



ASECA CHANNEL

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Editorial

Santals are known for their close knit social affinity among themselves. The customs, rites and festivals give them a unique characteristic and feeling and these are faithfully observed from time immemorial. They have been observing these customs and rites unitedly and timely. It is being observed that there are some drifts in the procedure and provisions. Due to financial inconvenience, these standard practices are being diluted and provisions are being customized as per requirement and particularly based on personal financial strength.

It is now experienced that festivals, customs and rituals are being followed mainly based on local understanding and local conditions. Many feel that these should have been standardized and practice should have been unique. Due to different dates, these festivals do not find a place in the official calendar and as such lose its importance in the macro level. There are school of thoughts about bringing a discipline in the society by convincing people about the requirement of following a standard practice. But, problem lies in the fact that who will tell about the standard practice. There is a gap in understanding among various strata of the society. There are many layers and level of knowledge in the society and it is required to have a common platform to deal with such levels and layers. Such institutions are yet to emerge with desired strength and conviction. Institutional arrangements are required to impart training on social issues so that next generation will be benefitted particularly out of this arrangement and also will have avenues to carry forward the social norms and practices in a better and bolder way. The need of the hour is to think about the financial conditions of our traditional village headmen and it should be endeavoured to make them at least self sufficient in terms of one square meal a day. As long as this arrangement cannot be made, it is futile to

expect some good things from the traditional village headmen or panchayats.

Celebration of Guru Kunami at Had Hadi, Baripada

All India ASECA along with the villagers of Had Hadi, Indpahi and Kainphulia and residents of Baripada are organizing one day Guru Kunami celebration at Had Hadi on 27th May 2010. The programme includes Bonga Buru, hoisting of flag, floral tribute on the statue of Pandit Raghunath Murmu, inauguration of the boundary wall followed by cultural programme in the afternoon.

**All are cordially invited to attend the
celebration.**

Obituary

Bhagirathi Majhi (Hembram) left for his heavenly abode on 26th April 2010 after a brief illness in Balasore. He is survived by his wife. Shri Majhi was a staunch supporter of All India ASECA and always pressing us to take up some unique project for the upliftment of the Society. He was actively associated with the Marshal Dahar, a Balasore based social organisation. God bless his soul rest in peace.

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## Scheduled Communities: A social Development profile of SC/STs (Bihar, Jharkhand & W.B.)

(Source: Planning Commission)

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{Continued from April 2010 issue}

Scheduled Tribes

Jharkhand

Amongst the Scheduled Tribes of Jharkhand 'affordability' (61.9%), followed by 'indifference' (42.4%), compulsion for 'child labour' (39.8%), and 'household duties' (20.0%) are the reasons cited for dropouts.

Table 6.19: Reasons for dropout among the Scheduled Tribes in Jharkhand (not reproduced)

We must remember that the Oraon and the Munda are entirely urban-based while the Lohara have a few households in rural areas. Considering this, the dropout among the Oraon is substantial while that of the Lohara is quite high. Among the Oraon, affordability is the only reason cited. However, the Lohara also have domestic reasons and the factor of indifference.

- With the Santhal indifference, household duties, affordability and child labour figure as important constraints leading to dropout.
- Amongst the Ho, indifference, affordability and compulsion to child labour are significant reasons for dropout.

West Bengal

Compared to Jharkhand, in West Bengal 'indifference' figures as the most important reason for dropout (67.7%), followed by 'affordability' (50.4%),

'compulsion' for child labour (38.8%), 'household duties' (30.0%) and sibling care (24.1%).

Table 6.20: Reasons for dropouts among the Scheduled Tribes in West Bengal (not reproduced)

- The 'affordability', 'child labour' and 'household duties' as reasons for dropout, figure least among the Bhumij while 'indifference' figures prominently.

• As for the Munda and the Oraon we find a broad range of factors including 'indifference', 'affordability', sibling care and 'compulsion' for 'child labours'.

• The Santhal too have multiple factors like 'indifference', household duties, affordability, child labour and sibling care.

