Gender Parity versus Customary Laws: The rights of Naga tribal women

LEAD ESSAY:

- Gender Parity versus Customary Laws: The rights of Naga tribal women

HEADLINE OF THE WEEK:

- All you wanted to know about GVA

SECTION 1: ECONOMY

- We expect a breakthrough on GST in second leg of Budget session: PM

SECTION 2: GOVERNANCE AND DEVELOPMENT

- Connectivity: How far has India come in its digitization journey?
- Education: Government’s decision to focus on learning outcomes is commendable

SECTION 3: SOCIETY

- Gender: How Microfinance Reduces Gender Inequality in Developing Countries; Women Continue to Bear the Burden of Contraception; Glass ceiling has cracked, but is still unbroken; There’s no progress if women lag behind
- Social Justice: Contract Powrakarmikas Have Been Denied Their Wages: Whose Swachh Bharat is it?

SECTION 4: INDIA AND WORLD

- East and South East Asia: China’s Human Rights Crackdown: A Global Problem; How Did China Lose South Korea?
- Americas: Uber Seeks to Prevent Use of Greyball to Thwart Regulators; US lawmaker seeks ‘radical reset’; declare Pakistan ‘state terror sponsor’

SECTION 5: OPINION / BOOKS

- Opinion: Stability in the time of change; Does ‘age’ encompass mental age?; We’re Happy the Maternity Bill Has Been Passed, But Remember it Only Helps a Fraction of the Country’s Women; There are many policies, not enough people participation
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Introduction

Patriarchy is embedded in several institutions of India. Women have been denied equal rights in the workplace, representation in the State and even in the domestic arena. In 1993 a constitutional amendment was passed that required one third of village council leader, or pradhan or positions in gram panchayat to be reserved for women (Chattopadhyay and Duflo, 2004). As an extension of this amendment, there has been a long term plan to implement this reservation to the parliament and legislative assemblies as well. In 2008, the UPA government proposed the Women’s Reservation Bill which would reserve 33% of the seats in the Lok Sabha and legislative assemblies for women. The seats were to be reserved in rotation and would have been established by draw of lots in a manner that a seat would be reserved only once in three consecutive general elections. However even though the Rajya Sabha passed the Bill, nonetheless the Bill was never voted on in the Lok Sabha and in the process the Bill lapsed after the dissolution if the 15th Lok Sabha in 2014 (The Hindu, 2015).

Recently women’s reservation has again become a contentious issue. The State government of Nagaland in August 2016 after the Supreme Court passed the interim order announced that 33% of seats in the Urban Local Body elections have to be reserved for women (Thaosen, 2017). This decision has met with massive resistance from the Naga men because they see it as a threat to their customary laws and society. Drawing from various media reports and studies on the tribes of Nagaland, this current essay will trace the history of tribal Naga women. The essay will highlight both sides of the debate and focus on how the rights of tribal Naga women are being violated. In this backdrop the essay will also highlight the position of the government in enhancing gender equality in the country.

The Political Row

The Naga Mothers’ Association had moved the Supreme Court in 2012 to implement 33% of reservation of women in the urban local bodies. The Association wanted the Supreme Court to pass the order and be in the same category as Bihar, Uttrakhand, Madhya Pradesh and Himachal Pradesh which have 50% reservation for women in Panchayati Raj Institutions (The Hindu, 2016). The Supreme Court ruled in the favor of the Association, following which the State Cabinet mandated to conduct the polls which had been due for a decade and a half. When the elections were scheduled to be held on February 1st, 2017, violent protests and boycotts by tribal bodies erupted which led to the death of two people and injured several in the process (DailyO, 2017).

In this context it is important to examine what led to the protests and the political uprising. Tribal bodies led by the apex group Naga Hoho indicated that 33% reservation for women is a direct interference with Naga customary laws (Thaosen, 2017). In fact, the tribal bodies of Nagaland have highlighted that as per the provisions of Article 371(A) any law passed by the Parliament or the Supreme Court are not binding to the State (DailyO, 2017). In particular, the Article 371(A) grants special status to Nagaland by stating that, “no Act of Parliament shall apply to Nagaland in relation to religious or social practices of the Nagas, Naga customary law and procedure, administration of civil and criminal justice involving decisions according to the Naga Customary law, ownership and transfer of land and its resources” (Article 371(A) Constitution of India). While the tribal bodies are demanding that the Supreme Court order cannot be implemented in the State,
Chief Minister TR Zeliang has suggested that the order does not infringe upon Naga customary laws because towns and municipalities are modern constructs and cannot be related to traditions and customs of the Nagas (Jamir, 2017).

