

# TRIBE GENDER AND PROPERTY INHERITANCE TRIJUNCTION: SITUATING AO NAGA WOMEN FROM GLOBAL TO LOCAL

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**Abstract:** There has been no dearth of studies on tribes or gender as such. Studies on tribe, gender, and rights to inheritance trijunctions are indeed limited. The complex relationships that govern property inheritance among tribal women in Northeast India, in general, and among Ao Naga women in particular, around the interaction between gender norms, customary laws, and socio-cultural factors raise several questions to be interrogated. This study offers a preliminary examination into the trijunction of tribe, gender and property inheritance, situating Ao Naga women around global, national and local contexts. Accordingly, after a brief introduction, the paper divides itself into five parts. The first section deals with tribe and gender at their conceptual level. The second section analyses the trijunction of tribe, gender, and property inheritance. The next three sections take stock of the global overview, the Indian scenario, and Northeast Indian practices. Finally, the paper sums up by concluding the need to study the inheritance rights of Ao Naga women. To that end, reliance is placed on available literature. The ambition of the paper is descriptive in nature.

**Keywords:** Ao Naga; Tribe; Gender; Patriarchy; Property; Inheritance.

## INTRODUCTION

The right to inherit property shapes not just an individual's economic position but also their social status and relationships within the family. Historically, however, this right has not been evenly distributed between men and women. Women have consistently faced barriers to equal inheritance rooted in ingrained cultural traditions, restrictive legislation, and patriarchal social structures. These obstacles take different forms across the globe, shaped by unique socio-political, economic, and historical contexts.

In India, steps toward reform began shortly after independence such as the Hindu Succession Act (HSA) of 1956 and other reforms among Christians and Parsis women. However, the Hindu Succession Amendment Act (HSAA) of 2005 marked a significant milestone by granting Hindu women, who comprise approximately 80% of Indian women, equal legal rights to inherit all forms of property, including agricultural land and joint family assets (Agarwal et al., 2021).

Yet for women in many tribal societies, the story remains totally different. Women's descriptions in tribal communities are, however, overwhelmingly negative, reinforcing cultural narratives that deny women ownership or control over resources. In Northeast India, where tribal societies are recognised for their distinct identities and

adherence to customary laws, women's inheritance rights are mostly overlooked. These customs, largely interpreted from a male perspective, function to keep land and property within patrilineal family lines (Banerjee, 1984).

This phenomenon can be seen in the inheritance practice of Naga tribes, which is governed by customary laws, and women are largely excluded from inheriting property. This exclusion is particularly evident among the Ao Naga tribe, where women are barred from inheriting ancestral land and lack any legal power or rights to transfer property. The patriarchal structure and prevailing customs work together to keep property within the male lineage of a clan. In such settings, gender discrimination in inheritance is not an anomaly; it is a social norm, embedded in everyday life and upheld by tradition, which limits women's empowerment (Agarwal, 1994).

This study seeks to explore the intersection of customary law, patriarchy, and gendered inheritance rights within Ao Naga society in Northeast India. It examines cultural practices and gender roles to better understand how women remain trapped in traditions that exclude them from economic empowerment even as global efforts push for gender equality. This paper is a modest proposal that analyses the need to study the intersection of tribe, gender, and property inheritance, situating Ao Naga women within global, national, and local contexts.

Accordingly, after a brief introduction, the paper divides itself into five parts. The first section deals with tribe and gender at their conceptual level. The second section analyses the trijunction, such as the intersection of tribe, gender, and property inheritance. The next three sections take stock of the global overview, the Indian scenario, and Northeast Indian practices. Finally, the paper concludes by highlighting the need to study the inheritance rights of Ao Naga women. To that end, reliance is placed on available literature. The ambition of this paper is descriptive in nature, offering a thematic and conceptual analysis of the intersection between tribe, gender, and property inheritance in Ao Naga society.

