

CHAPTER 4

THEORETICAL INTRODUCTION TO CUSTOMARY LAWS AND THE ANGAMI CUSTOMARY LAWS

4.1. INTRODUCTION

Customary laws are norms and practices of the people in a particular society to maintain the equilibrium of the society. The customary laws are adopted through a slow and gradual process deeply rooted in the history of the society. According to Vitso (2003), customary laws are the habitual course of conduct of a given society of a particular society (p. 5). To Roy (2005), customary laws are “evolved, defined, transformed and innovated by the people over time” (p. 7). For Chanock (1998), custom is constantly recreated, re-imagined and re-invented, thus customary laws are not rooted in the past, but are part of the present which is the reason why ordinary natives are devoted to customary laws (p. xi). According to Molokomme (1994), customary laws include the values, traditional norms, habits and other principles which are associated with the people. To him, the customary laws describe a way of life based upon certain norms of behaviour which are based, in varying degrees, on tradition. He also remarked that customary laws are not static, but dynamic, negotiable,

flexible, fluid, and are reflections of the people's adaptation to socio-economic changes (pp. 347-369).

Vitso (2003) also shares similar views, she affirms that the primacy of customary laws are to maintain social order while prescribing rules of conduct for each individual. It regulates the day-to-day life of the people in both socio-cultural and eco-religious aspects. She is of the view that society has unseen forces like taboos, sanctions, social rituals, public opinion, good sense and ethics of each individual to maintain peace and tranquillity in the tribal society. To her, human conduct is varied and unpredictable, which make it difficult to put the rules and practices in written form, besides, it may undergo changes and modifications with the progress of time. She is also of the opinion that law has its source from human needs and every society has its rules and regulations, which some call laws, and some, customs or customary laws. She wrote, "Customary laws thus include those rules, which are acknowledged and approved by the public opinion in the society and sanctioned by the will of the community" (pp. 5-6).

Discussing on the importance of customary laws, Pereira (2009) is of the view that:

Customary law is not just a matter of jurisprudence, but a part of culture. Often times, customary law has been treated exclusively as a conflict resolution mechanism and hence just part of an indigenous legal system. This amounts to limiting the overarching reach and dynamic influence of customary law in tribal societies. Customary law is the visible expression of the values, ideals and principles a particular culture upholds. Hence it is a vital part of a culture and this is one reason why tribal communities all over the world are falling back on their customary laws in an effort to preserve their culture and identity (p. 248).

In order to protect the customary laws of the Nagas, a special status is guaranteed under Article 371(A) of the Indian Constitution. The customary laws are accepted by the people, no matter what their sources are because it evolves out of their customs and practices. Therefore, the adoption and modification of customary laws are difficult to identify. Even today, in spite of the existence of well formulated written laws, customary laws still play an important role in the Angami society.

The Angami society like any other tribal society has certain customs followed by the people and breaches of these customs are regarded as social offences. According to Dzüvichü (2003) these so-called customs are 'enforced customs' (p. 7), which are used to maintain harmonious relationship between its members. She further added customs are set modes of conduct and behaviour which was a kind of obligatory norm that later developed into customary practices and then evolved into law, known as the customary law (p. 7).

The Angamis are known for their ethics and for their integrity and considerateness. According to Kuotsu (2009), "the Angamis were known for their integrity and their words were proverbially golden" (p. 154). Elaborating on the considerateness of the Angamis he added, "it is taking the least rather than the biggest share. It is both courtesy and charity. It is the opposite of opportunism. It is promoting others rather than putting them down" (pp. 154-155). With such good moral practices and conduct, justice in the Angami society could not be bought, but cases are settled according to the traditional practices without cost. All cases are settled expeditiously and whoever is right gets justice and the wrong doer is punished. Thus the imperial British government described the Angami customary laws as the 'purest form of democracy' and the customary court as one which delivered 'speedy justice' (Personal interview on 2nd June, 2013).

4.2. GROWTH OF CUSTOMARY LAWS

In the preliterate primitive society, when human primates crossed the stage of the animalistic, they started to build culture and it eventually led to the formation of a social unit. In order to maintain a well-organized social unit, they needed to have certain norms or values. This resulted in the growth of different branches and stages of law, like the primitive law, customary law, western law etc., to control the socio-cultural behaviour of the fellow members in society (Baruah 2010, p. 11).

According to Bedi (1974), the growth of customary laws in the ancient society began with aristocracy and kingship. The aristocrats and kings were vested with rigid authority in the society. They claimed their authority and inspirations from their forefathers. Therefore, this resulted in the second stage in the evolution of the forms of law *i.e.*, the age of customary laws (p. 26). In the like manner of aristocracy and kingship vested with authority in other societies, the same is true of the village elders in the Angami society. The decisions and the so-called ‘wisdom of the elders’ gradually evolved into customary laws.

According to Vizol (1976), the then Chief Minister of Nagaland, in his inaugural address in the seminar on “Customary Laws” held at Kohima in 1974 said:

Man as you know is a social animal. In order to live in society, he had to abide by certain norms and practices which slowly evolved in the society in which he lived. These make him tolerate his fellow beings, respect their rights and fulfil his own obligations to society. These norms and practices later on developed into usages, which more or less acquired the force of law and subsequently became known as customary law (p. 1).

Like any other society, the Nagas are also regulated by some observances, traditions and rules, religious and moral standards. These standards become inherent in their culture as manners and customs and eventually become customary laws (Ao 1976, p. 7). According to Sumi (1976), customary laws comprised of the reasonable customs and usages and the habitual course of conduct observed by the people in a society (p. 4).

Bhattacharya (1974) agreeing no less with the above two scholars wrote:

Since the dawn of human civilization a body of observances, norms and accepted religious and moral standard has regulated the relations between the members of each and every society. The codes of conduct evolved, taught and practiced as such ultimately became the customary laws or in other words unwritten laws (p. vii).

4.3. ORIGIN OF CUSTOMARY LAWS IN THE ANGAMI SOCIETY

Based on the interviews conducted, the customary laws of the Angami could be placed into two perspectives with regard to its origin and establishment. The first is a belief that customary laws are gifts and blessings from God (*Ukepenuopfii*), and derives its strength from the principle of the fear of God who is the final arbiter of justice. The second are practices, which became a tradition and gradually became laws. As a result people started to respect and adhere to the laws.

In the bygone days, elders were blessed with wisdom (*thenoumhasi*). They believed that wisdom came from God, creator of human kind, whom they called *Ukepenuopfii*. They share their wisdom through the *thelhoubu* (common sit out of elders). If anything or anyone did something wrong, they discussed and made things right (Kikhi 2011, p. 6). It is a blessing to our forefathers that they have such things (customary laws) in their heart and mind and could carry on. There are some Nagas who like to connect themselves with one of the lost tribes of Israel and view the customary laws in accordance with the Law of Moses, however such a claim has no foundation (Personal interview on 26th May, 2013).

In the bygone days, the elders feared and obeyed *Ukepenuopfii*. They worshipped *Ukepenuopfii* through different *nanyü* (rituals) in every walk of life. It was *kenyü* (taboo) to disobey *Ukepenuopfii*. In olden times, the Angamis sought blessings and protection over their families from diseases and natural calamities, protection over the agricultural works from wild animals, birds, pests and natural disasters. They sought blessings of the divine for everything and anything that involves their lives and activities including festivals and celebrations. Gradually the rituals of seeking blessings became customary practices, which over time became customary laws (Personal interview on 26th May, 2013).

To some, the wisdom of the forefathers or customary laws are known as ‘traditional knowledge’. D’Souza (2013) quoting from the International Council for Science, defined ‘traditional knowledge’ as:

A cumulative body of knowledge, know-how, practices and representations maintained and developed by peoples with extended histories of interaction with the natural environment, these sophisticated sets of understandings, interpretations and meanings are part and parcel of a cultural complex that encompasses language, naming and classification systems, resource use practices ritual, spirituality and worldview (p. 50).

The payment of seven-fold in the case of theft could be said to be a traditional knowledge, which became a law as number 'seven' is significant of geographical location of the people who practices it and has a historical context. The seven-fold repayment was started in Kohima village with a man named Horü. Horü was the first to settle in a place called Ziekie, later Tsütunuo came and settled near him and they became neighbours. Horü being the first to settle in Ziekie started mistreating Tsütunuo by stealing his goods at night. When Tsütunuo came to realize about his things being stolen every night, he felt bad and told his father Üsou. One night Üsou came and slept in Tsütunuo's house to catch the thief. They tied a rope to their toes and tied the other end of the rope to a post. That very night, Horü came to steal and he stumbled on the rope, which woke Üsou and Tsütunuo, and Horü was apprehended. After Horü was caught red handed, he was made to pay seven times the amount of what he had stolen from Tsütunuo. The repayment of the seven-fold imposed on Horü was because the people of Kohima had settled on seven hillocks. Seven-fold repayment is known as *se puo se thenie*. This payment of seven-fold is practised by all the Angamis in case relating to theft irrespective of the region they belong to. Even today, this practice of seven-fold repayment is in operation and is very much part of the Angami customary laws (Personal interview on 5th April, 2013).

