

CUSTOMARY LAW AND PRACTICES OF THE ZELIANGRONG NAGA IN NORTH-EAST INDIA

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ABSTRACT

In all most all societies, relationships among the individuals are regulated by a body of norms, customs, taboos, traditions, values and moral standard. Tribal societies differ from all other societies inter alia in the fact that individuals are relatively fettered by the customs and taboos. Among the tribal, it is the customary law that determines the status of each member of the community. Customary law is one of the most distinctive features of the tribal's and through it, the socio-cultural identity of the tribal community is preserved. Nevertheless, customary law varies from tribe to tribe and is largely unwritten. The Zeliangrong society had no account of the written historical document. Thus, history was reproduced and reinstated through folklores, myths, ballads and legends which had been handed down orally from their ancestors, generation to generation. In this research article, a study is conducted on the traditional customary law of the Zeliangrong Heraka Naga society.

KEYWORDS: *Law, Custom, Zeliangrong Heraka Naga, North-East India*

INTRODUCTION

The *Zeliangrong Naga*, classified as an ethnocultural entity, is one of the major *Naga* tribes, inhabiting in the Tri-junction of Assam, Manipur, and Nagaland. The term '*Zeliangrong*' is a combination of three words i.e., *Ze+ Liang+ Rong*, a collective name given to the *Zeme, Liangmai* and *Rongmei Nagas* tribes. Thus, *Zeliangrong* does not denote a tribe but rather a union of the said three sub-tribes. The word '*Zeliangrong*' was first coined on February 15th, 1947 under the chairmanship of L. Lungalang at *Keishamthong*, Imphal with an aim to improve the economic, social and political advancement of the *Zeme, Liangmai* and *Rongmei Nagas* tribes. The *Zeliangrong Nagas* are tribals from the Mongoloid stock and they are said to have been migrated from China's *Sinlung* province. The total population of *Zeliangrong* people is 450,000, according to 2011 census, though their population may actually number around 500,000 in the three states.

Zeliangrong Heraka Social Institutions

Zeliangrong people follow different indigenous religious faith and culture. One of those is the *Heraka* religion. The *Heraka* people follow the principles of Haipui Rani Gaidinliu and believe in Almighty *Tingwang* and they practice *Zeliangrong Heraka* Customary Law. The customary law of the *Zeliangrong Heraka* community are discussed in detail as under-

Family

The *Zeliangrong Nagas* practices the patriarchal system of the family structure consisting of father, mother, unmarried sons and daughters, and unmarried brothers and sisters. The father is the head of the family, thus all the authority and responsibilities are vested in him. When the head of the family dies, his son becomes the head. If the son is minor then his mother executes his authority on his behalf till attaining the age of maturity. The line of descent in *Zeliangrong* society is traced through the male members only.

Clan

The *Zeliangrong Naga* clans are as under-

- *Zeme* clans - Newme, Nriame, Kuame, Pame, Daime, Hejanme, Sogame, and Panme.
- *Zeliang* clans - Nraktamai, Nkaungpuinamai, and Chewangkechingdui.

These three clans have their own sub-clans. They are as follows-

Nraktamai

- Nreikidungmai
- Chepuangtamai
- Phisiatamai
- Chemengkelengtahmai

Nkaungpuinamai (Meriammai)

- Kambuttamai
- Huchumtamai
- Muncherungtahmai
- Nzanpiunahmai

Chewangkechingdui

- Wangchangduimai
- Nreimai
- Kenguitahmai
- Cherengphengmai
- *Rongmei* clans - Kamei, Gonmei, Pamei, Remmei, Malangmei, Phaomei, Khandangmei, Rongmei, Ngaomei, Panmei, Maringmei.

Marriage

The *Zeliangrong Heraka* community practices a monogamous system of marriage. Polygamy is not restricted but is condemned and such cases are very rare in society. Inter-tribes/inter-religion marriage is not restricted though not usually encouraged. But, marriage between the same clan is forbidden. Child marriage is utterly unknown and absolute not in practice to date.

In the *Zeliangrong Heraka* society, dowry is not in practise but a moderate rate of Rs. 500/- or less is mandatory to be given as bride price by the groom family as a mark of blessing.

In *Zeliangrong Heraka* custom, widow re-marriage is not allowed but in case, if she comes out from her husband's house then she can re-marry. A widower is free to remarry after three years of his wife death. A divorced man can remarry at any time after divorce but a divorced woman can remarry only after three years of granting the divorce.