## CONCEPTUALISING TRIBE AND GENDER

The concept ‘tribe’ is derived from the Latin term ‘Tribus’, referring to the administrative divisions and voting units of ancient Rome (Cornell, 1995). Throughout colonial expansion, the term took on a very specific meaning, becoming the social unit and typical life-organising form for people which was deemed more primitive by Euro-American colonists (Sneath, 2016).

Furthermore, Beteille (1974), in his analysis of Tribe and Peasantry, presents four criteria for defining tribes in India: size, seclusion, faith, and modes of livelihood. Similarly, Mandelbaum (1970) observes that the majority of tribal populations in India inhabit lightly populated mountainous or forested regions. These groups are frequently marked by geographical remoteness and a strong sense of ethnic identity (Corbridge, 1998). Tribal communities typically reside in forested and hilly areas, often possessing a clearly defined geographic territory and relying significantly on natural resources for their sustenance. Their livelihoods are based on hunting and foraging for fruits, tubers, and edible roots. Additionally, tribal groups possess their languages and lack a written script. They engage in communication through their unique language and uphold their distinct customs, traditions, and culture (Frohard-Dourlent et al., 2017).

Tribal political systems also possess distinct characteristics. The maintenance of law and order is rooted in family and kinship connections, which cultivate a strong sense of identity and belonging

(Kapur, 2018). Kinship relationships support joint ownership and shared resources, including land (Ratnagar, 2003), and Mandelbaum (1970) notes that in tribal communities, kinship serves as the primary social link, with presumed equality among relatives, and lineage or clans serve as the main organisational units responsible for land ownership, economic production, and consumption, ensuring that all members have equal rights. Traditional tribal communities, however, exhibit a gender division of labour in everyday activities (Illich, 1982), with cultural norms significantly shaping the organisation of gender roles within the tribe (Corbridge, 1998). Moreover, even though tribal women contribute meaningfully in both economic and non-economic spheres and maintain the family (Bhasin, 2007), patriarchal structures often determine their status. Customs frequently take precedence over legal measures designed to promote gender equality in property rights, thereby creating disparities between men and women (Agarwal, 1994). Legal reforms face challenges in breaching these entrenched traditions, which points to the need for culturally sensitive approaches to addressing gender inequality in tribal societies.

In academia, gender is viewed as a social construct. The World Health Organisation describes “gender” as the roles, behaviours, activities, and characteristics that society deems suitable for men and women. The terms ‘sex’ and ‘gender’ are not synonymous. In English, biological or physical aspects are typically labelled as “sex”, referring to genitalia, chromosomes, and physical features, while social aspects are defined as “gender” (Frohard-Dourlent et al., 2017; West & Zimmerman, 1987), which encompasses cultural meanings tied to behaviours, personalities, and traits commonly classified as “feminine” or “masculine” (Reisner et al., 2015).

Once an individual is classified by their sex, they are expected to behave similarly to others in that category (West & Zimmerman, 1987). Gender, too, is a non-essential category that is continuously enacted based on societal expectations (Morgenroth & Ryan, 2018). This indicates that gender is not an inherent, fixed attribute of an individual. In contrast to biological sex, which is determined by physical characteristics, gender is regarded as a social construct. Individuals consistently demonstrate their gender through

actions and behaviours that either conform to or challenge societal norms. This classification of gender is ‘culturally and historically specific, internally inconsistent, and subject to change’ (Hegarty, Ansara, & Barker, 2018). Also, the sociology of gender emphasises the social mechanisms that shape a person’s gender identity, as opposed to biological factors (Westbrook & Schilt, 2014).

But over time, the idea of “gender” has taken on a social meaning that defines how men and women interact in their society. This social interpretation relates to the societal aspects linked to an individual’s biological sex. These characteristics include the division of labour based on gender, which allocates responsibilities according to one’s gender. Now, gender is understood as a self-defined identity that may adapt or evolve depending on time and situations. For some individuals, gender identity remains stable throughout their lives and in different contexts, while for others, it can fluctuate from one moment to the next or change over time and across various daily situations (Lindqvist et al., 2021).

