**THE RIGHTS AND THE STATUS OF THE WOMEN: CUSTOMARY LAW OF THE LEPCHAS**

**\***Fatima Lepcha

|  |  |  |
| --- | --- | --- |
|  |  | **Abstract** |
|  |  | Lepchas, the Indigenous inhabitants of Kalimpong, Darjeeling, and Sikkim, reassert their fundamental identities through their customary Law (*Rong Di Hyrim*). The rights, obligations, and responsibilities regarding the essential aspects of their lives and customs are rooted in their customary laws. This is also evident when one studies the Customary Laws (*Rong Di Hyrim*) of the Lepchas, which deal with the vast framework of rules, rituals, customs, and practices. Therefore, the customary laws are integral to their identity and have also given some basic concepts and understanding of the gender dimension defining men's and women's roles. However, the Customary Laws of the Lepchas also enlightened the rituals and the customs, showing the significant participation of the women. In light of this, this study seeks to explore the narrative of the Customary Laws (*Rong Di Hyrim*) of the Lepcha in understanding its view on the role of women and unravel how their status and rights were regulated by the Customary Law. |
| ***Keywords:***  **Lepcha;**  **Women;**  **Status;**  **Rights;**  **Customary Law;** |
| *Copyright © 2025* International Journals of Multidisciplinary Research Academy. *All rights reserved.* |
| ***Author correspondence:***  Assistant Professor, Department of History, Kalimpong College, Rinkinpong Road, Kalimpong, 734301  Email: lepchakpgc@gmail.com | | |

1. **Introduction**

Although the Indian Constitution guarantees the Scheduled tribes protection to develop according to their innovation, the historical customs are also a fundamental part of the general law when it comes to jurisprudence. This line of thinking holds that unwritten tribal customs regulations that are seen as legally binding by their communities interact with the formal laws that the State enacts and enforces. This relationship occasionally overlooks their significance in maintaining tribal identity and cohesiveness, as most tribes view their customary Law as an integral component of their culture and traditions and as essential to their identity. Their origins lie in actions that became customary through emulation and deference to the ideas they stand for. A norm becomes a law when community members see it as fundamental to their legacy and uphold it. This is particularly true for traditional civilizations, in which unwritten laws and norms served as the only behavioral guidelines. These laws contribute to community stability and social order preservation. Consequently, a body of regulations that have legal force because they have been adhered to regularly by a society for a sizable time would be considered customary law. Tribal customs are fundamental to their identity and consist of all regulations and procedures for enforcing them and penalties for breaking them. These customs are passed down from one generation to the next.[[1]](#endnote-1) Therefore, customary law is the standard way of doing things in a society. It comprises dos and don'ts based on customs, practices, and usages; processes like taboos, punishments, social rituals, culture, public opinion, and individual ethics all work together to constrain a society's pattern of behavior.[[2]](#endnote-2)The social, cultural, and religious facets of life are governed by these standards and guidelines for behavior for both people and families. They are enforceable and necessary. Few of them have received official recognition from the State, even though the majority of tribes see them as ancient as the tribe itself and give them the status of law. They have endured due to the community's will as well as the acceptance and approval of the general public. Given that, the Indigenous tribes of Kalimpong, Darjeeling, and Sikkim, particularly Lepchas, also generally believed that like every society, they have their norms, values, customs, and approved behavioral codes of conduct passed on from generation to generation. Therefore, considering their customary Law as intrinsic to their identity and part and parcel of their culture and traditions, the study aims to see the Lepcha women's rights and status through their customary Laws in the various aspects of their lives.

1. **Naming Ceremony (*Tungbaong Faat)***

Although it has been stated that in the eyes of the Customary Law, both men and women are equal.[[3]](#endnote-3) There are only a few references provided in compliance with this, as it is believed that under various customs and regulations passed by various groups, women received varying treatment and guidance. Throughout history, Indian women have always been performers and agents and have always fulfilled very dignified responsibilities. Lepcha women were no exception to it; it was the same from the moment of conception till death. The Customary Law of the Lepchas also governs the life of the women from conception to death.

