



CUSTOMARY LAWS AND TRADITIONAL LAND RIGHTS OF SANGTAM NAGAS

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Abstracts: Land is an intrinsic part of the tribal identity, and all of their social, economic, cultural, and spiritual lives revolve around their ancestral land. The customary land means the occupation or ownership of land by one or more persons according to the custom. The customary laws regulate the rights, management and application of their collective indigenous knowledge in regard to the land and its resources. The Nagas' land tenure system shows that land is fundamental to tribal existence, which is governed by customary laws. In the state of Nagaland, the village is the central unit of land administration in the Naga customs and traditions. With the passage of time, due to social transition, oral traditions need to be understood through in-depth study to maintain and preserve the tribal customs, land and territory in the face of internal and external stress. The traditional land-holding system in the Sangtam tribe is usually owned by the community. Despite being part of the same tribe, each village has its customary laws that differ from neighboring villages. The boundary of the village land is usually demarcated by erecting stones, planting wild lilies or by streams and mountains. Conflict used to arise when the other makes a counterclaim on the ownership of that same land. If the land is disturbed or encroached upon by others, people consider it as a charge on their living and also disturb social harmony.

Keywords: *Customary Law, Land, Conflict, Territory, Tribe Sangtam-Naga etc.*

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Introduction

Customary law is an established system of long-standing laws that had emerged from human wants and way of life, the broad context of common

knowledge and practices for exceptional situations that were passed down from generation to generation (Bekker and Maithufi, 1992). Customary laws are derived from the customs that are considered legal requirements or mandatory standards of behaviour, practices and beliefs that are so fundamental and integral to a social and economic system that they are treated as laws. It is a regular practice that has become law because it has been done the same way for a long time (Garner, 2004). Ehrlich defines custom as the living law of the people based on social behavior rather than the norms of the state. Norms observed by the people, whether in matters of religious habits, family life or commercial relations, are law, even if they are never recognized or formulated by the norm of the state (Ehrlich, 1975). The village council and citizen council are the most important institutions in the Naga customary land tenure system. The Gaon Buras and Dobashis are the interpreters, protectors and custodians of the Naga customary laws¹. They settle disputes according to customary law following the constitutional mandate.

With the changing socio-economic environment, the old traditional values are replaced by new trends and values, which have several impacts on the current Naga customs (Shikhu, 2007). Zhimo stated that customary laws existed before the emergence of the nation-state. Many customary laws were still observed and acknowledged after the modern state came into existence, while others were abolished. Despite being part of the same tribe, each village has its customary law that differs from nearby villages (Zhimo, 2019). The study examine how customary laws protect and preserve the land and the solution of land conflict and also to understand an in-depth account of changing land relations, ownership patterns and land disputes.

The Study Tribe, Area and Methodology

The Sangtam-Naga is a major Indigenous tribe in Nagaland, characterised by a distinct socio-cultural existence. They live in two territorial regions in Nagaland, Tuensang district in the northern part and Kiphire district in the eastern part. As per the oral history, the word Sangtam means 'Singtam', which is derived from a traditional practice where people live in an elevated platform house called 'Singdang', meaning raised platform. So, when asked about their identity, they thought it was appropriate to identify themselves according to the pattern of houses they lived in, so they replied that they were Singtam people who lived in elevated platform houses.² The first mention of

'Sangtam' appeared in the Assam Administrative Report, 1889, by the Britishers (Sangtam, 2007). The study area is confined to Sangtam Villages of Tuensang district under Longkhim area. Chimonger Village, the largest village among the Sangtam villages and Anganba village are selected for the study because of its unique setting.

The method of ethnographic study, a qualitative approach used to understand customary law and land-holding systems. The study area encompassed two villages within the Tuensang district. The data was collected using both primary and secondary sources. The data was collected through in-depth interviews and participant observation. The opinions of the chosen participants in the study helped to cater to different views and gain understanding from various stakeholders, providing in-depth knowledge.

Pattern of the customary land holding system

With the majority of the Sangtam people living in rural areas, land and its resources play a vital role in their cultural, economic and social life. The tribals share a special relationship with their land. Land is not only a factor of production but a source of spirituality, politics, culture and social significance. The identity and survival of the community depend on the usage of land, its care, protection and preservation. Like the other tribals, the Sangtams also have their own types of land holding systems. Traditionally, the village is usually roughly demarcated by stones, mountains and streams. The land is used for setting up new villages, cultivation, mostly Jhum, terrace, forestry, fishing and grazing cattle, and firewood. The Sangtam tribal landholding is broadly divided into Village, khel, Clans, Lineage, and Individual according to Sangtam customs. Village Land (*Yangdong-Li or kuphi*): Every village has their own territories, which are passed down by its forefathers. There are some lands that were historically not theirs but were captured or gifts for peace-making during the headhunting times, and thereafter permanently belonged to the village. All the villagers jointly own the land and can use it for any purpose of the land, and individual access is restricted except for hunting, fishing and gathering food. The common land in Chimonger village is supervised by the *Suro Dümpi* (Citizen Council), village gaon buras and village council, which acts as the guardian of the village community. In fact, the entire land territory belongs to the village, and the clans or individuals are caretakers of the land. In times of need for community utilities like roads, public grounds, and

