CUSTOMARY LAWS OF NYISHI TRIBE OF ARUNACHAL PRADESH, CHANGE AND CONTINUITY

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Key Words: Anne (Mother/ Motherly figure), Abhu(Father/Fatherly figure), Nambung Abhu(influential male member of house), Nambung Anne(influential female member of house), Gora Abhu/Tungpea(influential male member of village), Gorra Anne/Gorra Daneh(influential female member of village), Dokum( setting together) Nyadar Namlo( Religious prayer house), Nyegam Aabhu(skill orator), Nyub (Priest), Doting tingnam/ Neting tingnam( proverbs).

Abstract

The Customary laws of Nyishi Tribe of Arunachal Pradesh change and continuity remains unexplored and enshrouded in legends, mythologies. The folk and legends are transmitted from generation to generation through orally. The paper is an attempt to discuss the crime and customs and laws in Nyishi of Arunachal Pradesh. The worked is a scrutiny of the dynamics of customary laws of the Nyishi tribe in Arunachal Pradesh. The study is diachronic in nature and considers exposure of the Nyishi to various historical forces as the basis of analysis.
Introduction

The work entitled “Customary laws of Nyishi Tribe of Arunachal Pradesh” is a scrutiny of the dynamics of customary laws of the Nyishi tribe in Arunachal Pradesh. The study is diachronic in nature and considers exposure of the Nyishi to various historical forces as the basis of analysis.

The objective study is 1. Investigate the origin, nature and the working of customary law, 2. Find out the role played by Gaon Burahs and Buris (village head), Political Interpreter (PI) and modern political leaders 3. Study the impacts of modern political institution on customary laws at grass root level. 4. Know the status of customary laws in the society, 5. To classify f customary laws and the modes of arbitration.

The areas of this study are 10 administrative circles of Papum pare district of Arunachal Pradesh. These 10 administrative circles are Itanagar, Naharlagun, Balijan, Kimin, Diomukh, Banderdewa, Sagalee, Toru, Leporiang and Mangio.

In the study both primary and secondary sources have been used for data collections. Data was collected through field study and survey of 10 administrative circles of Papum pare district. The official Acts, Reports and records from Judicial and Magistrate’s offices, both published and unpublished works have been used as secondary sources of data. Information was also collected from prominent persons of the community who are skilled and experts in customs, tradition and customary laws through interviews and informal discussions.

The main tools used in the study were a set of structured and partially structured questionnaire cum-interview schedule. Also extensive field notes of the discussion with local knowledgeable persons are maintained by the researcher. The interview schedule was designed in English for the sake of convenience and was translated into local language wherever necessary. The data collected through questionnaire cum-interview schedule has been tabulated in a coding sheet to have a clear view of the replies of the respondents. Figures have been converted into percentage by simple method of calculations for purpose of analysis. This data was supplemented by the field notes maintained by the researcher.
The methodology adopted for study is participatory observations as well as non participatory observation. It is also empirical and partly reflective. Survey has been carried out by visiting judicial, magistrate and administrative offices for necessary documents and discussions.

The researcher interviewed 607 respondents, includes eight political interpreters (PI), 111 Goan Burahs and Buris (village head), eight Nyub (Priest) and remaining four eighty (480) respondents are taken from 10 administrative circles of Papum pare district consist of minimum of 30 persons from biggest village of each administrative circles of Papum pare district of Arunachal Pradesh selected randomly and interviewed.

**Major finding**

Genealogically the Nyishi are descendants of the great ancestor Aabhu Thayni. They are divided into Dopum, Dodum and Dollu clans. They inhabit five districts of Arunachal Pradesh namely Papum Pare, Lower Subansiri, Upper Subansiri, Kurung Khumey, East Kamang and some parts of the state of Assam. Nyishi still follow their age old traditions, customs and usages.