The protests resulted in a State wide bandh and the Nagaland Tribes Action Committee (NTAC) demanded that the Chief Minister TR Zeliang should resign from his post. On 19th February, 2017, Zeliang stepped down from his post and the Naga People’s Front MLAs elected Dr Shurhozelie Liezietsu as the new Chief Minister (Acharyya, 2017).

Given the political turmoil it is important to reflect on the history of Naga tribal women and the significance of the current movement.

**Locating Naga Tribal Women in the traditions of Nagaland**

Given the rising debate between equality and tradition, a brief focus on the trajectory of Naga tribal women is important to understand the current political uprising. According to Census of India (2011) Nagaland has one of the lowest differences in male and female literacy rates. Additionally studies have also indicated that even though the Naga society is patriarchal in nature, women enjoy special status in the Naga tribes. Naga tribal women through weaving and knitting have for long been involved in generating income and maintaining their own independence. Even though the Naga tribal women had means of economic empowerment, nonetheless within the household their role was relegated to sustain values and customs (Shimray, 2002; 2004). In the 19th century through developmental plans such as increase in foreign trade with Southeast Asia through the North East Border when the Naga community was disrupted with drug peddling, corruption and smuggling, the intervention of the Naga tribal women was significant (Shimray, 2002; 2004).

In this backdrop, the Naga tribal women played a critical role in upholding the cultures and values of the Naga community. Several women organizations emerged from the village level to form apex Naga women’s organizations (Shimray, 2002: 2004). Organizations such as Naga Mothers Association (NMA) and Naga Women’s Union Manipur (NWUM) took the lead in various people’s movement. For instance the women associations organized rallies to protest against the Armed Forces Special Power Act and organized workshops on anti-drug trafficking (Shimray, 2002; 2004).

Even though Naga tribal women have actively participated in political movements, their representation in administrative posts however continues to remain low. In the entire history of Nagaland only one woman MLA has been elected in the 1970s (Vaiphei, 2017). In fact, most villages in Nagaland have 25% village development board seats reserved for women. However these seats mostly remain uncontested (Vaiphei, 2017). In fact, in 2001 when the Nagaland Municipal Act was passed in 2001 to hold municipal elections as per Constitutional provisions, no provisions for women’s reservation were made. The Naga women associations filed a lawsuit in Gauhati High Court to make amendments to the Act and introduce women’s reservation (Chakravarty, 2017). In 2006, the Naga women were first granted 33% reservation in urban local bodies by the Nagaland Municipal (First Amendment) Act granted (Vaiphei, 2017). This move resulted in severe protests by tribal councils and the government stalled the polls (Chakravarty, 2017). Since then the Naga women associations have been engaged in implementing the law.
Lead Essay

Drawing from the course of Naga women it could be suggested that their battle has been long to be recognized in the political realm. The current political row is a failure of the State to grant equal rights to Naga tribal women and an enforcement of patriarchal structures.

Naga Customary Laws

The issue of women’s reservation among Naga tribal women has witnessed such huge protests because as per the leaders of the tribal associations, this policy contradicts the Naga customary laws. While the Naga customary laws are under scrutiny, a systematic analysis of the laws is important to understand the claims of the tribal leaders.

The origin of the Naga customary laws can be traced back to colonialism. For instance *dobashi* (interpreter) courts are identified to be the basic institution of the Naga customary laws (Shirmay, 2011; Wouters, 2017). In the context of women Naga customary laws prevent a woman from inheriting ancestral property, unless it is gifted to her during marriage (Shirmay, 2002). In particular, as per the laws a woman cannot be included in the apex decision making bodies of a tribe (Thaosen, 2017).

Even though the customary laws that prohibit reservation of women in political posts are being cited, studies have indicated that the laws were created by the British Government. For instance, studies have indicated that the *dobashi* court is not a Naga tradition but was created by the colonial government (Shirmay, 2011; Wouters, 2017). Similarly even the laws for women were made under the colonial regime. Scholars have suggested that the Naga customary laws are pluralistic in nature and differ from tribe to tribe and village to village. Debunking the myth of the customary laws, scholars have indicated that a homogeneous body of customary laws does not exist among the Naga community (Shirmay, 2002; 2004; 2011; Wouters, 2017).