village development, the owner, on consultation, has to give their land for the common benefit of the community. Every Sangtam village has field and forest names and is identified with names. For instance, in Chimonger village, the Jhuming field and vegetation ranges are named Ayempong, Liza Muzi, Fuza Tah, Warokoh Azau, Warokoh Adiu, Kutpohjo, Khosharü, Jangdangkhümba, Atehsihya, Müjoh Rohre and Yemkolung. The primary occupation in the village is agriculture, which is conducted annually in consultation with the elders. A particular vegetation range is selected for community Jhum cultivation. The rotation of Jhuming is nine to ten years. The cultivating forest is called Loü, and the deep jungle is called Mhürong. The villagers are responsible for preserving and protecting their land from external agencies. Clan Land (*hung-li* or *kuphi*): The Sangtam tribe in the Longkhim area have six distinct clans, which comprise Dhongrü, Anar, Langdidhongrü, Rudidhongrü, Jinger and Mongzar. In every village, each clan collectively processes land, which is generally used for the common purpose of that particular clan. The clan's land is mainly to meet the necessities of the clan. According to the customs, the clan elders who reside in the village are probably the head of the clan and also the custodians of the clan's land who exercise titular rights over it. The collective decision is to be made regarding the usage of the common property in the interest of the clan. An individual clan member cannot sell or transfer ownership of land for any reason, and the one who misuses it will be highly penalised by the clan based on the customs. For instance, denying his share or allowance in using the land whenever the need arises. Lineage Land (*tsutpü li*): The lineage land belongs to a kin group that belongs to an ancestral root. It is neither a clan land nor an individual land. It is owned by a group of people with blood relations dating back to their forefathers, who have passed it down to the next generation. It can be used as woodlands or homesteads with mutual consent. The relatives of the lineage can utilise the resources of such land, but no one can claim ownership of it or sell it to others. Individual land (*Müleng-li*): The lands are directly inherited from their ancestors, acquired by buying, foreclosure of debts or fines and barter. The individual has an absolute right to use or sell the land during his lifetime. It can be used or leased for cultivation, plantation, or other productive purposes. It can also be allowed for others, especially the poor, needy, and migrants residing in their land, as long as they want or for a specific tenure with the nominal rent or without any payment. According to Sangtam customs, the father shares his land with his sons,

from the eldest to the youngest. The eldest son replaces the role of father and becomes the guardian of the property. The youngest son inherits his father's house and is obliged to care for their aged parents. However, in modern times, there is no strict adherence to the norm of inheriting the parents' home by the youngest son, but any son can inherit due to migration and settlement in urban areas. The land is passed on to the male heirs or next of kin in the absence of a male heir. The Sangtam tribe follows patrilineal customs about heredity, and daughters are not given ancestral land in the village, but the acquired land in the urban areas.

Types of land

The ancestral land (*Jamü Li*) is the original land that belongs to the village and is owned either by the village, clans, lineages or individuals, which is passed down to the next generation. The Sangtams believe that the land is a gift from God, Tsingrang, and invoke His blessings for the land through bountiful harvest. They also believe that the spirits of their ancestors dwell in that land. So whenever land disputes arise over the ownership of land, they call upon the name of their forefathers to intervene and judge the party that falsely claims. The land that belonged to the entire village was maintained by keeping some land for rearing animals like Mithun. But at the present time, such forests are maintained for biodiversity conservation. In the past, if a person borrowed grain or money from someone and failed to pay on time, a plot of land was given away by the debtor as demanded by the creditor. Usually, the poor in the villages borrowed grain from the rich and were required to return with interest in grain. Due to the subsistence farming of the poor, they did not have a surplus to repay and were trapped in debt. So, the only option is to give away a portion of the land to their debtor. During the headhunting time, the bigger and more powerful villages conducted raids on the other villages, where the village was burned down, people were chased out of their village, and their land was occupied. Sometimes, a battle occurs between two villages over a plot of land, where the defeated village surrenders the land, and the victorious one has a final claim over it.