The customary law is one of such institutions. Nyishi have certain mechanisms to regulate them, one such institution is called Nyelee (gathering of people to settle the disputes). There are also other mechanisms like Dingdung/ Dingnam (oaths), Sudung Enam (boil water ordeal), and omen examinations like, Peepchenam (boil egg exam), Pachu Kanam (chicken liver exam), and Reksing Kanam (pig liver exam). The people have attachment with their age old customary laws, despite introduction of Anglo-Saxon legal system. This institution continues to work as one of the mechanisms to resolve disputes in the Nyishi society through expert persons called Nyagam Aabhus and Nyub Aabhus. Extensions of administration, communication and rapid political development have brought in new legal institution and processes. These agencies of change have exerted enormous pressure on customary laws and its operations.

The coming of Ahoms in Brahmaputra Valley in 13\(^{th}\) century (1228)\(^1\) and their rule in Assam till 1826,\(^2\) and subsequently British Administration taken the Assam have influence the socio-economic setup. They introduced and implemented various policy decisions like the Assam Frontier (Administration of justice) Regulation 1945 \(^3\). It no doubt recognized the authority of the Village councils but it also provided for the appointment of Goan Burahs and
Buris and political interpreters. The administrative centres were extended to new areas more and more and such appointments were also encouraged. This led to more interference in the administration of justice through customary laws of the people. After independence, Indian Administration also introduced decentralized democratic political institutions like NEFA Panchayati Raj Regulation in the state in 1967 which became operational in 1969\(^4\). Adult franchise hitherto unknown to the people of this area came along with electoral politics in 1978\(^5\). Thus, expansion of the administration and introduction of democratic institutions and processes brought into play Anglo Saxon legal system in the state which had profound effect on the operation of customary laws and processes. Hence, there is a need to study and understand its ramifications. The main focus of the study is to investigate and find answers to the following problems.

Nyishi belief that the universe was created out of nothingness by the supernatural power called *Chen Rolum* or *Jingbu Paabu Aabhu* (unseen supernatural forces). The *Chen/Jingbhu Aabhu* and *Paabhu Aabhu* created celestial body like *Saching* (Earth), *Nyodo* (sky), *Donyi* (sun), *Pollu* (moon), *Takar* (star), *Hai/Iss* (water), *Auz/Doree* (wind). Subsequently all other objects and living creatures were created including *Aabhu Thayni*. The Nyishi customs and practices are said to have originated from their legendary ancestor *Aabhu Thayni*. There were many *Thayni* and Nyishi are the offspring of *Nyia Thayni* (real human Thayni). It is also believed that *Aabhu Thayni* was omnipotent, omnipresent and had self transformed ability, which resulted into conflict between *Aabhu Thayni* and the *Uyus* (malevolent spirit). The struggle between *Thayni* and *Uyus* and intervention by *Anne Donyi* to protect human being became the genesis of the Nyishi customs. These customs and practices are transmitted to younger generation through myth, legend, folklore, folktales, songs and dances, rituals and beliefs\(^6\).

Customs of Nyishi may be classified as follows:

(i) Custom affecting human body
(ii) Customs of marriage and divorce
(iii) Customs relating to Breach of Contracts
(iv) Custom relating to nuisance
(v) Customs relating to guardianship
(vi) Custom relating to inheritance/succession
(vii) Custom of Adoptions
(viii) Custom related to Social capital
(ix) Custom related to rituals. The custom related to ritual is again subdivided into agriculture related rituals, rituals for healing, rituals for inflicting opponent, rituals for purification and reconciliation. There are
also rituals like *peep /pachang kuknam* (omen examination). Ritual related to *Dingnam/Dingdung* (oath) and *Sodung Enam* (boiled water ordeals), *Yallow Panam, Uyus Panam, Nyokum Yullow, Bori Yullow, Longte Yullow* (rituals for peace prosperity and well being). Like other laws there is exception in Nyishi customs too. The Nyishi Jurisprudence is based on the well known Nyishi Maxim, “*Korum Kulu ge reckinam*”\(^7\) (that the things which have been practiced since time immemorial by the people). It is equivalent to legal maxim, A commun observation non est recedendum (common observation or usage is not to be departed from)\(^8\).