Drawing from the studies it could be suggested that the tribal bodies of Nagaland are misinterpreting the laws and protesting against women rights. Amidst the turmoil that the State of Nagaland is witnessing, the Government of India should use strict regulatory measures and implement the reservation of women as a progressive step towards gender equality.

Conclusion

Echoing the sentiments of Naga tribal women, recently on 4th March, 2017, the President of India, Mr Pranab Mukherjee emphasized on the need for women’s reservation in the Parliament. In fact, a recent report by the UN (2017) has highlighted that quota for women in the Parliament reduce gender discrimination in the country. Reservation for tribal women in Nagaland is significant for upward mobility of tribal women. As indicated that even though the Naga women have participated in several movements, they have been traditionally denied equal inheritance rights and have been prevented from participating in decision making processes. Specifically it is also important to note that the geneses of the customary laws are the British government and reforms of these laws are urgent. It is misleading to suggest that Nagaland is undergoing a clash between tradition and equality because as indicated by scholars there are no singular law binding the Naga tribal community.
Lead Essay

In the present turn of events, clearly the Central Government alone can make a decision regarding the implementation of 33% reservation for tribal women in Nagaland. The Government of India should take immediate action and the disruption of peace in Nagaland should not prevent the Government from granting equal opportunities to women.

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References
Lead Essay

Headlines

All you wanted to know about GVA
(Radhika Merwin, Business Line, March 6, 2017)

Economists are at it again, nitpicking the recent GDP growth estimate put out by the Central Statistics Organization (CSO). Why? Because the 7.1 per cent growth forecast for FY17, remains unchanged from CSO’s earlier estimate. This begs the question: was the hype over demonetization hurting growth much ado about nothing? However, a less conspicuous figure put out by the CSO shows moderation in growth. That is the gross value added (GVA). GVA growth has been pegged at 6.7 per cent for FY17, lower than the earlier estimate of 7 per cent.

Read More: http://www.thehindubusinessline.com/opinion/columns/what-is-gross-value-added-in-india/article9572455.ece
Date Accessed: 09.03.2017
We expect a breakthrough on GST in second leg of Budget session: PM
(K R Srivats, Business Line, March 9, 2017)

As the second leg of Budget session commenced on Thursday, the Prime Minister, Narendra Modi, said he expects a breakthrough on Goods and Services Tax (GST) before the session concludes next month. Modi was talking to reporters at Parliament House just before the commencement of proceedings in both the Houses.

Date Accessed: 09.03.2017
**CONNECTIVITY**

**How far has India come in its digitization journey?**


So far, innovation has been for ‘India 1’—the first 100 million Indians—said Rajan Anandan, vice-president India and south-east Asia at Google Inc. “These are consumers who have high personal disposable income, they are well connected and well educated. Way forward, we will see problems being solved for ‘India 2’ and ‘India 3’—the next 200 million to 600 million Indians,” Anandan said.

He explained, “the next wave will be of great companies that are must-have solutions. For instance, healthcare challenges cannot be solved by an app. These companies are going to be full-stack, that will include hardware and software. They will require new kinds of technical skills and deep domain expertise, who will require different kinds of capital in larger quantums and which is patient.”


Date Accessed: 10.03.2017

**EDUCATION**

**Government’s decision to focus on learning outcomes is commendable**

*(The Economic Times, March 10, 2017)*

The government’s decision to focus on learning outcomes in schools is commendable. However, the decision to put in place top-down, class-wise, subject-wise learning outcomes for all elementary classes has the potential to undo the gains made by programmes like Sarva Shiksha Abhiyan.

Learning outcomes are statements of what a student should know and understand after completion of a process of learning. The pace at which a child learns is a function of the development of his/her cognitive ability. This is determined by socioeconomic background and the educational attainment of the parents, apart from what happens in the classroom.


Date Accessed: 10.03.2017
GENDER

How Microfinance Reduces Gender Inequality in Developing Countries

(Scroll, March 8, 2017)

An increase in the proportion of women accessing microfinance services by just 15 percent could potentially reduce gender inequality, as measured by the Gender Inequality Index, by half in the average developing nation. The finding comes from a recent study published in Applied Economics Letters that also found that cultural characteristics can influence this relationship.

