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RESEARCH ARTICLE

INHERITANCE AND PROPERTY RIGHTS OF GALO WOMEN IN WEST SIANG DISTRICT A DOCTRINAL AND SOCIO-LEGAL ANALYSIS OF CUSTOM, CONSTITUTIONAL EQUALITY AND ACCESS TO JUSTICE

Ripe Bagra¹ and Pankaj Choudhary²

1. Research Scholar, Department of Law, Himalayan University, Itanagar, Arunachal Pradesh, India.

2. Associate Professor, Department of Law, Himalayan University, Itanagar, Arunachal Pradesh, India.

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Abstract

The property position of Galo women in West Siang District cannot be determined merely by asking whether women are socially described as heirs or whether daughters receive property in practice. The legally prior questions are: what rule governs succession, whether the alleged customary rule is legally established, what evidence is admissible to prove it, and how far constitutional equality may operate when State institutions recognise or enforce a customary norm. This study therefore adopts a principally doctrinal method, supplemented by a limited socio-legal analysis of a dataset containing 150 respondent records from West Siang. The empirical material is used contextually and is not treated as proof of the legal validity of Galo custom. The study examines Section 2(2) of the Hindu Succession Act, 1956; the Supreme Court's jurisprudence on proof of custom in *Thakur Gokalchand v. Parvin Kumari*; the contemporary reasoning in *Ram Charan v. Sukhrum*; and the statutory limits reaffirmed in *Nawang v. Bahadur*. It argues that Section 2(2) is an exclusionary provision and does not itself create a rule of male succession. A social practice becomes legally operative custom only when the applicable legal requirements of proof, continuity, certainty and applicability are satisfied. At the same time, constitutional scrutiny cannot be reduced to a general declaration that every customary rule is invalid: its precise reach depends upon the legal source of the rule, the institution giving it effect, and the presence of State action or State-backed adjudication. The study further argues that effective property justice requires attention to documentation, proof, forum access, participation in customary adjudication and the transition from nominal entitlement to possession and control.

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The study concludes with a legally cautious framework for evaluating Galo customary succession without either bypassing Section 2(2) or allowing unproved patriarchal assumptions to acquire the status of law.

Corresponding Author:- Ripe Bagra

Address:- Research Scholar, Department of Law, Himalayan University, Itanagar, Arunachal Pradesh, India.

Introduction:-

Property is not only an economic resource. It determines security, bargaining power, residence, livelihood, inter-generational wealth and the practical ability to resist dependency. For women in communities governed substantially through customary institutions, the legal question is therefore more complex than the existence of a formal statutory entitlement. A woman may possess a social claim but lack documentary evidence; she may possess evidence but lack access to a forum; she may obtain a favourable customary settlement but lack formal recognition; or she may be treated as having no claim because an asserted custom is assumed rather than proved.

This problem is particularly important in the case of Scheduled Tribes because the Hindu Succession Act, 1956 does not automatically apply to members of Scheduled Tribes. Section 2(2) excludes them unless the Central Government directs otherwise by notification¹. The consequence is frequently misunderstood. The exclusion does not enact a statutory rule that sons alone inherit. It means that the statutory succession scheme of the Hindu Succession Act is not, by that provision alone, the governing law. The next legal question is therefore the source and proof of the applicable customary rule.

The distinction between social practice and legal custom is central. A repeated social practice may be evidence relevant to custom, but repetition alone does not settle the legal question. In *Thakur Gokalchand v. Parvin Kumari*, AIR 1952 SC 231, the Supreme Court held that there is no automatic presumption that a person or class is governed by custom and that the party relying on custom must prove both its applicability and existence.² The Court further required sufficiently long and consistent usage showing common acceptance as an established governing rule, while recognising that evidence affecting women may require closer scrutiny where the persons adversely affected had no effective opportunity to participate in the making or recording of the material relied upon.

The recent decision in *Ram Charan v. Sukhram*, 2025 INSC 865, gives the issue renewed constitutional significance. The Supreme Court rejected the reasoning that because a female-inclusive custom had not been positively proved, a contrary exclusionary custom could be presumed;³ see paras 12–14. In the factual and statutory setting before it, the Court also considered justice, equity and good conscience and Article 14;⁴ see paras 15–20. That reasoning must, however, be read carefully. It does not repeal Section 2(2), does not automatically extend the Hindu Succession Act to every Scheduled Tribe, and does not authorise courts to disregard the governing legal framework. The later decision in *Nawang v. Bahadur*, Civil Appeal No. 4980 of 2017, decided 8 October 2025, reinforces this statutory caution by setting aside a High Court direction purporting to require application of the Hindu Succession Act to tribal daughters.⁵

The present study develops a narrower and more defensible proposition: social practice is not automatically legal custom; Section 2(2) is not itself a rule of male succession; an exclusionary customary rule must be legally established; and constitutional equality may become relevant when a customary norm is applied or recognised through a legal institution, but constitutional review must be connected to the actual legal source and institutional mechanism involved.

