CHAPTER - II
ORIGIN OF CUSTOMARY LAWS

The origin of custom is not known. In the primitive age, when society was in rudimentary stages there was no king or Sovereign to frame rules or set law but, there was collection of individuals. Individuals formed into family and family extended into tribe, clan and community, then society came into being, and one family was independent of another and followed its own head. Will or pleasure of the head was law unto its own family members. As families expanded into a community and the community into society, clan, and tribe, certain rules and principles of code of conduct were established for guidance of its members. It continued for ages and became common practice which was handed down from generation to generation. That practice came to be regarded as sacred tradition and custom. Thus, the custom as a practice that by, its common adoption and long unvarying habit has come to have the force of law.

When human being came to live in groups it was but natural that they should, for harmonious -group life conform to certain pattern of human behaviors. By experience man learnt that a particular mode of behavior or conduct was conducive to collective living. In course of time, a pattern of behavior emerged and by consistent adherence to it achieved spontaneous and conscious following by the member of the group. When this stage is reached the pattern of human behaviors is called liege. As Mayne puts it, a belief in the propriety of the imperative nature of a particular course of conduct produce a uniformity of behaviors in following it and uniformity of behavior in following a particular course of conduct produce a belief that it is imperative or proper to do so. When from either cause or from both causes, a uniform and persistent usage has molded the life and regulates the dealings of a particular class of community, it becomes a customs. In all societies of the world custom has enjoyed a very high place in varying degree in the regulation of human conduct. Custom arises whenever a few human beings come together, as no association of human beings can exist permanently without adopting consciously or unconsciously, some definite rules governing reciprocal rights and obligations. Custom is a habitual course of conduct observed uniformly and voluntarily by the people concerned. People find
any act to be good and beneficial which is agreeable to their disposition. They practice it and in course of time by frequent observation and on account of its approval and acceptance by the community for generations a custom are evolved. The best illustration of the formation of such habitual course of action as stated by T.E Holland, is the mode in which a path is formed across a lawn. One man crosses a lawn in the direction which is suggested either by the purpose he has in view or by more accident or for reasons of convenience. If this process continues in the sense that for a period of time other follows the same track and for similar reasons. Eventually what emerges is a clear foot-path across the lawn with green grass on either side. Almost in an identical manner customs comes into existence. Custom is one of the oldest forms of lawmaking. In primitive societies human conduct was regulated by practices which grew up spontaneously and were later adopted by the people. The generally observed course of conduct, which is the main characteristic of custom, thus originated.

Imitation plays an important role in the growth of a custom. Such imitation may very often be guided purely by religious or superstitious adherence to a course of conduct. In early political societies, the king did not make laws but administered justice according to the popular notion of right and wrong which were enshrined in the course of conduct pursued by people in general. What was accepted by the generality of the people and embodied in their customs was deemed to be right and which was disapproved by them or not embodied in their customs was deemed to be wrong.

**POSITION OF CUSTOM IN VARIOUS ANCIENT LEGAL SYSTEMS:**

In most of the legal system of the world or jurisprudence particularly, in the ancient legal system, custom has played an extremely significant role as source of law till other sources of law like legislation and precedent acquire prominence. Customs have been the most potent forms in molding the ancient Hindu law. The commentators and text writers have by and large included the prevalent customs in their writings.

The Smritis have strongly recommended that customs be followed. Manu declared that it is the duty of the king to decide all cases according to principles drawn
from local usages. Yajnavalkya said that when a country is conquered, its usages, customs and family traditions should be followed as they are followed before. Narada also says that custom decides everything and overrules the sacred law.

Under the British regime, importance and validity of the native customs remained unimpaired. When law was enacted on any matter, generally local customs were saved expressly. The legislature of the different provinces of India, whenever necessary, always provided a saving clause in the act passed by them guarding the observance of the customs and usages of the country whether of a family of a tribe or of a district, so that the judicial officers may in deciding cases give effect to the ancient customs and usages of the people.

The importance of customs in Hindu law was also recognized expressly by their lordship of the Privy Council in the case of collector of Madura v/s Mooto Ramligam in 1868, Neelkisto Deb v/s Beerchunder 1869 and Bhyah Ram Singh v/s Bhyah ugar Singh 1870. In all these cases, it is observed that in Hindu Law the clear proof of usage will outweigh the written text of law. This means, that if a custom is established as proof on a point of Hindu law, then the courts are bound to follow it even though it may be inconsistent with some express text in the Dharmasustras or the commentaries.

It is also noteworthy that by the Act of the British Parliament, 21 Geo, III, c.70, S.17 and by the Indian Regulation IV of 1793, S.15, customs and usages of India were recognized. All the British courts in India were required to determine question of civil rights and status and in cases between Indians are to be decided according to such customs and usages. If the parties are Hindus, the customs and usages of Hindus will apply to them. If the parties are Mohammedans, the customs and usages of Mohammedans will apply to them. In Mohammedans law also URF (custom) played an important role. Hedaya says that customs does not command any spiritual authority like Ijima (Tradition) of the learned, but a transaction sanctioned by custom is legally in operation even if it be in violation of a rule of law derived from kiyas (analogy). It must not however, be opposed to a clear text of Koran or of an authentic tradition.
In Surmast Khan V/S Kadir Dad Khan, Vol. - I F. Rate N.W P-38 1866, a full bench of the High Court of the North West Provinces has ruled that where a family has professed Mohammedan religions for successive generations, the court in this country on the occasion of a claim to succession being met by a plea of social usages are bound to dispose of the case under the Mohammedan law and cannot recognize any such plea of usage which is opposed to the Mohammedan laws. The Privy Council in a case referred on this question as one which had not till then been settled, clearly indicated that in their opinions, it was doubtful whether Mohammedan law did admit of any control by customs. This opinion was held in Jowala Buksh v/s Dharam Singh 10 MIA 511 at p 538 1866. In England, in the words of chief Justice, Coke, 'Customs are of the main triangles of the laws of England. In the seventeen century Hal, also emphasize the importance of customs. Black stones writing in the eighteen century stated that the municipal law of England may be divided into two classes, the ex non scripta (the unwritten common law) and the ex scripta (the written statute of law). Pollock says that common law is a customary law. The British constitutional law is described as the law and customs of constitution. Thus, any law based on custom is known as customary law. In fact custom is one of the important sources of the modern law. Custom is to society what law is to the state, each is the expression and the instruments to realization of men's insight and ability of the principles of right, justice and equity.

Types of Customs:

The customs in general are same but for the convenience, the customs may be divided into following groups:

i) **Legal Custom**: A legal Custom is one whose aged authority is mandatory. Such customs are not only recognized but also enforced by law. The rule of pre-emption in Mohammedan law is an example of such legal custom.

ii) **Local custom**: A local custom means a custom which exists in a particular locality like at District, Circles / Tahsils or a Village and which govern all persons, irrespective of religion, caste and community within its territory.

iii) **General custom**: A general customs is the custom prevailing throughout the entire realms and no jurisdiction limit can easily be prescribed, but
applies to all the people of same community irrespective of its area or territory.

iv) **Conventional custom**: A conventional custom is one whose authority or application is conditional on its acceptance and incorporation in agreements between the interested parties to be bound by it or in other words, a conventional custom is an established practice which is binding not because of any legal compulsion but because of express or implied consent incorporated in a contract between the parties concerned. The rule concerning trade, contract, agreement etc are based on such Custom.

In India, customs have been incorporated in the codified laws, rules and regulations etc. Section 13 of Indian evidence Act 1872, which mentions that facts relevant when right or custom is in question, Section 48 of Indian evidence Act 1872 mentions opinion as to existence of right or customs when relevant\(^{20}\).

Article 13 (3) (a) of Indian Constitution says that "law" includes any ordinance, order, bye-law, rule, Regulation, Notification, custom or usage having in the territory of India in the form of law. Article 25 freedom of consciences and free profession practice and propagation of religion. Article 26 freedom to manage religion affairs. Article 28 freedoms as to attendance, faith religious instruction or religious worship in certain educational institutions; Articles (164, 240, 330, 332, 334, 335, 338, 339, and 342) are some of the examples\(^{21}\).

The Assam Frontier (Administration of Justice) Regulation, 1945 is one such important Regulation which provide for recognition of village authority by the administration under section 5 of the Regulation. People of Arunachal Pradesh are still settling their disputes as per their customs and customary law\(^{22}\).

