

Ethnicity Catastrophe: Santal Rights and Dilemma in Bangladesh

Dr. A. N. M. Arifur Rahman

Assistant Professor, Department of Law, Stamford University Bangladesh

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ABSTRACT

Citizenship is regulated by the Citizenship Act of a state. The ethnic minority like Santal men-women are the resident of the state and subject to the state laws. In this work it has been explored that people from minority group like Santals are struggling with state coverage and legally debarred from various rights. There is a legal restriction on disposal of lands. It acts like two way sword. They need to follow benami transfer though that has been restricted by the state law. Women are traditionally deprived of hereditary benefits. Practices of personal laws are invisible. Religious conversion is prevalent in the community. Women participation in internal decision making process is totally absent though they used to earn for their family. The question of equal treatment is far reaching target. This research argues for the legal rights of the Santal community, disrupting the legal discriminations for disposal of lands and implementing women right to inheritance.

Keywords: Citizenship, Ethnic-minority, Legal-restriction, Hereditary, Santal-women.

INTRODUCTION

Santals are the ethnic resident in the state. They are also called as *Sonthals*, or as an *adhivasi* identified as member of a tribal or indigenous society (Durnnian 2007; 18). They are predominantly living in the Northern-region of the state such as in Dinajpur, Rangpur, Gaibandha, Bogra and Rajshahi districts. The people of this *Santal* community is one of the most disadvantaged, vulnerable in society, victims of social practices and used to live in financial constraints (Elahee 2013;14). They considered their education as secondary need though there were a number of missionaries particularly working on the educational development of the *Santals* (Elahee 2013, p. 14). The *Deshmajhi* (Leaders of a union or few villages) and the *Parganas* (Head of an area including several unions, controller of *Deshmajhis*) fortified the statement. At the same time, they articulated that the impact is very blurred in social practices from the literate as well as higher educated community men (Hem Hansda 62). The *Santals* are practicing patriarchal society while they compel wife to run the family in failure torture is inflicted by the husband. Some community-practices are dragging back them from modernism and becoming part of civilized society (Dhonesh Tudu 23). In their community they use their own language as their individual community identity (Dhonesh Tudu 23). In state practices they use *Bangla*.

The *Santal* women are harder working in comparison of the male member of the community. They can work from kitchen to crop field. Besides taking care of children they have to look after cattle farming which is one of the vital source of finance in the society (Elahee 2013, p. 15). Moreover they had to struggle much to meet up their basic needs of day to day life. Though there is sufficient contribution from female members to the families, seldom evaluation comes in. They used to remain far end from the state benefits and rural opportunities provide by the Local Government of the state. Management of land, ownership of land, inheritance and religious practices in the *Santal* community is substantive dilemma. Neither the parents, nor the community leaders are working on it. The female segment in the community is most vulnerable and there is no dependable place or opportunity to address the grievances.

Problem Statement

The *Santals* are the citizens of Bangladesh. They have the National Id Cards. In the constitution of the Peoples Republic of Bangladesh it has been articulated that every citizen is equal before law (*The Constitution of the Peoples Republic of Bangladesh* 1972, Art. 27). There is state coverage for the rural people in Bangladesh (Asma Akter, 38, Female Ward Commissioner). The *Santals* are not subject to those rights. There are personal family laws in the state for the followers of different religion. The *Santal* people are following the opportunities of personal laws (Hem Hansda 62). The status of ownership is not unfettered (Hem Hansda 62). The right to inheritance among the *Santal* women is a customary practice (Dhonesh Tudu 23). The community neither follows customary practice properly nor follows the religious obligations. The women segment has been found most vulnerable as they do not have any financial control in the family, not even own earnings (Ashraful Islam 40). Few other works have been conducted earlier. Those works are not conducted on the right based approach. The researchers are going to conduct the work on right based approach of the *Santal* people which is totally untouched in literature to the best knowledge of the researchers.