Statement of the Problem:-

The central problem is the uncertain relationship among formal law, Galo customary norms, customary institutions, and the practical enjoyment of property. Reported practice in West Siang indicates substantial male concentration in inheritance, ownership, property decision-making and land control. Yet those empirical patterns cannot by themselves answer the doctrinal question whether the practice constitutes a legally binding custom. A law study must therefore separate three propositions: what people commonly do, what they believe the custom to be, and what a court is legally entitled to recognise as an established rule.

¹ The Hindu Succession Act, 1956 (Act 30 of 1956), s. 2(2).

² *Thakur Gokalchand v. Parvin Kumari*, AIR 1952 SC 231.

³ The Supreme Court rejected the reasoning that because a female-inclusive custom had not been positively proved, a contrary exclusionary custom could be presumed.

⁴ *Ram Charan & Ors. v. Sukhram & Ors.*, 2025 INSC 865, paras 15–20 (Supreme Court of India, decided July 17, 2025).

⁵ *Nawang & Anr. v. Bahadur & Ors.*, Civil Appeal No. 4980 of 2017 (Supreme Court of India, decided Oct. 8, 2025).

Objectives:-

- i. To examine the legal position of Galo women under the Scheduled Tribe exclusion in Section 2(2) of the Hindu Succession Act, 1956.
- ii. To analyse the Supreme Court's jurisprudence on proof of custom and tribal succession, particularly Thakur Gokalchand, Ram Charan and Nawang.
- iii. To examine the circumstances in which constitutional equality may scrutinise a customary rule or customary adjudicatory practice.
- iv. To use the available 150 respondent records only as contextual socio-legal evidence of barriers between possible entitlement and effective property control.
- v. To propose a legally cautious framework for evaluating customary inheritance claims and improving access to justice for Galo women.

Research Questions:-

- i. What is the legal effect of Section 2(2) of the Hindu Succession Act upon Galo succession disputes?
- ii. What evidentiary requirements should govern an assertion that Galo custom excludes women from inheritance?
- iii. How should Ram Charan and Nawang be read together?
- iv. When can Articles 14 and 15 become relevant to customary norms and customary adjudicatory practices?
- v. How do documentation, forum access and decision-making affect the practical enjoyment of property rights?

Review Of Literature and Research Gap:-

Scholarship on women's property rights has long demonstrated that formal ownership is closely connected with bargaining power, economic security and household relations. Bina Agarwal's work on land rights in South Asia remains foundational because it distinguishes nominal legal rights from effective control and demonstrates the significance of land for women's economic position.⁶ Amartya Sen's capability approach similarly directs attention to the real freedom to use resources rather than merely the formal possession of an entitlement.⁷ Martha Nussbaum's capabilities framework further emphasises substantive conditions necessary for dignity and agency.⁸

Socio-legal scholarship adds a second dimension. Sally Falk Moore and John Griffiths have shown⁹, in different formulations, that law may operate through overlapping normative orders rather than a single State-created system. Such legal pluralism is particularly relevant where community institutions continue to regulate family and property relations while formal courts and administrative authorities retain ultimate legal authority.¹⁰ The significance of this literature for Galo women is not that customary law is inherently oppressive or inherently legitimate, but that the legal status of a customary norm depends upon the relationship between social authority and formal legal recognition.

Indian scholarship on tribal women's inheritance has exposed a persistent tension between cultural autonomy and gender equality. Saumya Uma, 'Between the Devil and the Deep Sea: Tribal Women's Inheritance Rights in India', 30(3) *Indian Journal of Gender Studies* 309–329 (2023), DOI 10.1177/09715215231183623, examines judicial responses to tribal women's inheritance claims and the tension between preserving tribal identity and securing gender-equal inheritance.¹¹ Sumi Krishna, 'Gender, Tribe and Community Control of Natural Resources in North-east India', 8(2) *Indian Journal of Gender Studies* 307–321 (2001), DOI 10.1177/097152150100800210, similarly examines how customary institutions and constitutional arrangements in the North-East may coexist with gendered limits on women's ownership and control of resources.¹²

⁶ Bina Agarwal, *A Field of One's Own: Gender and Land Rights in South Asia* (Cambridge University Press, Cambridge, 1994).

⁷ Amartya Sen, *Development as Freedom* (Oxford University Press, Oxford, 1999).

⁸ Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge University Press, Cambridge, 2000).

⁹ John Griffiths, "What is Legal Pluralism?" 24 *Journal of Legal Pluralism and Unofficial Law* 1–55 (1986).

¹⁰ Sally Engle Merry, "Legal Pluralism" 22(5) *Law & Society Review* 869–896 (1988).

¹¹ Saumya Uma, "Between the Devil and the Deep Sea: Tribal Women's Inheritance Rights in India" 30(3) *Indian Journal of Gender Studies* 309–329 (2023).

¹² Sumi Krishna, "Gender, Tribe and Community Control of Natural Resources in North-east India" 8(2) *Indian Journal of Gender Studies* 307–321 (2001).

