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CUSTOMARY LAWS OF NYISHI TRIBE IN INDIA

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Key Words: Aabhu Thanyi (great ancestor of Nyishi Tribe), bungu panam (sacrifice of animal in the name of departed soul), Dapo ponam (erection of wooden/ stone poll as sign), Nyelee (Nyishi Village council), Nyagam aabhu/aab(influential orator), Nyub aabhu/aab (influential priest), Seer darhee nam/dedar rache (VIS major/Act of god/Act of super nature), Yallung (disputes).

Abstract

The Arunachal Pradesh is inhabited by several ethnic groups of tribes. Each of them has a distinct culture, traditions, faith and belief, customs and customary law, different social and economic pattern. Nyishi follows legends, myths, mythologies, custom and customary laws. The Nyishi tribe is the largest tribes of Arunachal Pradesh. Genealogically the Nyishi are descendant of the great ancestor Aabhu Thanyi. They inhabit in six districts of Arunachal Pradesh viz Papum Pare, Lower subansiri, Upper Subansiri, Kurung Khumey, East Kamang, West Kameng Khera Dadi and some parts of the state of Assam. Nyishi are still maintaining, preserving and following the same traditions, customs and usages. The traditional legal system is one such institution. Nyishi have certain mechanism to regulate them. One such legal institution is called Nyelee (formal gathering of people) to resolve the Yallung (disputes). There are other mechanisms oaths and ordeals like Dingdung and SudungEnam (hot water ordeal). There are omen examinations, (boil egg examination) Pachu Kuknam/RuksingKanam (chicken liver examination), Reksing Kanam /keenam (pig liver examination). Still people practice these age old traditional legal system, despite of introduction of Anglo Saxon legal system. This institution continued to work as one of the mechanisms to resolve disputes in Nyishi society through expert persons called Nyagam aabhu/aab and Nyub aabhu/aab. Disputes are resolved through the formal gathering called Nyelee. Decisions of those elderly persons who are experts in traditions, usage and customary laws are respected and binding. The establishment of administrative centers; expansions of communication and rapid political development have brought new legal system and processes. They have exerted enormous pressure on traditions, customary laws and its operation. The work is an attempt to documentation of the Nyishi Traditional legal system.

INTRODUCTION:

Classification of Customary Laws

I. Customary laws related to human body: Any act which affects human body is viewed seriously by the Nyishi community. Such act may lead to any extent of violence or social tension. For easy and better understanding it can be classify into following sub-groups again.

(a) *Nye mengnam/mengio yallung* (custom related to murder/homicide): Whosoever causes death by an act with the intention is called *Nye mengnam*. The Nyishi settles any case relating to murder in the *Nyelee* (village council) as per the customary laws. They always inquire into the matter whether the murder occurs with intention or unintentional. Accordingly, after the detail examination of facts and circumstance, the council member sanctions the quantum of penalties.

(b) *Mingtanam* (attempt to murder): whosoever does any act with such intention or knowledge that his act may cause death to another person is called attempt to murder. The guilty person is liable to pay compensation.

(c) *Ungene meghenam* (injury/hurt): whosoever causes bodily pain or infirmity to any person is said to be commit injury/ hurt. The village council member first see the seriousness and circumstances of such injury, accordingly they decide the quantum of penalties.

(d) *Dudu yallung domab resamnam* (wrongful restraint): whosoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed. Such an act is called wrongful restrain. The council member hunts for justification and reason for such an act and then follows detail deliberation and guilty is penalized as per the laws.

(e) *Dodu yallung domab natung tumnam* (wrongful confinement): whosoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits without justification or reason is called wrongful confinement. The council members inquire into the matter in detail. Equal chance is given to both the parties to present their cases and then follow the quantum of punishment.

(f) *Madding marebnam* (force): A person is said to use force to another person if he causes motion or change of motion or cessation of motion to that other. Victim is free to approach to the village authority for remedy.

(g) *Reedumnam/ redumbulem medingmarebnam* (criminal force): Whosoever intentionally forces any person without that persons consent in order to commit offence is called criminal force. The guilty is liable to punish as per the customary laws.