This begins with the birth of the child, indicating the unequal treatment between the boy and the girl immediately after their birth. However, the customary law is silent regarding the desire of the son or the daughter. Concerning the *Tungbaong Faat* or Naming Ceremony, following the birth of the child, three nights and four days celebrate the *Tungbaong Faat* (the Naming Ceremony and purifying of the house).[[4]](#endnote-4) For the performance of the said ritual, a wise elder or priest or the priestess is required to offer the prayer to the Himalayas, their respective *chu* (mountain deity), various other deities and confer their respective Chu (mountain deity), *Da* (Lake), and *Lyep* (final resting place with their ancestors), and *Aagit* (clan). It is interesting to reflect on the difference between the son and the daughter in conferring the *Chu*, *Da*, and *Lyep*. It is revealed in the Law that the boy is conferred the Clan of his father. Similarly, the respective *Chu*, *Da*, and *Lyep* of the father are conferred to the son. However, concerning the clan, *Chu*, *Da*, and *Lyep* for the daughter, it is given from that of her mother.[[5]](#endnote-5) Along with that ceremony, they were given the appropriate name during the ceremony. The naming ceremony reflects the two sides of the rights and the status of the Lepcha women. On one hand, it reflects the practice of the matrilineal system by the Lepchas. It comprehends that the woman carries forward the lineage of her mother. Given that it may reflect that the women were given the position by conferring the clan of her mother. On the contrary, the law reflects the restriction on the part of the women in inheriting the ancestral land and property of the father. Thereby making the son the sole heir in inheriting the property of the father. However, the Law confers her the rights of acquiring the ancestral land and the property of the mother. Moreover, it may be presumed from the discussion that the law does not provide an equal share and rights between the daughter and the son regarding the property inheritance of the father.

Furthermore, the Lechas' customary law permits childless parents to adopt a son or daughter, subject to certain restrictions concerning adoption. In some cases, they might adopt a girl or a boy, but they would have to be from the same clan as the parents.[[6]](#endnote-6) It would be more intriguing, however, to draw attention to how the son and daughter are treated differently in terms of their property rights rather than their adoption preferences. The law's recognition of property rights symbolizes the distinct rights of adopted sons and daughters. Only the adopted son is entitled to his parents' ancestral land and property, following the Law of the Lepchas. He is the only owner of his parents' ancestral home and land. However, the law prevented the daughters from inheriting their family's land and belongings after they married. She is only permitted to possess the fortune she has amassed while living with her adoptive parents.[[7]](#endnote-7) Given that, the Lepchas' customary laws are inequitable in representing their rights and status, as can be shown by contrasting the daughter/son with the adoptive daughter/son. It might also imply that the Lepcha laws on property rights and status do not align with the Lepchas' overall perception of the high status of Lepcha women.

1. **The Marriage (*Bree)***

The Customary Law (*Rong Di Hryim*) represents *Bree* or the Marriage ceremony as another aspect of the life of the women.[[8]](#endnote-8) It provides insight into the community’s interest in marriage as an unending union between not only the couple but also the family. It consists of the various rituals from the beginning till the end. The Lepcha women were part and partial of this social institution, it throws light on how the Lepcha women enjoy their rights and status in their marriage ceremony. According to the Law, it is the groom who has to search for the bride; the customary laws of the Lepchas state that it is the bride’s party that collects the information about the family of the groom.[[9]](#endnote-9) In the process of obtaining the information called *Ashake-Yang* (depute people to collect information about the groom’s family), the bride’s party acts as an instrument to access the data of the groom. The bride’s party also investigates the following criteria before the finalization of marriage. The most important among them is marriage within the same clan and closely related family.[[10]](#endnote-10) The law considered marriage within the same clan a taboo, and one will be separated or banished from the community or the village. Other aspects include economic conditions, mental and physical health, morality, and dignity. Additionally, as per the rituals before marriage, the important points shall be examined by the family, such as the family should not have been affected by any hereditary diseases like leprosy. No member of the family should have been attacked, injured, or killed by a tiger. The family should not have any history of suicide or murder cases. A family involved in fighting and killing over land and water disputes was not accepted, focusing mostly on the economic condition, social status, and the hereditary history of the family, in the marriage was decided. Therefore, the Lepcha would consider these aspects an ideal in an individual appropriate for the marriage. However, this custom of *Ashake-Yang* not only remains as the quest to know the character and culture of the groom, but if he fulfills the criteria, then the process for the marriage is initiated. Even though, the criteria for the the process of *Ashake-Yang* (deputing people to collect information about the groom’s family) does not emphasize on the right and the status of the women. Nonetheless, it reflects that the bride’s party was given a higher importance in Lepcha marriages.