For Arunachal Pradesh, the National Commission for Women has documented patrilineal inheritance patterns among several tribal communities and notes the distinction between control over household production and formal ownership of immovable property.¹³ This distinction is analytically important: women may exercise substantial productive labour or use rights without possessing the legal power associated with ownership and succession. Recent Galo-specific scholarship has made the research gap more precise. Chai and Choudhary examine Galo customary law, social norms and women's property rights and provide an important contemporary baseline. Bagra and Choudhury focus specifically on Galo women's land ownership in West Siang and report strong male control over ancestral land and customary decision-making. These studies establish that Galo women's property rights are not an unexplored topic. The contribution of the present study is different: it places those reported practices within a doctrinal analysis of Section 2(2), proof of custom, constitutional equality and institutional access to justice. The gap is therefore not simply empirical. It is jurisprudential. Existing Galo-specific work can demonstrate a pattern of social practice, but it does not by itself resolve when that practice acquires the status of legally enforceable custom. Nor does a descriptive account of women's exclusion answer how a court should allocate the burden of proving custom, how constitutional review should operate where a customary institution is involved, or how Ram Charan should be reconciled with the statutory restraint reaffirmed in Nawang. The present study addresses that legal gap.

Literature Synthesis:-

The literature supports four propositions relevant to this study: first, property rights must be analysed as both formal entitlement and effective control; second, customary law is a form of normativity that requires careful legal identification rather than sociological assumption; third, tribal women's inheritance disputes cannot be resolved by mechanically transplanting Hindu succession law; and fourth, constitutional equality and customary autonomy must be analysed institutionally, with attention to the legal mechanism through which a norm is recognised and enforced.

Legal Framework:-

Scheduled Tribe Status and Section 2(2) of the Hindu Succession Act:-

Section 2(2) of the Hindu Succession Act provides that the Act does not apply to members of Scheduled Tribes within Article 366(25)¹⁴, unless the Central Government otherwise directs by notification in the Official Gazette. For Galo succession, the provision is the starting point because the Galo community falls within the constitutional Scheduled Tribe framework.¹⁵ The legal consequence is exclusion from the statutory scheme unless the statutory condition for extension is satisfied.

The provision must not, however, be converted into a substantive rule that sons inherit and daughters do not. It says what statute does not govern; it does not itself supply the content of the alternative rule. That alternative may arise from applicable customary law, another applicable legal rule, or where the governing legal system permits, judicial principles applicable to a legal gap. The distinction is essential because otherwise a statutory exclusion would be transformed into a substantive discriminatory norm without any independent proof of the latter.

Thakur Gokalchand v. Parvin Kumari: Proof, Continuity and Applicability of Custom:-

Thakur Gokalchand is important not because its factual setting can simply be transplanted to Arunachal Pradesh, but because it articulates a general evidentiary discipline for customary law. The Supreme Court rejected any automatic presumption that a person or class is governed by custom and required the party relying on custom to establish both applicability and existence. It explained that a binding custom derives its force from sufficiently long and consistent usage showing common acceptance as an established governing rule (AIR 1952 SC 231; 1952 SCR 825).

The judgment also identifies possible evidence: testimony of members of the relevant tribe or family, supported where appropriate by public records or recognised compilations. Equally important for a gender-sensitive methodology, the Court observed that records affecting women or other persons who lacked an effective opportunity to participate may be rebutted.¹⁶ The principle is broader than the particular revenue record involved in that case: evidence of custom must be evaluated in light of the circumstances in which the alleged norm was recorded and whose interests it affected.

¹³ National Commission for Women, Tribal Customary Law and Women's Status (National Commission for Women, New Delhi).

¹⁴ The Hindu Succession Act, 1956 (Act 30 of 1956), s. 2(2); The Constitution of India, art. 366(25).

¹⁵ The Constitution (Scheduled Tribes) Order, 1950, as amended, Part XVIII—Arunachal Pradesh.

¹⁶ Thakur Gokalchand v. Parvin Kumari, AIR 1952 SC 231; 1952 SCR 825.

For Galo succession disputes, the implication is that a bare assertion that 'Galo custom excludes daughters' is legally insufficient.¹⁷ A court should ask which Galo group or locality is concerned, what succession event is in issue, what property is involved, what customary rule is asserted, what evidence establishes its content and continuity, and whether the alleged rule is consistently applicable rather than merely a contemporary practice or social preference.

Madhu Kishwar and the Constitutional Tension:-

Madhu Kishwar v. State of Bihar is a significant authority on the difficult relationship between tribal customary succession and constitutional equality.¹⁸ Its importance for the present study lies less in treating it as a direct answer to Galo succession and more in demonstrating that the Supreme Court has historically confronted the tension between customary autonomy, women's equality and the constitutional status of tribal communities. The decision should therefore be read as part of an evolving jurisprudence rather than as a simple rule that all customary restrictions on women are constitutionally immune or automatically invalid.