(h) *Reejap recrapnam/ reeje repanam* (assault): whosoever makes any gesture or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present offended. That who makes such gesture or preparation is said to have commit assault.

(i) *Natung tumnam/bonam* (kidnapping): whosoever does any acts to take away or entice any person without consent is called kidnap. Such an act may lead to social feud and raid in order to free the kidnapped person.

(j) *Nye rehnam and Nye puknam* (buying and selling of a human being): In the traditional society buying and selling of a person was prevalent but there were no specific custom to whom to buy and sale and whom not to buy and sale as Nyishi society is free from class and caste division. Any person could become a slave due to capture during the raid or because of debt etc. The victim of raid and debt could be sale and purchased. Those victims of raid and debt are free man once they are restored back to original position.

(k) *Tubli yoonam/yali yulla* (rape): Any man having sexual intercourse with women is said to commit rape. But as per the Nyishi customary law, there is no distinction made whether the sex is with mutual consent or without consent. Rather all sexual relation other than between legal husband and wife is considered as offence. Distinction is made whether party to that offence is unmarried, married or engaged. The penalty is imposed based on the criteria.

(l) *Nyakuu reekamanam/reemanam* (unnatural offence/ inhuman act): Whosoever voluntarily has carnal intercourse against the laws of the nature like sodomy or incest etc is said to have commit the unnatural offence. The guilty is liable to penalized ¹.

II. Customary laws Related to marriage and divorce: Marriage is a universal institution through which a man sustains the continuity of his race and attains sexual satisfaction in a socially recognized manner. It provides biological as well as psychological satisfaction. It ensures the survival of the group along with its culture. It is also a social mechanism designed to create and foster social solidarity. The Nyishi considered marriage as sacred institution and social requirements. The marriage is not just bond between husband and wife but it also establish bond between families and clans which continues for generations together. There are different forms of marriage among Nyishi society. (i) Marriage by lineage or continuation of marriage from mother's family /clan. (ii) Arranged_marriage - A marriage that is at some level arranged by someone other than those being

married. (iii) Forced marriage - A marriage in which one or more of the parties is married without his/her consent or against his/her will. (iv) Levirate_marriage- A marriage in which a woman marries one of her husband's brothers after her husband's death, if there were no children, in order to continue his line. (v) Marriage by elopement-A marriage where the basis for the marriage is love. (vi) Marriage by capture- A form of forced marriage in which a woman is kidnapped and raped by a man is regarded as his wife. This form was prevalent in the age when women were considered to be the prize of war. In this type of marriage, the bridegroom takes away the bride from her house forcibly after killing and injuring her relatives. (vii) Child marriage - A practice in which the parents of two small children (even infants) arrange a future marriage. (viii) Widow inheritance - The widow may have the right to require her late husband's extended family to provide her with a new man; more commonly, she is obliged to marry the one they choose.

(a) Breach of contract for marriage: The Nyishi marriage involves series of steps like omen examination to see whether marriage relation will be good or bad. Anyone who breaches this bond is viewed seriously as per customary laws. The exchanges of gifts are essential parts of Nyishi marriage. The boy family gives *sabbe* (Bos-frontals), *eggi* (cloths), *aadding* (meat of different variety), *oryak* (swords), *oppo* (wine). In return the girl family also give *tasing* (beads of different variety) *tallus,maze* (bell of different worth), *coze* (bangle), *Huhie* (disc of different value), *domping* (tiara), *Rungbing* (ornament for ear or ear ring), *sapping* (Bos frontalis given by girl family as gift to daughter), or any other gift including human as slave. The marriage ceremony is over on the day, when the bride comes to husband house. Nyishi follow Petri-local system in marriage. There is a ritual called *changtum pahi* (ritual where bride is asked to kill small animal after priest performs incantation as sign of entering and becoming full member of husband's family). This ritual is performed in all forms of marriage.

(b) *Heenam tunam/ Jengnam panam* (cruelty by husband or relative of husband): Such atrocity and cruel act is not easily tolerated by the family of the girl. Such unnecessary act may lead to breaking of family bond including marriage itself.