LITERATURE REVIEW

A good number of works have been done in the area of tribal community. “*Rethinking Santal Identity: a Study of Binti as a creation myth and its impact on Santals in contemporary tribal India*” has focused on a collective study on the *Santal* people in India. The cultural behavior of the community people was explained here. The study was highly focused on Jharkhand (Tank and Gundala 2021). The work on “*Functional Status of Elderly Santal People*” has focused on the nature and formation aged occupation (Dolai and Chakrabarty 2013). ‘*Santal Community in Bangladesh: Problems and Prospect*’ is a general study on the *Santal* people in Bangladesh. It was unfolded that *Santal* people can be identified as ‘Adivasi’ or ‘Adibashi’ or ‘Indigenous’ or ‘ethnic minority’ (Cavallaro and Rahman 2009). The aged persons usually work in home and contribute to handmade products. The *Santals* are primarily peasants. They depend much on the paddy field, rearing cattle and working on the land of others. Barsa (2014) explores in his work- ‘*Do Indegenious Women Have Right To Inherit Land? A Critical Review of Customary Practices of Land Inheritance With Reference To Gender Justice in Bangladesh*’ the inheritance rights of the women. He shows in his seminal work that the women in indigenous society rarely become owner of lands. In the work ‘*the Socio-economic Condition of the Santal community in Rajshahi, Bangladesh: A Case Study*’ it has been shown that the *Santal* s of Rajshahi region are in socio-economic dilemma (Elahee 2009). Elahee unfolded a few opportunities of the Saantal women to earn money and live on. They are neglected from various parameters in the society. Kabir, Shapla and Rashid discovered in their seminal work that the *Santal* women are strong in heath and much fertile to conceive. The average number of children in every family is more than two. The age of these babies is very close to each other. The concept of family planning, use of contraceptives, women behavior, and role of a husband in using contraceptives were studied. In *Santal* community, male segment is very much reluctant to work (2020). In the work ‘*Santal Community in Bangladesh: A Socio-historical Analysis*’ has focused on the historical background of the *Santal* people in Bangladesh. In the work the United Nations accreditation for *Santals* has been sought as the ethnic minority. However, all the works have been done from specific view of a specific area and mostly evasive in nature. To the best of the knowledge of the researchers, there is a significant gap in right-based research. The researchers have focused on the right-factors dilemma in this work.

METHODOLOGY

This study is going to be a qualitative study. To conduct the research the researchers have employed two sets of data such as (i) Document analysis and (ii) personal interviews. The researchers have taken two

districts of Bangladesh such as Rangpur and Dinajpur where almost 10 thousand *Santal* people used to live. In documents the legal instruments, articles, books have been analyzed while as much as 20 personal interviews have been conducted from the field. The speech of the respondents was not recorded with tape recorder. The researchers had to use note book. The respondents were selected through snowball sampling method. The *Deshmanjhi*, *Pargana*, local elite, member of the union parishad, and common *Santal* males and females were interviewed. The length of the personal interviews was 60 to 90 minutes. The place of interview was selected on the basis of convenience of the respondents.

Rational

This study has been focused on ethnic-minority rights and status of women right to inheritance in the community. The *Santals* are one of the oldest minority group or tribe in Bangladesh. During field work severe right based dilemma was found in the *Santal* community. Their grievance was high. This is expected that the result of the study will contribute the area of knowledge as well as the state policy makers can codify effective laws or conduct amendment in the existing laws for the betterment of the community people. The future researchers may seek avenue from this research which would develop and suffice the further research gap in literature.

Family Administration

Santal Families are patriarchal in nature (Mitra 2008). The female members of every family work equally with male counter parts (Lalita 35). It is expected that in patriarchal society male people will work and substantively lead the family. In *Santal* community it is not seen (Sweet 57). Few *Santal* families are rich. They have television in their houses, electricity, fan, a good drawing room with standard washroom (Debbarma 2005; 222). But most of the families are poor (Basu Kisku 50). Their profession includes animal husbandry, farming, preying birds, catching fish, selling labor, preparing basket, broom, sometimes they catch wild animals. Female members have to work in kitchen for preparing foods, taking care of children, cleaning house, adjacent areas, collects firewood, bring drinking water and in the evening need to shop groceries and vegetables (Kabir et al 2020;77). Females have to take first lead to initiate every work (Lalita 35). Male one is only for to permit and cooperate (Romesh 32). In the community sanitation problem is huge. Pure drinking water scarcity has been found in Ghoraghat-Birampur intersection in the district of Dinajpur. Kitchens are congested and filthy. The adult health is decaying while aged is found weak and thin due to lack of food and nutrition (Basu Kisku 50).

Religion and Practice

Santals had their own religion. Commonly they call it as *SARI* religion (Hem Hansda 62). The number of follower of original *Santal* religion is almost disappeared. Hem Hansda (62) demanded that almost 95 percent of *Santals* people in the area have been either converted to *Christianity* or in *Hinduism*. Here the religion has been made mechanism for earning money (Emdad Haque 52). There are a number of missionary NGOs who are persuading the conversion (Marcel Tudu 45). In some cases, the *adibashis*' are enticed to convert and they are given a cow or goat to rear up for gaining money. The Christians are visiting church for prayer on every Sunday. The Hindus are occasionally submitting *Puja* to *Mandirs*. Practically none of them are nurturing a sole religion. Amalgamations of traditions have been found in the field.