Ram Charan v. Sukhram: Ratio and Limits:-

Ram Charan v. Sukhram, 2025 INSC 865, concerned heirs of a tribal woman who claimed an equal share in ancestral property. The lower courts had treated the absence of proof of a custom supporting female succession as decisive. The Supreme Court rejected that approach because the evidentiary problem was symmetrical¹⁹: the claimants had not proved a female-inclusive custom, but the opposing side had also failed to establish a contrary exclusionary custom. The Court refused to convert the absence of affirmative proof of inclusion into a presumption of exclusion (paras 12–14).

The Court then considered the legal position in the absence of a governing rule and relied on justice, equity and good conscience²⁰ within the statutory setting before it (paras 15–19). It also addressed Article 14 and the sex-based classification at issue²¹. The judgment is therefore strongest on a narrow proposition: a court should not impose an exclusionary result by presuming a patriarchal custom that has not been proved. Its remedial reasoning, however, must remain tied to the statutory and jurisdictional setting in which the case arose.

The decision has limits. Its application was connected to the Central Provinces Laws Act, 1875 and its savings framework²², and the Court expressly considered the statutory context governing the parties before it. It does not repeal Section 2(2) of the Hindu Succession Act. It does not hold that every Scheduled Tribe is governed by the Hindu Succession Act. It does not mean that the absence of proof of one custom automatically establishes a universal rule of equal inheritance in every tribal jurisdiction. Its broader constitutional lesson is that adjudication cannot manufacture a discriminatory customary rule merely because a claimant cannot prove a more favourable custom.

Nawang v. Bahadur: The Statutory Boundary:-

Nawang v. Bahadur, Civil Appeal No. 4980 of 2017, decided on 8 October 2025, is an essential counterweight to an expansive reading of *Ram Charan*. The Supreme Court reaffirmed the statutory consequence of Section 2(2)²³ and held that directions requiring application of the Hindu Succession Act to Scheduled Tribe parties could not be issued in the circumstances before the Court. The decision therefore confirms that constitutional concern about gender inequality cannot, by itself, be converted into an order judicially extending the Hindu Succession Act where Parliament has expressly maintained the statutory exclusion.

Read together, *Ram Charan* and *Nawang* establish a disciplined middle position.²⁴ *Ram Charan* prevents courts from presuming an exclusionary custom merely because a claimant cannot prove an inclusionary one. *Nawang* prevents courts from responding to that problem by simply judicially extending the Hindu Succession Act to Scheduled

¹⁷ *Thakur Gokalchand v. Parvin Kumari*, AIR 1952 SC 231; 1952 SCR 825.

¹⁸ *Madhu Kishwar & Ors. v. State of Bihar & Ors.*, (1996) 5 SCC 125.

¹⁹ *Ram Charan & Ors. v. Sukhram & Ors.*, 2025 INSC 865, paras 12–14 (Supreme Court of India, decided July 17, 2025).

²⁰ *Id.*, paras 15–19.

²¹ *Id.*, para 20.

²² *Ram Charan & Ors. v. Sukhram & Ors.*, 2025 INSC 865, paras 8–19.

²³ *Nawang & Anr. v. Bahadur & Ors.*, Civil Appeal No. 4980 of 2017 (Supreme Court of India, decided Oct. 8, 2025).

²⁴ *Ram Charan & Ors. v. Sukhram & Ors.*, 2025 INSC 865, paras 12–20; *Nawang & Anr. v. Bahadur & Ors.*, Civil Appeal No. 4980 of 2017 (Supreme Court of India, order dated 8 October 2025).

Tribes. The appropriate approach is therefore source-sensitive: identify the governing law, determine whether custom is established, identify any applicable supplementary principle, and only then assess the constitutional implications of the resulting rule.

Constitutional Equality: Articles 14 and 15:-

Article 14 guarantees equality before the law and equal protection of the laws.²⁵ Article 15 prohibits discrimination by the State on specified grounds, including sex.²⁶ The application of these provisions to customary law requires institutional precision. A custom operating purely as a social expectation is not identical, for constitutional purposes, to a rule that is enforced by a statutory authority, incorporated into an administrative decision, or given binding effect by a court or legally recognised adjudicatory mechanism.

The relevant constitutional question therefore has at least three stages. First, what is the legal source of the alleged rule? Second, which institution gives the rule legal effect in the dispute? Third, what State action, statutory recognition, judicial enforcement or public-law consequence connects the rule to constitutional review? Where a formal court or public authority applies an exclusionary rule, constitutional scrutiny is more directly engaged. Where a customary forum operates within a legally recognised institutional structure, the inquiry must examine the extent of that recognition, the nature of the decision, and the availability of review. A purely private family preference, by contrast, may present a different constitutional route even though it may have serious consequences for equality and dignity.

Article 15 should also not be invoked as a shortcut that bypasses the legal source of the right. The doctrinal task is not merely to label a practice discriminatory; it is to determine how the legal system treats the practice. Article 14 becomes particularly significant where State-backed adjudication turns an unproved or irrationally exclusionary practice into an enforceable legal outcome. Ram Charan illustrates this mode of analysis. The judgment does not simply declare customary law invalid; it refuses an evidential presumption that would produce sex-based exclusion and then applies equality within the governing legal framework.