(c) *Nyahang anye aum nanam* (polygamy): In Nyishi society polygamy is practiced. There is no custom against the polygamy rather it is regarded as sign of status of family and person concerned.

(d) *Nyalu aneye aum nanam* (polyandry): In Nyishi society polyandry has no place, any such act attracts extramarital status and that may lead to penalty to the male partner. It may also lead to divorce or any other circumstances and social tension.

(e) *Hangmi nyalu/nyaga nader nam or tumba nyeme/ nyahang nadarnam* (widow/widower remarriage): Widow and widower have every right to remarry. However, there are certain conditions which apply to widow. The widow will first look some one from her deceased husband family. Widow having relation with other than her deceased husband family may attract compensation from male partner. Any issue from her deceased husband remains with that of deceased father family. Widower also should always first look partner from his wife family and clan. This keep the property intact and relation also continue. If there is no one from deceased wife family, the widower is free to marry from any where of his own choice.

(f) *Nyahang nyalu yoming sumanam* (unjustified cessation of cohabitation): whosoever unjustifiably cessaed cohabitation with legal wife is liable to be penalized. Generally if the guilty is done by man, he is bound to give *sabbe* (bos-frontalis) to wife's family. And if wife is guilty, her family is also liable to give any valuable ornaments as sign of *teeka-nyaka* (compensation for keeping the relation cold period).

(g) *Nyahang nyalu/nyeme nyega napak/apak mengsunam* (divorce): Divorce is very rare in the Nyishi traditional society. However, if it arises befitting penalty is imposed to the guilty, so that, it dose not happen again ².

III. Customary laws relating to breach of contracts and breach of trust:

(a) *Bengtee nam doma nam* (breach of contract): Breach of contract means failing to perform any terms of a contract without a legitimate excuse which may include not finishing a job, failure to make payment in full or on time, failure to deliver all the goods, substituting inferior or significantly different goods, not insuring goods, among others. The contract may be either written or oral. Share herding is the best example where major share is taken by real owner of the animals and share harder get share as per agreed condition. If either of the parties fail to fulfill the condition agreed that is amount to breach of contract.

(b) *Mangyang/syagangnam(breach of trust)*: Breach of trust means the willful misappropriation, by a trustee, of a thing which has been lawfully delivered to him in confidence. whosoever being in any manner entrusted with property or with any dominion over property dishonesty misappropriates or converts to his own to use that property or dishonesty use or disposes of that property without the knowledge of real owner of such property is called breach of trust. The best example is *gotung tingnam/setingnam/gotung Sonam* (share herding). The major share goes to real owner of the animals and share harder get share as per agreed condition like 1/3 out of three animals' one goes to share herder and three goes to real owner. If there is any misappropriation of animal, it amount to breach of trust. ³

IV. *Adikakuu/tadikkaku* (custom relating to nuisance): The nuisance means annoyance, anything that hurt, inconvenience and damage to the others. Nuisances are either public/common, or private nuisances. A public/common nuisance is such an inconvenience or troublesome which annoys the whole community in general. But nuisance that merely affect to a particular person is called private nuisance. The customs relating to nuisance can be divided into following sub groups.

(i) *Meanam* (cheating): Whosoever by deceiving any person fraudulently or dishonestly induces the person with intention to cause harm to other person or to gain something for him is called cheating. Such a person is liable to be penalized.

(ii) *Reesam rayam nam* (mischief): Anyone with intent to cause or knowing that he is likely to cause wrongful loss or damage to the public or to any person property, any such destruction or change of property, which affect or injury its value and utility is called mischief.

(iii) *Lusup lasap* (trespass): Anyone who enters into or upon property in the possession of another by intimidates, insult or annoy any person in possession of such property with intent to commit an offence is called trespass.

(iv) *Rumhumnam/chohumnam* (defamation): Anyone who used any insulting words directly or indirectly to harm any other persons reputation which is false is called defamation.

(v) *Benglaknam/relaknam* (abetment or instigation): whosoever instigates or engages intentionally to aid any person to do that illegal thing against any other person is called abetment or instigation. Such person is liable to be punished as per the customary laws.