Read more: https://scroll.in/article/831053/how-microfinance-reduces-gender-inequality-in-developing-countries
Date Accessed: 9.3.2017

Women Continue to Bear the Burden of Contraception

(Village Square, March 8, 2017)

The latest round of National Family Health Survey (NFHS) 2015-16 data shows a declining trend of modern contraceptive use among married people. The data released for 35 states so far reveals that 13 out of these show a falling trend of modern contraceptive use. Although modern contraceptive use in rural areas has increased a bit, the sharp decline in the urban areas has led the overall use to decline. The findings come as a shock as we march ahead with India’s Family Planning 2020 vision, which promised to provide family planning services to 48 million new women in the country by 2020 at the London Family Planning Summit in 2012.

Read more: http://www.villagesquare.in/2017/03/08/women-continue-bear-burden-contraception/
Date Accessed: 9.3.2017

Glass ceiling has cracked, but is still unbroken

(Tina Edwin, Business Line, March 8, 2017)

Women continue to be grossly under-represented in key decision-making roles, both in corporate India and politics. Where they do make it to the top, it is not uncommon for them to face gender bias, stereotyping and be paid lower compensation. For that matter, gender bias and stereotypes were felt more acutely by women in C-suites in India than countries such as the US, a recent Egon Zehnder report ‘Leaders and Daughters 2017’ found. Yet, the share of CEO jobs held by women in India — at 11 per cent — is much higher than the proportion in more advanced Western nations, another study by the same firm found.

Read More: http://www.thehindubusinessline.com/economy/glass-ceiling-has-cracked-but-is-still-unbroken/article9574307.ece
Date Accessed: 09.03.2017

There’s no progress if women lag behind

(M Venkaiah Naidu, Business Line, March 9, 2017)

The importance of women’s emancipation cannot be limited to mere tokenism on a single day. Every day should be a women’s day for putting an end to any sort of discrimination and achieving gender-based equality and women’s emancipation. For this, there is absolute need for change in the mindset of people, particularly men. It is unfortunate that even 69 years after Independence, we are still talking in terms of ending gender discrimination and the abhorrent practice of female foeticide. The recent incident in which 19 aborted female foetuses were found in Sangli district of Maharashtra has shocked the consciences of right-thinking people. Education, empowerment, entitlement and emancipation are required to usher in a society where women are treated as true equals in all spheres of life.

Read More: http://www.thehindubusinessline.com/opinion/change-mindsets-for-women-empowerment-in-india/article9575999.ece
Date Accessed: 09.03.2017
SOCIAL JUSTICE

Contract Powrakarmikas Have Been Denied Their Wages: Whose Swachh Bharat is it?
(Feminism in India, March 8, 2017)

Any citizen’s basic need from their city is cleanliness. While the demand seems basic enough, the work that goes into keeping a city clean is not easy. Powrakarmikas work all day, sweeping the streets, picking up garbage and generally keeping the city clean. The work they do is essential for the functioning of the city, yet they aren’t treated with the respect they deserve. After a series of protests, the Powrakarmikas assembled outside the Bruhat Bengaluru Mahanagara Palike (BBMP) office in Bangalore on 8th March 2017 in order to protest the working conditions they face.

Read more: https://feminisminindia.com/2017/03/09/bangalore-powrakarmikas-strike/
Date Accessed: 9.3.2017
**EAST AND SOUTH EAST ASIA**

**China's Human Rights Crackdown: A Global Problem**  
*Benedict Rogers, The Diplomat, 10 March, 2017*

China has long had a poor human rights record. But in abducting foreign nationals from foreign shores, it has gone too far. The international community must end its kowtowing to Beijing, which China does not respect, and instead speak out publicly for people like Gui Minhai. If governments were not prepared to do so previously, perhaps the assault on the BBC may serve as a wake-up call.


Date Accessed: 10.03.2017

**How Did China Lose South Korea?**  
*Xie Tao, The Diplomat, 9 March, 2017*

It is a Chinese diplomatic tradition to celebrate the anniversaries of important events in its relations with foreign nations. This year marks the 25th anniversary of the establishment of diplomatic ties between China and South Korea. Instead of high-level visits or grand ceremonies, however, the anniversary is marred by unprecedented confrontation between the two countries.