Customary Adjudication and Access to Justice:-

Customary forums such as Keba may possess social legitimacy and practical accessibility²⁷. Their existence does not by itself make every decision legally conclusive, nor does cultural legitimacy immunise a decision from scrutiny where the formal legal system recognises or reviews it. Procedural fairness therefore becomes part of the property-rights inquiry. A woman affected by a customary property decision should have a meaningful opportunity to present evidence, challenge an opposing assertion of custom, understand the rule applied and pursue an available review or formal remedy. Recording customary property decisions would materially improve this process. A record identifying the parties, property, issue, evidence, customary rule relied upon and outcome would not necessarily displace customary governance. It would instead create an evidentiary record capable of supporting consistency, review and future proof of custom.

From Social Practice To Legal Custom: An Analytical Test:-

The central analytical contribution of this study is a five-stage test for succession disputes involving alleged Galo custom.

- i. Identify the property and succession event. The court should determine whether the dispute concerns ancestral land, self-acquired property, movable property, a gift, partition, succession on death, or another transaction.
- ii. Identify the claimed legal source. The claimant or opposing party should state whether the asserted right or restriction arises from statute, established custom, agreement, administrative rule or another recognised source.
- iii. Require proof of the alleged custom. The court should examine evidence concerning the community or locality to which the custom applies, continuity, consistency, certainty, acceptance, and the specific property or succession question.²⁸

²⁵ The Constitution of India, art. 14.

²⁶ The Constitution of India, art. 15.

²⁷ J. Chai & P. Choudhary, "Customary Laws and Social Norms of the Galo Tribe of Arunachal Pradesh: An Exploration of Women's Property Rights," 13(6) *Journal of Research in Humanities and Social Science* 47–51 (2025), DOI: 10.35629/2895-13014751.

²⁸ *Thakur Gokalchand v. Parvin Kumari*, AIR 1952 SC 231; 1952 SCR 825.

- iv. Reject gender-based evidentiary presumptions. Failure to prove a female-inclusive custom must not automatically become proof of female exclusion; equally, failure to prove an exclusionary custom does not automatically authorise application of the Hindu Succession Act where Section 2(2) applies.
- v. Apply constitutional and supplementary principles within the correct legal framework. If the governing custom is absent, unproved or legally insufficient, the court should identify the supplementary legal principle actually available in that jurisdiction and assess any constitutional implications through the institution and legal source by which the rule is being enforced.

This framework prevents two opposite errors. The first is cultural essentialism: treating reported community practice as immutable law. The second is statutory overreach: treating constitutional equality as a licence to bypass the specific statutory exclusion of Scheduled Tribes. The legally defensible position lies between those extremes.

Research Methodology:-

Research Design:-

The study is principally doctrinal with a limited socio-legal component. The doctrinal component examines constitutional provisions, Section 2(2) of the Hindu Succession Act, judicial decisions on tribal succession and proof of custom, and the legal implications of customary adjudication. The socio-legal component uses the available respondent material to illuminate the practical conditions through which property claims may be weakened, delayed or rendered ineffective.

Empirical Unit Dataset:

The empirical component consists of 150 respondent records available in the research material used for this study. The records contain information on reported inheritance patterns, ownership, property decision-making, land control, documentation, legal awareness, knowledge of forums, claim confidence and perceived barriers. The analysis is descriptive and contextual. The 150 respondents are not presented as a statistically representative sample of all Galo women in Arunachal Pradesh.

Sampling Method:-

The study employed purposive sampling, with 150 adult respondents selected from the Galo community in West Siang District on the basis of their relevance to the study of inheritance, property ownership, customary practices and access to justice.

Study Area:-

The geographical focus is West Siang District, Arunachal Pradesh, with particular attention to the Galo community.

Data Collection Instrument:-

The underlying research material indicates use of a structured questionnaire/interview schedule addressing personal profile, property and inheritance, customary law, gender equality, decision-making, legal awareness and institutional issues, together with open-ended responses. For the present study, only variables directly relevant to the doctrinal argument are retained. The study does not reproduce the full social-science instrument because its purpose is legal analysis rather than a demographic survey.

Data Analysis:-

The empirical material is analysed through frequencies, percentages and limited descriptive comparisons. Cross-tabulations are treated as associations rather than causal findings.

Ethical and Interpretive Position:-

The empirical material is used only for descriptive analysis, while claims concerning the legal content of Galo custom are examined through doctrinal and evidentiary analysis. The empirical material provides contextual evidence, while the legal content of Galo custom is examined through doctrinal and evidentiary analysis. Most importantly, respondents' descriptions of social practice are treated as evidence of reported experience, not as proof of the legal validity of custom.