(vi) *Pathinam* (intimidation): Whosoever threatens another person's life, reputation, property, with intent to cause alarm to that person or to cause that person to do any act which he is not bound to do or to prevent to do any act which that person is entitled to do is called intimidation. The person involved is liable to penalized as per the customary laws.

(vii) *Benji bengparna/reeji repanam* (insult): Whosoever intending to insult any other person by uttering any words, makes any sound or gesture to provoke the other is called insult. The person involved is liable to penalized as per the customary laws.

(viii) *Nuur nyepingnam* (conspiracy): When two or more person enters into agreement to do illegal thing against other is called conspiracy. The person involved is liable to penalized as per the customary laws. ⁴

(ix) *Kachum tape buo* (customary laws relating to guardianship): In general guardian means who looks after the person or properties. Following types of guardianship is practiced among the Nyishi society (i) Guardianship of property (ii) Guardianship of old age and (iii) Guardianship of minor and disable person.

(i) Guardianship of property: In normal situation, it is the owner of the property who looks after all the moveable and immoveable properties by the family jointly or individually. However, in certain circumstances, the properties may need to be looked after by other person as guardian in the following grounds: (a) When the owner of the property is away, (b) when the owner of the property is not in good mental condition, (c) When the owner of property in under unsecured situation, (d) when the owner of property wants to appoint guardian/agent and (e) when the owner is minor or disabled person.

(ii) Guardianship of old age: So long a person is capable of managing its own affairs there is no problem. However, when a person is incapable of managing its own then it is children pious obligation to support aged parents. The burden may fall upon any one but generally it is the first or last son to look after. The children are also bound to perform rituals called *bungu panam* (sacrifice of animal in the name of departed soul). Some time daughter and near relative may also look after the aged parent. Whoever looks after the aged person has the right to inherit and right to claim over properties remain with the aged person.

(iii) Guardianship of minor: In Nyishi society, parents are legal the guardians of the child. But under certain circumstances a child may have to be looked after by other people as a guardian especially when child is an orphan. The nature of guardianship is according to the agreement entered into. If no agreement is made, then it is up to the wishes of guardian to decide the luck of the child. If a child is female she can be given on marriage when she attends the marriageable age. If the child is male, he may be given the job of looking after his guardians in time of their old age and gets right to inherit their properties.⁵

VI. *Sangee geegsae gagebhu/sangnam geenam nasebu* (customary laws relating to inheritance/ succession): In Nyishi, succession and inheritance is based on the principle of propinquity. There was no established custom on succession. But it has been observed that it is unto the owner of the property to decide which share will go to whom. Also there is no distinction between sons or daughter. According to custom the parental properties goes to any of their child. If he or she is issueless, it goes to nearest relatives' of the owner of the property or anyone who have looked after the owner of the property. However, if the property is ancestral and valuable, it goes only to the family/clan members. If the owner of the property dies without declaring which portion of property goes to whom, than family member divide the property proportionally. If there is no family member alive, then it

goes to clan member or blood relatives. The nearest lineage gets the first preference over distant relative or half relation.⁶

VII. Customary laws relating to adoption: The remarkable feature of Nyishi tradition is that they always desire to have at least one legitimate son of its own for the continuation of the family lineage. But under certain circumstances, a person may have to look for a child from other family for looking after them and their property. The adopted child can inherit and succeed their property, but such adopted child is counted as offspring of that person. The Nyishi people rarely go for adoption rather prefers to go for as many numbers of wives and child to get male child. This has been one of the reasons for polygamy and having multiple children. A person is free to adopt from any family, but preference is given to father lineage.⁷

VIII. *Reeguknam/ryeangnam*(customary laws relating to social capital/community works): The *reegunam/ryeangnam* is a form of mutual exchange of labour on principles of reciprocity. For instances, in the house construction, every one village helps the house owner in the form of man and material. Like wise, exchange of labour is used in agricultural activities as well and is known as *rango ryegunam*. The work related to house constructions is called *namryegunam*. There is also community hunting called *keru/soruruknam*, and community fishing called *seepkarnam/pachakarnam* (fish trapping by blocking water and make one narrow water way), *subu panam/buktar tarnam* (divert the water direction), *tamu jangnam* (used of herbal poison to kill the fish).⁸