Nyishi have traditional concept of symbolic authority. Family is the first unit of the society. Oldest male member of the family is authority on any matters in his absence the oldest lady manage the family. The next important unit of the Nyishi is *Nambung/Nyamda* (long traditional house, inhabited by many families or extended family). *Nambung Aabhu* or *Nambung Aanne* is the head of the long house. A Village is a very important unit of the Nyishi society, in the village there is symbolic authority which is called *Gorra Aabhu/Tungpe* and *Gorra Anne/Gorra Dneh*. He/she represents the village-state within and outside the village; accordingly they also receive honour and dignity within and outside village.

Another symbolic term used among Nyishi is *Nyegum Aabhu* and *Nyub Aabhu*. *Nyegam Aabhu* (person expert in customary laws, good orator and expert in handling and settling any disputes). *Nyegam Aabhu* is considered as good pleader, arbitrator and also custodian and thesaurus of Nyishi Jurisprudence. *Nyegam Aabhu* plays versatile role because of his reputation. *Nyub Aabhu* (reputed priest among the priest who can perform remarkably if not miracle. There is Nyishi Maxim “*Nygam yuname, Nyub yuname, meji yuname akinegatek*” (The person or things of renowned is only one/few). There are other symbolic authorities like *Namchang Aathu* (ancestral owner of territory/land). *Seethe- Sokam Aathu* (owner of drinking water sources). *Nyoku Aathau -Isehi Ayu or Nyokuge Tatunge- Ischige Keoyunge* (generic meaning of ownership of land and water), *Rango pawo athu/ayu* (The plot of land once used as agriculture purpose by individual or family) “*Dedek tyinge Ngaym Kala chobhe*” (the person who is first to learn which Mushroom is eatable and which is not eatable) and “*Donyi Popumgengs Kacho buhe*”, (the person who has first seen the light of rising sun). These are the basis of Nyishi customary laws\(^8\).
The disputant parties are free to engage middle man or arbitrator called Cheen Hakye or Bongerang Bongtee or Ginding. The person to be appointed as middle man may be from any clan or any village who is having good rapport with others and is influential. The appointment of a middle man is done directly or after omen examination. The middle men are responsible for pacifying and bringing the disputant parties together for initiation of trial proceeding. The middle men are highly respected by both the parties and may also get reward from the parties. There is a Nyishi Maxim, “Bongrag subbu ham laypia parmabee-Bongete subbu ham lud pamabe” (The middle men should not be insulted or disrespect by the gathering) ⁹. Nyishi regard Yallung (disputes) as a burden and misfortune. There is Nyishi Maxim, “Seching Engdange meelo kokloge gunning sayee manglo Tajologe” (disease and disputes occurs all of a sudden like mushroom erupting from fire hearth and lighting crossing the roof of house) ¹⁰. So they will always try to resolve the disputes at earliest possible to bring normalcy.

There is another Nyishi Maxim “Yattang settang nge uttang sittang” (solve the matter before it goes worst) ¹¹. The Nyelee member cites many precedents which happened in the past which is called Doting tingnam/ Neting tingnam. Through such example, they inquire whether there was any such dispute earlier also. What was the reason? In what way was it resolved? What were effects on the family or clan relation before and after? Through such narration of precedents people or parties are made to understand that any kinds of dispute can be resolved. There is no pecuniary or territorial jurisdiction limit for Nyelee. No quorum is required for Nyelee and trial proceedings can be held at house or open place but exparte verdict is not binding on the party. It is equivalent to legal Maxims, “Audi alteram partem” (hear the other side or no one should be condemned unheard) ¹². The oaths and ordeal is the important ingredients of the Nyelee. Priest plays a vital role in the process of collection evidence specially in the absence of prima-face evidence. They invoke supernatural forces as the ultimate justice giver. Therefore, highest stage of collection of evidence is oaths and ordeals.

There is no restriction on the basis of gender and age; rather it is open to all section of the people, but few authorized persons are only allowed to take part in the real debate. The Nyelee are of different types as per the requirements and nature of Yallung (disputes). The types of Nyelee are Nyodo Nyoku Nyelee/ Nubuh Nyete Nyelee (dispute with outsider) which involved entire clan or community interest. The second important Nyelee is Nampam Nyelee or
Gutang Gorra Barck or Gorra Nyelee (dispute within the village). The third Nyelee is called Nambung Nyelee or Nambung Barek (dispute within the same house) and the fourth Nyelee is called Emme Barik or Emme Nyelee (within the family like between husband and wife or parent and children or brothers and sisters etc)\textsuperscript{13}.