Divorce

Divorce is allowed in *Zeliangrong Heraka* society but its occurrence is very rare. Adultery, cruelty, desertion, unsoundness of mind, incurable disease and extramarital affairs are the chief reasons for divorce. Divorce may be obtained by mutual consent or without the consent of the other. In *Zeliangrong Heraka* custom there are two types of Divorce viz.,

- *Tatuabe* - Divorce by '*Tatuabe*' is sought if the wife is found guilty or without any fault husband no longer wishes to stay with his wife.
- *Meube* - Divorce by '*Meube*' is sought if the husband is found guilty or without any fault of her husband, wife no longer wishes to stay with her husband.

In a divorce case, if the husband is found guilty then he is liable to pay a sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) to his wife as a penalty, and vice versa. But, if the husband divorced his wife without any fault then there are two different ways for imposing a penalty by her husband ie.,

- If a husband divorces his wife, after a long period of married life, without any fault then the wife will attain the share of '*Hepuitimta*' which means that the husband must give half of his annual income along with a fine of Rs. 25,000/- and she will be allowed to take all her belonging brought at the time of marriage and shall also be entitled to claim household equipment that are purchased during their married life and that will be equally divided between them; and
- If a husband divorces his wife without any fault, after a few years of their marriage, then the wife will attain the share of '*Heleutimta*' which means that the husband must give half of his annual income along with a fine of Rs. 25,000/- and she will be allowed to take all her belonging brought at the time of marriage but shall not be entitled to claim household equipment.

If none of the spouses are found guilty but owing to the third party guilty marriage has been irretrievably broken down then the third person shall be liable to pay the forfeit of Rs. 30,000/- (Rupees Thirty Thousand only) as a penalty if proved guilty. But, if the dispute is settled peacefully and the marriage is saved then there is no need for imposing compensation.

Custody of Children

As per *Zeliangrong Heraka* customary law, all authority and responsibility are vested only on the father. But in case, if the father dies leaving his minor children then his wife will take the custody and care of their minor children. If the mother dies then paternal uncles or nearest father's relatives will take the custody of children. In a divorce case, only the father has the right to take the custody of his children. Under no circumstances, a divorced wife can claim custody for her child.

Guardianship

Customarily, the father is the absolute natural guardian of his children and after him, his legitimate wife will act as a nominal guardian but all responsibilities shall vest upon the eldest son, except the family land because it required the knowledge and consent of family elders. But in case, if both the parent's dies then paternal uncles will become the guardian. If there are no paternal uncles then the nearest father's relatives will become the guardian of an orphan. An insane person cannot become a guardian.

Adoption

The practice of adoption is prevalent though rare among the *Zeliangrong Heraka* society. Any person, whether married or unmarried, childless spouse, divorcee or widow, can adopt a child. The adopter has the liberty to adopt any child or number of children without any discrimination on the ground of race, caste, religion or sex. No formalities or ceremonies are required for adopting a child.

After adoption, the adoptee shall enjoy every right and privileges in his/her adoptive parents' house but shall not be entitled to inherit any ancestral property. The adoptee cannot leave his/her adoptive parent at his/her own will. The adoptee ceases to have any relationship with his/her natural parents after adoption though prohibited to tie the knot with any of his/her natural parents' kinfolk.

Maintenance

As per custom, all responsibilities are vested upon the father but if he dies then his widow will maintain the family. However, such right will be ceased, the moment she leaves her deceased husband's house. In this case, entire responsibilities vest upon the deceased's brothers or nearest father's relatives to maintain the children. If the widow is childless then it is the moral duty of the deceased's brothers or nearest husband's relatives to look after her.

In a divorce case, according to the customary law, children born out of wedlock stays only with the father thus, the father is solely obliged to maintain his children. But in case if he dies then, paternal uncles or nearest father's relatives will maintain the children. Under no circumstances, a divorced wife is entitled to claim maintenance from her divorced husband nor can maintain her children.

Fostering

Fostering system is unknown to the *Zeliangrong* people.

Land Holding System of the Zeliangrong Heraka Community

Landowning System

In *Zeliangrong Heraka* practice, the landholding system varies from village to village depending upon the history of the village settlement. However, there are four categories of land owned by the *Zeliangrong* people viz.,

- Private land
- Clan land
- Village land and
- Forest land.

Private land: Private or homestead land is land which is either inherited from an ancestor or purchased by cash or kind.

Clan land: Clan land is land that is owned and used only by a particular clan without the involvement of others.

Village land: Land that is kept under the authority of the village community are known as the village land.

Forest land: It is a reserved land with trees for the purpose of barring any wild threats and mal-air and also acts as a belt to protect from calamities like flood and cyclone. Nobody can cut down any trees from this reserves forest area. If anybody does then shall be liable to pay penalty as fixed by the village committee.