4.4. DEFINITION OF CUSTOMARY LAWS

Customary laws regulated the conduct of the people in a society. Customary laws are that body of laws which consisted of rules of conduct which the society is bound to observe (Das 1976, p. 18). Supplementing the above view, Vitso (2003) asserts, customary laws are

concerned with rules of conduct, and laws mean the whole process by which rules are recognized to be binding and enforced (p. 1). Further quoting from Pospisil, she wrote, “law is conceived as rules or modes of conduct made obligatory by some sanctions which is imposed or enforced for their isolation by controlling authority from man’s feelings or sense of right” (pp. 1-2). Christina (2002), expressing a similar view made the following remarks, “customary Law is primarily a codification of traditional practices although it provides some formalization of rules of behaviour, enforcement procedures, and punishment for violators” (p. 238).

According to Pospisil (1971), customary laws mean ‘law that is internalized by a social group’ (p. 194). To him, “a law is internalized when the majority of the group considers it to be binding as when it stands for the only proper behaviour in a given situation” (p. 194). He further asserted that “the term customary law was used in modern anthropological literature in a very vague and meaningless way, connoting any type of non-legislated law in a tribal society. Since accounts of legislature innovations were usually utterly lacking, the term in practice stood for all tribal laws” (pp. 194-196).

For scholars like Morapedi (2010), most parts of customary laws are not written and a great deal of them are passed on verbally from generation to generation. It consists of norms, practices and traditions binding on society. Customary laws are flexible and subjected to change (p. 218). Pereira (2009) expressing a similar thought, observed that customary laws are generally understood to be that body of laws, which are predominantly oral rather than written, and which derive their authority from sources other than the State (p. 58). Webber (2009), augmenting the views of Pereira, remarked that customary laws derive their authority from sources other than the State. He also stated that customary laws are “not the product of official enactment, but owes its force to the fact that it has found direct expression in the conduct of men towards one another” (p. 583).

According to Roy (2005), there is no universally accepted definition of customary laws. However quoting from Bekker, he stated that customary law might be regarded as:

An established system of immemorial rules which had evolved from the way of life and natural wants of the people, the general context of which was a matter of common knowledge, coupled with precedents applying to special cases, which were retained in the memories of the chief and his counsellors, their sons and their son's sons (sic), until forgotten, or until they became part of the immemorial rules... (p. 6).

According to Ørebech and Bosselman (2005), “customary is a popular normative pattern that reflects the common understanding of valid, compulsory rights and obligations”. To them “the underlying social norms may become the acknowledged law of the land”. They further asserted that law is created by normative decisions that are born in the depths of people's souls, accepted and authorized which seem like inevitable obligations (pp. 16-19). The operative definition of customary laws in this study as discussed and explained in the above definitions, is understood as a set of rules or codes of conduct to dispense justice in the society, which has been orally transmitted from one generation to the next generation as the wisdom of the elders to be used in maintaining peace and harmony in a society. They are unwritten but what started as insights of the elders gradually became a body of laws known as customary laws. They are a kind of primal blind or non-progressive social control as they lack the official enactment of the state, and are devoid of the insights and issues relating to the contemporary times. In this sense, they are those insights of elders which are orally transmitted as the wisdom, which binds/holds a society together. They are popular normative patterns which regulate the activities, moral conduct and dispensation of justice of its members not considering the changes and development of the times, but in blind obedience to the primal practices of the fore-fathers.

4.5. CONSTITUTIONAL RECOGNITION AND MEASURES

For centuries, the Nagas were regulated and controlled by their customary laws, and hence they were isolated and self-contained. The advent of the colonial power did not interfere in

the customary laws of the Nagas, but they left them alone to govern their society. The colonial rulers instead of replacing the customary laws elevated it, and recognized the customary laws of the Nagas through the Scheduled District Act of 1874 (Ao, Sl. No. 94). According to Ao (Sl. No. 94) there were other Acts apart from the Scheduled District Act of 1874, such as the Act of 1915, 1919 and 1935, which had constitutional and legal effect in the erstwhile Naga Hills District by virtue of its enforcement. Supplementing the view of Ao, Fernandes, Pereira and Khatso (2005) elucidated the Acts in the following words:

The Assam General Clauses Act 1915 protected tribal customs and practices by restricting the application of the Provincial Laws in the Hill areas. The Montague-Chelmsford Reforms 1919 made similar provisions. The 1930 Indian Statutory (Simon) Commission recommended the protection of tribal customary rights. The Government of India Act 1935 accepted it and divided the hill areas into Excluded and Partially Excluded and stipulated that no Act of the Central or Provincial Legislature apply to them unless the Governor in his discretion so decided in view of peace and good governance (p. 23).

With reference to the Acts of 1915, 1930, 1935 etc., Roy, (2005) is of the view that the customary laws of the Nagas are the only ones amongst the tribes of North East, to have the highest form of formal recognition in the provisions provided in the Constitution of India (p. 10). In addition to the above Acts of 1874, 1915, 1930 and 1935, the 13th amendment Act, 1962 of the Indian Constitution also provides special safeguard for Naga customary laws under Article 371 (A) (Ao, Sl. No. 94; Personal interview on 2nd June, 2013).

4.6. COEXISTENCE OF CUSTOMARY AND STATE LAWS

Both the state and customary laws co-exist in Nagaland. According to Roberts (1994) there is a 'Dual System of Government' in the State of Nagaland (p. 974). The difference between customary laws and state laws are its administration and procedural systems. Law whether customary or of the state is to maintain justice in the society. The customary court also

known as the *Dobashi* court was established in 1974 in Nagaland to settle cases according to customary laws. Even today, it is operating under the administration of the state government with the Deputy Commissioner (DC) as the head. The customary court is the highest level of court which deals with cases according to customary laws. All village level courts come under the customary court. In Nagaland the Deputy Commissioner is the head of both the customary court and the state judicial court, a branch of Guwahati High Court. According to Dzüvichü (2003), the customary court abides by the customs and practices of the native people and the state court abides by the national law (p. 8).

Roy (2005) in distinguishing customary laws from state laws stated that the former was ‘more closely attached to a people’s culture’. Elucidating this statement he wrote:

Since customary laws are adopted through a gradual process, this also provides an opportunity for the concerned community to test them out while still in embryonic form, and of localized application, so that they can amend them, as necessary, before large-scale harm is done. This would be unthinkable in the case of formalized legislation by ‘modern-day’ state entities. ‘Innovations over time’ to pre-existing customary laws are an integral part of customary law. It is unfortunate that these subtle nuances of customary law-making and law reforms are often lost on most national-level policy-makers and jurists, who instead tend to regard indigenous peoples’ customary laws as somewhat static, and consequently, outdated, and sometimes even as irrational or socially regressive. The prevalence of such distorted and discriminatory perspectives hinders the continuing practice of these modes of dispute resolution among indigenous peoples, and erodes the greater acceptance and wider application of such systems and processes. Indigenous modes of law-making and dispute resolution have many positive features to offer to mainstream legal systems, on account of their participatory nature, and because of lessons that they offer in the case of arbitration, conflict resolution and the post-dispute rehabilitation of the disputants (p. 7).

According to Care and Zorn (2005),

Apart from its recognition in the formal system, customary law retains its status in the customary system. There is ample evidence that it is still the most relevant law for the indigenous population. Outside the urban areas it governs a wide range of matters from those relating to everyday living in the community, e.g. the provision of food, construction of houses, and hygiene; through personal affairs of individuals or families within the community, e.g. succession, marriage, separation, divorce and adoption; to

regulation of relationships between members of the community, e.g., punishment for those involved in illicit sexual relations. The authority of customary law does not come from any written law but from the fact that it is regarded as binding by those who habitually obey it (pp. 148-149).

4.7. THE ANGAMI CUSTOMARY LAWS

The Angami legend holds that during the bygone days the laws were written on the skin of animals since the use of paper was unknown. But one night, a dog came and ate them, since then, they had no written laws but transmitted them from one generation to another orally. Reference to this legend was cited by J.H. Hutton (1921) in his book, *The Angami Nagas* and Shürhozelie Liezietsu (2009) in his article *Ura Academy and the Evolution of Tenyidie*. According to Hutton (1921),

The deity gave the knowledge of reading and writing both to the Nagas in the hills and the plainsmen of Assam, but whereas the latter were given stone or paper on which to record their writings, the Nagas were given a book of skins which came by an early end owing to its edible qualities (p. 291).

And, according to Liezietsu's (2009) version: "God gave a script to our ancestors on a hide which was eaten by dog and, therefore, our ancestors lost their script" (p. 1).