## **THE TRIJUNCTION: INTERSECTION OF TRIBE, GENDER AND PROPERTY INHERITANCE**

The concepts of tribe and gender are crucial for understanding human cultures, as both shape social structures, identities, and cultural norms. Tribes consist of groups of people who share common heritage, language, and traditions, while gender is a social construct that delineates roles, behaviours, and expectations based on perceived differences between men and women. The intersection of tribe and gender allows us to grasp how tribal identity and gender dynamics influence each other within tribal communities. Tribal identity comprises of unique cultural, social, and historical context that characterises the community’s way of life, values, and traditions. In such societies, gender roles and responsibilities are often assigned based on an individual’s gender, and by examining this intersection, we can understand how cultural norms, kinship networks, and traditional practices shape the experiences and opportunities of men and women in different ways.

Tribal identity is fundamentally linked to their historical background, cultural practices, language, and social organisation (Mandal & Mandal, 2020), all of which are crucial aspects of the tribe. It involves a specific set of values, beliefs, and traditions that define the group’s lifestyle. In these societies, traditional norms and expectations often dictate gender roles, outlining the duties, behaviours, and social statuses attributed to both men and women. Furthermore, the unique cultural and social contexts of each tribal group further influence and complicate these roles as they intersect with gender identity and tribal affiliation.

In tribal communities, gender-based labour divisions play a significant role in sustaining gender hierarchies. Blackwood (1984) explains that gender roles among Native American tribes encompassed a defined set of responsibilities. Most tasks essential for the tribes’ survival were categorised as either male or female roles, with women typically responsible for gathering, food preparation, childcare, basket weaving, and making clothing, while men engaged in hunting, weapon crafting, and constructing canoes and homes. This allocation of distinct tasks to each gender created a system of mutual dependence between the sexes. According to Chaudhary (2010), in the tribal regions of Betul, Madhya Pradesh, women predominantly handle the collection and sale of firewood. The income they earn is quickly used to purchase basic necessities such as rice, pulses, cooking oil, soap, detergent, tobacco, bidi, and similar items. Such sex and gender systems in society inherently foster imbalances, leading to male dominance and female subordination while enforcing specific behaviours deemed appropriate for each gender (Whitehead & Ortner, 1981).

Another significant area where gender hierarchies are evident is in inheritance rights, where a common practice in many tribal communities is the collective ownership and management of land (Lavoie, 2017). The land is often owned collectively by the community or clan, with certain sections designated for agriculture and other activities. This arrangement ensures that all members have access to essential resources, fostering a strong sense of shared responsibility and community. However, it is typically the male elders who possess the authority to make decisions regarding land use and management, which effectively excludes women from these critical

discussions. As a result, women's rights to inherit land and property are limited or entirely absent in numerous tribal communities due to established customs, traditions, and social norms (Mishra, 2021). This lack of inheritance further exacerbates their dependence on male relatives for financial assistance and diminishes their ability to negotiate within the family and broader community.

The relationship between tribal affiliation and gender is a complex and multifaceted issue that encompasses various social, cultural, political, and historical factors that influence how gender roles and identities are formed and perpetuated within various tribal communities. In numerous societies, the inheritance of property is seen to preserve economic stability and social continuity. Nevertheless, the exclusion of women from these rights has frequently reinforced gender inequalities, restricting their economic autonomy and sustaining lower social statuses. The matter of property inheritance is not only a legal concern but also deeply rooted in cultural contexts, intersecting with themes of gender, power, and tradition. This dynamic becomes even more intricate in tribal societies, where customary laws and traditional customs often hold greater authority than formal legal frameworks.

In her 1994 work, Bina Agarwal posed the inquiry, "Who possesses the property and who has authority over it?" To address this inquiry, in tribal communities, the ownership and governance of property are often shaped by enduring customs and traditions, which vary significantly among different tribes. In general, kinship relationships, gender roles, and lineage all influence property ownership and control.