(iv) *Dapo ponam* (erection of wooden/ stone poll as sign): The erection of *dapo* as sign of demarcation of territory/ agreement/ warning/notice in certain occasions like marriage, maze, and after performing rituals like *Nyokum yulow*, *Bori yulow* etc which indicates that something have happen. The service of priests is essential in erecting *dapo*.⁹

Types of Dapo

- a. *Nyeme Dapo*(Women marriage related Dapo). The dapo is erected on the way when bride is taken to grooms house.
- b. *Maze Dapo*(Dapo Related to Precious ornament). The Maze is regarded as very important ornament of Nyishi individual as well as family or clan level. The maze is the symbol and status of the individual and family. Nyishi perform rituals and marriage ceremony for getting Maze. While taking maze the Dapo is erected on the way in the name of that Maze. The Maze are of different denominations, the dapo is erected only for high valued maze.

c. *Yulow Dapo* (Dapo related to Yulow Rituals). The Dapo is erected at alter of Yulow alter. d. Nyeda Dapo Marriage Ceremony Dapo) Dapo is erected as . e. Nyokum Dapo, f. Bengtam/ Katam Dapo

IX. *Tungu kyagu nee/kyagunee yupak/apak/ kayu sumab* (Exception): The following categories of people are given concession to some extent.

- (i) *Hami/anyo* (children): The act of children is treated casually, if the offence is not serious. However, if a child commits serious offence, they are liable for the same amount of penalty as that of adult. The parent or guardian is vicariously liable to pay compensation.
- (ii) *Nyame* (women/female): There is a common Saying “*Nyeme hami reenam apato/yopato*” (forgive the act of women and children). The acts of women are also treated insignificant if the act is not of serious nature. However, if the act is serious then parent or husband is liable vicariously or personally.
- (iii) *Pacha dama/ruga rariya buo* (insane person /lunatic): The person under these categories is also given concessions, if the act is not serious. Otherwise, the person is liable personally or vicariously.
- (iv) *Tangkum dariak buo* (person under intoxication): The act of a person under intoxication is also given concession if injury is not serious. However, if caused serious injury, a person may be liable personally or vicariously.
- (v) *Nye reemunam* (person under compulsion/duress per menus): A Person who has committed any offence under compulsion is given concession up to a certain extent. The person who compelled them to do the offence shares the greater liability.
- (vi) *Reeka/maka thkal bengtul reetun /mattun* (voluntarily consent): There is common phrase used in Nyishi society “*reeka/maka thkal bengtul reetun /mattun*” (consent is given voluntarily) which is equivalent to English legal Maxim “*voluntati non fit iniuria*” (an act committed due to voluntary consent is not a crime).
- (vii) *Suhao Ngabseh ngam anyo meanam* (for the greater interest or benefit of victim): The act committed to prevent the greater damage is given concession, for example to save the life of Mr. X, Y chop off the snake bitten finger to prevent the spreading of poison, or Mr. X house Window glass was broken to eject the properties when fire catches the house. Such an act is not crime in Nyishi customs and laws.

(viii) *Reepreelapnam* (accidental act): Anything accidentally is given concession up to certain extent. But it is up to the concerned affected party whether to give full concession or half concession.

(ix) *Seer darhee nam/dedar rache* (VIS major/Act of god/Act of super nature): Any incident occurred beyond the controlled of human is called Vis-major. There is a popular saying among the Nyishi “*Nyiakuh Rejikunanam*” (which means it is not a human act), for such an act no human being is liable. But if there is possible human intervention, like death of a person caused due to abetment of *sotung* (black magic) and *Reyakum-Ryetar* (hypnotized rituals that spirit attack the targeted person) then the party responsible for it is liable.¹⁰

Conclusion

The Customary laws are the foundation of tribes in India. The Nyishi tribe in Arunachal Pradesh is facing formidable challenge from the modern value systems. The timely intervention with serious action may give new life to this dying institution. The proper documentation and inclusion in academic curriculum is possible remedy for saving the indigenous value system.

Notes and References

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