A custom is legally recognized and enforced if it fulfills certain essential pre-requisites. These pre-requisites are as follows:

**Custom must be ancient**: Customs must have an immemorial antiquity or its origin must be beyond the human memory. This rule of antiquity has been followed in India. It has been held that a custom to be legal must be proved to have been in existence for a time preceding the memory of a man. Their lordships of the Privy Council observed
it in *Subhani v/s Nabnawab* AIR 1941 PC 21. A similar view has been expressed in *Kunwar Basant Singh V/s Kunwar Briji Roy saran singh* AIR 1935 cal 180.

**Custom must be continuous:** Custom must have continued existence without interruption since its origin and recognized by the community without any intervening break. In the case of *Mohammed Hussain forki v/s syed miam shaheb* (1942) 1 mad lJ 564 at 568-69, it was observed that unless there is a continuity, there is no custom.

**Custom must be reasonable:** A custom to be valid must be reasonable. Justice, Parkar while observing in *Johnson v/s clarek* 1908 1ch 303, Says that a custom to be a valid should not be unreasonable and it should not be against reason.

**Custom must not be immoral:** It was held in *Gopi V/s Jaggo* 1936. 63 1A 295, that a custom to be valid must not be immoral but there is no fixed formula to test whether a custom is immoral or moral. The Privy Council upheld a custom which recognized and sanctioned re-marriage of a woman who had been abandoned and deserted by her husband. According to the custom desertions by the husband dissolved the marriage tie leaving the woman free to re-marry. But in *Mathara naiki v/s ESU Naikin* (1880) ILR 4 bom 545, the court held that the adoption of girls by dancing women as immoral. Since the adoption was designed to perpetuate this profession.

**Custom must not be contrary to justice equity or good conscience or opposed to public policy:** In *Budanso v/s faturr* AIR 1914 mad 192, it was observed that the customs which enable a woman to marry again during the life time of her first husband without any defined rules by which the marriage with the first husband is dissolved before the second marriage is contracted was held to be contrary to public policy. Therefore, if any custom is contrary to justice, equity or opposing to public policy that cannot be valid custom.

**Custom must not contravene to any express law:** A custom to be valid must be in conformity with the statute law and must not conflict with any statute. In England, no custom can take away the validity of an Act of Parliament. A custom
will not be recognized if there is conflict with some fundamental principle of common law. The same principle is applied in India. Custom has always been part and parcel of the society. If customs is recognized as the yard stick to regulate the society is known as customary law.

Origin of Nyishi:

The origin of Nyishi needs a serious scrutiny like any other community or tribe in India or in Arunachal Pradesh. The origin of Nyishi is still remain unexplored and enshrouded with legend, myths, mythologies, custom and customary laws. The ethnological information of the Nyishi can be traced only in ambiguous manner due to lack of written records and absence of archaeological evidence in chronological order at our disposal. But attempt has been made by some outside ethnographer, traveler, anthropologist, British administrator and some Indian writers of late. When we scan their works, none of them gives the correct picture of the Nyishi origin, name and nomenclature, their temperament, custom and customary law. Different theories have been put forwarded by different scholars who resulted in difference of opinion and endless distortion and confusion. G. W. Report says 'we have been in the habit of using the name of Pachim Daphla, Tagin Daphla and Abor Daphla. But the best authorities agree that there is little or no difference between the people'.

The physiognomy of the people exhibits generally and normally what is commonly known as the seythice or what Blum Enoch, terms the Mongolian type of the human family. The usual complexion is that of a pale brown or Isabel line hue, though in many cases it approaches to a much darker tint Observed by the William Robinson on origin of Nyishi.

The reputed ethnologist E.T Dalton observed that the Nyishi 'have normally the same Mongolian type of Physiognomy. There is no very material difference between the Abor (Adis) and Miri (Missing). They are evidently of common origin and the Daphlas (Nyishi) are of the same race'.

Pemberton reported "The Nyishi were originally supposed to occupy the whole hilly tract extending from Bhutan East". Waddel also give similar view and
says that the Nyishi live in the North of Brahmaputra which is reflected in the following lines. "This wild and little known tribe inhabits the mountains on the North side of the Brahmaputra between the Miri and the Akas to the north of where the Darrang and Lakhimpur district adjacent each others. Grierson a linguist reported that the Nyishi occupy the hills to the west of the Miris we find them in the eastern part of the Darrang district in village on the Bhareli (presently Kimin) river and to the east of it and in the west of Lakhimpur on the Darrang border north of the Brahmaputra."

The Russian ethnologist Meerwarth, observed that the Nyishi features are of Mongolian origin. They have the typically Mongolian cheekbones, round face and broad noses, like all hill people they (Nyishi) are a sturdy race capable of great exertion and their muscular is very well developed.

Bor, described that "the foothills of the Himalaya in Assam between the Bhoralli (Kamin) and the Khru (Kurung) river are inhabited by a race of hill people known as Daphlas (Nyishi). The origin of this name is shrouded in mystery and they invariably refine to themselves as Bangni (Nyishi). As far as it is known this tribe extends north wards to the foothill of the lofty snow covered mountains known as the Se-La Range. These information's are supplemented by other Scholars. Basu stated that "The Daphlas (Nyishi) wear a head dress strengthened by cane bands on outer surface." He reflected the dress of the Nyishi after referring these documents. It is presumed that the Nyishi have been settling in this area for several centuries, but their actual roots of migrations and starting time of settlement is yet not known, due to lack of written documents. But, no society exists without system, practices, tradition, customs and customary law. These system, practice, tradition, custom and customary laws are found in the myths, legend, mythology, folk tales, folklore narrations and genealogy of the Nyishi which is in form of oral traditions.

After scanning the written sources available on the origin of the Nyishi, let us step into the oral sources to construct the history of the Nyishi tribe. Myths, legends, folktales, folklore and narration are very popular among the tribes’ men to represent their origin, migration and tradition. Like other communities in this world, the Nyishi community also adopts oral tradition to represent their idea of origin of the universe,
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creations of living creatures including human race and the formation of society and system which was transmitted from generation to generations; it will be useful to browse about myths. According to Bolle, “A myth is an expression of the sacred in word, it reports realities and events from the origin of the word that remains valid for the basis and purpose of all there is consequently a myths function as a model for human activity of society’s wisdom and knowledge”. He also said that a myth whether its subject is the acts of deities or other extraordinary events always takes us back to beginning of all things, hence, the cosmology the birth of the world, is a principle theme.

According to noted mythologist G.S Kirk “Myths concern us not only for the part they play in all primitive, illiterate tribal or non-urban cultures, which makes them one of the main objects of anthropological interests but, also because of Men’s enduring insistence on carrying quasi-mythical modes of thought, expression and communication into a supposedly scientific age. Tonkin stated that, Myth is a representative of the past which historians recognize but, generally as an alternative to proper history. V. Elwin stated that, myths is the history of its authors not of its subject, it records the lives not of superhuman heroes, but of poetic nations.

The meaning of “Myth according to oxford Dictionary, a traditional story concerning the early history of a people or explaining a natural or social facts a widely held but false belief, an imaginary person or things. These myths are transmitted from generation to generations through oral tradition. An oral Tradition according to Jan Vansina, is the Verbal messages which are reported statements from the past beyond the present generation. According to R. Thomas “Oral traditions is its transmission by word of mouth over a period longer than the contemporary generation.

According to Hartland E.S “Law and Custom are not one it is wrong to identify law with custom and the primitive law is the totally of the customs of a tribe. According to Adamson “Customary law for our purpose is social form the neglect or infraction of which is regularly meet in threat or infant by the application of physical form by an individual possessing the socially recognized privileged or so acting.”
The Myths according to Holly bible, in the beginning God created the heaven and the earth. And the earth was without form and void and darkness was upon the face of the deep and the spirit of God moved upon the face of the waters. And God said let there be light and there was light and god say the light that it was good and god divided the light from the darkness and God called the light day and the darkness he called night and the evening and the morning were the first day. And God said, let there be a firmament in the midst of the water, and let it divide the water from the waters. And God made the firmament, and divided the waters which were under the firmament from the water which were above the firmament and it was so. And God called the firmament heaven and the evening and the morning were the second day and God said let the water under the heaven be gathered together unto one pleas and let the dry land appears and it was so and god called the dry land earth and the gathering together of the waters called the seas and god saw that it was good. And God said let the earth bring forth grass the herb yielding seed and the fruit tree yielding fruit after his kind whose seed is in itself upon the earth and it was so and the earth brought forth grass and hereby yielding seed after his kind and the tree yielding fruit whose seed was in itself after his kind and god saw that it was good (genesis 1 to 12) God continued the creation of living creator and blessing. And God said, let us make man in our image, after our likeness and let them have dominion over the fish of the seas, and over the fowl of the air, and over the cattle and over all the earth and over every creeping thing that creep upon the earth. So God created man in his own image, in the image of god created he him male and female created he them, 2: 21.

