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A Worldview of the Poumai Naga Vis-a-Vis Customary Laws and Practices

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Abstract

Poumai customary law is the general conduct of behavior, practices and manner in the Poumai villages. The Vhe/Chief and his council of elders/chüme constitute the village court and see to the administration of justice. In the event of a perceived threat to property, health and safety of the self and the moral welfare of the society, a person can approach the clan or the village court. Justice by the village court is “quick and cheap.” In case of an inter-village dispute the circle court presides over it. There are three circle courts: 1. Paomata Judicial Court/Paomata Customary Court, 2. Chilivai Judicial Court/Chilivai Customary Court, 3. Lepaona Judicial Court. The Poumai Naga Customary court is the Apex court of the tribe.

Introduction

Custom is a way of behaving or belief in a place that has been established for a very long time. It is the general conduct of behaviour or manner of a society in their ordinary function of life. Human being is a social animal living in groups and communities. When human beings live in groups

there are bound to be clashes due to differences of opinion, wants and desires. Hence, the opinion of the elder is sought, and he gives advice or judgment for the sake of peace and harmony in the society. These constant practices came to be known as customary laws. However, not all customs become laws.

It is a well-known fact that custom is a very important source of law. When a certain action is practiced regularly by a large section of people in a particular area, then that action becomes a custom there. Custom is unwritten law peculiar to particular localities. Sadler (2010) said, that in order for a local custom to be recognized and enforced by the State it should have certain marks like, “clear and certain, reasonable and immemorial and not contradictory to other laws” (p. 61). Now if any of the customary practices bear these marks they can be recognized by the State as a law.

In the standard use of the word, according to Sadler (2010), law would mean “a state law or a custom in a state which will be or have been recognized by the state and statutes which the state has promulgated” (p. 2). According to the above definition of law, it presupposes the sovereign who recognizes laws and promulgates them for the subjects. Sadler (2010) quoting Holland opines that the state has two portions, the Sovereign and the Subject, and a law is a rule which the sovereign imposes by endorsements. Thus, when we speak about law, we presuppose a sovereign political authority who will enforce the rules on the subjects.

The Poumai *Vhe* (Chief) and *Chüme* (Council of Elders)

The traditional Poumai Naga Society is republic and democratic. The *Vhe* is hereditary, and the *Chüme* could be elected or nominated by the clan. The *Vhe* with the help of *Chüme* does possess powers to preserve and propagate the beliefs and customary laws of the people. However, with the implementation

of, 'The Manipur (Village Authorities in Hill Areas) Act, 1956,' the powers and functions of the *Vhe* and the *Chüme* has been replaced by the Village Chairman and the Village Authority.

The Manipur Act, 1956: Village Authorities in Hill Areas

The Manipur Act, 1956 extends to the whole of the hill areas of the territory of Manipur. According to the Act, where there is a Chief in a village, he shall be the *ex officio* chairman of the Village Authority of that village; and when there is no such Chief in the village, the Chairman of the Village Authority of that village shall be elected by the members of the Village Authority from among themselves. However, in Poumai villages, besides the village Chief, there is a chairman who is the executive head. As for the number of members in the Village Authority the Act says,

1. For every village having twenty or more tax-paying houses there shall be a Village Authority consisting of:
 - a. Five members, where the number of tax-paying houses in the village is not less than twenty but is not more than sixty;
 - b. Seven members, where the number of tax-paying houses in the village is more than sixty but is not more than one hundred;
 - c. Ten members, where the number of tax-paying houses in the village is more than one hundred but is not more than one hundred and fifty;
 - d. Twelve members, where the number of tax-paying houses in the village is more than one hundred and fifty.

The term of office of members of a Village Authority shall be three years. The duty of the Village Authority shall be to maintain law and order, and execute developmental works for

the village. Article 15, of the Act says, subject to the general superintendence and control of the Deputy Commissioner, the sub-divisional magistrate shall have control over all the Village Authorities within the local limits of his jurisdiction (Government of Manipur, 1956).

Traditional Administrative System

In the traditional Poumai Society it was the *Vhe* and his *Chüme*, who were the custodians of the customary laws. The *Vhe* and his council saw to it that all rituals and customs were carried out faithfully by every member of the village, lest peace be disturbed and calamity befall the village. We shall discuss below the power and functions of the *Vhe* and his *Chüme*.