• Finally, the Lodha with low enrolment suffer from 'indifference', 'affordability', 'child labour' and also 'household duties'. Significantly the range of factors operating among the Scheduled Tribes in West Bengal is more than in Jharkhand.

Conclusion : Whither Scheduled Communities?

Introduction : The origin and evolution of the scheduled communities can be traced to the British imperial engagement with the ubiquitous system of caste hierarchy based on ritual purity and pollution. That entire groups could be placed in different positions on an ascending scale of pollution to purity in a system of institutionalised asymmetries, with prescribed degrees of inclusion and exclusion in almost all spheres of life - cultural, social, political and economic - appeared alien and ostensibly unfair to the British.

Although this system was generating its own contradictions and conflicts manifesting these in major social reform movements, the colonial administration responded by creating the category of *Depressed Classes* with a view to ameliorating the conditions of the deprived and socially discriminated castes at the bottom of the ritual hierarchy. The structural process, once initiated, further evolved in the direction of empowering these groups politically. The evolution from amelioration to political empowerment marked a parallel shift of the concept of 'Depressed Classes' to 'Scheduled Castes'. From protective discrimination at the level of access to education, health, employment etc., it now got extended to granting them *separate electorates* for

their entry into the political process. Unless precise identifications of such castes and their enlistment in a legally authenticated 'schedule' was carried out this was not possible. While in principle, politically empowering the deprived groups was unexceptional, what was not acceptable was their being made an integral part of the Communal Award which was meant for political representation of Muslims, Christians and other minority communities. This led to the historic Poona Pact (1932), in which the political space for the participation of deprived groups was further enlarged, but not in 'communal' terms of separate electorates. The new concept that emerged was that of the *reserved constituency*, which has outlived the colonial regime.

{To be continued...}

Report on celebration of Birth Anniversary of Saonta Guru Shyam Sundar Hembram and a grass root level one day Conference on 10th April 2010 at village Khadisole Jamuna, Badsahi block in Mayurbhanj district, Orissa. Organised by **Adivasi Socio Renaissance Association (ASRA) (Registered)**

The guests who graced the occasion are: Shri Narendra Hembram, Editor, Sandhayni, Bhubaneswar, Shri Ramdas Soren, Poet and Writer, Balasore, Shri Rabindra Nath Murmu, Social Activist, Paradeep, Shri Mangat Murmu, Social Organiser, Bhubaneswar, Shri Purna Chandra Hembram, All India ASECA, New Delhi.

The Association has constituted 5 Awards viz. **Shyam Sundar Hembram Award, Jagannath Hembram Award,**

Raghunath Soren Award, Dharanidhar Hembram Award and Jogendranath Hembram Award after the notable personalities of the village. The recipients are:

Shri Braja Mohan Soren was given Shyam Sundar Hembram Award for his outstanding contribution to Santali literature as a veteran dramatist. Shri Kandra Murmu was given also Shyam Sundar Hembram Award for his contribution to spread Ol Chiki and Santali literature, Shri Gangadhar Hembram was given Jagannath Hembram Award for his contribution to Santali cinema as a producer, Shri Mangal Hansdah, renowned Singer was given Raghunath Soren Award, Shri Ishwar Soren was given Dharanidhar Hembram Award for his contribution to Santali literature as a writer and Shri Samrai Hembram was given Jogendranath Hembram Award for his . Each Award carries cash prize of Rs 1000/-, a Shawl and a Certificate of Honour.

The retired persons of Barsahi block were felicitated. They were given a Certificate and a cloth.

The Awardees and Senior Citizens narrated their feelings and expectations from the new generation, expressed their happiness and thanked the organizers for such an event.

The Guests reminisced the contribution of Shyam Sundar Hembram in Social affairs and his invaluable contribution to Santali literature as a Writer.

The audiences were enthralled by the mesmerizing performance of the Mangal Hansdah Koel Orchestra.

Sadashiba Soren, Secretary read out the Annual Report of the Association and Suratha Murmu, President thanked the Awardees and the audience for their whole hearted participation for making the event a success.