Ownership of Land

One can become the owner of the land by inheriting forefather's properties or by acquiring new land. The owner has the right to sale or transfers his land to anybody as he desires but it is strictly restricted to sale or transfer to the outsiders or person other than his own villagers. As per *Zeliangrong Heraka* Customary law, the eldest son among the same clan takes the whole responsibility of the clan land but he alone cannot do anything on it without prior knowledge and consent of the elders of his clan family members.

Inheritance

As per *Zeliangrong Heraka* customary law, only male members have right to inherits both movable and immovable properties. The order of hereditary goes from father to sons but not to the daughters. Generally, the youngest son inherits the parental home and remains in that house only according to the patriarchal customs. In the case of sonless family, properties are inherited by one's own brothers, paternal uncles, paternal nephews or by nearest male relatives. No woman has theright to inherit the immovable property but out of love and affection father may by way of gift give her a share from his property at the time of her marriage. Such property will be inherited by her sons or even daughter by way of gift. In case if she dies without any heir then her property will be passed to one's whom she had gifted before her demised.

Gift and Will

Gift and Will are in practice among the *Zeliangrong Heraka* people since time immemorial. All self-acquired property, except clan or ancestral property, can be gifted or Will without any limitation or restriction by the donor. No formalities or procedures are required for gift and Will. Once gifted or Will in the presence of family members and

relatives it shall remain valid even if the donor dies before acceptance. A Gift or Will once completed can be revoked only by the donor during his/her lifetime in case if he/she is dissatisfied with the donee.

Lease

Property, other than *jhum* land, can be leased out for a specific period by the landholder to any person as per the agreement and the payment may be made in the form of cash, service or kind. *Jhum* land or paddy field can be leased only to relatives with mutual consent. In *jhum* land, tax is paid on the basis of yearly production as per the agreement between the lessor and the lessee. It may be 50/50 or 2/3 for the cultivator and 1/3 for the lessor. The lessee cannot sub-lease the property or land leased.

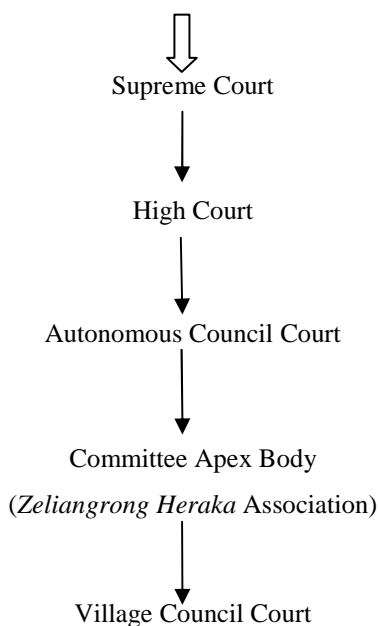
Administration of Justice System

In *Zeliangrong Heraka* society, the village council court is the lowest Court of justice within the village. It consists of *Tingku* (Priest) and his assistant; *Kelodeipeu* (village chief) and his assistant; *Gaonburahs*; *Paipeu* (owner of *Paiki*); Temple in charge; *Hangseu* (youth leaders) and village elders. Women are allowed to observe the trial but they cannot involve in decision-making process.

The village council court has jurisdiction to try all suits and cases, including criminal cases that took place within the village based on customary laws. Cases are resolved by the village council court only when the aggrieved party filed a complaint either orally or in writing to the village court. After filing a complaint, the court will issue a notice of summoning, within a week, to both the parties and settled the case on the fixed date at *Heruangki* (Public Dormitory). If the village court failed to resolve the disputes then the case is referred to the Committee Apex Body named '*Zeliangrong Heraka* Association'. In matrimonial cases, if parties belong to different villages then the cases are to be filed only in the Village Court where the husband resides. The procedure for settlement of disputes is similar for both the civil and criminal cases.

Next to Village Court is the Committee Apex Body Court. This Committee Apex body is the custodian of *Zeliangrong Heraka* customary law. This Court sits at *Zeliangrong Heraka* Association Office, Haflong consisting of Chairman and all the selected Office-bearers of the association. It has jurisdiction to try all appeals cases, inter-tribal issues and inter-village disputes. The Committee Apex body settled dispute only when an aggrieved party filed a complaint to the Chairman of this court. The procedure of this court is similar to that of the village council court. If the aggrieved party is not satisfied with the decision of the Committee Apex Body Court then may further appeal in the Autonomous Council Court and so on. The hierarchy of Court in *Zeliangrong Heraka* society are drawn in the chart below-

Zeliangrong Heraka Customary Judicial system



The decision of the village court and Committee Apex Court is final and shall be binding on both the parties. If the accused fails to obey the decision of the court then fine may be re-imposed or ceased the properties of the defaulter. In case, if the accused fails repeatedly then he/she shall be banished from the village.