Power and Functions of Vhe

Every traditional Poumai village had a *Vhe*/Chief. He was selected from among the first settlers or was given to the leader. However, there were certain virtues and qualities which the people looked for while selecting the candidate for Chieftainship. He must not only be strong, wise and powerful but must be a man of good moral character. He must not have eloped or must not be physically challenged in any way. He must be of sound mind and a respectable person in the village. There could be more than one *Vhe* in Poumai villages as we observe. Liyai has one *Vhe*, Purul Atongba has one *Vhe*, Oinam has two *Vhes* and Saranamai has four *Vhes* though one among them is the *primus inter-pares* for religious functions (Onaemi Village General Assembly, 2008, Zhaimai Village General Assembly, 2005, Hümai Dunamai General Assembly, 1999).

The *Vhe* ruled the village in a very democratic way. The institution of the *Vhe* existed but it had very little power over the management of the ordinary village affairs though all the important village activities were ordered and carried out in his

name. His power was confined mainly to the religious function. Das (1989) concurs with Brown saying, “The institution is invested with special taboos, all of which are designed to prevent impairment of its efficiency” (pp. 103-04).

In Poumai villages the *Vhe* performs a dual function, as religious and secular head of a village. The proclamation and observation of most of the *gennas* are the primary function of the *Vhe*. According to Shimray (1985) “as the religious head, the *Vhe* is the first man to sow seeds, the first to plant and the first to harvest” (1985, p. 53). He carefully counted and observed the new moons and the rituals to be accompanied therewith.

In the traditional Poumai Naga society the role of the *Vhe* as a secular Head was mostly nominal in nature. He was the head of the Executive, the Legislative and the Judiciary. However, the *Chüme* carried out all these functions in the name of the *Vhe*. He was restricted to directly take part in any of the meetings, yet without his consent no decision could become law nor implemented (Ngupani, 2010).

The Chüme/Council of Elders

The *Chüme* were by custom the representatives of the various clans of the village. The *Chüme* were variously known as *Chizü pyamai*, literally it means people who went out of their homes to discuss cases. They were also called *Seisou touyumai*, literally people who ate dog meat. At the celebration of the feast of Merit, before the game of buffalo fights and the hauling and erection of monolith, these clan representatives killed a dog and eat, vowing to settle all cases of misfortune that may arise. Thus, the title *seisou touyumai* was transferred to the council of elders. The Courtyard of the *Vhe* usually served as the place for meetings except when there was a general assembly of the village which was held in the open space. The *Chüme* continues to carry out its function of old, besides the administrative, legislative and

judiciary powers of the Modern Village Authority (Ngupani, 2010).

Administrative Functions

The *Chüme* was the real administrative organ of the Poumai village-state. The *Vhe* was the nominal head of the village and he did not interfere in the execution of the village functions. The *Chüme* sought the advice of the *Vhe* in all important matters. Thus it was the prerogative of the *Chüme* to execute all customary laws and religious practices. The *Chüme* carried out administrative functions in the name of the *Vhe* (Ngupani, 2010).

Some of the important responsibilities of the *Chüme* was to maintain peace, harmony and security of the village members. From time to time they scouted the village forest to check encroachment of land by other villages. It was also their responsibility to maintain good relationship with other villages. The *Chüme* also saw to the proper fortification of the village gates and arranged the roster for the clan's man to guard the village from enemies and from fire (Ngupani, 2010). The *Chüme* organised social works for clearing village approach roads, roads to the fields, cleaning of drinkable water ponds and the village surroundings. During religious feasts they fasted and worshiped God for the welfare and prosperity of the people (Personal interview, 16th Oct., 2017).

Legislative Power

In the Poumai Naga village-state the *Chüme* was responsible for the formulation of new laws and the preservation of the old ones. Justice to the people was considered on the principle of fraternity and equality. There was no written record and so they largely depended on memory and precedents (Personal interview, 5th Jan., 2017). Any member of the *Chüme* could initiate the discussion and the decision was jointly declared on the basis of

majority and had to be approved by the *Vhe*, especially, so that it may not go against previous customs (Ngupani, 2010).