The Angami tribe like other tribes of Naga is governed by customary laws which have been in use since time immemorial. They are framed and handed down by their forefathers from one generation to the next orally, without any written records. Customary laws are not merely handed down but are also altered and modified in the process to cope with the passage of time. The different laws of the Angamis are discussed below.

4.7.1. Oath Taking (*Rüse*)

Oath taking is the first law or rule in the Angami customary law. In Angami society ‘Oath taking’ is known as *Rüse*. On the importance of word or oral tradition, Meyieho (2012) wrote, word is the first manifestation of being; human beings actively shared in the shaping of history and in the making of the world through words. Many traditions are of the view that by the power of the word, things came into existence. Thus the word is power and is powerful, especially for those traditions, which adhere to oral tradition. The Angami society, which follows the oral tradition, by word of mouth blessings (rewards) or curses (punishments) are implored and cast respectively, and like-wise, agreements are made in words. In the oral tradition, such as that of the Angami society, the word is ‘ultimate’ and it must be obeyed (p. 23). Great sanctity is attached to the word, especially to the oath. In matters of settling cases and disputes of any sort, oath-taking is administered as a last resort (Ao, Sl. No. 94). Although there is oath taking for good reasons and purposes, oath taking is done or administered mostly to settle cases and disputes. Thus, oath taking is attached to the judicial system in Angami society. In matter of settling disputes, when an oath is taken, the case is settled forever, and no one dares to challenge it (Rengma 2011, p. 28).

Hutton (1921), writing on the importance, seriousness and power of ‘Oath taking’ of the Angamis remarked:

Angamis are not usually willing to risk their lives by pledging them to the truth of a statement of a relative unless they are fairly well satisfied that the statement is true, for a false oath is held to entail death or at least misfortune as the result of it (p. 144).

Among the Angamis, there are two types of oath taking, viz., *Siakie* and *Kesiakie* (Personal interview on 7th April, 2013). *Siakie* is an oath taken by an individual to prove her/his innocence. In *Siakie* the suspected culprit usually takes an oath to deny her/his involvement in any wrongdoing or prove her/his innocence. The accused takes an oath on her/his life or involving the lives of two or more members of her/his family. The accused is released if s/he undertakes the oath, swearing upon her/his life and the lives of her/his family members. In case of a dispute on property, an individual has to take an oath to justify her/his ownership.

Kesiakie is an oath taken by both the parties, *i.e.*, the victim and the accused. Here, both the parties take an oath swearing upon their lives and those of their family members to prove their point. *Kesiakie* is common in boundary or land disputes. In case of land dispute, if one refuses to take the oath, then the disputed area is given to the party who has taken the oath. But if both the aggrieved parties have taken the oath, then the property is equally divided. There are instances when cases are taken to the High Court but cannot be settled as people recourse through oath-taking to gain justice. Therefore, such cases were again returned to the *dobashi* court where oath-taking is prevalent. Hence, oath taking is an important judicial means for administering justice to the people.

4.7.1.1. Oath Taking Rules (*Rüseketuo Mhodzö Thezhoko*)

In the Angami society, taking an oath is to prove one's truthfulness/innocence. There are certain rules to be followed before taking an oath. They are:

1. One should not stand on a grave and take an oath because the grave means death. For the fear of dying and going wrong, an oath is not taken over the grave.
2. One should not stand in the middle of the road and take an oath so as to ensure the well-being of the person who is taking the oath.
3. One should not stand on an equal footing while taking an oath. This is also for the well-being of the one who is taking an oath.
4. One should hold a stick while taking an oath. Holding a stick is done during oath taking because the Angamis belief is that a false oath could be taken and all bad omens could be discarded with the stick after the oath.
5. If it is a man who is to take an oath, he should untie his pigtail. If it is a woman she should loosen her hair so that the person's own hair might not strangle him or her to death.

6. One should not take an oath during a solar eclipse or a lunar eclipse so as to ensure that the person might not perish during the eclipses.
7. Oaths should not be taken on days of festivals and rituals because festivals and rituals are for the goodwill of everyone and nothing should defile and profane anyone and anything on the festive and ritualistic days (Personal Interview on 1st May, 2012).

4.7.1.2. Oath Declaration (*Rüse Dieko*)

The following declaration is made while an individual takes oath:

A tsie diepu ketha ha keteijü kecürü pumozo, keteijü kecürü pu liro Abu Tei mu kijü nie donu mia metha kenyü, Thepe-Theruo Arha Arhü kekakemhe keruo keriechü. (What I speak is truth and not falsehood. If what I speak is false, let me not prosper in all matters of life. Let diseases, famines, disasters and epidemics etc., over take me) (Personal Interview on 1st May, 2012).

According to Zhale (1995), the following is the declaration in case of land and field disputes.

*Hauha a lie zo,
A lie mo di a pra tha ro,
A bu keviu chüi kenyü,
Lhou mia metoumetha kenyü,
Tekhu bu rei a gei
Tei kijünie donu a be
Kero kerie, sidi rüseya* (p. 72).

This is my land/field,
If it is not my land/field as I am claiming it to be,
Let me not prosper,
Nor compete with others in matters of life,
Let wild beasts of the forest kill me,
In wars let me be killed,

In between heaven and earth let me decay.

4.7.1.3. Penalty for False Oath (*Rüsenu Puo Siazha Ngulieyakezhako*)

Given below are the punishments according to the Angamis for taking false oaths.

1. One goes lame if s/he takes a false oath.
2. One is ostracized and one's generation will perish or be in peril without male offspring to carry on the patriarchal lineage.
3. One will not be able to compete with others in all matters of life.
4. One's life will be shortened.
5. One may face unnatural or premature death.
6. One may become bloated which ultimately may lead to one's death (Personal Interview on 1st May, 2012).

In the Angami society, oath taking is the first law and the last resort. There are reports and accounts where an entire generation perished for having taken a false oath. Persons taking false oaths are believed to invite the wrath of *Ukepenuopfü*. According to Ao (Sl. No. 109) an Angami who has sworn by the lives of her/his *khel* will never lie. Even today in the Angami society, oath taking is still prevalent. According to an interviewee, there are instances where cases are taken up to the Government High Court but cannot be settled according to the Indian Penal Code, since the people recourse to oath-taking to gain justice. Such cases return to the traditional court where the case is settled by taking an oath (Personal interview on 1st May, 2012). Therefore, oath taking is still revered, feared and accepted in the society as an important means of administering justice to the people.

4.7.2. Moral Laws

The moral standards of the Angamis are high. The first thing that an Angami learns is to maintain her/his dignity. A person who does not maintain her/his dignity is referred as

retarded or even compared to an animal. In the Angami society, fornication, adultery, rape, etc., are termed as *Pieiü*. Adultery and fornication are dealt with severity and contempt (Baruah 2010, p. 179). The offenders are brought before the people and punishment is given after a full verification of the crime (Singh 2008, p. 44).

4.7.2.1. Adultery and Fornication (*Thepierüü*)

Adultery is an act of sexual relation between married persons and fornication is sexual intercourse between unmarried persons or when one of them is married (Marak 2000, p. 29; Tiba 2010, p. 22). In marriage, the husband and wife are expected to maintain sexual fidelity to each other. Infidelity in Angami society is dealt with severity and contempt.

The various forms of punishment for adultery and fornication in the Angami society are discussed below:

1. If a married woman living with her husband is caught in adultery both the man and the woman may be killed. If not, the head of the woman will be shaved and the tip of her nose chopped off, and she is sent back to her brothers or parents' house dressed in her *niekhro* (inner garments). In such a case neither the parents nor brothers of the accused woman can hold a grievance against the husband. She cannot claim anything or will not be given anything by her husband, but her property and belongings will be taken over by the husband.
2. If a husband brings another woman to the house, the wife is entitled to take half of their earnings after their marriage in case she wishes to separate from the husband. (Niechüriazo 2003, p. 55).
3. If a girl gets pregnant and marries, but no one claims the baby, then there is no case against her. But if the baby is claimed by the girl's lover then she will be punished according to the law, *i.e.*, her hair will be cut off or even shaved off, she will be

stripped off her clothes, all her belongings confiscated, and she be sent off from her husband's home.

4. If a boy lures a girl and makes her pregnant, but refuses to marry her, then the boy has to look after the child during childbirth and take care of the child's well-being thereafter. Apart from what is cited above, there is no punishment for the boy and he cannot be forced to marry the girl. In case the girl gives birth to a boy child, then the child belongs to man; but if a girl child is born, then the woman can also claim the custody of the child (Personal interview on 5th May, 2013).

4.7.2.2. Prostitution (*Thethenu*)

In the Angami society, prostitutes are called *thethenu*. Prostitution among the Angamis is resented. Women in Angami society are expected to be chaste and be virtuous. If a prostitute is caught, she is stripped naked and paraded naked in public with her hair cut off or shaved. In such a public shaming of a prostitute, the family of the accused has no 'say' against such humiliation. Among the Angamis, a woman of loose moral character has no right to file a case against any sexual offence committed against to her. If a man is found to have committed any offence and is accused by the woman and her relatives, he is not punished. But the same is not true in the case of a woman but she is considered indecent, immoral and has no right to justice herself. She is tagged with a loose, immoral character unlike her male counterpart. She can be beaten by her brothers and even disowned by her family and clan (Personal interview on 5th May, 2013).