A noted mathematician Prof. S Hawking once remarks that “So long as the Universe had a beginning, we could suppose it had a creator”. Besides, the science has come to believe that first primitive forms of life developed in the ocean. This was possibly, as a result of chance combination of forms into large structure called Macromolecules, then gradually developed into higher form of life such as fish, reptiles, mammals and ultimately the human race. M C Howard remarks that “Myths express the unobservable realities of religious belief in terms of observable phenomena likes symbols, they link the supernatural and sacred with the mundane and concrete if religions beliefs are based on social realities and contradictions but are transformed into realities that are thought to transcend these more mundane conditions, it is through myth that we bring religions back to earth”. He further
observes, "Myths in facts serve a Varity of functions. They may serve as cultural history alluding to actual events and practices from the past, such as migration, earlier forms of social organization and natural occurrence like meteor showers eclipses or fool floods. The events described in myths however may be apocryphal. Even when the events depicted in a myth do have historical validity they do not simply represent records of the past, for myths use history, for social and religious purpose." While a 'Marwick, stated that myths exploit the past in order to serve some current national, political or religious purposes. From the above observation it is now reason to be rely that myth is found every where in any society which is the basis of their historical background. But different society have different narration and stories.

Origin of custom and customary law in the Nyishi Society:

Like any other society in the world, Nyishi of Arunachal Pradesh also have their religious practice, social code and legal institution which is based on myth and legend. The myths and legends tell about religious observation, social practices, modes and methods of Justice delivery which are contained in oral literature of the Nyishi. These myths, customs, usages and customary law are transmitted from generation to generations thorough oral literature generally like narration, folktale, folklore, songs, *Eidd Bengnam* (legendary narration song), *Bengjumnam* (narration), *Nemye kabnam* (narration by crying), *buya sonam* (legendary narration of song with dance), *Gumbabanam* (marry making song), *Uyus Barnam* (incantation), *peep cheepam* (boiled egg examination), *Ruksen Kunam* (chicken liver examination), *Reeckesin kunam* (pig liver examination), *Yuma tungnam* (mock dream rituals), *Tajor Panam* (rituals for offering), *oram panam* (ritual for immediate heeling), *Yollow Barnam/Yollow panam*, (highest form of rituals for protection, peace and prosperity), *Netting tingnam* (citation of incident as an example), *Nyugung pagu tonam* (narration of genealogy). There is a famous saying among the Nyishi that goes like: "Netting sangtungam tabin peema - Harming sangbeeham tapum peema." The literal meaning of saying is that the past historic reference once cited will always remain and be remembered by the people. It cannot be destroyed by any thing and it will remain generation to generations. On the basis of this famous saying, the origin
of the customs, usages and customary laws of Nyishi are found in myths and legend. The mythology related to origin of customs and tradition goes as follows.

Nyishi believe that chan/ chenee (creator/ super power) created the universe including all living creature. The time of creation is called kurum - kulu (the period unknown to past and future). When Chan or chenee invoked the power of chenee rolu dolah (spirit of water) appeared and Jengbu Aabhu and Pabha Aabbu (Considered as super natural power) appeared. During the time universe was in shapeless jelly form, no surrounding, no boundary, and no life. It was followed by Hogargarnam or ballah barman (origin of object or substance) and followed by seaching (earth), Nedyio(sky), Takar (stars), Auz or dori (air), Hai or Issh (water), Ujang or Doni (sun) and Pholu (moon), and it was separated. The process continue on the saching (earth), the langkhu (stone), and kamkhuk darnam/darlingnam (soil), was subsequently created. Nasing-namang, sangne- langne (grass, creeper, trees and plants), Tapum- tarup (insects and flies), pathah- kabung (birds and mice’s), tab- tapik (snakes and lice) Iki-Purak (dogs and fowls) sabing-erick (goat and pig). Seew- Sabbe (cow and bostrontale) was created. After that nyikum nyia hoggargarnam / garlingnam or ballah barman / barlingnam (human like creatures) were created. Now the universe is full of life and objects. This human like creature is called Thayni (legendry four fathers of human generations). There were many generation of Thyani. Thyani was omnipotent, omnipresent and had cordial and healthy atmosphere with other creatures. They share the universe as member of families. Aabhu Thyani could easily enter into marriage tie with any objects as he desired. Nyima Thyani married Chewa chengdig ne and son Nyidig thayni was born. Nyidig thayni married chiwa chieying and nyiying thyani was bron. From Nyiying Thanyi two sons were born namely, Nyayu Thyani (origin of human generation) and Poyu Thyani (origin of uyus). Nyayu Thyani married chiwa changitune and Nyder Thyani was born. Thyani also had matrimonial relation with other objects. Some of the prominent name of wives and children’s are as follow:

- Chingdig Temi, - children are Nyibi hiriu and yicha tekhi.
- Chitung Ben, - children are Nya Takin and Waya Tamin (considered as best arrow shooter) lost link but priest still can feel existence related to Yob Uyus.
➢ *Diir Longae*, - children are *Diir Taach* and *Diir Taku piiching* and *piidiw* (small birds which destroy crops).

➢ *Saa Lochum*, - children are *Nyobi Yachum Yache* semi human with uncanny power.

➢ *Nyedo Mimi*, - children are *mitu tudi* and *meer yami* semi human form lost links.

➢ *Chingdig nyibi*, - children are *Nyibu Rabchi* (lilly puts)

➢ *Niyo chiyo- child Nyir dumbi* and *nyina sarkar* multi headed human.

➢ *Kusuq dungneg -child Tapik* (Lech)

➢ *Dug loyii Temii- pako Papu, penchee tagging* (a seasonal birds which inform the seasons for agricultural activities)

➢ *Jinyir Gimburi – Hirr loma* and *hirr loye*. Manufacturer and designer of precious items like iron, barest, gold etc.

➢ *Hirr gimburi – Nya loma* - Manufacturer and designer of *meij, talu, tasang*

At last *Thanyi* married *tewne hema* a very (enormous frog). One day they had an argument and his wife set her self on fire and died. He was also injured during efforts to save his wife including his private organs. He was busy on *Aeer donam* (mooring) at place called *saa rilo'geko*. His silence was broken by a *Teying* (fly) and he became restless and mischief. In order to compensate he forced *Teying* (fly) to became his wife. *Teying* (Fly) was killed by *porak* (fowls) and fowl became his wife. *Porak* was killed by *Ikki* (beach) and became his wife. *Ikki* (beach) was killed by goat and goat became his wife. Goat was killed by pig and pig became his wife. Pig was killed by *sebbe* (bosfrontales) and *sebbe* became his wife. *Sebbe* was killed by trees and became his wife. On the way he notices some beautiful girls’ busy husking paddy. They were *Donyi lundi, Donyi Lungryo, Donyi Yaye Chunji* and *Jangte Nee*.

They were the daughters of *Anne Donyi. Aabhu Thanyi* like the girls and played tricks saying if any one could breaks his stick. Out of curiosity *Donyi Yaye Chunji* broke the stick, in return *Thanyi* demand some one as partner. Resulted *Aabhu Thanyi* married *Donyi Yaye Chunji* a daughter of *Anne Donyi* (mother Sun). They had their baby after some year. Hence, need for a *Nyabang* (baby sitter)) arose. *Donyi Yaye Chunji* asked her husband *Aabhu Thanyi* to go to her parents’ house and bring her sister to help them raise their baby. She also instructs *Aabhu Thanyi* to follow the route Called *Hath Sakho* (safer and prosperous route). If he follow this route he will
be safe and meet fortune and prosperity. She forbade him from taking *Hech Sakho* route (unsafe and misfortune route). This route is frequented by misfortune and poverty stricken.

However, *Aabhu Thanyi* did not heed his wife suggestion, so he followed the *Hech Sakho* route. On the way he meets *Yuma Tada* the epitome of poverty and misfortune. *Aabhu Thanyi* was rob up and deprived of his good dresses. *Thanyi* was in fetters and very shabby. He was waylaid in the middle of the journey forcing *Aabhu Thanyi* to return back to his wife and child.

However, *Aabhu Thanyi* was feeling so ashamed to face his wife and child. Therefore, he transformed himself into a dog and reached his home. After reaching home, he could not reveal that the dog is himself. But his wife senses something wrong and felt that the dog is extraordinary. Hence she decided to test the dog to ascertain the reality.