However, the priority to marry within the same *Aagit* (clan) and marriage within a specified group (Endogamy) custom, as mentioned above, reflects the difference in practice among the genders. It is stated in the Customary Law that only after four generations on the mother’s side or after the death of the great-grandmother can the men marry from the mother's clan. Gorer quoted nine generations on the father’s side and four generations on the mother’s side. However, A.K. Das conditions that marriage between cousins is forbidden among the Lepchas.[[11]](#endnote-11) Accordingly, Sumit Ghosal states that the exogamy in the Lepcha marriage does not permit marrying relatives. The Lepchas count five descendants on the father’s side and three on the mother’s side. This process highlights the importance of the *moo*/clan[[12]](#endnote-12)in the Lepcha marriage, indicating that the daughters follow the lineage of the mother and the son from their father. It signifies that the women also retain their identity in the family, sharing equal importance and value. This further implies that the Lepcha community, therefore, does not practice the caste system but follows the *moo*/clan lineage, providing some flexibility in choosing their partner. Veena Bhasin and Chi Nakane also support the idea that the tribe's marriage laws are determined by the moo or clan.[[13]](#endnote-13) The tradition of following the *moo*/clan lineage system in marriage is to avoid marriage within the same clan of the mother and father. The Lepchas firmly believed that marriage with their relatives was a curse as their first man and woman gave birth to the devils.[[14]](#endnote-14) However, Waddel showed traces of matriarchy amongst the Lepchas in which the children trace their descent through their mothers. When women are granted matrilineal rights, it is evidence that they are valued equally to men. However, the legal preference for marrying within the same clan as the ninth generation in the father's line and the fourth generation in the mother's line reflects the gender differences.

Apart from that, the customary law represents a different picture concerning exogamy (not favored but giving consent reluctantly) that applied only to the men. It reflects that when a Lepcha man marries a woman of the non-Lepcha community, the bride will be granted the Lepcha clan/ *Aagit* with a Lepcha traditional ceremony called *Aagit/Moo* by a *Boongthing/Mun* to safeguard the interest of their future offspring, especially girls. But she will not be entitled to land and property. If a Lepcha girl marries a non-Lepcha man, she automatically forfeits her claim and right as Lepcha, ancestral land, and property. The Customary Law of the Lepchas also mentions several punishments in case of a violation of the law. They were banned from the community and were never allowed to return to the village. The Lepchas took a great deal in avoiding the incest marriage, a Lepcha man shall be allowed to marry his mother’s clan/*Aagit*.

1. **The quest for Bride *(Nyom-Vyat)***

Amongst all the customs of the Lepcha marriage, *Nyom-Vyat* (the quest for the bride) is the initial process after *Ashake-Yang*. As per the custom, he is accompanied by a middleman called the *Pebu/ bek bu,* along with the *Chee-Prok-panol* (packet of *Chee* present)*.[[15]](#endnote-15)* The major role of the maternal uncle in this custom is to gather the information and ask for the bride's hand. The *Pibu/Bek bu* of each side maintains contact between families and conducts negotiations for marriage. The middle man and the maternal uncle must always be ready to answer all the queries about the bride, her clan, and kinsfolk. Following Lepcha law, the groom's maternal uncle plays a crucial part in the bride's quest. The matrilineal social system is ingrained in his status and role. He stands for the position of men concerning matrilineal women. However, the groom's family always took the lead in arranging the marriage. However, starting with the engagement rites, the girl's family has every authority to reject or accept the proposal.

