or the *Sarthe* may make the appointment. After apportionment is made, if they get *patta* they can cultivate only for 2-3 years and after twenty years or so, they can again cultivate the same plot of land. If a man is allowed to cultivate the same plot year after year, he can claim a possessor's right over it. He can transfer, lease or mortgage the land if he gets the *Patta*. When *jhuming* takes place in the same locality after some years, each individual may or may not get his old share of land and his old place. It is to be decided by the *Sarthe*. If the possessor dies leaving behind natural heir, the land will be inherited by him but if the possessor dies without natural heir, the land goes to the *Sarthe* and he decides who should cultivate on those lands. The villagers may want the right of ownership on those lands, but not the unrestricted right of transfer. The transfer of land to the non-tribals is restricted. The people do not resent any land survey team who faces many problems in the field for hilly terrains, rainy season, lack of proper instruments, etc. (Ibid: 146-147).

Changes in Landholding System

Uttam Bhathari (2009) argued in his paper that the Karbi traditional land management system has changed due to both external and internal factors. The Karbis in the plains area shifted to ploughs after coming in contact with the Ahoms. This probably began in the early 19th century. Settled cultivation gradually filtered down to the valley areas of the district. Even in the hills where *jhum* cultivation is still practiced and wet cultivation is done in low marshy areas. This directed in the process of individual ownership of land. The gradual replacement of communal ownership by individual ownership took place. The process of individual ownership was also encouraged by the administration through its efforts to get the people to abandon shifting cultivation.

Another outcome of individual land ownership is concentration of land in the hands of a few individuals or families within the tribe and the consequent disparity within the community. This process of concentration is rather slow. Usually the land transfer takes place in case of indebtedness to meet emergencies such as medical and educational needs.

Alienation of tribal in Karbi Anglong is limited, since transfer, lease, mortgage, etc. of tribal land to non-tribal requires the prior approval of the Executive Committee of the Autonomous Council. However, in the plains area of the district, the incidence of temporary alienation of land from the Karbis to non-tribals, mainly to refugees from former East Pakistan who have settled in this region is rampant. Though the legal safeguards are there to stop or control the alienation of tribal land, it is due to economic compulsions that the villagers enter into arrangements leading eventually to alienation of land in the district.

Taking advantage of the loopholes in the Mikir Hills District (Transfer of Land) Act, 1959 and the ignorance of the Karbis, the non-tribals have become the virtual owners of the land under permanent cultivation. Some of the ways through which the non-tribals have become virtual owners are:

- 1. Paikas:** Under this system a settlement holder takes an advance from a cultivator and in lieu of the advance taken, he alienates his land temporarily to the cultivator for a period of one or two years. At the end of the period the cultivator is required to vacate the occupied land. But in practice it does not happen, as the settlement holder takes another advance from the cultivator even before the stipulated period comes to an end. Once a tribal enters into this vicious cycle, he can hardly get out of it and the alienation of cultivation land becomes perpetual.
- 2. Sukti Bandhak:** Under this system, land is generally given to a cultivator against the payment of a certain quantity of paddy to the settlement holder at a certain rate per annum, per *bigha*, after executing a formal agreement to this effect. During the period of agreement, the landowner shall have no right to cultivate his land or question its utility, while the cultivator becomes the virtual owner of the land like the *paikas* holder. Like *paikas* system, if a tribal landowner once enters into this system, he can hardly get out of it.
- 3. Khoi Bandhak:** Under this system, a settlement holder temporarily transfers his right of use and occupancy to another person for a minimum period of five years against the cash payment of a certain amount of money calculated at certain rate per *bigha* per annum. The entire amount in cash shall have to be paid to the settlement holder only once at the beginning. At the end of the period of agreement the land automatically

comes back to the owner. But before the period of agreement comes to an end, the landowner again enters into another contract and thus his land is temporarily alienated again.

4. **Mena:** Under this system, un-reclaimed virgin lands in the possession of the Karbi families, suitable for cultivation, are given to non-tribals for reclamation and cultivation for a number of years varying from 3 to 5 years. In return, the landholder gets nothing except the reclaimed plots of land at the end of the period of agreement. The incidence of this system is gradually declining, because un-reclaimed virgin land is decreasing at a faster rate.
5. **Adhi:** Under this system, the settlement holder temporarily transfers his right of use and occupancy of land to another person for a specific period. The cultivator cultivates the land and provides half (50%) of the crops or products to the landowner and the other half (50%) is kept for himself. This system is quite prevalent among the tribals.

At present Karbi Anglong Autonomous Council has initiated some steps to stop the practices of *Paikas*, *Sukti Bandhak*, *Khoi Bandhak* and *Mena*. The Karbi Anglong District (Land Reforms) Act, 1979 provides that all kinds of encumbrances of land existing by way of *Paikas* or mortgage shall be void upon coming into force of this Act. However, there are practices of mortgage in Karbi Anglong.

Uttam Bhathari, (2009) mentioned in his paper that the policy of land settlement adopted by the Council in Karbi Anglong is based on the power derived from this provision of the Sixth Schedule. As per this policy, preference is given to the bonafide 'scheduled tribes' such as Karbis, Dimasa Kacharis, and Rengma Nagas etc. And second preference to the 'scheduled tribes coming from other Autonomous districts.' Settlement of land with any non-tribal who came to the district after 15th August 1947 is prohibited as per Resolution No. 9 of the Executive Committee held on 25th October 1954. However the "District Council may, in special cases relating to the victims of unusual natural calamities such as floods, earthquakes etc. who are already in occupation of land in the district, order settlement of land with the affected non-tribal people on recommendations after due enquiry from the Deputy Commissioner". B. N. Bordoloi (1986) argues that considering the land policy adopted by the Council and non-recognition of plain tribes as scheduled in the district, it may be assumed that protection of the tribal population is from both the non-tribals and immigrants from other regions. The Council follows this policy in Karbi Anglong even today. In spite of it the district has witnessed a rise in the non-tribal population over the years. The Karbi Anglong Autonomous Council (KAAC), through measures such as the Mikir Hills District (Transfer of Land) Act, 1959, the Karbi Anglong District (Land Reforms) Act, 1979 has made efforts to protect local tribal land.

Conclusion

As mentioned land is one of the important resources among Karbis. Land was viewed as communal property and managed by the community through various sets of rules practiced over generations. It is seen that the basis for decision making regarding land holding, usage, management and inheritance of land is closely associated with their kinship structure. 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 need of *jhum* sites. This paper argues that there are loopholes and ambiguities in implementation process of the acts of Karbi Anglong Autonomous Council. As a result, the customary communal ownership of land has gradually been replaced by individual ownership along with forcible acceptance of permanent cultivation. But in the interior hilly areas where the people are still *Jhumiyas* the land continues to be managed by the village councils.

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