**AMERICAS**

**Uber Seeks to Prevent Use of Greyball to Thwart Regulators**  
*The New York Times, March 8, 2017*

The ride-hailing service Uber said on Wednesday that it would prohibit employees from using a program called Greyball to thwart regulators. Uber’s new policy pertaining to the use of Greyball, a tool the company developed to show individual riders different versions of its app, comes in the aftermath of a New York Times article that outlined how the company had used the tool to identify and avoid local regulators who were investigating the service.


Date Accessed: 9.3.2017

**US lawmaker seeks ‘radical reset’; declare Pakistan ‘state terror sponsor’**  
*The Indian Express, March 10, 2017*

An influential US lawmaker has sought a “radical reset” of ties with Islamabad and introduced a bill in the Congress that pushes the American government to declare Pakistan a “state sponsor of terrorism”, or give a detailed justification for not doing so in a limited time. Congressman Ted Poe, Chairman of the House Subcommittee on Terrorism, introduced the Pakistan State Sponsor of Terrorism Act (HR 1449) in the US House of Representatives. Introducing the bill, Poe said, “not only is Pakistan an untrustworthy ally, Islamabad has also aided and abetted enemies of the United States for years.”


Date Accessed: 10.03.2017
OPINIONS

Stability in the time of change
(Rakesh Sood, The Hindu, March 10, 2017)

The post-World War II order marked the end of colonialism and was intended to be based on the democratic principle of equality of sovereign states, but this idea quickly fell prey to the realities of the Cold War. The UN became an arena for the power play between the two superpowers. By the time the Cold War ended, the institutional structures of the UN were out of sync with the new political reality. The U.S. became ‘the sole superpower’ but hubris and the decision to invade Iraq soon eroded the authority of its unipolar moment.

Read More: http://www.thehindu.com/opinion/lead/stability-in-the-time-of-change/article17436385.ece
Date Accessed: 10.03.2017

Does ‘age’ encompass mental age?
(The Hindu, March 10, 2017)

A recent case has exposed a lacuna in the Protection of Children from Sexual Offences (POCSO) Act of 2012, which defines a ‘child’ as a person under 18 years of age.

The case, which came up before the Supreme Court, concerns a sexual assault victim whose biological age is 40 but whose mental age is six. The court has to decide on whether such a person is a ‘child’ under the POCSO Act.

Read More: http://www.thehindu.com/todays-paper/tp-opinion/does-age-encompass-mental-age/article17438090.ece
Date Accessed: 10.03.2017

We’re Happy the Maternity Bill Has Been Passed, But Remember it Only Helps a Fraction of the Country’s Women
(Maya Palit, Ladies Finger, 10 March, 2017)

What the latest amendment to the bill will involve is an increase in maternity leave from 12 to 26 weeks for the first two children. After that, it will stay at 12 weeks. Maternity leave for mothers who are adopting a child will be made available in cases where the mother adopts an infant below the age of three months, as well as to the biological mother. Additionally, places with more than 50 employees must make arrangements for a creche facility for working mothers, and be open to nursing mothers working from home.

Read More: http://theladiesfinger.com/maternity-bill-passed/
Date Accessed: 10.03.2017

Delhi Government Reduced Tax on Sanitary Napkins. But Why on Earth are They Taxed at All?
(Sharanya Gopinathan, Ladies Finger, 10 March, 2017)

When the Delhi government announced the Budget for 2017-18, they mentioned that sanitary napkins that cost Rs. 20 will now be made tax free, while those that cost more will now be taxed at 5 percent instead of the earlier 12.5 percent. Outside of Delhi, it looks like sanitary napkins are to be taxed at an incredible 14 percent under the Goods and Services Tax system. Which seems crazy to us, because sanitary napkins are a necessity, not a luxury that women should be exclusively taxed for.

Read More: http://theladiesfinger.com/sanitary-napkins-tax/
Date Accessed: 10.03.2017
Opinions/ Books

There are many policies, not enough people participation
(Satyendra Tripathi, DailyO, 9 March, 2017)

In the post-Independence period, constant efforts were required at the social level to achieve self-reliance. For centuries our country was under foreign rule. During this long period of servitude, the spirit and quest for self-reliance and a dignified life had almost vanished.

Date Accessed: 10.03.2017