Empirical Material As Context For Legal Analysis:-

The available 150 respondent records indicate that the problem is not confined to the moment of inheritance. Approximately 67.3% of respondents identified sons as primary inheritors, 64.0% reported male primary ownership, 60.7% reported male-dominated property decision-making, and 61.3% reported male control of land. Only 28.7%

reported complete or clear documentation, while 42.0% could not identify a forum through which a property claim could be pursued. Family and social pressure was the most frequently reported barrier, at 50.7%.

These figures are legally relevant in a limited but important sense. They do not establish a customary rule. They demonstrate that property inequality may operate through several connected stages: inheritance, ownership, documentation, decision-making and institutional access. A woman may therefore face a problem even after a legal or customary entitlement has been articulated. The empirical material supports the need to examine the full chain from entitlement to enforceability.

A discriminatory practice does not become lawful merely because it is common, and it does not become a legally established custom merely because respondents describe it as customary.

Doctrinal Analysis:-

Section 2(2) Is an Exclusion Clause, Not a Male-Succession Rule:-

The first doctrinal proposition is straightforward but foundational. Section 2(2) removes Scheduled Tribe members from the operation of the Hindu Succession Act unless the statutory condition is satisfied. It does not say that sons shall inherit ancestral property. The legal consequences of this distinction are substantial. A court must not fill the space left by statutory exclusion with an assumed patriarchal rule.

The Burden of Proving an Exclusionary Custom:-

Where a party asserts that daughters are excluded because of Galo custom, the assertion should be treated as a claim about a legal rule. Under the logic of *Thakur Gokalchand*, the party relying on the custom must establish its existence and applicability.²⁹ Evidence should address not merely what families presently do, but whether the practice has acquired normative force and is accepted as governing the particular succession question.

The evidentiary inquiry should be especially careful where the alleged rule adversely affects women. If historical records were produced primarily by male authorities or without meaningful participation by women, their evidentiary weight should be assessed rather than mechanically treated as conclusive. This is not a presumption in favour of female succession; it is a requirement of evidentiary fairness.

Ram Charan and the Problem of the Patriarchal Presumption:-

Ram Charan's most significant methodological lesson is that courts should not reverse the ordinary burden of proof by demanding that women prove a rule in their favour while allowing the opposing party's exclusionary position to remain unproved. The absence of a positive custom permitting female succession and the existence of a negative custom excluding women are legally different propositions.³⁰

This distinction is particularly important for Galo disputes. A court should not reason: 'The Hindu Succession Act does not apply; therefore the daughter cannot inherit.' Nor should it reason: 'The custom excluding daughters has not been established; therefore the Hindu Succession Act automatically applies.' Both conclusions skip the intermediate legal inquiry. The correct question is what rule actually governs and whether that rule has been established in the legally relevant jurisdiction.

Reading Ram Charan and Nawang Together:-

Ram Charan and Nawang should not be treated as contradictory authorities. They answer different errors. Ram Charan addresses an evidentiary and constitutional error: assuming female exclusion without proof and thereby allowing patriarchal assumptions to decide the dispute. Nawang addresses a statutory error: bypassing Section 2(2) by directing application of the Hindu Succession Act to Scheduled Tribes without the statutory basis required by Parliament.

Together they support a source-sensitive method. Courts must neither presume exclusion nor invent statutory inclusion. The first task is to identify the governing legal source; the second is to determine whether the claimed custom is established; the third is to identify any applicable supplementary legal principle; and the fourth is to examine constitutional consequences within that framework.

²⁹ *Thakur Gokalchand v. Parvin Kumari*, AIR 1952 SC 231; 1952 SCR 825.

³⁰ *Ram Charan & Ors. v. Sukhram & Ors.*, 2025 INSC 865, paras 12–14.

Constitutional Scrutiny of Customary Law and Customary Institutions:-

The constitutional question becomes more precise when the institutional pathway is identified. There is a material difference between a family informally preferring a son and a public authority refusing a woman's application because it treats a customary rule as legally binding. There is also a difference between a community discussion that has social force and a customary adjudicatory decision that is recognised, implemented or reviewed through State institutions.

Where State action or State-backed adjudication gives legal effect to a discriminatory customary rule, Article 14 supplies a direct constitutional standard against which the resulting legal outcome may be examined.³¹ The court may ask whether the classification has a constitutionally defensible basis, whether the rule is actually established as law, and whether the institutional process respects equality. Article 15 may become relevant where State action discriminates on sex, although the precise route of constitutional review depends upon the character of the institution and the challenged act.

The constitutional analysis should not be framed as a contest between 'culture' and 'rights'. A legally plural system can recognise community norms while requiring proof, procedural fairness and constitutional compatibility when those norms acquire legal effect. The appropriate constitutional inquiry is therefore institutional and source-based rather than rhetorically absolute.

Property as a Chain of Legal Capability:-

The socio-legal evidence suggests that property rights should be understood as a chain rather than a single event: entitlement, awareness, legal understanding, formulation of a claim, proof, forum access, adjudication or settlement, possession, control and socio-economic security. This framework does not convert the study into a capability-theory study. It is an analytical device for explaining why a nominal right may fail to become an effective property interest. The available data fit this framework cautiously. Documentation problems and limited knowledge of forums indicate that even where a woman believes she has a claim, the claim may not become legally effective. The finding should not be stated causally; it simply demonstrates why property justice requires more than a declaration of entitlement.