Accordingly, *Donyi Yaye Chumji* spate on her palm and asked the dog to lick it up. Her presumption was that, if dog is real one, it will lick the spit on palm. Otherwise it will not lick the spit. In that case dog must be her beloved husband *Thanyi*. The dog did not lick the spit on *Donyi Yaye Chumji* palm. She pleaded *Aabhu Thanyi* to return to normal human form again and to give up dog form. He need not to feel ashamed of because of his encounter with *Yuma Tada* and resultant state of shabbiness and poverty. He could still regain his earlier position. But *Aabhu Thanyi* was unrelenting. *Aabhu Thanyi* adamant stand infuriated *Donyi Yaye Chumji* and she left for her parents’ house with her child thus, deserting her husband *Aabhu Thanyi*.

There is a mythology related to origin of *Bungrang Bungte* (middle man) which goes like this. After encounter with *Yuma Tada* at *Heach Sakho*, *Aabhu Thanyi* became very poor and was in a retch condition. His condition infuriated him. On top of it his wife and child also deserted him. All this made *Aabhu Thanyi* very depressed and frustration. Out of depressed and frustration led him to decide that he would destroy every thing in this universe including himself. This extreme decision of
Aabhu Thanyi was shocked and dismay to all the creatures of the universe at first. When reality downed on them, they were gripped with fear.

All the creatures of the universes consulted among themselves and decided to intervene led prominently by Sobu Uyus (benevolent spirit) Doriang Chajing, HebJarjoo and Gyab Punyo to negotiate and dissuade Thanyi from undertaking the destruction of the universe and him. Negotiator team Doriang Chajing, HebJarjoo and Gyab Punyo meet Aabhu Thanyi and persuaded him not to under take destruction of the universe and himself. They also offered to support Aabhu Thanyi to marriage with Jangtee nee, the sister of Donyi Yaye Chumji. Aabhu Thanyi was persuaded and accepted their offer to marry Jangtee nee and agree not to destroy universes. Thus, middle man role is originated.

When the proposal of Aabhu Thanyi marriage to Jangtee nee broke out many Dabu/Dane Uyus (Malevolent spirit) did not like it. Many of them were also interested to marry Jangtee nee. Uyus (Malevolent spirit) decided to guard and keep vigil around Jangtee nee to prevent Aabhu Thanyi meeting Jangtee nee. To overcome the obstacles and successes in his mission Aabhu Thanyi turned into a bird called Tacha Sala. When Jangtee nee was busy weaving in the porch of her house, Tacha Sala (small bird) flew over her and dropped the semen of Aabhu Thanyi on her fore head. Within no time semen of Aabhu Thanyi enter the womb of Jangtee nee and she became pregnant. This episode resulted in the origin of enmity.

This News was known to others also. In order to prevent Aabhu Thanyi, other also claims that they are the father of child. Thus, every one was claiming to be father of the child in the womb of Jangtee Nee, Jangtee Nee called all the claimants of child in her womb and told them that if the child is borne through head, it belong to Cher merr, if born through shoulder, it belongs to Pemerlyir, if born through stomach, it belongs to KirLyirboo and if child is born normal like any other creatures, it will be for Jinggang (poor) Thanyi.

In time Jangtee Nee delivered a baby son through normal birth like other creatures and she became Anne (Mother). Jangte Anne declared that the child belongs to Jinggang (poor) Thanyi. She accepted Aabhu Thanyi as her husband and
legal father of the child. This is the origin of invoice of Natural Justice in dispute settlement. But Uyus (malevolent) were not happy with out come and Jangtee Anne decision. They still claim her child as theirs. Jangtee Anne again arranged laming abka sunam/laming Abnam (archery competition). It was agreed upon by the entire claimant that, whoever wins the archery competition will be the father of child. On the appointed day of the competition, the competitor brought best of their bows and arrows in their possession and competition began. The arrows of Uyus could not hit the target but it was Aabhu Thanyi arrow alone hit the target and as per condition agreed Thanyi was declared winner also as father of child. This is the origin of archery compitaion.

The Uyus still did not agree to give up their claim on the Jangte Anne and child. Rather Uyus were enraged more by defeat after defeats. So they were more determined to avenge Thanyi and his family. Seeing the gravity of the situation, Jangte Anne again unfolded another plan to save Thanyi and his family. According to this a child will be allow to recognized his father by claiming into the man, who he recognized as his father and the entire claimant were agreed. Accordingly on appointed day every claimant came well dressed except Thanyi. They seat in circle and the child was let loose with pig liver tied on neck. However, child claim into the lap of Aabhu Thanyi thus, recognized him as his father. This incident is accepted as origin of Nyelee (dispute adjudication institution of Nyishi).

However, the Uyus were further enraged by this defeat and hatched conspiracy to eliminate Thanyi and his family. On the other hand jangte Anne was also determined to save Thanyi and his family. Hence, jangte Anne sent Thanyi and his son to earth as the safest place from reach of the Uyus. She also gave Thanyi a Podung (bamboo tube container). This Podung contained seeds of different crops and souls of different animals. Jangte Anne forbade Thanyi open the Podung before reaching earth. However, out of curiosity Aabhu Thanyi opened the Podung before reaching earth. Seeds of many crops and souls of many animals escaped the Podung. They whisper and this attracted the attention of the Uyus. Thus, Uyus collected seeds of many crops and soul of many animals and claimed the ownership of it. Not much was left for Aabhu Thanyi and his son.
After claim up the seeds of crops and souls of animals, the *Uyus* were after lives of *Thanyi* and his son. At this movement *jangte Anne* again intervened in the matter. *Jangte Anne* offered to the *Uyus* seeds of crops and the soul of animals in lieu of *Thanyi* and his son life. This is the origin of *Peer Nyoga Tamnam* (offered the lives of animals and crops in rituals for saving of human lives). This is done through middle man called *Nyub* (priest)\(^61\).

Despite of constant quarrel, *Uyus* and *Aabhu Thanyi* continued to live together. The result was constant conflict between *Uyus* and *Aabhu Thanyi*. In all the conflict with *Uyus*, *Thanyi* always had the upper hand. The myth goes like this: conflict between *Uyus* and *Aabhu Thanyi* continued and became more serious on earth. But *Aabhu Thanyi* could easily escape from *Uyus* only because of extraordinary vision power called *Nyime Dunrang*. Through this *Nyime Dunrang* *Aabhu Thanyi* could see over world and souls of living creatures as well as that of *Uyus*. With the help of this *Nyime Dunrang*, *Thanyi* could predict past, present and future too. The *Uyus* were envy of *Nyime Dunrang* possessed by *Thanyi*. So *Uyus* organized a game called *Booboo Bonam* (rope swing game). *Thanyi* was also invited in the sport event with hidden agenda to snatched *Nyime Dunrang*, when *Thanyi* was busy in rope swing. Mean time *Thanyi* was trapped and never allow coming down to ground in return *Uyus* demand *Nyime Dunrang* or lives of *Thanyi*. Intelligent *Thanyi* did not carry the *Nyime Dunrang* but hide some were away from the spot. Lastly he reveals the fact in order to save his life. The *Uyus* started fight for the *Nyime Dunrang* among themselves and *Nyime Dunrang* was broken, in the mean time *Thanyi* also managed to free himself from trapped and joined the tussle. But he could able to touch only some remain from scattered leaves. The major portion was misplaced or taken by the *Uyus*. From this day *Uyus* could see human. But human could see *Uyus* only occasionally specially by *Nyub* (priest). This event is considered as the day of separation of human and *Uyus*.

When this happened, *Aabhu Thanyi* consulted *Jangte Anne* to overcome crisis. *Jangte Anne* gave her spit to *Aabhu Thanyi* and asked him to place it at *Humbak*/*Gehumb pykum* (junctions of all the paths *Uyus*, Gods and *Thanyi*). After some time *Thanyi* discovered that some foot prints on the spit of *jangte Anne*. This was reported to *jangte Anne*. She told *Aabhu Thanyi* that, the foot print was of *Uyus*.
She also told Thanyi the means and methods of knowing the Uyus through omen examinations. In this process activities of Uyus can be seen through livers of poultry, pig and egg. She also promised to give this knowledge to some person in the form of Nyub (priest). From this deed the Omen examinations is originated and institution of priesthood also came into being and Nyai Tallo became the first Priest.