Right to Inheritance

The indigenous community people have been entitled to the citizenship of the state but still they used to struggle with legal rights and state security coverage (*The Constitution of the Peoples' Republic of Bangladesh* 1972, Art. 42.). The state law of inheritance is opened on the basis of religious principles or personal laws (*The Succession Act* 1925 for the Christian and Hindu Personal Law). In Christianity the

mother, widow, and daughter has certain part in certain circumstances in the property of father, husband and mother (SS. 37 to 45 of *the Succession Act*) while in Hindu law, women entitle to partial right, only can have right to enjoyment in lifetime (Ranjan 38). Neither the Hindu nor the Christian *Santal* men are following their religion as personal laws. In recent years, the *Santal* families are converting into Christianity in a remarkable percentage, but impact of religious transformation is not visible in the customary life leading manner. The *Santal* sons get full ownership in the property of his father (Bersa 2014; 340). The traditional *Santal* religion does not have any inheritance right to women. Most of the women do not know how to inherit the property of their father and husband (Emeli Kisku 20). It is heard that the *Santal* women can inherit property from their mother and they could sell the inherited land property (Melobbo Tudu 48). This is followed as a part of customary and *Santal* traditional social practices. Like the Hindu traditional laws *Santal* women cannot sell land inherited from father or husband (Hem Hansda 62), though the process of inheriting lands is far reaching object for *Santal* women (Pahan). The women are becoming more vulnerable in the community due to malpractice to traditional practices.

Status of Citizenship Rights

The *Santal* community men are the citizens of the state like the other indigenous people. There are bundle of social and state benefits for the citizens which are usually distributed by the state through the local government (Asma Akter 38). The *Santal* people usually remain beyond the state coverage like aged allowance, widow allowance, Vulnerable Group Feeding (VGF), Festival allowance, pregnancy allowance for the pregnant women, as well as residential opportunities (Basu Kisku 50). The people from the community sometimes tried to get such right but failed due to unknown reason (Shakla Tudu 55). The community people alleged that for getting those rights they are supposed to bribe to local union parishad members from one thousand taka to fifteen thousand taka (Kerobin 66). The amount of money is fixed on basis of value and class of total coverage (Hem Hansda 65). In most cases it is not possible for the poor *Santal* people to provide that huge amount of money to buy those rights (Ranjan 38). Hence they have to remain out of such state benefits.

Restriction on Selling Land Property

The *Santal* people cannot sell their property according to their need and choice. The *Santals* in Bangladesh is identified as the aboriginal caste or tribe (Sarker and Davey 2009; 2). The Government has imposed a restriction on selling of land to any non-community men without the permission of the district collector (*The State Acquisition and Tenancy Act* 1950, S. 97). One *Santal* can sell land to his community men without any restriction (Romesh 32). Whenever any *Santal* man wants to sell land to a non-tribal person, shall have to transfer to another *Santal* first (*The State Acquisition and Tenancy Act* 1950, S. 97). Thereafter that third party can transfer to the original second party the buyer (Indu Mohon 55). This is called *benami* transaction in the eye of the laws of Bangladesh and it has been made illegal (The land reforms Ordinance 1984, s. 5). The law was probably prepared in good faith and for the betterment of the tribal people, but now it has been transformed into a mechanism of oppression (Hem Hansda 62 and other respondents). Due to this particular provision they do not get proper value of land. Sometimes that third party claims money to transfer the land to the original buyer (Akter Zahan 35). She posited that even that third party can make a fresh sell to other community men or may settle another new sale (Akter Zahan 35). Due to this rule, a good number of *Santal* men have lost their lands (Roshen Hasda 30). On the other hand seeking permission from the office of the collector is another hassle. It needs 10 to 20 thousand taka to finalize a permission to sell a piece of land (Kerobin 66). Normally tribal people sell land as the last option at their hand. In such situation it is not possible for him to spend such an amount to get the permission paper (Mili Kisku 24). The tribal people think this is an arm to oppress the tribal people.

UDHR and Santal People in Bangladesh

Bangladesh has ratified the Universal Declaration of Human Rights. The *Santals* are the citizens of

Bangladesh (*The Citizenship Act 1951*). The right to self determination substantially authorizes every human being to right to own, will and donate property (*Universal Declaration for Human Rights 1948*, Article 3). The women from indigenous community are subject to equal protection of law and state privileges (The Constitution of the Peoples' Republic of Bangladesh 1971; Arts. 27 & 28). State coverage and welfare management is supposed to incorporate all the citizens without having any discrimination based on race, sex, color, creed, caste or religion (Art. 28).

CONCLUSION

The *Santal* community men are the citizens of the state. They are supposed to get the state benefits and coverage of the local government. The community leaders, word commissioners and chairman of the Union Parishad (Lowest grade of local government in Bangladesh) should act judiciously to bring out them form discriminations and social disparities. The state policy makers can re-organize legal purview, practices and obligations. The community leaders may motivate the society to equalize women right to inheritance by modifying the existing structure of social practices, norms, and customary values. State can take initiatives for re-structuring international indigenous rights and dilemmas.