Keba, Participation and Procedural Justice:-

The reported importance of Keba makes institutional participation particularly relevant. If a customary body plays a role in property disputes, women should be able to present evidence, contest an asserted rule, and understand the basis of the decision.³² The objective is not to replace customary governance with formal courts in every matter. It is to ensure that customary authority does not operate as an evidentiary black box in disputes concerning property and succession.

A recorded decision can strengthen both customary legitimacy and legal accountability. Recording the parties, property, issue, evidence, customary rule invoked and outcome would help distinguish an established rule from an ad hoc assertion and would create a record for later review where legally available.

Ancestral Property and Self-Acquired Property Must Be Distinguished:-

The study also cautions against treating all property as a single category. The legal consequences of ancestral land, self-acquired property, parental gifts, movable property and other interests may differ. Contemporary Galo research reports that women may acquire property through their own purchase even where ancestral inheritance remains male-dominated.³³ This distinction is important because exclusion from ancestral succession should not be converted into a claim that Galo women are universally incapable of owning property.

Social Prevalence Is Evidence, Not Legal Validity:-

The empirical finding that male inheritance is widespread may justify investigation, but it cannot itself determine the legal rule. A practice can be socially prevalent yet legally unproved; conversely, a legally established custom may

³¹ The Constitution of India, art. 14; *Madhu Kishwar & Ors. v. State of Bihar & Ors.*, (1996) 5 SCC 125.

³² *Thakur Gokalchand v. Parvin Kumari*, AIR 1952 SC 231; 1952 SCR 825.

³³ J. Chai & P. Choudhary, "Customary Laws and Social Norms of the Galo Tribe of Arunachal Pradesh: An Exploration of Women's Property Rights," 13(6) *Journal of Research in Humanities and Social Science* 47–51 (2025), DOI: 10.35629/2895-13014751; R. Bagra & P. Choudhury, "Impact of Patriarchal Customs on Women's Land Ownership among Galo Tribe in West Siang District of Arunachal Pradesh," 13(10) *International Journal of Advanced Research* 1073–1080 (2025), DOI: 10.21474/IJAR01/21998.

not be uniformly observed in every family. The court's task is therefore not to count practices alone but to determine the normative rule that the legal system can recognise and apply.

Limits of the Justice, Equity and Good Conscience Principle:-

Ram Charan demonstrates the potential importance of justice, equity and good conscience where the governing legal framework leaves a genuine gap, but that principle cannot be transplanted mechanically into every tribal succession dispute.³⁴ Its availability depends upon the legal framework governing the parties and the jurisdiction. In the Galo context, it should therefore be presented as a possible supplementary principle only where the applicable law permits it, not as a universal substitute for statutory or customary law.

A Legally Defensible Proposition for Galo Succession:-

The combined doctrine yields a restrained proposition: if a party asserts that Galo custom excludes daughters from a particular form of succession, the exclusionary rule must be established through legally admissible and sufficiently persuasive evidence.³⁵ Section 2(2) does not itself prove that exclusion. If the exclusionary custom is not established, the court cannot simply presume it; but neither can it automatically apply the Hindu Succession Act in the absence of the statutory basis required by Section 2(2). The court must identify the actual governing legal framework and any supplementary principle available within it, while remaining attentive to Article 14 and the institutional pathway through which the rule is being enforced. This is a conclusion about legal method, not a finding that Galo women presently possess a universal equal statutory share in ancestral property.

Discussion:-

The principal finding of this study is doctrinal rather than statistical. The central legal problem is how a reported social pattern becomes legally authoritative. The answer developed here is source-sensitive: social prevalence may be evidence, but legal custom requires proof; statutory exclusion does not itself supply a male-succession rule; and constitutional review must be connected to the institution and legal mechanism through which the norm acquires legal effect.

The empirical material strengthens the argument by showing that inequality operates at multiple stages. Male concentration in inheritance is accompanied by male concentration in ownership and decision-making, while documentation and forum knowledge remain weaker. These patterns suggest that a legal intervention directed only at the formal rule of succession may be incomplete. Yet the data do not support causal claims, nor do they establish the content of custom.

The study's legal pluralism perspective also avoids two simplistic positions. The first treats customary law as automatically oppressive and assumes that formal law can simply replace it. The second treats customary law as beyond legal scrutiny because it is culturally rooted. Neither position is satisfactory. Customary governance can possess legitimate social value, but when a customary norm is asserted as a legal rule, the legal system must determine whether the rule is established, applicable and constitutionally sustainable in the institutional setting in which it is applied.