After, a long struggle between the Uyus and Thanyi. Uyus were virtually marginalized and agreed to divide the territory and resources where Uyus were given hilly Terrain, differently able living creatures and animals which is not useful to human being. As a sign of agreement they used Dapo (wooden piece used as symbols/demarcation). This is said to be the origin of Dapo Ponam. With this agreement Aabhu Thanyi conquered the universe. But Abang Chenne (owner of poison) was yet not satisfied with the outcome. So one day, Abang Chenne flot an evil design to eliminate Thanyi and his generation. He invited Thanyi for fishing by subu peenam (catching fish after water is diverted). Thanyi catch only eatable fish, but Abang Channe catches poisonous fish. They boiled the fish in an Udung (bamboo tube). In the process Abang Channe exchanged his poison fish with that of Thanyi, when Thanyi was busy. Thanyi also new the tricks played by chenee and he also quickly exchanged the Udung into original place. But without knowing, Thanyi tricks Channe eaten the poisonous fish and died. His dead body was carried away beyond human habitant placed called Dedalara. This way Thanyi again saved human. This is the origin of ritual called Dapa Beenam/Dapa chhenam). Aabhu Thyani was free from any sickness. But his two daughters namely yariyo and Nyiriyio had fallen love with Nai Takwang and Talwng the two son of doly (epidemic) Uyus. Thyani was reluctant to that relation because this two brother takwang and talwng were in semi-human form and very teen and short. But two brothers also challenge that they are as strong as Thyani and other creatures. But thyani did not accept it and, to prove their strength, thyani challenged them to hit at his thumb from Haa Ryingko (South Pole). For this Thanyi will stand at Haasang Ryingdum (North Pole) with his raised thumb. If would be son in law, s arrow could hit at the thumb of Thyani, he would allow her daughter to marry them. Arrow of Nai Takwang and Nai Talwng could hit at the thumb of Thanyi. This is the Origin of Doly (Viral disease) and Nyishi Nyub performed ritual called libiq beg Paqnam by recalling these happening and name of persons involved. This way Nyishi custom was originated and the people are
practicing the same till today which is now part of customary law of the Nyishi. These Customs and customary laws of Nyishi are classified into following board groups.\(^{62}\)

**Classification of Customary Laws:**

I. **Customary laws related to human body** (offence affecting human body): Any act which affects human body is viewed seriously by the Nyishi Community. Such act may lead to any extent of violence or social tension. For easy and better understanding, we may classify it into following sub-groups again.

a) **NyeMengnam/Mengio Yallung** (Murder): Nyishi settle any case relating to murder in their **Nyelee** (village council) as per customary laws. They always inquire into the matter whether the murder occurs with intention or unintentional. Accordingly, council members after detail examination of circumstance will sanction quantum of penalties.

b) **Ungene Meghenam** (Injury / hurt): In this circumstance the village council member will first see the seriousness of injury and circumstances of such injury and accordingly they decide the quantum of penalties.

c) **Dudu Yullung domab resamnam** (Wrongful restraint): that whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed. Such an act is called wrongful restrain. The council members hunt for justification and reason for such an act and then follows detail deliberation.

d) **Dodu Yallung Domab Natung tumnam** (Wrongful confinement): whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits without justification or reason is called confinement. Here also the council members inquire into the matter in detail. Equal chance is given to both the parties to present their cases and then follow the quantum of punishment.

e) **Madding Marebnam** (Force): A person is said to use force to another person if he causes motion or change of motion or cessation of motion to that other. Victim is free to approach to the village authority for remedy.

f) **Reedumnam/ Rsdumbulem Medingmanebnam** (Criminal force): whoever intentionally forces any person without that persons consent in order to commit offence.
g) **Reeja n reca pn / reeja reparnam** (Assault): whoever makes any gesture or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present offended. That who makes that gesture or preparation or about to use criminal force to that person is said to commit an assault.

h) **Mingtanam** (attempt to murder): whoever does any act with such intention or knowledge that his act may cause death to another person is called attempt to murder.

i) **Natung tumnam/Bonam** (kidnapping): whoever do any acts to take away or entice any person without consent is called kidnap or abduction. Such an act may lead to social feud and raid in order to free the kidnapped person.

j) **Nye Puknam-Nye Rehnam** (buying and selling of a person): In the traditional society buying and selling of a person was prevalent but there were no specific custom whom to buy and Sale and whom not to buy and sale as Nyishi society is free from class and caste division. Any person could become a slave due to capture during raid or debt etc. Those victim of raid and debt could be sale and purchased. Those victims of raid and debt are free man once they are restored to original position.

k) **Tubli Yoonam/yali yulla** (Rape): As per the Nyishi traditional customary law, there is no distinction whether the sexual offence is rape or not. But all such offence is treated as sexual offence. Commonly distinction is made whether party to that offence is unmarried, married or engaged. The penalty is imposed based on the criteria determined.

l) **Nya Kuu Reekamanam/Reemanam** (unnatural offence/inhuman Act): who ever committed Sodomy or incest etc is considered as unnatural offensive/inhuman Act.

II Customary Laws Related to Marriage and divorce:

Nyishi considered marriage as sacred institution and social requirement. Any one who breaches these customs are dealt seriously and it is classified as follow.

a) **Breach of contract for marriage**: The Nyishi marriage involves series of steps like omen examination to see whether marriage will be good or not.
Marriage is not just bond between husband and wife but also establish bond between families and clans. Such bond continues for generation together because of marriage from same family or by counting blood relations. Any person who breaches the contract is viewed seriously as per customary laws. There are different forms of marriage among Nyishi society. (i) Marriage through blood connection or continuation of marriage from mother family or clan. (ii) Arranged marriage based on mutual agreement of families involved. (iii) Forced marriage. (iv) Levirate Marriage. (v) Marriage through elopement. (vi) Marriage by capture. Some time the marriage is also possible with women or man captured during a raid. The exchanges of gifts are essential. The boy family give sabbe (Bos frontals), eggí (cloths), aadding (meat of different Varity), oryak (swords), oppo (wine). In return the girl family also give Tasing (beads of different variety) tallus (Breastplate), Maze (bell of different worth), coze (bangle), Huhie (disc of different value), Domping (ornament for head), Runbing (ornament for ear or ear ring), sapping (Bos frontales given by girl family as gift to daughter), or any other gift including human as slave. The marriage ceremony is over on the day, when the bride comes to husband house. Nyishi follow Petri-local system in marriage. There is a ritual called changtum pahi (ritual where bride is asked to kill small animal after priest performs incantation as sign of entering and becoming full member of husband’s family). This ritual is performed in all forms of marriage.

b) Heenam tunam/ Jengnam panam (Cruelty by husband or relative of husband): Such atrocity and cruel act is not easily tolerated by the family of the girl. Such unnecessary act may lead to breaking of family bond including marriage itself.

c) Nyahang Anye Aum Nanam (Polygamy): In Nyishi society polygamy is practiced. There is no custom against the polygamy rather it is regarded as sign of status of family and person concerned.

d) Nyalu aneye aum nanam (Polyandry): In Nyishi society polyandry has no place, any such act will attract extramarital status and that may lead to penalty to the male partner. It may also lead to divorce or any other circumstances and penalty.
e) *Hangmi Nyalu/ nyaga Nader nam or Tumba Nyeme or Nyahag nadirnam* (Widow or widower remarriage): Widow and widower have every right to remarry. However, there are certain conditions which apply to widow. The widow will first wait for some one from her deceased husband family. If widow having relation with outside her deceased husband family such an act attract compensation from male partner. Any issue from her deceased husband will remain with that of deceased father. Widower also should always first look for partner from his wife family and clan because a girl from same family is given for second marriage to Widower. This keep property intact and relation also continue. If there is no one from deceased wife family, the widower is free to marry from any where of his own choice.

f) *Nyahang Nyalu Yoming sumanam* (Unjustified cessation of cohabitation): Such an act may attract liability to either of the partner who is at fault or to both the party. Generally if the guilty is done by man, he is bound to give *Sabbe* (Bosfrontales) to wife family. If guilty is done by wife, her family has to give any valuable ornaments as sign of *Teeka-Nyaka* (as compensation for cold period) and agreed not to repeat again in future.

g) *Nyahang Nyalu/Nyeme Nyega Yapak/Apak mengsunam* (Divorce): Divorce is very rare in Nyishi traditional society. However, if it arises befitting penalty is imposed to the guilty, so that, it dose not happen again.

III. Customary laws relating to Breach of Contracts and Breach of trust:

(a) *Bengtee Nam doma* (Breach of contract): Breach of contract means failing to perform any terms of a contract without a legitimate legal excuse. The contract may be either written or oral. A breach may include not finishing a job, failure to make payment in full or on time, failure to deliver all the goods, substituting inferior or significantly different goods, not insuring goods, among others. An anticipatory breach may be made by an act which indicates the party will not complete the work. Any person who has agreed to perform or do something but fail to fulfill such agreement is called breach of contract for example *Gotung tingnam or Setingnam/Gotung Tingnam, Gotung Sonam* (share herding). In this, major share is
taken by real owner of the animals and share harder will share as per agreed condition. *Tingnam or setingnam* (entrust) to keep property in the hand or custody of other people as custodian. Another example for breach of contract could be breach of marriage agreement.