Judiciary Power

In the village-state the *Chüme* was the highest judicial court. The *Chüme* was equally represented by all the clan's man of the village. According to Shimray (1985) each clan could send from 1 to 3 member representatives. Before bringing the case to the village court, they must first try to settle it within the clan, nay between the families themselves. Speaking of the Naga village courts Shimray (1985) asserted that, "For the old Nagas, justice was cheap and quick – yes, they did not need to travel to far off courts, because justice was available at their doors" (p. 65). In fact the court was at the *Vhe's* home and the judges were their own clan's man and villagers. When there arose inter-village disputes, the case was put forward to the Circle Courts and if they could not give judgment the cases were appealed to the Apex Court that is the joint sitting of the three circles, the Poumai Naga Customary Court.

The Poumai Naga Customary Court

The Poumai Naga Customary Court is the apex court of the tribe having its appellate jurisdiction to try appeals arising out of the judgment passed by the Subordinate Courts. According to the *Yezhabo* (Constitution) of *Poumai Naga Union* (2010) the judicial court shall consists of 17 (seventeen) members, 5 (five) members each nominated from 3 (three) circles and a member each from Kangpokpi and Senapati towns. One-third of the nominated court members shall be retained for its continuity. The three traditional Subordinate Courts are:

1. Paomata Judicial Court/Paomata Customary Court
2. Chilivai Judicial Court/Chilivai Customary Court
3. Lepaona Judicial Court

The three Circle Courts also holds the jurisdiction of its respective subordinate villages and acts as an appellate court of the Village Authority Courts (Josho, 2010).

The Procedure

Initially the plaintiff approaches the Authorities representing his or her clan to table the case to the Village court. On receiving the nod of assent they offer rice wine appealing for officiating and tabling the case. However, before the matter is taken up the judicial members would study the case judiciously, cross-examine, study the genuineness of the case and on finding its fitness, the matter is taken up for tabling. A time is fixed for the parties to appear before the Authority Court for hearing the statements along with the witnesses if necessary for proceeding and delivery of judgment.

Hearing of the Statement

Generally, before any parties speak they take an oath saying:

The sky is my father, the earth is my mother, the sky is the protector and the earth is the promoter of me. Elders permit me to speak and I would be speaking only the truth and no false, the sky and the earth are witnesses and they too would defy me if I speak lies.

The statements are heard, analysed and well acquainted by the members with thorough debate and deliberations. On arrival at decision a majority vote is taken, either by rising of hands or voice endorsement and the decree is declared and made known to the parties.

Cases in the Village Court

The *Chüme* at one and the same time carried out the work of administration, legislation and judiciary. All cases of the village were brought to their hearing for decision and justice. The cases

were tried by the council in an open courtyard attended by all villagers. According to Das (1989) witnesses were seldom needed because the accused pleaded guilty, but where there were differences over the facts, recourse was had to oath and ordeals. We shall discuss here some of the customary laws applied to the different criminal cases that were prevalent in the Poumai Naga society.

Homicide

Homicide refers to the killing of one person by another whether premeditated or unintentional. According to the practice of the Poumai villages, if it is proved that a person was accidentally killed the offender was forgiven. If the murder was premeditated, stringent punishments was meted out against the criminal. Usually the home, goods and properties of the person were destroyed by the victim's relatives. Earlier the victim would be fined with the payment of five to six cows and would be banished from the village for a period of five to seven years according to the practice of different villages (Hodson, 1988). However, liabilities shall not extend to the kith and kin, relatives and clansman of the offender.

Assault on a Person

Quarrel and fights do happen between persons, and it may so happen that due to a heated argument they may even use their hands or instruments against each other. Earlier anyone who assaults another person would have to pay a fine of one bull and offer a handful of meat called *souveh* to all the household of the village for tarnishing its image. At present, anyone who assaults the other shall be fined rupees five thousand to fifteen thousand only according to the severity and limit set by villages (Koide Union Board, 2012, Zhaimai Village General Assembly, 2005).

If a person is assaulted inside the house, the perpetrator shall pay a higher fine than assaulted outside the house. Another element to be noticed is that if any person uses a stone, a stick or deadly weapon to hit someone, he shall be fined rupees twenty five thousand or more. If one person is assaulted by two or more persons, fine shall be collected from all the assaulters, besides the medical expense. The case shall be first settled within the families, and then clan courts (Koide Union Board, 2012, Zhaimai Village General Assembly, 2005).