The patriarchal system is so deeply rooted in land ownership and inheritance practices that women seldom possess any kind of property, have restricted access to it, or significantly influence decisions regarding its distribution and utilisation. The implications for women lacking ownership, control, or access to land are dire, given that in these tribal societies, agriculture and other land-related natural resources serve as the main sources of income. Consequently, enhancing women's rights to land and property is increasingly recognised as a vital approach to achieving various development objectives, including poverty eradication, since women's life outcomes are

severely affected by unequal access, use, and control of such properties (Feyertag et al., 2021).

Thus, when the question arises about who owns the property and whether men and women should have equal rights regarding using, owning, inheriting, selling, buying, and bequeathing land, the answer is not so simple. The answer is not so simple. Generally speaking, equality should be upheld for everyone since both men and women are equally human and deserve the same rights. However, it is not feasible to simply assert the same standards for all communities and societies, as this would contradict the norms maintained by many tribal groups. These norms prioritise the rights of the ancestral family or tribe, particularly in cases where properties are owned communally. Certainly, equality is crucial and a fundamental right for everyone, but in dealing with these practices, it is also vital to comprehend the reasoning behind these customs. One should enquire as to why these practices exist, what motivates them, and why such rights are not extended to everyone. These practices may be shaped by various social, cultural, economic, and political factors influenced by gender roles, kinship ties, marriage, household dynamics, and the values associated with land.

While inheritance practices vary greatly among different cultures and societies, the struggle for women's property rights reveals strikingly similar patterns of exclusion, particularly among indigenous and tribal societies. The condition of Ao Naga women highlights the global concern on a local level. Their restriction of access to ancestral property is based on patriarchal customary norms and mirrors the greater marginalisation that indigenous women face around the world. By examining the inheritance practices from global to local contexts, this paper places the experiences of Ao Naga women within a larger narrative of systematic inequity, cultural resistance, and emerging calls for reform.

## GLOBAL INHERITANCE PRACTICES

Globally, traditional conventions and practices in inheritance and land allocation favour men. In Mexico women's access to property is often influenced by their role as wives, mothers, or daughters, and they have a secondary relationship

to property, and even within existing legal frameworks, customary practices often take precedence over them, perpetuating gender inequalities in property ownership (Varley, 2010). A similar practice is evident in Albania, where traditional norms continue to limit women's access to land, and despite the existence of legislative reforms, the prevalent gendered dynamics have limited their effectiveness (FAO, 2016). In historical China, the Ch'ing Code institutionalised male authority over property, and no other member of the family could use or dispose of it without his agreement (McCreery, 1976), and Ch'u (1959) mentions that under the Ch'ing Code, only a man could hold the status of family head, effectively barring women from inheritance or ownership.

In Sub-Saharan Africa, Richardson (2004) notes that customary laws continue to exclude women from inheriting land or other forms of property. She emphasises that even progressive statutory laws are insufficient unless they are both culturally contextualised and enforceable at the grassroots level. In Uganda, Khadiagala (2002) traces the evolution of judicial interpretations of women's property rights. During the colonial era, courts occasionally upheld women's rights to land, particularly within frameworks like the "house-property complex", which acknowledged women's contributions to household property. However, from the 1970s onwards, judicial decisions increasingly reinforced patriarchal authority, marginalising women's property claims in favour of a male-centred social order.

Such exclusionary patterns are also prevalent many parts of Asia where customary practices and societal traditions continue to define the property rights of women. In South Asia more broadly, inheritance remains the most common means to attain land. However, kinship systems and patrilineal structures significantly determine how the resources are distributed, ultimately reinforcing existing gender and social hierarchies (Dube, 1997). In Pakistan, the denial of property rights to women is considered a structural cause of poverty, and even when women have the legal right to own and inherit property, they have limited influence over land and productive resources (Mumtaz and Nashirwani et al., 2013). Mehdi (2002) also stated that women in Pakistan have been deprived of their rightful inheritance and are frequently disregarded

due to entrenched patriarchal norms and customary practices.