Issues related to the land Conflict

Ownership of land is the relation between the person and their right vested in them. Whatever a man owns is a right, and to own a piece of land denotes

the right to that land. Conflict arises when the other makes a counterclaim on the ownership of that same land. The main cause is a lack of mature understanding of the root cause. Dispute arises due to illegal encroachment or unauthorised occupation of the land. The tribal land neither has a written record nor is it measured. The boundary is usually demarcated by erecting stones, planting wild lilies or by stream and mountains. In the absence of clear demarcation, either side can encroach on the other side, thereby raising conflict and disputes.

An individual conflict occurs when each individual claims that the land belongs to them personally as the sole owner and attempts to defend it at any cost. Among the Sangtam community, individual conflicts most often arise in cases involving lineage land. When a family is large and the land is divided among several brothers, which is insufficient to sustain their needs due to the increasing number, it results in impoverishment. They attempt to take over another brother's land, creating a problem between them. Individual conflicts may also arise when a person sells off their share of land and leaves nothing for their children. Later, these folk tend to interfere in the other's landed property, which their father or grandfather had already sold out. In some cases, when a person sells the same plot of land to different people for the same amount of money, with or without any written documents and witnesses, different owners claim ownership over the same land. Individual conflict also arises due to the historical inconsistency of inheritance among family and relatives. Sometimes, out of greed, some encroach on neighbours' land by shifting boundary stones and pillars causing conflict. For tribals, land means heritage, pride and security. They will continue fighting to reclaim it. Land is also the epicentre of culture, economy, politics, social interactions, and identity, particularly among tribal people. Therefore, when the land is disturbed or encroached upon by others, they consider it a charge on their living. In the Sangtam tribal traditional land-holding structure, land is usually owned by the community. Thus, the right to land ownership can only be obtained by becoming a member of the community. The land dispute issues have grave humanitarian consequences, including loss of civilian life and displacement of people. As a result, land has become a highly sensitive topic in today's society. Land disputes occur not only between different communities and nations but even within a single community or village. It is unfortunate to learn that many villages do not always get along when it comes to land, even though they speak the same language and are

of the same background. Conflicts and disagreements over boundaries, fields, and woodlands affect many aspects of people's social, political, economic, and administrative life of the people. Disputes frequently begin when one of the two competing tribe's attempts to cultivate land, cut the wood, or even build a house in the disputed area. This furthers the dispute because the person who cultivates or cuts the wood is regarded as the winner or superior to the other and may even take over the area. Like the many tribal-inhabited areas, the Sangtams have a number of civil cases relating to land disputes involving inter- and intra-tribal, village, clan, and family land. Inter-village rivalry occurs between villages from two separate communities whose fields and woodlands are adjacent to one another. Such conflicts intensify as they continually involve the two communities, resulting in communal conflict.

Findings and Suggestions

Over the years, many changes have occurred concerning the pattern of the land holdings system of Sangtam villages. However, the principle of transmission of rights of ownership has not changed much and has largely remained the same. Most of the Sangtam villages in the Longkhim range are established without proper records and demarcation of village boundaries; they are only defined by rivers and mountains, which create land issues between villages and tribes. It is suggested that the villages should prepare proper land ownership and territory documentation with consultation of the land records and survey department, government of Nagaland in order to avoid disputes in the future.

The villagers of the Longkhim range prefer customary laws because it provides better and easier governance. However, customary laws in many issues related to land ownership and boundaries within the villages and with other tribes neighbouring villages failed to bring solutions. With the dynamic changing socio-economic environment, the old traditional values are replaced by new trends and values. Therefore, customary laws need to be reformed to meet the community's present needs. For instance, oath-taking as the shortcut and final judgement with regard to a land conflict should be discouraged and instead, it should be accompanied by thorough judicial enquiry. There is a limited study on Sangtam customary law in Tuensang district resolution to the problem of land holding systems. More study should be done to study the issues to find out a better solution.

Conclusion

The oral customary law was the sole custodian of the land holding system and its conflict resolution in the past. At present, the relevant customs and traditional practices must be preserved, promoted, and reformed according to contemporary relevance. The in-depth examination needs to be done at the grassroots level for a comprehensive understanding of customary law and to implement it for the administration of justice and social cohesion.

Notes

1. The Elderly personnel appointed by the government at the villages and towns level to look after the affairs of Khel and the Village administration. Gaonbura refers to villager elders. For more information, see Barooah (2011), who is the person appointed by the government to adjudicate cases and issues related to customary norms at the sub-divisional administrative blocks, circle, and district levels. The Word 'Dobashi' was derived from Dabhasias, which means a man of two languages. For more information, see Sema (1985).
2. Tuensang district gazetteer, Nagaland. p-24

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