Assault by a Lunatic

The mad man or woman is insane or behaves as one, and so since the actions are a product of mental derailment he or she may be forgiven. But if the assaults or actions are of serious nature the family members may be asked to pay some compensation and warned to take care of the mad man or woman (Personal interview, 30th Nov., 2017).

Adultery

The case of adultery was considered a very grave immoral action. As per the record of Hudson (1988) the adulterer was punished with death or banished from the village. Adultery was a cause for divorce. According to the customary practice, if the woman was the seducer she would lose all properties and be chased out of home. And if the man was the seducer, he was beaten badly by the victim's party and pays a heavy fine of paddy or cash fine. Earlier the fine was a bull, which was killed and distributed to each and every household of the village. The woman would even be tonsured and they will be ostracized from the village barring them from all common social activities for two to three years (Personal interview, 30th Nov., 2017, Personal interview, 8th Dec., 2017, Onaemi Village General Assembly, 2008, Shomai Village General Assembly, 2012).

Immoral and Illicit relationships

If a man or a woman was caught living immoral lives or indulging in illicit sexual relationships before marriage, a man or a woman may be punished by his or her brothers. In some villages, the practice was that whoever was caught living immoral lives was fined thirty (30) tins of paddy rice or rupees five hundred and a bull and *souveh* (handful of meat) to be offered to the villagers (Personal interview, 30th Nov., 2017). As per the custom an unmarried man and unmarried woman caught indulging in pre-marital affair were forced to live together from then on as husband and wife or bear stringent sanctions from the village authority (Hümai Dunamai General Assembly, 1999).

Rape

If any woman whether married or unmarried is raped by a man, the brothers of the woman or the husband of the woman may assault the man and confiscate his cattle. The man will have to kill a bull and give *souveh*, a handful of meat to all the villagers (Personal interview, 30th Nov., 2017). At present a court case may be put up in the village court for further trial and can impose a fine of rupees fifty thousand to three lakhs. And if a woman is gang raped leading to extreme injury and death, the rapists may be imposed upon a heavy fine and expelled from the village respectively (Personal interview, 8th Dec., 2017). According to the by-laws of Koide Union, if a woman is raped and is proven true, the perpetrator will be fined up to rupees three lakhs only. In the case of a gang-rape, each individual will be fined a sum of rupees three lakhs each (Koide Union Board, 2012).

Pregnancy due to Rape

If a woman gets pregnant due to rape, the child born shall be given to the man who fathered the child. The man shall bear the

expenses of childbirth and early childhood. If the child happens to be a boy, he shall be given wealth and property (Personal interview, 30th Nov., 2017). Sometimes, there were cases when the parents and brothers of girl would even force him to marry her (Das, 1987, p. 483).

Abortion

Abortion was rare, almost unknown among the people. If abortion had taken place and it comes to the notice of the public, that a man had induced abortion from a woman, or if a woman was found practicing abortion, she will be fined a sum of rupees twenty thousand or more depending on the village (Shomai Village General Assembly, 2012).

Divorce and Care of Children

One of the main reasons for divorce was the fact of arranged marriages without the consent of the children which sometimes may lead to incompatibilities between the couple. Some other reasons stated for divorce are poverty, laziness of one's spouse, barrenness, lack of a male issue to propagate descendants, adultery on either side, excessive indulgence in alcohol, ill-treatment, unsoundness of mind, infection with incurable diseases etc...

Traditionally divorce is allowed but seldom resorted to. And so if there was a case of divorce to be resolved the heads of the clans of both the husband and the wife or the village elders are summoned to aid their deliberation (Hodson, 1988). In cases of divorce, the children if and when weaned, went to the custody of the father. In cases of poverty they share the children, boys go with the father and the girls with the mother. If the child is not weaned, the father gives the price for its upkeep in the form of paddy or cash. The practice of giving cash or kind for the upkeep of the child is known as *nyaochhi*, which

literally means price for breastfeeding (Personal interview, 18th Aug., 2016).