The strongest contribution of Ram Charan is therefore methodological. It cautions against using evidentiary uncertainty to create a patriarchal presumption. The strongest contribution of Nawang is structural. It cautions courts against bypassing the statutory boundary created by Section 2(2). The two decisions, read together, encourage a disciplined form of constitutional adjudication: neither judicial creation of male succession nor judicial creation of automatic statutory equality. For Galo women, the practical implication is that legal literacy must be more precise than a general statement that 'daughters have equal rights'. Women and legal-service providers need to know which legal regime applies, what evidence may establish custom, where a dispute can be presented, what records matter, and what review is available. Otherwise, legal awareness may produce expectations without a realistic pathway to enforcement.

³⁴ Ram Charan & Ors. v. Sukhram & Ors., 2025 INSC 865, paras 15–20.

³⁵ Thakur Gokalchand v. Parvin Kumari, AIR 1952 SC 231; 1952 SCR 825; Ram Charan & Ors. v. Sukhram & Ors., 2025 INSC 865.

Legal and Institutional Recommendations:-**Precise Legal Literacy:-**

Legal literacy programmes should explain the actual statutory position of Scheduled Tribes, the distinction between Section 2(2) and substantive succession rules, the evidentiary status of custom, documentation requirements and available forums. Avoiding overstatement is essential: women should not be told that the Hindu Succession Act automatically applies if Section 2(2) remains operative.

Documentation and Evidence:-

Women should receive assistance in obtaining and preserving land records, succession documents, gift instruments and other relevant evidence. Where customary decisions affect property, basic written records should be encouraged so that the rule applied and the outcome can later be identified.

Participation in Customary Adjudication:-

Women should have meaningful opportunities to participate in property-related customary proceedings. Participation should include the ability to present evidence, identify competing customary claims and receive an understandable explanation of the decision. The objective is not to eliminate customary forums but to strengthen their procedural legitimacy.

Recording Customary Decisions:-

A standard record for property disputes should identify the parties, nature of property, issue, evidence considered, customary rule relied upon and outcome. Such records would assist both customary institutions and formal courts when the same or a related issue later arises.

Institutional Referral and Legal Aid:-

Formal courts, legal-services authorities, revenue authorities and customary institutions should have clearer referral mechanisms.³⁶ A woman should not be required to navigate several institutions without knowing which forum has authority over succession, documentation, declaration, possession or review.

Evidence-Based Customary Law Reform:-

Reform should distinguish between a historically established customary rule, a contemporary social practice, and an institutionally convenient assumption. Gender-sensitive reform is strongest when the specific rule or procedure causing exclusion is identified rather than when 'culture' is treated as a single undifferentiated barrier.

Limitations:-

The study's empirical component is limited to the 150 respondent records available in the research material. It is descriptive and should not be presented as statistically representative of all Galo women or all Galo communities. The empirical component is limited in scope and is intended to provide contextual evidence rather than statistical generalisation to the wider Galo population. These omissions limit the empirical claims of the study, but they do not affect the doctrinal analysis because the empirical material is expressly treated as contextual rather than representative proof of customary law.

Conclusion:-

The property-rights position of Galo women in West Siang should not be reduced to a binary question of whether daughters inherit. The legally significant inquiry begins with the source of the rule governing succession and proceeds through proof, institutional recognition, constitutional scrutiny and effective control.

Section 2(2) of the Hindu Succession Act excludes Scheduled Tribes from the Act unless the statutory condition for extension is satisfied. That exclusion does not itself establish a rule that sons alone inherit. If an exclusionary Galo custom is asserted, it must be established as custom through appropriate evidence. Thakur Gokalchand provides the core evidentiary discipline: custom must be proved rather than presumed. Ram Charan adds a contemporary constitutional warning against converting the absence of proof of female inclusion into an assumed rule of female exclusion. Nawang, in turn, confirms that courts cannot simply bypass Section 2(2) by judicially extending the Hindu Succession Act to Scheduled Tribes.

³⁶ Legal Services Authorities Act, 1987, Act 39 of 1987.

The constitutional inquiry must be equally disciplined. Articles 14 and 15 cannot be invoked as abstract substitutes for identifying the governing law. Their force is especially important when a customary norm is given legal effect through State action, formal adjudication, administrative recognition or another legally recognised institutional mechanism. The question is therefore not whether culture is above or below the Constitution in the abstract, but how a particular customary rule enters the legal decision and whether the resulting State-backed outcome is constitutionally sustainable.

The empirical evidence gives the doctrinal problem practical urgency: male concentration is reported across inheritance, ownership, decision-making and land control, while documentation and forum knowledge remain significant obstacles. These findings do not prove the content of custom; they show why the pathway from entitlement to enforceability matters.

The defensible legal position is therefore neither wholesale rejection of customary governance nor uncritical preservation of every customary practice. The better approach is to require proof of custom, reject unproved patriarchal assumptions, preserve the statutory boundary created by Section 2(2), apply constitutional equality where the institutional and legal conditions for review are satisfied, and strengthen documentation, participation and access to justice. For Galo women, meaningful property justice ultimately depends on ensuring that a possible entitlement can be identified, proved, recognised, exercised and defended in practice.

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16. The Constitution of India, arts. 14, 15, 342 and 366(25).
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