In the case of Sri Lanka, Viyanga (2021) writes that land inheritance is regulated by multiple legal systems, including bilateral practices aimed at keeping land within families or communities. However, these systems often place husbands in control of their wives' immovable property, limiting women's autonomy. Despite this, Sri Lanka is known for its relatively progressive stance on women's education, health, and employment, as well as for matrilineal and bilateral inheritance systems in specific regions (Agarwal, 1994; Ruwanpura, 2006; Bulankulame, 2006).

## WOMEN'S INHERITANCE RIGHTS IN INDIA

The Indian scenario presents a complicated relationship between statutory reforms and customary traditional practices. While there are significant regional variations in women's status, India as a whole shows profound gender inequality. The prevalent structure of the family, which is patriarchal, patrilocal, and patrilineal in nature, upholds male authority and female subjugation. Within this system and under the Indian inheritance laws, the shares and rights are defined not just by gender but also by the relationship to the deceased (Agarwal, 1994). These regulations differ depending on religion, area, and type of property, with land being recognised as a special type of property.

In the Munda tribe of Jharkhand, Saboo (2019) writes that despite land being a valuable asset to a family, women are barred from owning it as patriarchal customs and traditions influence patterns of succession and possession of land and assets. She also states that a majority of Munda women accepted the fact that getting land inheritance rights would empower them, but they did not want to or care to claim it. Moreover, witch hunting in the patrilineal Adivasi communities of Jharkhand results as a byproduct of the fight to limit women's land rights and as an effort by male agnates to eliminate widows' property rights, which was considered a danger to patrilineal inheritance structures and was used as a brutal means to strengthen male dominance over land and undermine women's rights to inheritance. (Kelkar et al., 1993). Kinship ties in the Santal community

of Jharkhand are also ambiguous, as even though they serve and support women's claims to land, they also reinforce patriarchal norms that suppress women's autonomy, particularly in light of the shortcomings of formal state mechanisms (Rao, 2005).

When it comes to the Northeastern states, Hnuni (2001) writes that the tribal societies of Northeast India, comprised of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura, are mostly patrilineal except in Meghalaya, and observes that women in such patrilineal societies do not have rights of ownership nor inheritance of property. Women are bypassed in matters of inheritance, and the eldest or youngest son inherits the property. In the absence of sons, the existence of daughters and mothers is ignored, and the property is inherited by the next male kin. Patriarchy shapes these customs, beliefs, and the pattern of gender socialisation in the region, resulting in different status and rights for men and women in society. Also, political, social, and cultural institutions are by and large controlled by men, and customary laws and practices play a dominant role among most of the tribal societies in northeastern India (Boungpui, 2013).

In Tripura, Barooah (2009) goes on to argue that the male is the absolute owner of family property, whether self-acquired or inherited under Tripuri customary laws and traditions, and has the authority to dispose of any such property. In the state of Meghalaya, which is matrilineal in nature, things are not much different. Although in matrilineal societies women held nominal ownership rights to property, men frequently held both effective control and legal authority over it, and customary laws of the tribe do not always advance the welfare of women (Nongbri, 2003). Mizo women are also severely discriminated against in terms of property inheritance (Lalhriatpuii, 2010). Women were never given rights over landed property. The youngest son always inherited everything. However, since the Mizo Marriage, Divorce, and Inheritance Act (2014), things have been better for Mizo women. From divorce procedures to inheritance of family (ancestral) property, this Act has empowered and enhanced the position of women in various ways. Women in Mizoram now has an honourable role in her paternal or ancestral property, and she is also entitled to inherit her father's property, both

socially and monetarily. In the absence of a son, the Act guarantees rights of inheritance of the husband's property by the wife and daughters, which was not the case before Lalzikpuii (2019).