Theft

In the recent past there was no lock and keys. Theft and robbery was a rare case. However, thieves and robbers, when found were dealt with seriously. Hodson (1988) says, “in Liyai we have an appreciation of which is hardly though possibly attributable to the spread of the knowledge of the refined subtleties of the Indian Penal code, of the difference between theft, from dwelling house, which is punished with a fine of fifteen pots of *dhan*, while ordinary theft is punishable with a fine of two pots of *dhan*. The customary practice was that if anyone was caught red-handed he had to pay a fine of a bull or a cow along with refund of the thing stolen. Even today there is a difference in the imposition of fine for things stolen within the house and outside the house (Koide Union Board, 2012).

Trespass and Damage of Property

In the case of someone’s property being trespassed or damaged, the perpetrator has to make good the property. He may even be asked to double the amount if it is a very precious property. Sometimes domestic animals trespass and damage the fields of individuals. Usually the owners are warned about the incident. However, if after repeated warning the owners do not control the cattle, the cattle can be killed or the cost for the lost crop may be demanded (Personal interview, 30th Nov., 2017).

Whoever commits the offence of spreading fire accidentally thereby resulting in the dwelling houses being gutted down shall be fined rupees five thousand only per offender, or pay for the value of the things destroyed. More over every victim of the house shall be presented a spade each (Zhaimai Village General Assembly, 2005).

Defamation/Slur

If any person is found robbing in another village, he or she shall not be allowed to swear in the name of god or the village. Moreover, he shall have to pay a fine of rupees ten thousand only and banished from the village for tarnishing the good name of the honourable village. Again, if anyone falsely accuses another person without any evidence he shall be fined a sum of rupees five thousand only (Zhaimai Village General Assembly, 2005).

It is forbidden to curse anyone saying *ahrao akhatou*/evil and cursed one. Anyone pronouncing such words would have to pay a very heavy fine of rupees ten thousand, or else he would have to swear-on-oath taking the name of thirty persons (Zhaimai Village General Assembly, 2005, Personal interview, 8th Dec., 2017, Hümai Dunamai General Assembly, 1999).

Accidentally Killing in Hunting

Sometimes it can happen that during hunting another person is killed accidentally by gun-shot. Life is precious and invaluable; hence no amount of price can be put on the life of a person. However accidents do happen and the person is forgiven. The case can be settled between the families, with some compensation given to the family of the deceased (Personal interview, 30th Nov., 2017). In some villages the person is banished for seven years and banned from using gun anymore (Vafümai Village General Assembly, 2011).

Disregard for Authority

When the village *Vhe* is officiating in the General Assembly no one shall raise his voice or show disrespect to the *Vhe*. Besides, when the court case is in progress, neither the petitioner nor the defendant shall use harsh and foul language. If such incidents occur they shall be fined by the village court.

Protection of the Weak

If a person 'A' goes on to intimidate a person 'B' even after the judgment given by the Village Court, then 'A' shall be fined by the village for contempt of court judgment. Whoever waylays another person for reasons of past grievances shall be fined rupees two thousand five hundred to rupees ten thousand as per the price fixed by different villages (Hümai Dunamai General Assembly, 1999, Zhaimai Village General Assembly, 2005).

Assault on Hospitality

In the Poumai Naga tribal society hospitality is a virtue advocated and taught to the children. People did business travelling from one village to the other or could even be guests visiting the village. Thus if anyone robbed them a very heavy fine is imposed upon the perpetrators. For example, in Liyai they shall pay a fine of rupees nine thousand or more (Zhaimai Village General Assembly, 2005).

Settling Disputes by Swear-on-Oath

There are different types of swearing carried out according to the types of crimes that are committed in the society. The swearer calls upon the sky as father and the earth as mother to be the witness. Hodson (1988) had observed among the Mao (erstwhile Mao-Poumai) people, the different types of disputes, of land, quarrels between clans, fight for timber, water etc... being settled using different methods (Ahrai, 2016). We shall discuss below the different types of swearing that were practiced by the people to settle the disputes.

Swearing on the Spear, Mud, Wood, Gun and Tooth of a Tiger

The swearer holds the twig, spear, mud, touches a wood etc. The meaning behind the would be that the false swearer may wither like a dead twig that he holds. After stating the fact and swearing

upon the number of lives for their truth, the oath concludes with the formula: “If I lie in what I now say, then may heaven and earth defy me, let me not grow like other man, but let me be ruined as burnt out fire and uprooted vine.” The holding or biting a barrel-gun, spear head, or the tooth of a tiger is pronounced with the declaration: “If I do not faithfully perform this promise, may I fall by this weapon or animal etc...”