4.7.2.3. Rape and Molestation (*Thenuthenuo Keshü Mu U Gei Kerülie Kemenakecü*)

Rape is an act of sexual violence committed with a woman against her will. Rape is a heinous offence and crime. According to Koireng (2010), rape is a barbaric act, because it defiles the chastity of a girl (p. 149). Pushpa Joseph (2010), a feminist writer and

theologian, is of the view that rape is to be understood as an expression of man's sexual domination and hence a part of patriarchy itself, sanctioned by various modes of social power, rather than of sexual desires. She further adds to say that rape is a form of violence of the powerful against the powerless, the poor and the disadvantaged (p. 10).

In the Angami society, a rapist is publicly shamed by parading him along the public paths all around the village. He is ostracized and expelled from the village or punished as deemed fit by the people. If a man is accused of raping a married woman, then the husband of the woman could do anything to the accused and there would be no case against the husband (Personal interview on 5th May, 2013). Bhattacharjee (1990), writing on the Angami Nagas, observed that "rape was punished both by beating of the offender by the kindred of the woman and banishment for some time" (p. 107). The crime against woman, especially rape, is never taken lightly but dealt with all seriousness. Anybody committing rape is severely punished physically or by the imposition of a fine. If the retribution is in the imposition of a fine, then the accused has to pay the money to the woman on a stipulated date the fine fixed by the Village Council. If the accused fails to do so then double the amount is imposed for not abiding by the decision of the Village Council (Koireng 2010, pp. 149-150). But in most cases, the victim does not take the money because money will not bring her chastity back; instead, the accused is subjected to public shame and humiliation.

Molesting and touching the breast of a woman illegally is considered a great social offence. Such acts are considered as an insult and humiliation (Tiba 2010, p. 26). If a man intentionally molests a woman or touches a woman's breast, then he could be beaten; or if the woman reports the molestation charge, then the man will be punished according to the customary laws, *i.e.*, the accused will be beaten and humiliated before all the relatives and brothers of the victim. While the accused is punished and shamed, the victim too has the right to humiliate and beat or harm the accused. In such a case, even if the accused (man) is severely harmed by the woman (victim), no penalty is imposed on the woman. The harm caused is viewed as the case of self-defense and so there is no penalty to the victim even if she grievously harms the accused (Personal interview on 5th May, 2013).

4.7.3. Social Prohibitions and Taboos (*Kenyü*)

In the Angami society the word *kenyü* (taboos) restrains the society from committing evil or falling into temptation. *Kenyü* refers not only to the breach of religious observances or social laws but to the most trivial matter (Hutton 1921, p. 190). According to Malinowski (1926), in the primitive society the core of legislation are a series of taboos and almost all early codes consists of prohibitions (p. 57). Likewise, the Angami society is controlled by *kenyü* which is continued till today. As mentioned above, *kenyü* is not restricted to ritual or religious matters but also social reference and significance. Given below are some of the taboos observed by the Angami society:

1. In the Angami society, marriage between siblings is a taboo. Angamis believe that marriage between siblings would cause shortage of food, their generations would go wayward and even in time of war/games they would not be able to compete with others or overcome the others.
2. It is a taboo to commit intentional murder in the Angami society. The Angamis holds that if one commits the crime of murder her/his generation would perish and s/he would be devoid of male offspring to carry on the patriarchal lineage.
3. The Angamis have high respect for *umie* (maternal uncle) and *uniemia* (paternal aunty). If anyone should be cursed by her/his *mie* (uncle) and *nie* (aunt) that person cannot enjoy good health and well-being, which even affects the generation to come. Thus, one should not be cursed by one's uncle or aunt. If an individual is cursed by his uncle or aunt s/he must approach them for their blessings. While approaching them s/he should take with him/her food and drink.
4. Taking a false oath is a taboo in the Angami society because people who take false oaths face consequences such as shortening of life or unnatural death, become lame, has no male offspring etc. Therefore oath taking is feared and respected by the Angamis.

5. It is a taboo to take the name of elders in the Angami society. They should be addressed properly as a sign of respect. Even in the case of an unknown person, the Angamis address the elderly people as *azuo/apuo* (mother/father) or *anie/anuo-o* (aunt/uncle). Whether it is a known or unknown person, the younger persons ought to talk to the older persons first by addressing her/him appropriately.
6. It is a taboo to beat one's parents because they have nurtured and brought up the children. It is a general belief among the Angamis that if an individual beats her/his parents her/his life would be cursed and s/he would face many difficulties in life. There is also a common saying in the Angami society that parents are next to *Ukepenuopfii*, so one must fear and respect one's parents. Honouring and respecting parents and elders bring blessings from *Ukepenuopfii*. So parents and elders are treated with respect, dignity and reverence.
7. It is a taboo to inherit the ancestral property if an individual is not the right *kayie* (the right heir to ancestral property). A person who falsely inherits the parental/ancestral property in Angami is known as *kamou*. Among the Angamis it is greatly feared that an individual who commits *kamou* would be devoid of male offspring to carry on the patriarchal lineage and would lose all his wealth.
8. Among the Angamis, respect for the elders is held at high esteem. It is a taboo for the younger ones to taste and eat food and drink before the elders. It is also a taboo for the younger ones to be served by their elders unless one's health does not allow her/him to get up. Disrespect to the elders is believed to bring a curse on an individual's life, therefore elders in Angami society are treated with respect, dignity and reverence.
9. In the Angami society, taking bribes is a taboo. It is said that if anyone takes bribes from others, her/his life would be cursed and her/his generation would not prosper, because s/he has taken what s/he does not deserve (Neichüriazo 2003, pp. 82-83; Personal interview on 1st May, 2012).

4.7.4. Civil, Criminal and Non-Criminal Laws

The Angamis has an elaborate law which deals with all types of cases. The modes of settling civil, criminal and non-criminal cases are discussed below.

4.7.4.1. Civil Laws

Under civil law cases relating to land (*lie*), property (*mhanya mhara*), water (*dzü*), animal (*kirinuo*), hunting (*chüwhuo-rawhuo*), taunts (*miarüpfü ruse*) etc., are discussed.

Taunt (*Miarüpfü Rüse*)

In the Angami society taunting is known as *miarüpfü rüse*. *Miarüpfü rüse* literally means ‘insulting and cursing others’. The following words in Angami society are considered as taunting, such as: *Kitakikrie*, *Se telemezha*, *Tekhruonuo*, *Thethenu*, *tefü*, etc. The use of such derogatory words against anyone invites cases against the one who uses it. *Kitakikrie* refers to an individual who runs away from her/his village and has taken refuge in another village. Among the Angamis, a person who has taken refuge in another village becomes a member of that village and cannot be treated lower than any other individual in any form. Therefore, calling anyone as *Kitakikrie* is not tolerated. *Se telemezha* is derogatory, which refers to a person who knows no shame and respect. Among the Angamis, the sense of self-respect is high, and therefore, the use of *Se telemezha* is considered as one of the worst forms of taunting and the use of it against any individual invites cases against that person. *Tekhruonuo* means illegitimate child or a child born of parents not lawfully married or whose father is unknown or whose identity is disputed. In the Angami society, every child is respected as a human person, whether s/he is an orphan or s/he is an illegitimate child, s/he is not to be taunted with such derogatory word, as it is not the choice of the child to be orphaned or illegitimate. So, the use of *Tekhruonuo* against any person is never tolerated. As mentioned above, self-respect among the Angamis is great, and, therefore, even in time of

quarrels or disputes no person is permitted to call another person *thethenu* (prostitute) or *tefui* (dog). The action of using such derogatory words, such as *thethenu* and *tefui* is penalized (Personal interview on 8th June 2013).

Land (*Kielie*) and Properties (*Mhanyamhara*)

Ownership of land (*lie*) in the Angami society is private and vested with individual household, clan, *khel* and village as a whole. There is no 'no man's land' in the land of the Angamis. The Angamis practice settled cultivation on terrace fields along with *jhum* or shifting cultivation. The lands used for terrace cultivation are owned by individual households. Forests and *jhum* lands are owned by clan, *khel* or village (Bhattacharjee 1990, p. 109; Pereira 2013, p. 80). D'Souza (2001), who has written on the forest conservation of the Angamis, points out that among the Angamis, ownership of land and forests is regulated by customary laws (p. 44).