REFERENCES

1. Besra, Lawrence (2014), Do Indegionous Women Have Right Ti Inherit Land? A Critical Review of Customary Practices of Land Inheritance With Reference To Cavallaro, Francesco and Rahman, Tania (2009), *The Santals of Bangladesh, The Linguistics Journal*, Special Edition, pp.192-220.
2. Dolai, Mohan Chandra and Chakrabarty, Falguni (2013), Functional Status of the Elderly *Santal* People, *Indian Journal of Gerontology*, 27, No. 4, pp. 610-620.
3. Durnnian, Terry (2007), *Mother Language First*, A joint Publication of Khagrachari Hill District Council and Zabarang Kalyan Samity, Bangladesh and Save the Children, UK, Bangladesh Program, published by the Save the Children Fund.
4. Debbarma, S. (2005), The Reangs of Tripura, S.K. Choudhary & S. S. Choudhary eds, *Primitive Tribes in Contemporary India*, Mittal Publication, New Delhi, (1); 221-228.
5. Elahi, S. M. Ashikur (2013), The Socio-economic Condition of *Santal* Community in Rajshahi, Bangladesh: A Case Study, *SSRN Electric Journal*, DOI:2139/ssrn.2232268
6. Gender Justice in Bangladesh, *International Journal of social Science and Humanity*, Vol. 4, No. 5, pp. 339-343.
7. Kabir, Md. Ripul, Shapla, Sharmin Akter and Rashid, Mamunor (2020), Reproductive Behaviour of the Married *Santal* Women: A Study in Rangpur District, Bangladesh, *Khulna University Studies*, 17(1 & 2), 77-87.
8. Mitra, A. (2008), The Status of Women in Scheduled Tribes in India, *Journal of Socio-Economics*. 37(3), 1202-1217
9. Rabbani, G. (2019), *Santal* Community of Bangladesh: Problems and Prospects, International Social Work Symposium of Malaysia, Institute of Social Malaysia, Kuala Lumpur.
10. Shamsuddoha, Md. and Jahan Ms. Rifat (2016), *Santal* Community in Bangladesh: A Socio-historical Analysis, *Asian Journal of Humanity, Art and Literature*, 203-216.
11. Sarker, Profulla and Davey, Gareth (2009), Exclusion of Indigenous Children From Primary Educationin Rajshahi Division of North-western Bangladesh, *International Journal of Inclusive Education*, 13 (1), pp. 1-11.
12. *The Constitution of the peoples' Republic of Bangladesh*
13. *The Universal Declaration of Human Rights*
14. *The Land Reform Ordinance 1984*
15. *The Citizenship Act 1951*
16. *The Succession Act 1925*

17. Tank, Nandini, and Gundala, Upender (2021), Rethinking *Santal* Identity; A Study of Binti as a Creation Myth and its Impact on *Santals* in Contemporary Tribal India,
18. Hasda, Hem Chandra (62), Kangurpara under Pirganj Upazilla, pargana, interviewed on 12.01.2023.
19. Akter, Asma (38), female word commissioner, Chatra Union in Pirganj Upazilla, interviewed on 20.01.2023.
20. Prodhan, Emdadul Haque (52), Lawyer and Social Worker, Rangpur Judges Court, interviewed on 10.02.2023.
21. Tudu, Shakla (55), Mission Para, Ghoraghat, interviewed on 20 February, 2023
22. Hasda, Roshan (30), Mission Para, Ghoraghat, interviewed on 20 February, 2023
23. Kisku, Noyon (45), Garo Para (Adibasi para), Nowabganj 12 March, 2023
24. Hembrome, Kerobin (66), Dhanjuri Old, Birampur, Dinajpur, interviewed on February 23, 2023.
25. Tudu, Marcel (45), Garo Para (Adibasi para), Nowabganj 12 March, 2023
26. Tudu, Melaccha (48), Amolipara, Pirganj, interviewed on April 08, 2023.
27. Hembram, Lalita (35), Amolipara, Pirganj, interviewed on April 08, 2023.
28. Kisku, Emily (22), Amolipara, Pirganj, interviewed on April 08, 2023.
29. Mardy, Indu Mohon (55), Interviewed in Birampur on January 20, 2023.
30. Pahan, Chitta Ranjan (56), Interviewed at Dhanjuri Bazar, on January 22, 2023.
31. Mardy, Sweet (57), Adhibasi para, Birampur, interviewed on April 08, 2023.
32. Mardy, Romesh (32), Garo Para (Adibasi para), Nowabganj 12 March, 2023.
33. Mardy, Ranjan (38), Garo Para (Adibasi para), Nowabganj 12 March, 2023.