(b) *Mangyang/Syagangnam* (Breach of Trust): Breach of Trust means the willful misappropriation, by a trustee, of a thing which has been lawfully delivered to him in confidence. whoever being in any manner entrusted with property or with any dominion over property dishonesty misappropriates or converts to his own to use that property or dishonesty use or disposes of that property without the knowledge of real owner of such property is called breach of trust. For examples, *Gotung tingnam or Setingnam/Gotung Tingnam, Gotung Sonam* (share herding). In this, major share is taken by real owner of the animals and share harder get share as per agreed condition. If there is any misappropriation of animal, it will amount to breach of trust. Another example of breach of trust is misappropriation of things in custody. *Tingnam or setingnam* (entrust) to keep property in the custody of other people as custodian like beads and ornaments.

IV. *Adik akuw/Tadik kaku* (Custom relating to Nuisance):

The word Nuisance literally means annoyance, anything that hurt, inconvenience or damage to the others. Nuisances are either public or common, or private nuisances. A public or common nuisance is such an inconvenience or troublesome offence, as annoys the whole community in general. Nuisance that merely affect to a particular person is called private nuisance.

The customs relating to nuisance can be divided into following sub groups.

i. *Meanam* (cheating): Whoever by deceiving any person fraudulently or dishonesty induces the person so deceived to deliver any property to any person or to consent that any person shall retain any property, the intention is to cause harm to other person or to gain something for him is called cheating. Such a person is liable to be punished or penalty imposed.

ii. *Reesam Rayam nam* (Mischief): Any one with intent to cause or knowing that he is likely to cause wrongful loss or damage to the public or to any person cause the destruction of any property or any such change in any property or in
the situation thereof as destroy or damage its value or utility or affect it injuriously is called mischief.

iii. **Lusup Lasap** (Trespass): Any one who enters into or upon property in the possession of another with intent to commit an offence or to intimidate or insult or annoy any person in possession of such property or having lawfully entered into or upon such property unlawfully remain there with intent thereby to intimidate insult or annoy any such person or with intent to commit an offence is called trespass.

iv. **Rumhumnam/Chohumnam** (Defamation): Any one who used any insulting words directly or indirectly to harm any other persons reputation is false is called defamation

v. **Benglaknam/Relaknam** (Abetment or Instigation): One who instigates or engages intentionally to aid any person to do that thing against any other person is called abetment or Instigation.

vi. **Pathinam** (Intimidation): Whoever threatens another persons reputation or property or to the person or reputation of anyone in whom that person is intended with intent to cause alarm to that person or to cause that person to do any act which he is not bound to do or to prevent to do any act which that person is entitled to do is called intimidation.

vii. **Benji Bengparnam/Reeji repanam** (Insult): whoever intending to insult any other person utters any words, makes any sound or gesture to provoke the other is called insult.

viii. **Nuur Nyepingnam** (Conspiracy): when two or more person enters into agreement to do illegal thing against other is called Conspiracy.

V. **Kachum Tape boos (Customary laws relating to guardianship):**

In general guardian means who looks after the person or properties. Following types of Guardianship is practiced in the Nyishi society (i) Guardianship of property (ii) Guardianship of old age and (iii) Guardianship of minor and disable person.

i. **Guardianship of property:**

In normal situation, it is the owner of the property who looks after all moveable and immovable properties. Such properties may be looked after by the family jointly or individually. However, in certain circumstances, the
properties may need to be looked after by other person as guardian in the following grounds:

a) When the owner of the property is away
b) When the owner of the property is not in good mental condition
c) When the owner of property is under unsecured situation
d) When the owner of property wants to appoint guardian/agent and
e) When the owner is minor or disabled.

ii. Guardianship of old age:

So long a person is capable of decide where to stay and with whom to stay or mange own affairs there is no problem. However, when the person is incapable of deciding then it is son’s pious obligation to look after the parents. The burden may fall upon any son but generally it is the first son or last son to look after. The son who looks after the aged parent in return has the right to inherit or claim the last properties that remain with aged parents. He is also liable for Bungu panam (that is a ritual sacrifice of animal in the name of departed soul). Some time daughter may also look after the aged parent. Even their near relative may also look after. Whoever looks after the aged person has the right to inherit and right to claim over properties that remain with the aged people.

iii. Guardianship of Minor:

In Nyishi society, those parents are legal guardians of the child. But under certain circumstances a child may have to be looked after by other people as a guardian especially when child is an orphan. The nature of guardianship is according to the agreement entered into. If no agreement is made, then it is up to the wishes of guardian to decide the luck of the child. If a child is female she can be given on marriage when she attends the marriageable age. If the child is male, he may be given the job of looking after his guardians in time of their old age and gets right to inherit their properties.

VI. Sangee Geese Gagebhu/Sangnam Geenam Nasebu (Customary laws relating to inheritance/succession):

In Nyishi, succession and inheritance is based on the principle of propinquity that is preference of heir on the basis of proximity of relationship.
There was no established custom on succession. But it has been observed that it is unto the owner of the property to decide which share will go to whom. Also there is no distinction between sons or daughter. According to custom parental property will go to any of his son or daughter. If he or she is issueless, then anyone who is nearest in relation to the owner of the property or anyone who has to look after the owner of the property will inherit. However, if the property is ancestral and valuable property, it is only the family members and clan members who will inherit the property. If the owner of the property dies without declaring which portion of property will go to whom, than family member will divide the property proportionally. If there is no family member alive, then clan member or blood relatives will do the same. Nearest in line will get first preference over distant relation or half relation. The child will get his portion of the property according to his lineage.

VII. Customary laws relating to Adoption:

The remarkable feature of Nyishi tradition is that they always desire to have at least one naturally born legitimate son of its own for the continuation of the family lineage. But, under certain circumstances, a person may have to look for a child from some other family to look after them and their property. He will inherit and succeed them but such adopted son will not be counted as offspring of that person, but merely to succeed the property. People rarely go for adoption and prefer to go for as many number of wives and child to get male child. This has been one of the reasons for polygamy and having multiple children. A person is free to adopt from any family, but preference is given to paternal lineage.

VIII. Reegunam /Rye Angnam (Customary laws relating to Social capital/community works):

Reegunam/Rye Angnam is a form of exchange of labour on principles of reciprocity. This help in many works in Nyishi society. For instances, in construction of house, every one helps the house owner be in form of man and material. Like wise, exchange of labour is used in agricultural activities as
well and is known as *Rango Ryegunam*. The work related to house constructions is called *Nam Ryegunam*. There is community hunting called *keru/soruruknam*, and community fishing called *seep karnam/Pacha karnam* (fish trapping by blocking water and make one narrow water way), *Subu Panam/Buktar tarnam* (divert the water direction), *Tamu Jangnam* (used of herbal poison to kill the fish).

**IX. Customary laws related to rituals:**

There is no distinction between religion and rituals. There is ritual in every steps of Nyishi life. It is like Oxygen to living creatures. The rituals of Nyishi may be grouped as follows: (a) Rituals related to nature and creation (b) Rituals related to agricultural (c) Rituals for immediate healing (d) Rituals for treatment and medication (e) Rituals for inflicting opponent (f) Rituals for purification and reconciliation (g) Rituals related to death of human (h) *peep pachang kuknam* (Rituals for omen) (i) *Dingnam/Dingdung* (Ritual related to oath and ordeals) (j) *Yallow Panam, Uyus Panam, Nyokum Yullow, Bori Yellow, Longte Yallow* (Ritual related to peace, prosperity and for the protection):

(a) Rituals related to nature and creation:

The rituals related to nature and creation may be divided as follows.

i) *Chene yella paanam*: This ritual is performed by individual who face problems like miscarriage stillborn and those who are childless. They performed this to get blessing from the creator called *chan / chenee* who is creator of all living creatures.

ii) *Ku aming mingnam* (Child birth and naming): During the child birth on the spot itself, some one has to utter the words *Nageke* (its mind) to claim the ownership of the child and prevent the evil spirit from claiming the ownership of child. Gradually rituals of *Ku aming Mingnam* (naming of child) is done in the name of different deities like sun, moon, *changtum buthe* (god of relation creator) etc, and blessing is sought from all the god and goddess for the child.
iii) *Amjeinam/Aum denam* (feast on the *occasion* of first harvested paddy): The eating rice from first harvested paddy begins with special occasion called *Amji denam/ aumdenam*. In this occasion, people from village or their relatives are invited. Only rice and meat are served and no green leaves are used. Guests are requested not to waste the cooked rice offered to them. Especially rice is prevented from throwing in the flowing river or streams.

iv) *Cheernam Yullu bonam / jarpu leeknam* (rituals to solicit souls of grain): This is the last ritual to bring last grain to *Nasu* (grainmmy). This ritual is to bring souls of grains to the *Nasu/ Namlo* and seek the blessing of *Pert Ringl/Cherman molu* (god and goddess of food grains). On this occasion, people of village collectivity carry all the equipments from the field to granary. If in between the field and home, any river or stream is to be crossed, *Sabbe sahya/Ahyee* (cane rope for tying Bos frontales) is passed from one side of river to other side of the river to help the souls of grain to cross the river. If there is any junction on the way, *taki* (ginger) is used to block the unwanted direction to prevent grain souls from follow other paths. The bunch of paddy is brought to the house and preserved at house.