The different forms of laws regarding land are:

1. According to the customary laws of the Angamis, the sale of ancestral property or land belonging to the clan must be decided by the elders of the clan. If it belongs to the family, the eldest member of the family should be consulted. If the above mentioned laws are by-passed, the one who bought it has no right of ownership in case of dispute. But if the land is sold or bought after proper consultation, there is no case of withdrawing or returning the land/field.
2. According to the Angami customary laws, no land is sold to non-Nagas. Land cannot be sold to a non-Naga, if it is sold to non-Nagas, it can be acquired as a common property of the entire village. Therefore, one is obliged to sell her/his land only to the Nagas.

3. If anyone sells land or other ancestral property belonging to the family/clan in a state of intoxication without consulting her/his family/clan members her/his action is invalid, and the person buying it buys it at her/his own risk.
4. In case of encroachment by removing the boundary stone/line, if the accused denies the charge and takes an oath then the encroached land is given to him. But if the accused is a known trickster then the oath taken on her/his behalf alone is not valid and sufficient. S/he has to consolidate her/his oath along with the name of her/his family. If the accused refuses to take an oath then the boundary stone is re-erected in its former place.
5. If a bamboo grove which is planted at the boundary extends its growth and enters the land of the neighbour, then both the land owners can share the grown bamboo grove. In such a case, the bamboo grove becomes a common property for both the parties and no party can claim exclusive ownership of the grove.
6. Trees that grow on the boundary line are shared by both the parties. It can either be used alternately or can be shared between the two owners. No individual has exclusive ownership of the trees on the boundary but they can be shared by the owners who share the common boundary where the tree grows.
7. In case of roads to be constructed by the government, the government has to first obtain the permission from the land owner(s) if it is owned privately. But if the land belongs to the village or community then the government must seek the permission from the village/community.
8. If there is a road to be constructed for the village, no compensation need be paid to the owner of the land as the road to be constructed will be a common property. But if it is for a private use then the land owner must be consulted, otherwise the owner of the land is entitled to block the road and there would be no case against her/him (Personal interview on 8th June, 2013).

In Angami *mhanyamhara* means properties. There are commonly owned properties (owned by the village) and individual properties which are used in different ways. Those owned by the village are community hall, playground, schools, roads, buildings constructed for public welfare, and forest products etc. These properties can be used by any member of the village, but selling and using them for individual benefit is not allowed. The individual property can be used only by the member of the family who owns it. Some of the laws pertaining to property and property disputes are discussed below:

1. Anything found would go to the person who spotted it first. However, the person who spotted it first should make a sign on the spotted goods. Erecting a stick with ball of leaves at its top indicates that it is marked by someone who has spotted it first.
2. Whoever destroys someone else's property is liable to compensate with payment equivalent to the amount of property destroyed, if the owner insists on repayment of the destroyed property.
3. Housing materials like thatch and rope belong to the person who first spotted it and left a mark on it. A thing is marked by erecting a stick with a ball of leaves at its top, which is then placed near the spotted items.
4. Every member of the village has access to the use of wood, bamboo, timber and thatch for construction purposes and for personal use. But these things from the commonly owned forest cannot be used for commercial purposes (Personal interview on 8th June, 2013).

Water Dispute (*Dzü nyie*)

1. A river which runs through the land of a particular village belongs to that village. But if it runs between two villages, then it belongs to both the villages. In such a case, it is to be shared by both the villages. In case of joint ownership of a river by two villages and if any of the two villages want to use water for irrigation and the

channel has to pass through the other village, then the particular village has to be consulted and the consent of that village must be obtained.

2. If there is water dispute between two villages then the elders from the nearby villages should settle the dispute. The neighbouring villages should study the disputed source of water and decide which village is the rightful owner. If the two villages claim that it belongs to both of them, then the elders may divide the water between them. If any of the party tries to use physical force, the first person who uses physical force will lose the right and the water source will be blocked.
3. In case of existing water channels, no one is permitted to block them. But for digging new channels, the owner of the land where the channel has to pass through should be consulted and her/his consent should be obtained, without which no channels may be dug (Personal interview on 8th June, 2013).

Animals (*Kirinuo*) and Hunting (*Cüwhuorawhuo*)

There are some laws regarding animals. They are discussed below:

1. Whoever kills a cow/cattle but confesses her/his misdeed, is to be sent out of the village for 5 days because the foetus of the cow like human beings is of ten months.
2. If any domestic animals like cattle, pigs, dogs, hens etc., destroy the property of someone, then, the *Gaonburas* may go and inspect the destroyed property and then pass their verdict. In case of penalizing, the one who looks after the animals/birds is liable to compensate with payment equivalent to the loss of the property. But if s/he is not in a position to compensate, then the owner of the animal is obliged to compensate for the destroyed property.
3. If any domestic animal strays away to other villages then the village, into which the animal has strayed should inform the village from where the animal has strayed without hiding or slaughtering it.

4. If any domestic animal goes wild/amuck and gets out of control, and destroys property of others, then, the owner should not rear that animal.
5. Whoever kills or severely inflicts injury on any domestic animal belonging to others out of jealousy is liable to compensate the owner by payment of a fine. The compensation is to the tune of two times the value of the animal (Personal interview on 8th June, 2013).

Cüwhuorawhuo (hunting) is a traditionally an important sport in the Angami society. Hunting of animals supplements the diet of the village. However, due to the extensive practice of hunting and the increase in population, certain norms are laid down in order to prevent the total extinction of wildlife. Accordingly, the dry season is set aside specially for hunting. Apart from this season, no one is allowed to hunt animals and birds. During off season, no one may hunt animals and birds apart from those which could cause destruction to the village or crops. If any person is caught hunting during this period, the matter is reported to the government and the gun licence is ceased and may lead to cancelled of the licence.

During hunting, the one who injured the animal first is entitled with the head. In case two persons claim to have shot the animal first, to prove the truth they have to carry a basket used for carrying meat. Carrying of a basket is not accepted by a person who is lying because while lifting the basket the person says: *No tijü cürü ro a vu chügei kerie ze rietachie* (if you lie, may you also rot with the game). The one who is willing or carries the basket gets the head of the animal killed.

Hunting dogs are also given their share if an animal is killed. One limb of the animal is given to the dog. Even if there is more than one dog, they will all share one limb. If a hunting dog is accidentally killed during a hunt, the person who has killed the hunting dog will be excommunicated from the village for five days (Personal interview on 7th April, 2013).

4.7.4.2. Criminal Laws

In the Angami society, the most severe punishment for a criminal case is *Kita* (excommunication). Among the Angamis, it is said that losing ownership of land and membership of a village is considered next to being dead. Excommunication or *kita* from the village is for a period of seven years. During the period of *kita*, the culprit and her/his family members do not have any right to use any of their property such as, land, house or forest. After the expiry of the seven years or *kita* period, the culprit, by seeking the permission of the victim's family, may return to the village. In case of murdering one's own kinsman/kinswoman, s/he is excommunicated for her/his entire life. During the course of excommunication the culprit might at some point of time visit her/his village for valid reasons like death, marriage etc., yet s/he is not allowed to stay overnight.

In the case of excommunication other than murdering of kinsman/kinswoman, the culprit is invited after seven years but if s/he refuses to come back, s/he and his family would cease to be members of that village. Even in case of death caused by accident, the *kita* (excommunication) is for seven years. But in case of murder involving individuals (accused and victim) belonging to two different villages, then the accused is not excommunicated from her/his village, but s/he would not be allowed to enter the territory of her/his victim's village for a period of seven years (Personal interview on 26th May, 2013).

Murder by Accident (*Kekrükelie Dziejodziemou*)

In Angami society, whoever causes death by accident would be *kita* or *themou* from the village and would not be allowed to enter the village for seven years. During these years of sentence, the relatives of the accused are not permitted to take away any of the property of the accused. After the sentence is served, s/he could come back to the village and live a normal life. On the expiry of the *kita* (excommunication), the deceased/victim's family sends a message to the accused to return to the village. This is done by the deceased/victim's family because they fear that they might not prosper in their lives

(Niechüriazó 2003, p. 54). If the deceased/victim's family insists that death is not by accident but intentional, then the accused is obliged to take an oath to prove her/his act to the deceased family that it is an accident. Nevertheless, the accused, as per the customary laws, must go for an exile of seven years with her/his family members.

Death or murder by accident could be caused in various ways; the following explain some forms of death caused by accident and the penalty regarding the same.

1. Death caused while felling trees and quarrying stone: These acts come under the case of accident, and according to the law the accused would be *kita* from the village for seven years. But if anyone accused her/him of deliberate murder then s/he is obliged to take an oath. However, the accused must go for an exile for seven years.
2. Murder by a juvenile: If a child above 10 years of age commits a murder, s/he is charged with murder by accident and is not allowed to enter the village for seven years. However, s/he can return to his village after seven years of *kita*.
3. A fight leading to miscarriage: If any quarrel or fight leads to miscarriage, then the one with whom the woman has quarrelled or fought will be exiled (*kita*) from the village for two years. However if the accused refuses to admit the crime s/he could take an oath saying that s/he is not the cause of the miscarriage and remain in the village. But if the woman insists that the miscarriage is caused by the quarrel or fight, then both the woman and the accused are required to take an oath (*kesiakie*), after which the accused is sent for an exile for a year (Personal interview on 26th May, 2013).