1. **Engagement (*Ashake)***

The ceremonial offerings from the groom's side are made when the girl's parents accept the marriage proposal. Following extensive negotiations, the groom's party is supposed to visit the bride's family with the required traditional presents in a submissive manner once the date for the *Ashake* has been set. Instead of accepting the challenge, the groom's side is expected to remain composed and sit silently the entire time, while the bride's side continues to try to find fault and weaknesses in the negotiation. Each infraction will result in a fine, as is customary. The custom of the groom's party being submissive serves as an example of the social interactions between the bride and the groom's party. However, the Lepchas continue to follow the aforementioned heritage. The girl's party must covertly inquire about the boy's family, any inherited illnesses, and their unwelcome struggles before concluding this event. The party representing the girl is free to end the discussion if something similar is discovered. Both sides will complete the *Bree* (the preparation, braiding, and wedding ceremony) upon the bride's party's approval. It may be inferred from the aforementioned traditions that the bride's party or women have the freedom to select the husband of their choice and adhere to the conventional standards. Throughout the procedure, the bride's party must maintain a subordinate position to the groom's party. It is implied that the *Ashake* is the Lepcha marriage ceremony that best represents the women's status out of all of the others.

1. **Bride Price (*Taya-Kup-Afaar)***

After the marriage is consummated, the main focus of the Lepcha marriage is the custom of *Taya-Kup-Aafaar* or *Nyaom-Saa-Aafar* (the bride price or the marriage price). Traditionally, the bride's parents and family members receive the following: a) *Nyaom Aasek Gyu* (engagement price): i) *Chi*, a basket of fermented beverages; ii) *Phogo Rip Lyaak* (garland); and iii) Six rupees in silver pieces.[[16]](#endnote-16) A.R. Fonning also compiles the list of gifts that the groom should offer the bride's party at the wedding. [[17]](#endnote-17)The law stipulates that the groom's family is responsible for paying the bride's price. In addition, the law also highlights the bride's responsibility in ensuring the success of the ceremonies, as stated in the Customary Law, which clarifies that the marriage is considered finalized only once the girl has touched the *Chi* basket and these gifts.[[18]](#endnote-18) “She will have consented to the marriage if she picks up a load of *Chi* and gifts,” according to Tapan Chattopadhyay.[[19]](#endnote-19)

It is more intriguing to observe the significance of women in the community because of the custom of the bride price, which is listed in the Customary Law. It might suggest that, on the one hand, this Lepcha ritual is a form of restitution given to the bride's parents. Conversely, this demonstrates women's significance, position, and societal respect. If the groom cannot meet the requirements, an alternative is provided. Given that it is a service marriage and that women play a significant economic role in rural agricultural societies, a man can accept payment by offering his work to the bride's household. The tribe's custom of paying bride prices is another important reminder of the important role that women play in society. The parents no longer had to worry about finding and choosing a husband for their daughter. This is the reason the girl's birth was similarly embraced and treated on an equal footing with the males, despite the aforementioned limits.

1. **Widow Remarriage (*Aangaop)***

Nonetheless, a major and crucial component of women's lives in society—the *Aangaop* custom—is covered by the Lepchas' Customary Law. According to the law, a young widow might marry her late husband's younger brother within a year after his death. Should her brother be unavailable, she may alternatively decide to utilize her husband's nephew, provided that both parties consent. Curiously, the widow was not forced into this circumstance. Remarrying was an option offered to the widow.[[20]](#endnote-20) Strong links to their families, clans, and villages are among the constraints listed above. Another is the prohibition of paying the same family's bride price twice.