(b) *Rongho* (Rituals related to agricultural):

The agricultural activity of Nyishi is based on the seasons. The animals, birds, plant; flowers are the guide and master of the Nyishi agriculture calendar. When to start *Reete teenam / panam/ rangho panam* (clearance of a plot) and when to sow seed are guided by them.

i) Nyishi will go for omen examination to know any untoward or any bad sign in that particular plot of land. Generally the *Rongho panam* (clearing of forest) started with *Nyoka kanam* (survey and demarcation of plot) in the month of *liib* (October month) continued till *Rath* (December month). By this month the *deb chanam* (seasonal birds) started making lot of hum and give indication for agricultural activities. After clearing the forest, they keep the plot for a month or half so that the forest material is dried and ready for burning. Once that is ready they burn the plot called *Eim rehnam* and then follows *Rekram ram nam* (clearance of left out wood and ashes) and collect it in particular spot called *paye* in step wise. Some left out is again set on fire.
after gathering at a particular spot which is called *maram parnam*. The sowing of seeds started followed by erection of *Solung* (fencing). The sowing of seeds started in the month of *Leemmi* (February) it may continue till April or may. They build small hut called *Tabiya* in the *Rangho* for taking rest and used as warehouse. There will be some one to look after the seeds sown in the field to prevent birds and animal from destroying the seeds and crops which is called *Deer Kanam/ Deer Ruuknam*. It is followed by *Uangmanam/Rehuohonam* (clearing of weeds) till then, the crops are ready for harvesting.

ii) *Jerpye leeknam* (occasions for closing of harvesting): This is ritual done after the harvesting of crops is over. The people collectively carry all the crops and material used in the field. This is followed by merry making with *Opo* (wine), adding (meat), aching (rice), cazi (beriyani). Traditional songs like *Gumba Banam, Iedebengnam, Nugung hangman, Pagu tonam, Niting tingnam-Haarming mengnam*, are recited. With this, formal harvesting process comes to an end.

c) Rituals for immediate healing:

i) *Oram Panam*: It is a chanting to drive the evil spirit. The evil spirit is satisfied with certain offerings. This *Oram panam* is performed when there is sudden illness of a person called *Oram kanam* (exposed to sudden prey of evil spirit). This is preformed for immediate relief. There are different types of *Oram* (spirit/souls of creatures) like (a) *Ramterr oram* (b) *Ramshey oram* (c) *Teli oram* (d) *Tapum oram* (e) *Piji*, which cause troubles to human.

ii) *Tinying Rasung* (spirits of hunted animal/ dwell in the skeleton of animal): Nyishi believes that this spirit called *Tinying Rasang* creates trouble in the form of heartache. In order to relieve the suffering person, a *Nyub* (priest) performs this ritual by inquiring and offering to souls of animals.

iii) *Dapa cheeynam* (Rituals for food poison): This ritual is performed when a person is suffering from stomach snag believing that the person is suffering from food poisoning or any other poison by *chenee Uyun*. 

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d) **Rituals for treatment and medication:**

The rituals for treatment and medication are performed by few people in Nyishi community. They are believed to be god gifted one having the knowledge of treatment and medication. Let us discuss them one by one as follows:

i) **Zaree Nanam** (Repairing of broken parts of body or injury): This *zaree* ritual is performed by the priest using *khokam mayam* (wing of eagle). Only right wing of the eagle is used. The *Nyub* chants and invokes the blessing of supernatural power through *Nyoki Heenam* for the purpose of repairing the broken parts of human body. When supernatural power listens to the chanting of *Nyub*, it comes and releases a drop of its power into the wings of eagle which is in the hand of *Nyub*. When that is received the *Nyub* put that gum like drop on the person effected body and rub it for some time. The *Nyub* may repeat this for three or four times if required. It has been proved that it is even better treatment than the treatment provided by modern medical science. There are many living examples that have benefited from this treatment. The *Nyub* who performs *zaree* ritual is called *Nyoke Nyub*.

ii) **Dawab Nanam** (Cleaning of body): In this *Dawab Nanam* ritual the *Nyub* takes out insects and other foreign bodies from the ailing persons. It is believed that these foreign bodies inside the body causes ailment. Thus, when these foreign bodies are destroyed and the suffering person get cured.

iii) **Doli Mingnam** (killing of epidemic): Nyishi believe that *Doli* (epidemic) is caused by the evil spirit which affects the human body. The *Nyub* has the natural and spiritual power to see and kill the evil spirit which causes epidemics. Thus, a *Nyub* can prevent and protect the human being epidemics.

iv) **Ungne nenam** (dressing of wound with herbal medicine): Nyishi people have traditional mode of curing wound by using herbal medicine. These herbal medicines are made of combination of different varieties of herbs. Even parts of fish and animals are used.

v) **Takhe Tunnam** (operation by cutting the wound or affected parts of body): The skilled person carries out the operation specially when a person is suffering from accumulation of puss internally which causes pain. The
purpose of this operation is to remove the puss and blood clot. This relieves suffers from pain and cures.

vi) **Heching Taknam** (curing of toothache by removing the particular tooth): The Nyishi people have the practice of *heching taknam* (removing of aching tooth). It is believed that toothache is caused by infection or evil spirit. If the cause is tooth aching evil spirit then, the *Nyub* will perform ritual. If the trouble is caused by infections that particular tooth has to be removed in order to prevent further spreading of the infections and suffering.

vii) **Pench Neeknam** (curing of pain in breast of women): Curing of the trouble of breast through simple ritual called is *pench Neeknam*. When the lady is suffering from breast trouble a man is asked to perform *pench neeknam* ritual. The process of ritual is done in following manners. A man wears an *Eggiks* (quiver) and bow in reverse direction and step in from *bathung* (porch) of the house uttering some words like *Ache Penchee somacho* and pricks the breast of the women with bow. If the trouble is simple pain, it is cured.

viii) **Gyah peeha/Reekha nam** (Removing of body parts): Nyishi practice removing of certain parts of body and portion of flesh in order to prevent greater damage or danger later on, for example if a snake has bitten the finger of a person, then such finger can be chopped off immediately to prevent spreading of poison to other parts of body and to save the life of the person.

ix) **Kunsuk** (soar): When a person is bitten by snake or any other poisonous creatures, people use *kunsuk* (sour) things as anti-biotic medicine.

x) **Kachak** (bitter): Nyishi use better substance as medicine for different purposes.

e) **Rituals for inflicting opponent:**

Nyishi have the practice of inflicting the opponent or intended targeted person, family or clan by sending evil spirit to take the life of such an opponent or the targeted person. There are many rituals for this and is divided as follows.

i) **Sotung** (black magic): *Sotung* is performed in rare case to inflict the targeted person, family or clan. If the *sotung* ritual is succeeded, it eliminates the targeted person. The *sotung* can be performed by only few *Nyub*. It is
performed secretly to avoid opponent’s knowledge of it. If it comes to the knowledge of opponent they may also perform same sotung to avert or divert the spirit. If the spirit is diverted it may cause injury to family of sender or Nyub himself. Therefore people perform it rarely.

ii) Yallu Nonam (enticing of soul): in this ritual Nyub entices soul of a targeted person by incantation. The soul is entices to enter into an open egg or a blood of animals. When the soul enters the spot Nyub kills that soul. Thus, the person whose soul is enticed and killed by Nyub dies shortly. In the process Nyub may also be affected. Hence, this ritual is performed rarely. However, this ritual is performed for good cause like freeing and saving the lives of human from the hand of Uyus.