Intentional Murder (*Ukhre Ura Chü Di Mia Dukhri Kewa*)

It is a belief among the Angamis that whoever commits murder intentionally; her/his generation perishes and is devoid of male offspring to carry on the patriarchal lineage. Therefore it is a taboo to kill a person intentionally. Also among the Angamis, a

premeditated murder is never forgiven but dealt with in all seriousness even by the relatives of the accused. To emphasize on the serious nature and intolerance against deliberate murder, an incident is narrated below.

A man named Viliezhü from L.Khel of Kohima village deliberately murdered someone and fled to a nearby village called Chieziera. However, his younger brother brought him back to the village and killed him. Such cases are numerous, therefore, the question of forgiving a person who deliberately murders a person is not heard of in Angami society.

Given below are laws dealing with deliberate murder in Angami society:

1. If a person murders someone deliberately, s/he is also killed. Anyone protecting or shielding the murderer is also accused of the same charge. But if the murderer runs and takes shelter in some one's house, then murderer cannot be killed inside the house. Subject to murder cases, the family members of the accused cannot be harmed or killed. If the murder is carried out with a gun, the gun is seized.
2. If a person beats someone and the victim dies after a few days, the accused is excommunicated (*kita*) from the village for seven years. After the completion of seven years s/he could come back to her/his village.
3. In case of a deliberate murder caused by a hit and run (vehicle), the accused would be penalized as per the customary laws with regard to deliberate murder. But if the accused denies that the act was intentional then s/he must swear an oath taking her/his entire family's name. With the oath s/he is penalized under the law of death caused by accident, *i.e.*, banishment (*kita*) from the village for seven years. But if a person sustains injury in a hit and run case, depending on the grievousness of the injury the case is processed accordingly. The vehicle of the accused is not to be damaged before the case is processed and settled, but if the vehicle is damaged by the injured party before the case is dispensed with, then there is no case against the driver of the vehicle or the owner of the vehicle.

4. If a person kills another person by administering poison then s/he is accused as per the law of murder by deliberation. But if s/he and his family members deny the charge of poisoning then s/he is obliged to take an oath on the names of seven members of her/his household. There is no case against the accused if s/he swears an oath with seven members of his family. With the oath, the charge of poisoning is dissolved once and for all (Personal interview on 7th April, 2013).

4.7.4.3. Non-Criminal

Cases that come under non-criminal type are arson (*mi nyie*), imputing (*theda*), arrogance (*kerüzha*), malice (*kelhiekecü*), attack or fight (*kevüketa*), theft (*kerügu nyie*) and slander (*ketho kemo*). Each of the above mentioned are discussed below in detail. In comparison with the criminal cases the non-criminal cases are venial, however in the Angami society they are not taken lightly but punished as per the customary laws.

Arson (*Mi Nyie*)

Since the time of the colonial power, the burning of the jungle is prohibited. Therefore, whoever sets fire and causes destruction of property is dealt with and punished according to the laws of the village. In the Angami society, whoever deliberately sets fire to the house of another is burnt alive. If a person is caught in the act of setting fire to someone's house, s/he could be thrown into the fire and there is no case against those who throw her/him into the fire. Among the Angamis, compensation against destruction cause by fire is never sought as it is a taboo to take *mi ka* (fire compensation), because fire destroys things. Moreover, the Angamis believe that the future of those who take *mi ka* can never be good and secure (Personal interview on 26th May, 2013).

Imputing (*Theda*)

Blaming others without sufficient reason leads to quarrels and enmity. If such cases arise, the blamed person may take an oath but if s/he is a known slanderer, then the oath taken on her/his life may not be accepted. If the accused swears an oath then the one who blames her/him is required to pay Rs.300 to her/him.

In the Angami society *kerügu mu theda ketou*, which means theft and blaming others for theft are considered to be equal. Both are considered as social offences, therefore, if such cases arise, the accused or blamed person is asked to take an oath denying her/his involvement or to prove her/his innocence, and the case is dismissed. But if both the parties swear by oath then there is *kesiakie* and the one who refuses to take an oath is required to pay three and a half times (half of seven times) the value of the stolen thing for defamation (Personal interview on 1st May, 2012).

Arrogance (*Kerüzha*)

If anyone uses physical force to take another person's goods but is caught in the act of assaulting and taking the goods, s/he is assaulted and even killed and there is no case against any such act. The accused, moreover, is penalised with *sethenie* (seven-fold repayment) for the crime of snatching the goods of others. If the accused is not in a position to pay, then her/his family has to pay the *sethenie*.

If a person threatens or challenges another person for no reason, the relatives of the person challenged has the right to come together and beat up the abuser. The abuser's clan or family has no right to protect the abuser in such a case.

Whoever falsely claim another's property like house or land etc., out of arrogance, is liable to swear an oath. If s/he is not afraid to take an oath then s/he has to take an oath with *vatho phou* (his whole household). In case s/he is single and has no offspring then an oath on

her/his name is considered sufficient. But if s/he has already taken oath in the past against her/his name and her/his relatives who would be inheriting her/his property refuse to give the oath, then s/he automatically loses the case (Personal interview on 1st May, 2012).

Malice (*Kelhiececü*)

If a domesticated animal is injured or killed by another person, the culprit has to pay twice the sum of the animal. For injuring the animal, the culprit has to nurse the animal, but if the owner files a case, then the culprit has to pay one third of the price of the animal to the owner. In case, the culprit denies the charge s/he has to swear an oath.

If anybody contaminates another person's fishery by poisoning the fishes, and if the culprit is caught then according to the size of the fishery, the culprit has to compensate the owner.

If anyone blocks the water channel of another person, which results in drying up of the fields, then a case is filed against accused. Sometimes the accused is made to pay for damaging the crops (Personal interview on 14th April, 2013).

Attack/Fight (*Kevüketa*)

If two or more persons attack a person, the case is heard and then according to the weight of the crime, punishment is given. If in the course of a fight or being attacked, the victim enters someone's house for safety/shelter/refugee, her/his attackers are forbidden to attack him inside the house. In such a case, the owner of the house becomes her/his refuge. An incident is narrated below as witnessed by the researcher.

In 1996, a fight broke out between two groups of people during which a man from a particular village was attacked. He fled to his sister's house in another village for safety, but the other group went after him. Unaware that the other men were in search of him, he went

out of his sister's house and came in contact with the people searching for him. When he was attacked, he ran and entered the house of Mr. X for shelter. The attackers charged him to come out of the house. However, the brother of Mr. X came out and addressed them saying, since he had taking refuge under their roof, they can do no harm to him according to the customary laws. On hearing the deliberation, the attackers no sooner left the spot without harming or causing commotion.

It is a serious offence if anybody goes into the house of another person and attacks another person. In such a case, the attacker is liable to be punished heavily as deemed fit by the people. Or if s/he is overpowered by the house-owner and is hurt or wounded seriously by the owner of the house, the attacker has no right to file a case against the house owner as s/he has trespassed into another person's house to cause harm.

Theft (*Kerügou*)

In the Angami society, whoever commits an offence of theft (*kerügou*) is liable to compensate the owner by payment of a fine. The compensation of the stolen property is to the tune of seven times the value of what was stolen *i.e.*, one rupee, the offender is to pay seven rupees, and for one chicken it is seven chickens. This in Angami is known as *se puo se thenie* (seven-fold payment), the origin of which has already been discussed earlier.

Among the Angamis, anyone who buys stolen goods is equally liable as the thief. In case of buying stolen goods, the one who buys it is held accountable and has to pay seven times the amount of the things he bought if the thief is not caught or identified. But when the thief is identified and caught, the thief pays seven times the sum of the stolen goods to the owner. If the thief is not caught the one who bought the stolen good is charged with theft. In such a case, the one who bought the stolen goods has to prove her/his innocence by swearing an oath that s/he has not committed the theft. The oath prevents the buyer from paying seven times the amount of the stolen property.

If anything is stolen and the thief is not known, a ritual known as *Tshieya* is performed. *Tshieya* is a ritual where a banana stem is carved in the form of a human and all the menfolk of the village spear the banana stem. A morally and physically strong man (*thena*) throws the first spear followed by the rest saying *hauha mha rügukelieu zo* (this is the thief who has committed the theft). Five days of *kenyü* is observed to bring about the desired result. If all the observances are properly done, the Angamis believe that the thief will die. If anyone refuses to throw his spear at the banana stem, he is identified as the thief. If a man commits the theft but spears the banana stem, it is believed that his act may kill him (Zhale 1995, p. 70).