ISSUE OF ADOPTION, SUCCESSION AND INHERITANCE IN SANTAL SOCIETY

Source: Jharkhand High Court

{Santal Society is continue to be managed and governed by the laws, rules, customs, precedents which are unwritten nor properly documented. Due to absence of properly documentation of accepted laws, traditional / customary judgement on similar cases differs from place to place. Here is a judgement from Jharkhand High Court on adoption, succession and inheritance which is of immense interest to the members of the Santal Society in particular. The same is being reproduced for the common knowledge and benefit of all.}

{Continued from April 2010 issue}

Provided that a gift to the husband or wife of the donor to a son adopted under the Hindu Law, or the daughter, sister, adopted son or adopted daughter of the donor under the Santal Law, or to a relation by consanguinity within three degrees of such donor shall not require any registration fee to be paid to the landlord.

(3) If any landlord refuses to allow the registration of any such transfer as is mentioned in sub-section (1), the transferee or his successor in the title may apply to the Deputy Commissioner, and the Deputy Commissioner shall thereupon, after causing notice to be served on the landlord, make such enquiry as he considers necessary, and shall, if he is satisfied that the transfer is not contrary

to the provisions of this Act or the record-of-rights, pass an order declaring that the transfer shall be deemed to be registered, and may also pass such order as he thinks fit in respect of the costs of any such enquiry.”

19. From reading of proviso 2 of sub-Section (2) of Section 24, it is evidently clear that it gives relaxation by providing that in case of gift of adopted son or adopted daughter of the donor under the Santhal Law, no registration fee is required to be paid. There is sufficient indication about the custom of adoption amongst the Santhals.

20. Be that as it may, the only substantial question of law needs to be answered in this appeal is as to whether the Courts below have erred in law in placing the onus on the plaintiff to prove that there was no custom of adoption by females among the Santhals.

21. In my considered opinion where plaintiff asserts that adoption of a child by female is not customary in Santhals and the defendant discharged the onus by adducing evidence to show that adoption of child by female Santhal is customary then heavy onus lies on the plaintiff for proving that such custom of adoption of a child is not customary in Santhals.

22. In the case of “*Mt. Barkar Bibi .Vs. Mohd. Amin and Anr*” (A.I.R. 1935 Lahore 325), a Division Bench of Lahore High Court while dealing with the customary law observed :

“We may say at once that the decision of the case has proceeded on entirely erroneous grounds. Even since their Lordships of the Privy Council have decided 1917 P C 181 (1), the law has been very clear that when a person asserts that he is governed by custom it is incumbent upon him to prove that he is so governed and further to prove what that custom is. There is no uniform custom applicable to the whole of the Punjab nor has it so far been codified. It is well known that custom differs from place to place and from tribe to tribe and it is also recognized by authority that it may differ from family to

family. In words of Robertson, J.. In 110 P R 1906 which have been quoted with approval by their Lordships of the Privy Council in 1917 P C 181 (1) :

“It is not the spirit of Customary law, nor any theory of custom or deductions from other customs which is to be the rule of decision, but only any custom applicable to the parties concerned.”

23. In the instant case, it was specifically pleaded by the defendants/respondents that according to Santhal custom a widow is also competent to adopt a child. The defendants asserted that formalceremonies like Bonga Tala and Nim Da Mari were duly performed.

Subsequently, a deed of adoption was also registered. Witnesses of the same community were examined by the defendants who have consistently deposed about the custom prevalent in Santhal Community for adoption of a child by a widow. Not only that one of the witnesses D.W.5 Misil Soren has deposed that he was taken in adoption by Maino Tudu, a widow after the death of her husband Jiwan Besra.

24. Both the trial Court and the Appellate Court after recorded a concurrent find about the custom of adoption of a child by a female Santhal and the finding is based on oral evidence coupled with registered document of adoption. The finding of fact recorded by two courts cannot and shall not be held to be perverse in law. The impugned judgment and decree passed by the Trial Court and affirmed by the Appellate Court, therefore, cannot be disturbed in Second Appeal.

25. For the reasons aforesaid, there is no merit in this appeal, which is, accordingly, dismissed.

(M. Y. Eqbal, J)

Jharkhand High Court, Ranchi

Dated, the 12th day of December, 2008

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