There are different types of crime in the Nyishi society they are as follows, Nye mingnam (murder), Mingtanam (Attempt to murder), Ungne Megenam (Injury/Hurt), Doduyallung Domab daktumnam (Wrongful restraint), Dodu Yallung Domab Natung Tumanm (Kidnap or wrongful confinement), Mading Marebnam (Force/criminal force), Reejap Rerap nam (assault), Natung Bonam/Bosenam (Kidnapping/capture forcefully), Nye Puknam/Nye Rehnam (Human selling/Buying), Yogio/Yose Yallung (Sexual offence) Nyeme Nananam and Nyeme Yupa nam (Marriage and Divorce), Mengang Hengang/BengteeNam Sasunam (Breach of Trust or contract), Hur massab Dunam Kayanam (Nuisance), Humnam paanam (Custom related rituals), Kuubangnam, Nyee Seenam (Customs related to birth and death). If the injury is caused intentionally the nature of proceeding and conduct is also different and the compensations are also different accordingly\textsuperscript{14}.

It is found that major chunk of people still think that the modern laws have adversely affected the customary laws. Out of 607 persons interviewed, 496 respondents that is (81.7\%) percent opine that modern laws has affected the customary laws, 94 respondents that is (15.49\%) percent, viewed that modern laws do not affect customary law, and 17 respondents that is (2.80\%) percent are not able to decide. They opined that the customary laws should be codified and state should play vital role to prevent misinterpretations and deviation. Out of 607 respondents, 521 respondents that is (85.83\%) percent feels that customary laws should be codified, 75 respondents that is (12.36\%) percent say codification is not require and 11 respondents that is (1.81\%) percent are found undecided.

The people have come to know that the verdict of the Nyelee is not final and binding and such verdict can be dragged to the higher court and challenged in the form of appeal. As a result fear and respect towards the Nyelee is being slowly but surely vanishing. The inclusion of the magistrate, police and court in the deliberation of the Nyelee procedure has definitely marked the turning point and a departure from their age old traditions. Probably presence of the Kotokis (interpreter), Gaon Burah (village head), big businessmen and elected leader have narrowed the
position of the *Nyegam Aabhus* and the *Nyub Aabhus* which have also affected charmness of customary laws and *Nyelee*. As a result egalitarianism, cohesiveness and social harmony is decreasing rather the element of heterogeneity and class based on economic, social, religion and politics has come into being.

But some of them argue that backwardness of their society is due to the strict loyalty of their age old customs which are decayed and falling sort of the ability to accommodate the changed circumstance of the society. But the traditionalist believed that the legacy of the customary laws and restrictions on the imposition and function of any other law of the state has productively protected their culture, religion and ethnicity. It has also protected them from the exploitation by the outsiders and greater civilization. The very interesting finding is that out of total 607 respondents, 528 respondents that is (86.98%) percent are Christians and 79 respondents that is (13.0483%) percent are indigenous believers. Though majority of the interviewed are Christian, still they prefer to settle their disputes through customary laws. Out of total of 607 respondents, 454 respondents that is (74.79%) percent prefer customary laws, 152 respondents that is (25.41%) percent prefer modern laws and only one respondents that is (0.16%) percent preferred both customary laws and modern laws. In the field study it was found that the people still prefer for customary laws because it gives speedy and effective justice.

Out of a total of 607 respondents, 542 that is (89.30) percent of respondents preferred customary laws because of speedy and effective justice. They also pointed out that in customary law there is open discussion and relations are always taken care of. But in modern laws there is no fair trial culprits gain freedom early due to lack of evidence. But in customary laws, human may fail but not the supernatural power. Moreover, in customary laws victims directly benefited and there is room for compromise.