Consequently, a widow is granted by law the right and privilege to retain her deceased husband's house, ancestral land, and belongings until her passing or to forgo remarriage. Although the property and other assets belonged to the male clan members, most likely her sons, she was not allowed to register them in her name.[[21]](#endnote-21) In keeping with this, they have an *Aangaop* system that allows both men and women to accept or reject it based on their preferences. Lepchas practiced widow remarriage, in which the husband and wife choose together. If the widow decides to remarry, she must pay back the bride price paid by her late husband, but not to a member of the same family. It is customary to return the bride price to a deceased spouse to mark the closure of marital ties with the spouse's family. Following the bride price's return, the widow will no longer connect with her late husband's relatives. To prevent the transfer of lands or properties to non-family members as well. They were permitted to go back to her parents' house, remarry, and start over on their initiative.[[22]](#endnote-22)

It is evident, therefore, that the widow requested that this custom be observed. Her willingness and contentment are the most crucial elements in this situation. Or, it might be assumed that the women maintained the ties within the same family by following this Lepcha custom. They might have also been a means of avoiding the family's financial difficulties, which is why they adopted the habit of restricting the transfer of lands or properties outside the family and avoiding paying the bride price to the same family again by implementing the *Aangaop* system. It symbolizes the widow's status and the way she is treated. The situation of the widow, whose approval was obtained to allow the remarriage, aptly illustrates the status and role of women. How society perceives women is reflected in the way she is treated. There are three options available to the Lepcha widow: she can use *Aangaop*, remarry, or embrace a life of celibacy. She was granted permission to remarry, on the one hand. She is not, however, recognized as the legitimate heir to her husband's property. However, as they are exempt from supporting themselves or living a life of sacrifice, Lepcha widows enjoy a different position and status.

1. **Property Rights**

The Lepchas' customary laws include practices that symbolize women's property rights. According to norms surrounding the inheritance of ancestral property, for example, the male lineage has the right to inherit the house and the ancestral property. Although the law expressly states that the son would receive an equal share immediately following the death of his father, it does not remain mute concerning the rights of the daughters. In terms of the daughter's property rights, the law stipulates that she is entitled to the parents' home and belongings. However, after she gets married, she will automatically forfeit the claim.

It can be inferred from the aforementioned passages that the Lepcha customary law grants either equal or fewer rights to inherit ancestral property. However, the worry is that the daughter may continue to enjoy the privilege until she marries. When an unmarried daughter dies, her inheritance rights expire and are inherited by the male family members. It could be her paternal brother, uncle, or nephew. However, we believe that the Lepchas follow the tradition of choosing the bridegroom in the absence of a son in the household because of their habit of giving the son-in-law property to enable him to survive.

Following the death of their parents, the son-in-law and daughter will inherit the ancestral home, land, and belongings. The son-in-law was given precedence over the women while examining the behavior toward them for the inheritance of ancestral property.   
However, they could only sell the land to the immediate family of the male lineage's in-laws. The Lapchas' customary law is notable for its protection of female ancestry rights. The statement states that the woman is allowed to utilize the mother's property in the area both while she is unmarried and after getting married. According to custom, women can only purchase transportable property as a bride price. Additionally, it states that a daughter who marries outside of the community must give up the property and ancestral land of the female line. In that case, her male descendants will inherit the property.

Similarly, the widow's rights and property are reflected in Lepcha customary law. It explains that upon her husband's passing, the widow is entitled to his home, ancestral land, and other assets. She does not, however, have the authority to change the land or register the property in her name. Their male child's name will inherit it. In light of this, it can be presumed that the Lepcha women's only rights were to inherit the family's property in their parents' names. The fact that a woman receives her husband's property after marriage is further evidence of this. This simply shows that the male family members—whether the father before marriage or the husband after marriage—were carrying out their responsibilities to the women or other family members by meeting their fundamental requirements.