Accordingly, Adelman and Peterman (2014) opine that gender inequality in property ownership is frequently interpreted in both customary and statutory laws through a patriarchal socio-cultural system. Ekka (2011) writes that Schedule V of India's constitution mandates the acceptance of customary law, even if it is not codified. Thus, the Scheduled Tribes are protected from the application of constitutional rights if they clash with tradition, according to Article 9, Clauses 4 and 5. Furthermore, Scheduled Tribes are excluded from the Hindu Succession Act under sub-section 2 (2) until the Central Government directs differently. As a result, the Scheduled Tribes are exempted from both the Hindu Succession Act and the Indian Succession Act. Expanding on the broader national context, Naga society demonstrates how distinct regional customary laws create multiple overlapping forms of exclusion for women in tribal communities.

## INHERITANCE PRACTICES IN NAGA SOCIETY

Among the Nagas, each tribe has its own distinct practices and customary law which govern the inheritance practices (Odyuo & Chavhan, 2024). These customary laws are also patriarchal in nature (Longkumer and Bokth, 2021), and a Naga woman cannot claim ownership of the land, nor is she entitled to inherit it if it is ancestral property. Such an arrangement creates disparities among men and women in inheritance rights (Zehol, 1998), and Naga women's rights remain sidelined due to gender roles, which are determined and deemed suitable by the traditional norms practiced in the society (Jamir, 2014). Moreover, tribal women in Naga society often internalise and reinforce the very norms that oppress them (Kire, 2007). Besides the discriminatory inheritance rights, women are also excluded from key political forums like the village council, reinforcing male exclusivity (Toshi, 2018). Thus, women in Nagaland are battling a two-pronged war: participation in government institutions and inheritance rights (Sharma, 2016).

Like the many other tribes in Nagaland, the Ao Naga tribe has a patriarchal social structure that shapes its rules, customs, and social practices (Longchar, 2002). The community upholds these conventions, which are frequently entwined with the customary laws that regulate many facets of life, such as the inheritance customs. Men are usually in charge of it, and property is typically passed down through the male bloodline, and customary laws tend to favour male successors (Jamir, 2014). As such, the social and economic standing of Naga and Ao women in general are impacted by the discriminatory patriarchal practices, and even though debates surrounding women's rights and gender equality have evolved, customary law and traditional practices remain intact. It is therefore necessary to recognise the cultural practices and the current discussions about gender and rights in the community to comprehend this setting.

## NEED TO STUDY THE INHERITANCE RIGHTS OF AO NAGA WOMEN.

Women's property rights and inheritance are closely entwined with legal, cultural, and historical systems in many parts of the world, frequently marginalising and disadvantaging them. Customary and statutory laws across many countries, including India, continue to discriminate against women in areas of property ownership and inheritance, despite international human rights norms that support gender equality. The issue is particularly pressing in patriarchal societies where women are essentially excluded from equal property rights due to ingrained traditions and societal institutions that support male hierarchy.

In tribal societies, the intersection of gender, customary law, and patriarchy produces a

complicated environment that profoundly affects women's rights to inherit property. As a social construct, gender affects roles, actions, and expectations, which leads to an imbalance in power favouring men over women. Customary laws, which have their roots in cultural settings and traditions, also perpetuate these gender gaps by limiting women's participation in decision-making and upholding traditional gender roles that undervalue their contributions.

Customary laws and patriarchal practices further exacerbate this issue in tribal communities. Women are often excluded from inheriting property due to entrenched gender norms and traditional practices restricting their access to land and property. Despite their significant contributions, women remain economically dependent and socially subordinate. This issue is clearly demonstrated by the Ao Naga tribe of Nagaland. Customary laws tightly control property inheritance practices typically excluding women from inheriting ancestral land. This system perpetuates women's economic and social subordination, limiting their opportunities to assert their rights or to question these deeply ingrained traditions. Thus, a need is felt to study the problem of 'Property Inheritance Rights of Ao Naga Women'.

At the same time, it is necessary to comprehend this complex issue with cultural sensitivity while seeking to understand the historical and social contexts that have shaped the customary laws and practices of Ao Naga society. By respecting and acknowledging the cultural significance of these traditions, potential pathways to reform the balance between the need for gender equality and maintaining and preserving cultural heritage and communal identity can be established, which can help advocate for legislative changes and more equitable inheritance practices.

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