At the same time 53 that is (8.73) percent of respondents say that the customary laws do not give speedy and effective justice. When the researchers inquiry about reasons for their views the respondents replied that customary are very much superstitious, out dated. Moreover, the principles of might is right is followed in dispensing of justice as per customary laws. They are not authentic because they do not follow any legislation. Some respondents did not like to express their opinion and some do not have ideas on the subject. Thus, 12 that is (1.97) percent of respondents were found undecided because they do not have any ideas about laws. Further it
is found that people feel that customary law helps the society to remain united and regulated them.

Out of 607, 558 that is (91.92) percent of respondents are satisfied with the customary laws because it helps to regulate the society and accept it as uniform law. Further, they said that modern law is affecting the traditions and customs of the Nyishi. Even petty issues are taken to the police, magistrate and courts. Those who are well to do can easily influence the modern system and get out of the liabilities. It leads to a culture and degeneration of customs. However, 25, that is (4.11) percent of respondents did not agree that customary laws help to regulate the society. They further justified that they must accept the change in accordance with the time and situation and 24 that is (3.95) percent of respondent are indecisive.

As far field surveys and informal discussions it is found that majority of Nyishi feel that disputes resolution according to customary laws is democratic. Decisions are taken on majority opinion by quoting the precedent, if not unanimous. Even if any compromise is to be made it is made with consent of both the parties. Out of 607 persons interviewed, 548 that is (90.28) percent of respondent opined that verdicts as per customary law are democratic and 46 that is (7.58) percent are of the opinion that these verdict are not democratic and 13 that is (2.14) percent of respondents are indecisive. Researcher further asked them how decisions as per customary law are democratic. They justified that the trial proceeding is open to all and one who give bias judgment is no more respected in the society. Any body has the right to intervene and set the things right before it is wrong. Even if human do wrong gods never do wrong. But in modern legal system once verdict is given no body can intervene accept going for appeal to the higher courts. On the other hand, those who argue that resolved by customary laws are not democratic pointed out that these laws are not based on legislation. The third categories of respondents do not want to comment because they do not know about the subject. However, out of 607 of total respondents of this study. (74%) of respondents still prefer customary laws for resolution of conflicts. This shows that in spite of changed environment customary laws still commands respects of the people and society.

Majority of respondents also have the opinion that political appointment of Gaon Burahs and Buris(village head) and Kotokis (political interpreters) is affecting the age old customs and
traditions. The village head and political interpreter who are politically appointed on the party line acted as party agent in the time of election. They also argue that village head and political interpreter post should not be hereditary post for example when father died son or kiths-kin are appointed and the consent of concerned villager is to be taken in the time of appointment. The roles of parties based leaders are also affecting the customs and customary laws. The majority of respondents also prefer compensation based justice instead of state based punishment. The opinions of respondents are supplemented by the case laws cited in chapter three of this work. Out of 36 cases cited in the work, 20 cases were settled as per customary laws without informing magistrate or police. The 11(eleven) cases were reported to magistrate or police but referred back to Nyelee for settlement as per customary laws. Five cases were settled as per modern laws and appeal went to court challenging the verdict.

After scrutiny it is found that the system of administration is a synthesis of two different legal systems that is customary laws and modern laws. But in Nyishi society customary laws play a leading role in every sphere. The legacy of customary laws in the administration of justice system has its sources in the community set up and it has the sanction of modern laws in the later stage through Regulation, Act, and Notification. The Constitution of India also accommodates these provisions thereby giving endorsement and sanction. Due to changes in the social setup, cultures, customs, economic patterns and the customary laws the ideological perception of the Nyishi have also undergone tremendous changes like instead of wearing traditional dresses and ornaments they have adopted modern life style. Owing to such changes Nyishi institutions like Nyelee is being degenerated and they approach magistrate, police and the regular courts for various cases.