Slander (*Ketho Kemo*)

If a rumour is spread and if anyone files a case against the rumour, the one who spread the rumour and the one who files the case are required to swear an oath (*kesiakie*). If anyone of them refuses to swear the oath, s/he is penalized and s/he has to apologise for the slander and also pay a certain amount of money (the amount depends on the seriousness of the case). An incident is narrated below:

A man files a case against another person saying that he is plotting to kill him. The alleged accused heard from a third person that the litigant was plotting to kill him and asked why the litigant wanted to kill him. So the litigant filed a case for false accusations. During the hearing, the third person was also summoned, after taking all their statements, the case was found to be a misunderstanding between the litigant and the third person. As a result they were asked to *kesiakei* (swear an oath) to prove their innocence and settle the case forever.

If a person bears false witness against anyone, and if evidence is established to that effect, s/he is punished by imposing a fine of any amount as deemed fit by the people (Personal interview on 1st May, 2012).

4.7.5. Marriage and Divorce Laws (*Kese Kerikecü mu Thenu Thepfu Kevakecü*)

In this section, laws regarding marriage, bride price, annulment, divorce and remarriage in the Angami society are discussed.

4.7.5.1. Marriage (*Kese Kerikecü*)

Marriage is a voluntary union of a man and a woman who are legally recognised as husband and wife and are accepted by the society, a union undertaken to establish a family. According to Elaine Storkey (1985), “by marriage the husband and wife are one person in law” (p. 36). According to the views of Hutton (1921), the Angami society is exogamous and monogamous as well (p. 219). The exogamous matrimonial custom is supported by the belief that offspring born of inter-clan or inter-tribal marriages are far superior to others (Ao 2004, pp. 43-44). Since the early times marriage between blood relations is a taboo. It is a general belief that crops bears no fruit and generations go astray, liable to be defeated by the enemy in case of incest. Violation of marriage custom is a grave offence and punishment for this is expulsion of the couple from the village (Ao, Sl. No. 94).

Polygamy and polyandry are not allowed in the Angami society, but levirate and sororate marriages are not forbidden nor are they considered obligatory. There are instances when a woman marries her husband's brother after the death of her husband, in order to maintain the marital relation with the family. A man could marry his deceased wife's sister (Bhattacharjee 1990, p. 114). It is for personal reasons and it is believed that due to the blood relations between the child and step-mother, the consanguineous relationship is maintained. However, these social norms are not enforced.

There are two forms of marriages among the Angamis, viz., ceremonial and informal marriages. The ceremonial marriage is celebrated with ceremony and formality, while the informal marriage is merely a man taking a girl into his house. Both forms of marriage are equally binding (Hutton 1921, pp. 219-220). In the Angami society, whoever breaks the

bond of marriage between the husband and the wife is required to pay a sum of Rs. 500 as a fine.

In marriages women play the most important role in the Angami society as the *liethomia* (the go-between/match maker) is always a woman. In arranged marriages, when a girl attains the marriageable age *i.e.*, 18 years and is able to perform and carry out all the domestic activities, the *liethomia* who is arranged by the boy's parents goes and proposes to the girl through her parents. The parents after taking into account the consent of the girl cite their dreams and omens after which they agree and accept the proposal. It is interesting to note here that dreams play a major role because if the dreams are bad, the girl and her family may not accept the proposal. There are also many instances where the girl refuses the proposal claiming that her dream is not good, where as in reality she does not want to marry the boy and cannot say so to her parents. Traditionally in love marriages, the boy and girl may meet from the *pele* (peer group). In such a case, the boy will tell his parents about the girl and if the parents agree to the match, they arrange for a *liethomia* to fix the marriage.

Marriages take place as soon as the proposal is accepted by the girl's parents and no social ceremony is performed for the engagement. However, today the marriage ceremony among the Angamis is a blend of the West and the indigenous ways. The practices of engagement, marriage ceremony with its attire and decoration truly are Western in its approach but in content the indigenous practices do find space in areas such as gifts and demands from either side as per the requirement of the customary practices.

4.7.5.2. Bride Price (*Thesa Thema*)

According to Rengma (2011), when a marriage is to take place, a clean spear and *dao* (machete) are given to the girl's house. The gifting and acceptance of these two items signify their approval for betrothal. The items also signify and symbolize peace and harmony between the families *i.e.*, misunderstanding or distrust has been done away with and a new relationship has begun. It also signifies that the way is open for future inter-

marriages between them (p. 16). According to Hutton (1921), the Angami marriage price consists of a spear, two pigs and fifteen or sixteen fowls. The significance of presenting a spear is regarded as the tribute of an inferior to a superior (p. 220). According to a personal interview, 4, 6 or 8 clean and uncut spades are given to the girl's house as a sign of pacification on the night of the marriage. It is given not as a price for the bride but as per the demand of the law (4th May, 2013). According to the custom of the forefathers, a clean spear, spade and machete are given, for the rich cattle and pigs are slaughtered for the feast. In the present time, whether rich or poor unlike the traditional marriages, cattle and whatever may be demanded by the girl's side necessary for the marriage party, are provided to the girl's house.

4.7.5.3. Annulment (*Rhülakewa*)

If a marriage is annulled after the arrangement and formalities are done, the erring persons face punishment, but if the annulment is from the girl's side then she is not allowed to get married for the next three years, and if she violates this agreement and marries before the expiry of three years, she has to pay a sum of Rs. 5000 as a fine to the boy. If the annulment is from the boy's side, then the boy is not allowed to marry for one year. But if the boy marries before the expiry of one year he has to pay a sum of Rs. 2000 as a fine to the girl. In case, the marriage is annulled by the boy after learning that the girl is pregnant with another man's child then there is no case against the boy and he could marry any time. Annulment of a marriage happens in case when a member or a close relative of either the boy or the girl dies. For such a case, no penalty or punishment is imposed because in the Angami society it is a taboo to marry the same year if a family member or close relative expires (Personal interview on 4th May, 2013).

4.7.5.4. Divorce (*Thenu Thepfu Kevakecü*)

The Angamis have varied binding grounds of divorce. Divorce is not common, yet it is also not restricted. Incompatibility between the husband and the wife is one of the main reasons

for divorce (Hutton 1921, p. 224). According to Bhattacharjee (1990), the infidelity of the husband is not an argument for divorce (p. 114).

As Hutton has pointed out, incompatibility is one of the main reasons for divorce. This may be because of the arranged marriage system. In some cases, if the husband and wife decide to separate due to incompatibility, the wife goes back to her parent's home along with all the belongings she has brought with her during the marriage. The husband also does not have any right to claim compensation for the expenditure he has spent on the marriage. The moral and social conduct of a woman is an important reason for divorce. Constant quarrels, negligence in domestic work, inhospitality and arrogance can also lead to divorce. In such cases, the wife has the right to claim one-third of the property acquired by them together.

In marriage, if the wife seeks divorce without any genuine reason or if divorce is a result of an extra-marital affair by the wife, the husband has every right to retain all the things his wife has brought along with her at the time of marriage. The husband is also entitled to get back the things from the woman's parents given at the time of marriage. If the wife is caught red-handed, indulging in a sexual act with another man or if the wife is caught having an extra-marital affair, both the woman and her lover could be killed; otherwise the woman is stripped, and left only with only her *neikhro* (undergarments), her nose chopped off and her hair shaven and she is sent back to her parents or brothers. If the lover of the lady is killed that same day by the lady's husband, there is no law against the man. But if the lover escapes on that day, he will have to pay a fine of Rs. 1000 to the husband (Personal interview on 4th May, 2013).

If the wife divorces her husband within a few days after their marriage and has refused to consummate their marriage, the husband is entitled to confiscate all her belongings. But if their marriage is consummated then she is entitled to take all she has brought with her at the time of marriage (Personal interview on 26th May, 2013).

According to Ao (2004), the grounds of divorce are:

1. Pregnancy caused by another man, which is detected after marriage.

2. Adultery by either of the partners.
3. Insanity and if suffering from incurable disease by either of the partners.
4. Impotency and barrenness of the husband and wife respectively.
5. Ill- treatment and desertion by either of the partners.
6. For want of children.
7. Conversion of religion (p. 45).

4.7.5.5. Remarriage (*Kiya Chülakelie*)

Remarriage is allowed in the Angami society. The second marriage may not be performed elaborately like the first but it is not looked down upon by the society. If a widow remarries she could take her children to her second husband's home. However, the children would continue to use and follow the clan of their deceased or biological father. In case of male children, they inherit the ancestral property of their deceased father. In case of a divorce, s/he could remarry after acquiring a formal divorce from the first husband/wife (Personal interview on 26th May, 2013).

4.7.6. Laws of Inheritance (*Siephro mu Kayie*)

Angami society being a patriarchal society, the law of inheritance permit only the male members to inherit the ancestral property (Venuh 2005, p. 25). Ancestral property is vested only in the hands of the male members (Vitso 2003, p. 87). Ancestral properties are divided among the brothers. The youngest son inherits the ancestral house and whatever things are left with the father. It is the responsibility of the youngest son to care for his aged parents. If any of the brothers dies without a male offspring then his share is divided between his brothers. But if the youngest son dies without any male offspring his share of property is given to any of the sons who will take care of the aged parents or the parents decide upon whom the property should be left to.