1. **Conclusion**

Even though the Lepchas' customary law mentions the rights and status of Lepcha women, there is no discernible gender distinction in the *Sung-Luaon* or death rites. Although they have certain shortcomings, women have a position that is somewhat equal to that of men, especially when it comes to selecting a life partner. Additionally, the Lepchas maintain women's high status through the customs of *Taya-Kup-Aafaar* (bride price) and *Moo* (clan). Comparably, the Lepchas' customary laws emphasize that they follow a matrilineal system in which the daughter's line inherits the mother's *Moo* (clan), and this system is considered to be one of the main components of the numerous institutions of society that reflect the place of women. Another significant feature of the Lepchas is the practice of the custom of *Taya-Kup-Aafaar* (bride price), which represents the status of women in society.

However, in terms of property rights, the women are completely protected as long as they are not married and taken away by their husbands. If the daughters marry within the Lepcha society or stay unmarried, they will inherit the property of the female lineage. Nonetheless, the daughter automatically forfeits her parents' property rights when she marries. Following marriage, the wife and husband share property, however, the wife is not allowed to sell it because their children inherit it. Lepcha women are comparatively well-positioned in their community due to the customary marriage pattern. Instead of being oppressed and exploited, women were granted a portion of the family's assets and the authority to make choices. Lepcha women are generally seen as having a greater status in the community.

1. **References**

1. Singh. K. S. (Ed), Tribal Ethnography Customary Law and Change: New Delhi: Concept Publishing Company, 1993, p. 17. [↑](#endnote-ref-1)
2. Vitso, Adino. Customary Law and Women. The Chakhesang Nagas. New Delhi: Regency

   Publications. 2003, p. 5. [↑](#endnote-ref-2)
3. ILTA, theCustomary Law, Kalimpong, Mani Printing Press, 2007. p.5. [↑](#endnote-ref-3)
4. *Ibid., p.5.* [↑](#endnote-ref-4)
5. *Ibid., p.5.* [↑](#endnote-ref-5)
6. *Ibid., p.6*. [↑](#endnote-ref-6)
7. *Ibid., p.5.* [↑](#endnote-ref-7)
8. *Ibid., pp.7-10.* [↑](#endnote-ref-8)
9. *Ibid.,* p.7. [↑](#endnote-ref-9)
10. *Ibid.,* p.7. [↑](#endnote-ref-10)
11. Das, A. K*.* The Lepchas of West Bengal. Calcutta: Indian Editions, 1978, p. 137. [↑](#endnote-ref-11)
12. *Moo* and *Agit* are used interchangeably which denote Lepcha clan.

    Ghosal, Sumit. The Lepcha of Darjeeling and Sikkim: A Study of Cultural Ecology and Social Change. North Bengal University, Darjeeling, West Bengal: Unpublished Ph. D. Thesis, 1190. [↑](#endnote-ref-12)
13. Nakane, Chie. A Plural Society, 1966, p. 234.

    Bhasin, V. Ecology, Culture and change: Tribals of Sikkim Himalayas. New Delhi: Inter India, 1989, p. 110. [↑](#endnote-ref-13)
14. Lepcha Dupsuzong, Lepcha Jati ko Utpti ani Lokkatha, WBMLLDB, 2019, p. 18. [↑](#endnote-ref-14)
15. Informant or match maker. [↑](#endnote-ref-15)
16. ILTA, theCustomary Law, pp. 8-10. [↑](#endnote-ref-16)
17. *Ibid.,* p. 13. [↑](#endnote-ref-17)
18. *Ibid.,* p. 8. [↑](#endnote-ref-18)
19. Chattopadhyay, Tapan, Lepchas*,* and their heritage, New Delhi, 1990, P. 53. [↑](#endnote-ref-19)
20. ILTA, the Lepcha Customary Law, p. 10. [↑](#endnote-ref-20)
21. *Ibid.,* p. 13. [↑](#endnote-ref-21)
22. D.C. Roy, Status of women *among the Lepchas*. New Delhi: Akansha Publishing House, 2010, p. 125. [↑](#endnote-ref-22)