iii) Boser Sonam / Pekhi Myanam (immobilizing the soul of animal or human): This ritual is performed when an enemy is killed. That enemy may be a human or Tiger. The purpose of ritual is to immobilize the souls of an enemy so that they may not able to avenge the man who killed them. This ritual is called Boser Sonam / Pekhi Myanam. It is led by a Nyub followed by men with weapon and war dress.

iv) Gamtoy Tatnam / Beenam (cursing by calling the super natural power and evil spirit): This ritual is performed by an individual in order to ventilate the tension or sentiment by way of cursing the other by invoking the different spirits and natural objects and dangerous animals as witness saying that so long as I am not wrong I should get justice and those who does wrong must be given punishment.

v) Preya Peenam (power of hypnotizing): This ritual is performed by a priest at the request of needy person to change the mind or attitude of the targeted person. Believe behind this ritual is that Nyub can control the soul and mind of a person with the help of spirit. Once a person is affected by this ritual that person will act according to the wishes of the Nyub and interested party. For example, in case of elopement the Nyub performs this ritual to bring backs the eloped person. This ritual is used for other purpose also.

vi) Riyator (for protection and prosperity): The Riyator is performed for the protection, fortune and prosperity of the family and clan etc. The Riyater is performed on different occasions like, house warming, against enemy and for well being of family. A paruk rokpu tallongbu (red cock) is killed at small
altar, the liver of sacrificies cock is examined by the priest and other experts to identify if there is any indication. The women and people from other clan are not allowed to eat the meat of sacrificed cock. However, man of same clan can share and eat the sacrifice meat together which is known as Uyee Hang Dabam nam.

vii) Riyakum paanam (seeking more strength to defeat opponent): The ritual is performed when the party is having a strong opponent and apprehension of being defeated by opponent. This ritual is for gaining confidence, courage and to get blessings from Anne Donyi (mother Sun) and ritual is performed in a secret place.

f) Rituals related to purification:

i) Pahihenam (Purification): The ritual called pakhi henam is performed in different occasion for different purpose. This ritual is for purification and sign of reconciliation and mutual agreement. In this ritual, a fowl or a goat or a pig or a seebbe is killed and shared among the people without discrimination.

ii) Mochum paanam (purification of fire spirit): This ritual is performed after a fire accident in order to prevent any further fire accidents. The animal is taken to nearest river or stream sacrificed and blood is spread. The river or stream is blocked and any person directly related to such fire accident is asked to take bath and open the blocking point so that the blood stains on the river bed is washed away. Thus, the fire god is satisfied and evil spirit is averted.

g) Rituals related to death of human:

There are different types of rituals related to death of human. This ritual is performed after the death of a person and it is divided as follows:

i) Nyoku Kanam (survey of land): This ritual is performed after the death of a person. The Nyub starts incantations in order to escort the soul of death person to Uyu Nyoku (Nether land). So that the soul of death person does not hang around and create trouble to living person as well as for the peace and prosperity of dead persons.
ii) Darkha naam (purification): This ritual is done on the burial spot during the burial ceremony to prevent the spread of any disease. In this ritual all person involved in the burial activities and family members are purified with chanting by priest.

iii) Seerem angnam (bathing): People who are engaged in digging of grave, collections of material for construction of Nyabung (Tomb), etc are required go to nearest water spot to wash themselves before they enter in the houses. It is followed by Bungu Panam, sacrifice of the animals in the name of dead person and meat is distributed among the people present there. It is followed by Aeer donam (mourning period), people do not do any activities at least for 2 to 5 days.

b) Peep pachang kuknam (Rituals for omen):

This ritual is done for all the purpose indiscriminately from smallest to biggest events like for ascertaining fortune, justice and misfortune etc. There are different types of ritual related to omen examinations such as peep cheenam (egg omen examination), Rukseeng kanam (chicken liver examination), Reekseeng kanam/Keenam (pig liver examination), Yuma Tungnam/kanam (mock dream ritual) is another small ritual to detect the any thing that is missing or misplaced or incident.

i) Dingnam/ Dingdung (Ritual related to oaths and ordeals):

Nyishi people believe that the highest form of justice can be achieved through the intervention of the supernatural power. Therefore, they practice oaths and ordeals. There are different types of oaths and ordeals. Different types of oaths and ordeals such as. Swearing in the name of Anne Donyi (mother sun), in the name of pathe (tiger), in the name of Sathe (elephant), in the name of Bur dojang (crocodile), in the name of Tabbe (poisonous snake) or an accused person is asked to bite stone, swords, tiger teeth, elephant teeth. The believe is that if the accused has sworn falsely then accused will be killed by these animals and object. The highest and last stage of getting justice is through an ordeal. There are different types of ordeal practiced among the
Nyishi in the administration of justice. They are as follows. Sodung enam (boiling water ordeals): In this ordeal the suspected person is asked to deep inside the boiled water. Another ordeal is Rukdar gobangnam (catching piece of hot iron). If there is burn or injury in the hand of accused person then that is regarded as sign of crime committed. If no sign of injury that means person has not committed crime and declared innocent. After the ordeal, suitable penalties are handed to the party found guilty. In this ordeal, both the parties are represented by priest. These priests continuously chant asking supernatural power to punish the guilty.

j) Yallow Panam, Uyus Panam, Nyokum Yollow, Bori Yollow, Longte Yollow
(Ritual related to peace prosperity and for the protection):

There are different types of rituals practice among the Nyishi. It is divided as follows.

i) Yollow panam: The Yollow panam ritual is celebrated at family level or village or clan level for peace, prosperity and protection of the family or village or clan member. This is the highest form of rituals in the individual level.

ii) Uyu panam: The Uyu panam is the highest form of ritual for the individual who is suffering from different types of illness. It is performed for the protection of life and soul of ailing person.

iii) Nyokum Yollow, Bori Yollow and Longte Yollow: These are the highest form of rituals celebrated by the Nyishi in common. These rituals are celebrated by the Nyishi in the month of February every year. These are performed for peace, prosperity, protection, fortune and for bumper agriculture products. These are also means for better animal husbandry. In all these occasion, merry making is essential without discrimination of caste, creed, color and religion. In all the rituals, sacrifice of animal is essential. If any dispute arises it is settled as per the customary law. It is followed by Dapo Ponam (Demarcation of Territory or as an agreement).
IX. Tungu kyagu nee/kyagunee yupak/apak/ kayu sumab (Exception):
The following categories of people are given concession to some extent. They are:

a) **Hami/Anyo** (Children): The act of children is treated casually, if the offence is not serious. However, if a child commits serious offence, they are liable for the same amount of penalty as that of adult. The parent or guardian is vicariously liable to pay compensation.

b) **Nyame** (Women): There is a common saying **Nyeme hami reenam apato/Yopato** (forgive the act of women and children). The acts of women are also threat insignificant if the act is not of serious nature. However, if the act is serious then parent or husband is liable vicariously or personally.

c) **Pacha Dama/Ruga Rariya Buo** (Insane person /Lunatic): The person under these categories are also given concessions, if the act is not serious. Otherwise, the person is liable personally or vicariously.

d) **Tangkum Dariak Buo** (person under intoxication): The act of a person under intoxication is also given concession if injury is not serious. However, if caused serious injury person may be liable personally or vicariously.

e) **Nye Reemunam** (Person under compulsion/duress per menus): A Person who has committed any offence under compulsion is given concession upto a certain extent. The person who compelled them to do is equally liable.

f) **Reeka/Maka thkalbongtent reetun /mattuh** (Voluntarily consent): There is common phrase used in Nyishi society **Reeka/Maka thkalbongtent reetun /mattuh** (which means voluntarily asked to do that). It is like English legal Maxim **volunti nonfit injury** (which means an act committed due to voluntary consent is not a crime).

g) **Suhaos gabseh ngam Anyo meanam** (For the greater interest or benefit of victim): The act committed to prevent the greater damage is given concession, for example to save the life of Mr. X, Y chop off the snake bitten finger to prevent the spreading of poison. Or X house Window glass is broken to make way to eject the properties when fire catches the house.

h) **Reepreelapnam** (accidental act): Such an act is given concession upto certain extent. But it is upto the concerned effected party whether to give full concession or half concession.
i) *Seer Darhee nam/Dedar Rache* (VIS major / Act of god /Act of super nature):
Any incident occurred beyond the controlled of human is called VIS major.
There is a popular saying among the Nyishi "*Nyiakuh Rejikunanam*" (which
means it is not a human act), for such an act no human being is liable. But if
their is possible human intervention, like death of a person caused due to
abetment of *Sotung* (black magic) and *Reyakum Ryetar* (hypnotized rituals
that spirit attack the targeted person) then the party responsible for it is liable.
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