The inheritance of ancestral property is known as *Siephro*, it could be owned only by the male children. If there is no male offspring, the ancestral property is given to the father's nearest male relatives. The possession of ancestral property by the next of kin is known as *Kayie*. The ancestral property is greatly valued and the selling of ancestral property is a taboo among the Angamis. Forest and land (both terrace and *jhum*) are owned collectively by the sons. But if any of the sons wants to own them individually then the properties are divided.

Women do not have the customary right to inherit ancestral property (Vitso 2003, pp. 86-87). Unlike the sons who inherit the ancestral property, the daughters are given acquired property of their parents. Acquired property could be both movable and immovable property. Immovable properties which are not in the domain of ancestral property and movable properties are given to daughters. However, a daughter could also inherit her father's property including land or forest based on her father's 'will' only. But a son could inherit all his father's properties even if there is no 'will' of the father. It is believed that disobedience to the terms of the father's will brings misfortune on person who is culpable (Rengma 2011, p. 19).

A widow has full right to use her deceased husband's property. She is also entitled to one third of her deceased husband's ancestral property and the rest are controlled by the sons or the husband's brothers. She has the right over the ownership of all the acquired property as long as she remains a widow. If she remarries, all the properties are given to the sons, the husband's brothers or the nearest male kin and she loses her right over the use of these properties (Personal interview on 4th April, 2013). A widow is permitted to stay in her husband's house with her children. If she has male offspring the ancestral property would be inherited her son(s). But if she does not have any male offspring from her deceased husband, she is not entitled to inherit her husband's property, yet she is permitted to use it as long as she lives and continues with her widowhood (Venuh 2005, p. 26).

4.7.7. Laws Connected with Birth

In the Angami society, as soon as a child is born anyone present in the house is supposed to touch the forehead of the child with her/his saliva on her/his finger. This marks the first ritual for the birth of a child. A woman after giving birth is kept separate from other members of the household, provided with a separate bed and a separate hearth. Immediately after delivery and before cutting off the naval string, she is fed with rice-beer, rice and flesh of a hen (never that of a cock). After cutting off the navel cord, the baby is washed with warm water. After the birth of a child, the husband remains in *genna* for five days, after the expiry of five days the baby is again given a bath (Hutton 1921, pp. 214-215).

According to the customary laws of the Angami society, on the fifth day after a child is born, the baby is taken outside the village gate (*kharu*) to pluck two clean leaves and returned to the village. If the child is a boy, a man will take him out and if the child is a girl a woman will take her out. This marks the first outing of the child (*unuoyo zetsu phrakecui*) and also marks the end of the birth ritual. In case, the child is born dead or dies before the completion of five days *genna*, the child is buried inside the house. If a woman dies at childbirth or before the completion of five days *genna*, a hole is made on the side of the house and through that hole the woman is taken out for burial along with all her belongings (Hutton 1921, p. 216).

4.7.8. Laws Connected with Death

According to Singh (2008), customary funeral practices are based on the religious faith of the people. Dead bodies are buried with honour and dignity, because the people believe in the survival of the soul even after death (p. 45). Whenever death happens in the Angami society *genna* is observed as a mark of respect to the departed soul (Ao 2004, p. 47). In the Angami society when a person dies, a funeral feast known as *theprie* is given. *Theprie* is given by the deceased's family members to her/his surviving friends and loved ones as the last feast in memory of the deceased person. A ritual known as *mekhruzie* is performed

annually in remembrance of the death. This is done during the *Terhünyi genna*. The ritual *Mekhru zie* is performed by women. For the ritual of *Mekhru zie*, the woman of the house prepares rice beer the previous night. Early the next morning she pours rice beer on the graves in moulded leaves (*theü*). *Mekhruzie* comes to an end with a ritual known as *Kesiameruo*. It is a taboo among the Angamis to narrate how *Kesiameruo* is performed. During this ritual, tombs are cleansed and the bones of those buried outside the village are brought back to the village and reburied (Kelio 2012, p. 61). Till today, the Angamis practice *theprie* when a person dies. The Angami death ceremony is incomplete without wailing and weeping by the family members and friends of the deceased. Even in the contemporary times, weeping and wailing form an essential part of the death ceremony.

4.7.9. Laws Connected with Agriculture

The main occupation of the traditional Angami society is agriculture. In the traditional society all activities revolve around the agricultural practices. Celebration of festivals, merry-making and marriage are done according to the agricultural season and practices (Vitso 2003, p. 33). Festivals are mostly connected to agricultural operations. The different agricultural operations and activities such as ploughing, sowing the seed, transplanting, weeding and harvesting are done in a particular agricultural season and are often marked with festivals (Vitso 2003, p. 33).

The ploughing of a field is done after the *Terhünyi* festival which falls in the month of December (*Rüde*) and January (*Doshü*). The *Phichü-u* (the oldest) of the clan is the first to plough his field soon after the feast of *Terhünyi*. Before the feast of *Terhünyi* it is a social taboo to plough the field. If anyone violates this rule, it is a common belief that calamities befall the offender. A common and popular narration goes, a man named Kevi-u ploughed his field before *Terhünyi* and died that very year. It is a common belief that Kevi-u's life was shortened because he disobeyed the social taboo of ploughing the field before *Terhünyi*.

Tsiakra follows *Sekrenyi*; it falls in the month of March (*Kera*) and April (*Ketshü*). *Tsiakra* is the season of sowing seeds. The sowing of seeds is first initiated by *Tsiakrü-u* (the first sower). No one is permitted to sow any kinds of seeds before the *Tsiakrü-u* (the first sower). A day is specially set aside for *Tsiakrü-u* to initiate sowing of seeds. After he initiates the sowing of seeds, the entire community commences the sowing of seeds.

After sowing of seeds, the villagers get ready for transplantation. The season for transplantation of seedlings is done from May (*Cacü*) to July (*Mvüsa*). During this season *Khuthonyi* or *Kirunyi* are observed. The *Phichü-u* of the village performs the initiation of transplantation, which in *Angami* is known as *tekhu sekhriü*. Only after the *tekhu sekhriü* by the *Phichü-u* of the village, the community is permitted to carry out transplantation. Those who transplant their seedlings before the *tekhu sekhriü* are punished according to the laws of the village. *Deinya* (case where the violators are brought before the elders and the case is discussed in public) is enacted upon the violators.

Khupfhiünyi falls in the month of October (*Thenyie*). This is followed by the harvesting season which falls in the month of October (*Thenyie*) and November (*Ziephie*). It is the most important season, as the people bring in the whole year's labour. A woman known as *Liedepfü* (initiator of harvest) initiates the harvest which is followed by the entire community (Personal interview on 1st May, 2012). The *Angami* society considers the harvest season as the most important season of the year. In this season, the woman is respected for her work as she is the initiator of the harvest season. Without *liedepfü* (the woman who initiate the harvest) there is no harvest for the *Angami* society as nobody is permitted to harvest before she initiate it. Women in *Angami* society not only initiate the harvest but also seek blessings for the harvest to be plentiful.

Glancing through the agricultural practices of the *Angamis*, it seem as though the social control is easily possible and also shows how customary laws regulate the lives of the people in the absence of written laws (Vitso 2003, p. 34). As discussed above, agriculture and festivals are connected to each other and one cannot supersede the other. The different

festivals in the Angami society and the role played by women will be discussed in the next chapter.

Customary laws are traditional practices which provide rules of behaviour, enforcement procedure and punishment of violators. It deals with all aspects of life. Due importance is given to customary laws as a special safeguard in Article 371(a) of the Indian Constitution is guaranteed. The Angami customary laws are a unique form of governance. It was during the British period that customary laws became more effective, though it was in use before the colonial period. The primary policies of the colonial powers were directed towards law and order, foundation of administrative system and dispensing of justice. In the execution of customary laws, the verdict of the *Gaonbura* and *Dobashi* is final and no one can transfer the case to the court to re-probe or repeal against it.

Customary laws cover all walks of life such as, settlement of conflicts and disputes, allocation and control of resources, social issues like theft, adultery etc. Customary laws are the offshoot of the experiences of the people, which are formulated for the benefit of those people who share the same cultural experiences. Therefore, they are cost-effective and immediate in addressing the issues and problems of that cultural group. However, one has to bear in mind that the customary laws, especially the Angami customary laws are emergence of the experience of the patriarchal society and so they are male chauvinistic in nature. These chauvinistic customary laws of the Angamis tend to suppress and discriminate against women in most areas of life. Even in the contemporary Angami society acceptance of women's leadership is a big challenge, and they are left out in decision making. Leadership and decision making are the sacrosanct duty of the male in Angami society. As a result, issues concerning women are also observed and settled from the men's perspective overriding women's rights and opinions. Thus, gender biased customary laws needs rectification for a better and a just society.