Thus, study shows that the Nyishi society is turning from collectivisms to individualism, polytheism to monotheism, homogeneity to heterogeneity, tribe endogamy to tribe exogamy, petri lineal to matrilineal. There are certain factors responsible for these changes

First and foremost factor is the interaction with the other cultural setup with its neighbors like people of Assam valley, British and Indian mainland culture, which has influenced the Nyishi people through different mechanisms, like trade relations, military action specially during Ahom and the British administration. Nyishi had experienced ups and down relation with plain
peoples. The Ahom king introduced pencha (*Posa* system), *Kotakis*, *Goan Burah* and so forth. The British initiated different Acts, Regulations, Notifications, Circulars and policy programmed. Subsequently after independence, Indian Administration initiated many policy and program in the Nyishi areas etc. Many of these policy and programs are new to Nyishi people and it was not in accordance with the then Nyishi way of life. After the coming of Indian Administration after her independent specially in 1965, NEFA was transferred from ministry of external affairs to ministry of home affairs due to Chinese aggression.

Second factor is coming of other religions to Nyishi areas, like Hinduism, Christianity, Islam and Buddhism; these have changed the out look of the Nyishi society. The culturally homogenous and harmonious society has tremendously changed into heterogeneous and discordant society. Third factor is the coming of planned economy in the Nyishi society. The systems of bartering surplus few products are no more practiced. The concepts of marketing and currency have come into being. The globalizations have become the tune of every individual which has great impact on the Nyishi. The indigenous slash shifting cultivation and mixed cropping is disappearing. The community labour mobilization has changed into payment labour system. The concepts of community ownership have changed into individual property right specially landed property. The Infrastructure developmental activities like road communication, urban centers, market economy, currency, and many other facilities have change the life styles of the Nyishi.

Fourth factor is coming of the formal education in the Nyishi society. They have changed the oral society into a reading and writing society. Due to education now they are exposed to varieties of knowledge which help them to compete with other parts of the societies and the world. The access to science and technology like medical science, physical science, biological science and technology has tremendously changed the lives of the Nyishi people. With the coming of medical science the average life expectancy has increased. The child mortality rate and death rate of mother during pregnancy and child birth rate have decreased. Malnutrition and frequent problems like small pox, measles and blood dysentery have decreased. These diseases were the worst and most dangerous enemies of the Nyishi.

A fifth factor is introduction of modern laws like Indian penal code, civil procedure code, Criminal procedure code and Assam frontier (Administration of justice) Regulation 1945. With
these new laws the concepts of state punishment have come and the customary laws and practices of paying compensation directly to victims is discouraged. A sixth factor is the coming of party politics in the Nyishi society. It has changed entire atmosphere. The want of power, money and reputation have made people individualistic and people are divided on party line and ideologies.

Seventh factor is Renaissance movements within Nyishi especially after 1960s through social awareness campaign about the value of education, importance of development, etc, and the launching of first documentary films and first ever audio cassette in the state have contributed tremendously to the Nyishi. The formation of community based organization like Nyishi Dokum later renamed as All Nyishi youth Association (ANYA), All Nyishi Students Union (ANSU), Nyishi Elite Society (NES) Nyishi indigenous faith and cultural society(NIFCS), Nyishi Nyame Acham(NNC)and indigenous religious movement like Nyadar Namlo are giving new orientation to the Nyishi people. Some Nyishi have become active members and executive members in the national and state based organization both professional and pressure group have helped Nyishi in their own ways. These organizations have tried their best to imbibe pan Nyishi feeling but it is not possible due to factors already mentioned. Thus, the study is a humble attempt to bring forth the necessary information regarding the Nyishi customary laws and its changes and continuity. However, study is limited to small pocket of the Nyishi areas of Papum Pare district.

Notes and reference
2. ibid, p174.
3. Assam Frontier (Administration of justice) Regulation 1945
4. NEFA Panchayati Raj Regulation 1967
7. Narrated by Taba Nyere, Model village Naharlagun District Papum pare Arunachal Pradesh
9. Narrated by Tana Had, Village Chiputa District Papum pare Arunachal Pradesh
10. Narrated by Nabam Tado, Village Rissing District Papum pare Arunachal Pradesh
11. Narrated by Nabam Saha, Village Rissing District Papum pare Arunachal Pradesh
12. Narrated by Nabam Takia, Village Leporiang District Papum pare Arunachal Pradesh
15. ibid