Penalties

Fines, confiscation of properties and banishment are the most common form of punishment for both the civil and criminal cases. The minimum period of banishment is three years whereas no maximum period has been laid down rather depend upon the gravity of the crime. In minor cases like theft, the culprit return back to the village with prior permission of the village authority after the exiled period is over but in severe cases like murder or rape, the accused (and his family members in case if the family members leaves with the accused) never return backs to the village even after the exiled period is over because of the apprehension to death. The following are the prescribed penalty for an offence committed-

Land disputes

Land disputes cases lead much confusion as no written document exists. Thus, if such cases happen then both the parties shall take a solemn oath in the presence of village elders by breaking an oval egg. This is a worse fearful omen and may also claim life upon the accused party.

Murder

Whoever commits murder, whether intentional or accidental, shall be exiled from the village for a minimum period of three years and shall also be liable to fine as fixed by the village elders.

Rape

In *Zeliangrong Heraka* society, rape and attempt to rape are considered as the worst deed then committing murder. Thus, in such cases, the accused shall be banished from the village as soon as the case comes into one's knowledge for a minimum period of three years and shall also be liable to fine as decided by the village authority.

Theft

Whoever commits theft shall have to return the stolen things and shall also be liable to fine as fixed by the village authority. For a subsequent conviction, the village authority shall have a right to banish the accused from the village for a specific period of three years.

Adultery

Adultery is severely condemned in the *Zeliangrong Heraka* society. Thus in an adultery case, the adulterer shall be punished with fine or exile or with both based on the facts and circumstances of the case; and the accused woman shall be punished with her hair-cut and driven out from her husband home as per customary law.

Killing of Domestic Animal or Cattle

- Whoever kills any domesticated animal, without the owner's knowledge, shall be liable to pay fine worth the value of the cost but the culprit will retain the animal.
- Whoever kills domestic animal or bird that belongs to the neighbours or others accidentally then the culprit shall be liable to pay the price as fine. The price shall be decided by the village elders.
- If any domesticated animal caused damages to the garden or cultivation then the owner of the animal shall be liable to pay compensation as decided by the village authority.

Customary Oathtaking

Justice by ritualistic oath takes place only when a dispute cannot be resolved due to lack of proper evidence or proof. Generally, it happens mostly in land disputes cases. Oath taking is a worse and fearful omen and may even claim life hence, it is not always entertained. In oath taking process, the solemn oath shall be a pledge by both the parties only during the settlement of the dispute and in the presence of elders. Oath may be taken in two different ways i.e.,

- By eating the grave sand of person's who meets an unnatural death; and
- By breaking an oval egg.

Oath by eating the grave sand - Oath by eating grave sand occurs only in severe cases. In this type of oath taking, both parties shall have to eat the grave sand of person's who meets an unnatural death in the presence of village elders and swears that "If I lied I will die before the end of the year as like the person's of this grave".

Oath by breaking an egg - Oath by breaking an oval egg happens in minor cases. In this oath taking process, both parties shall, in the presence of village elders, throw an egg by calling out the name of the high heaven and the great earth and proclaim that "If I lied then this egg shall not break."

Status of Women in Zeliangrong Heraka Society

The status of *Zeliangrong Heraka* women has increased significantly as compared to bygone days. Earlier, women primary roles had been family oriented and are bonded by tradition. But presently, due to the spread of education and modernization women enjoyed much higher status almost equal with that of men in every phase of life. No doubt, women were still excluded from inheritance and involvement in decision-making process but apart from these two

shortcomings, there is hardly any activity in which women do not take part. From domestic tasks to earning bread, women were given freedom to join hand to hand with their men folk for the upliftment of their economic status. They were even given the freedom to choose their life partner. The *Zeliangrong Heraka* women were very much social and they were highly respected and honoured in society.

CONCLUSIONS

In a tribal society, customary law has been in practices since time immemorial with its sole object to maintain peace and harmony within the community and to preserve social as well as religious practices based on the concept of ethics and interpretation of the supernatural belief. Tribal customary law is fundamental to tribal governance because it originates from the tribal cultural foundations. It is a visible expression of values, ideals, and principles which a particular culture upholds and it is followed because it is convenient, conducive and helpful to society as it reflects societal norms and values.

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