Swearing in a Peace Treaty between Warring Villages

When warring villages make peace the following oath is taken:

If any man of my village breaks this peace first, then so long as water flow in my spring and so long as the sun and the moon remain in the heavens, so shall my men be defeated; and all the forest and red earth shall not be enough to cover my corpse and blood.

Swearing to Maintain Secrecy and to Abide by the Village Decision

The selected dog is killed by hitting on the head represented by Village council and is cooked. Every representative involved takes a piece of meat and eat it pronouncing that on the violation or non-co-operation of the village’s decision, or leaking out the said secrecy of the village, let that clan die in as much as the number of hairs on the dog.

Swearing an Oath on a Land Dispute

In case of land disputes the party to swear must be standing on the disputed boundary line holding the mud, bite it and swear saying:

If I am proved wrong, I would die eating mud, and that God would forbid me, and that I cannot be equal with my opponent as long as the sun and the moon shine in heaven.

In case he refuses to perform the swearing, the decision of the case goes in favour of his opponent and the penalty is imposed accordingly.

Breaking the Leg of a Rooster

Breaking the leg of a live rooster (cock) is considered to be one of the strongest type of swearing which – pronounces that, “if I falsely swear, let my leg, hand or any part of body, be broken like that of this rooster.”

Eating of Cooked Meat

In the case of an unidentified or un-booked culprit(s), every member of the village has to bite and eat the cooked piece of meat pronouncing that, he is not involved in the said crime. And if falsely sworn let me die biting the piece of meat.

Immersion

Few decades ago, settling a land dispute between two parties was by performing immersion into the water to find out between the party who was right and wrong. A representative from each party or village is selected to dive under water. And the one who is able to stay underwater the longest is declared the winner of the case. It is believed that the wrong one will never be able to sink down and even though remaining under water he wouldn't be able to bear the terrible body pain, so he would just float up (Holkhosem Vs Seto Khullakpa, 1951; Land Dispute: Khabung Vs Maram Khunou, 1968).

Conclusion

A study of the customary laws and practices of the Poumais allows us to have a kaleidoscopic view of their ‘worldview.’ In fact a peep into their perspective of life through their customary laws and practices brings out the belief pattern, notion of good

and evil, right and wrong, the value system and the concept of justice of the Poumais. Alongside with the above mentioned, the customary laws and practices unveil to us the traditional legacy passed down from generation to generation. However, the legacy which has been handed down initiate innovation of the laws and practices as it encounter issues and challenges of the times.

As cited above the institution of the village courts has made justice “cheap and quick.” Even today, as far as justice within the village is concerned, the clan elders play a very important role in the administration and adjudication of justice. It is the individual clan representatives who advise whether or not to table the case before the village court.

The institution of the village courts and traditional system of administration of justice should be encouraged and improved. This institution has proved to be very efficient and swift in the dispensation of justice. When the council of elders are unable to decide due to lack of facts or the dissatisfaction of the plaintiff, both the parties are asked to swear-on-oath, calling the parties to swear on the heads of a number of people in the clan. This action at last leaves both the parties to resign to divine dispensation of justice. This swearing on oath is an instrument of great deterrence to many people as it would incur divine wrath on the wrong doers and their generations.

It is important for the village court to keep a record of judgments meted out to the people in the customary way. The record of the administration of justice in the traditional system could be placed under headings like land law, assault on persons, property, cattle etc... The applications of these precedents could help in dispensing justice faster.

The village is a microcosm of the macrocosmic world; hence the evils of the macrocosmic world are sure to invade the microcosmic world that is the village. Similarly, in the

event of the presence of the crimes of the sophisticated world, it will be imperative that the clan representatives be educated in knowledge of the crimes and apply them locally. The village court mercenary is quick and easily available; hence what is needed is the knowledge that is needed to be gained to dispense justice. Whatever be the novelty of the laws and practices, the fact is that the spirit of the law is constant even though crimes may take different forms. Thus we see an inter-link between the wisdom of the old and the dynamics of the present times.

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