CHAPTER VI

SYSTEM OF JUSTICE UNDER THE AHOM AND DISCONTENTMENT

Originally the Ahom did not have any written laws. According to Gunabhiram “No written arrangement or working procedure existed for general administration or justice. These were carried on according to the common sense or norms of knowledge”. ¹ They followed some traditional principles, customs and practice of the Tais as of the Siamese and the Shans. There was the “Lengdon Code”. It is believed that Langdon-the supreme ruler of heaven gave some code to his predecessor, Khunlung and Khunlai. These codes were based on the concept of Universal justice and ethics prevailing among the Tais. It tried to uphold the high principles of ethics, justice and fair trail as the guiding factor in maintaining law and order in the land. It also emphasized that a criminal should not be killed at once without the fair trail. In the same time it realizes the value of inflicting punishment for offenders. It prescribes certain punishments for offences and states the conditions when the offender might be freed. Langdon prescribes;

(a) Expulsion from the country for once for having unlawful intercourse with mother’s or father’s sister or for forcible dispossessing of the father property.

(b) Sterner punishments were inflicted for the crimes like rape ;by piercing the heart with the point of a knife for rape daughter in law or brother’s wife, if not killed they should be driven to a jungle infested with tigers and bears.²

¹ Gunabhiram, Agar Din Aru Etier Din”, in Assam Bandhu(edited by N.Saikia. DHAASA
Circumstances authorized any person of importance to decide case in any part of the kingdom. Record of the cases both civil and criminal trials were kept but the noted scholars like Gait, S.K Bhuyan and other perhaps relying on the account of D.Scott who mentioned that in criminal cases a summery of the proceeding was drawn and delivered to the successful party. A number of assessors such as Katakies, Ganaks, and Pundits assisted the judge in settling case. In absence of a class of professional lawyers in those days, the parties or one of their relative appeared.

The tributary chiefs of Barphukan's jurisdiction could administer justice in their own area, but an appeal from their order lay to the Barphukan and the king.\(^3\)

The Barphukan who had equal status with BarBarua could order an execution of criminal by drawing or clubbing. But he had no right to shed criminals' blood by beheading. But an exception was made in the case of Lachit Barphukan, who was given the right of shedding blood because of the heavy responsibility entrusted to him not only maintaining law and order but also of defending the country against the Mughal.

In the administration of justice the witnesses were examined and written document received in evidence. The judges were decided the cases according to prevailing customs of the country as no written law —


The tributary chief under the Barphukan were the Rajas of Darrang, Dimarua, Rani, Barduar, Naduar and Beltola.

Gogoi L. Ahom Jati aru Assamia Sanaskriti.Sibsagar 1961 p74
- existed previous to the introduction of Brahmincal religion.

The king in dispensing the justice mostly guided by the customs. The ancient code, which was brought down by Khun-lung and khun-lai was greatly modified toward the latter part of the Ahom rule. The Hindu law as it existed in Burma and India and also tribal customs must have the elements of the original Ahom law and customs, which evidently became more rigorous in the later period.

The administration of justice gradually more complicated with the fusion of Hinduism. In this connection it may be pointed out that an officer of rank was involved in treasonable act during the reign of Gadadhar Simha (1780-1795). In the trial he was found guilty and death sentence was passed to him, but, the death sentence could not inflict to him as he was a Brahmin. According to the Hindu system the corporal punishment can not be sanctioned to the Brahmin.

The various form of punishment of Hindu system such as cutting the hands and tongue, pouring hot oil, splitting the ears and nose and extracting the eyes (common to Muslim system as well) were incorporated into the legal system of the Ahoms for which the Ahoms law evidently became more rigorous in the later period.

7. Ibid p211/228

Hasan I The Central Structure of the Mughal Empire p 333 Hyderabad 1938
Saran P The provincial Government of the Mughal p382 Allahbad 1941
The growing Hindu influence from middle of the 17th century consequently changed the concept of the kingship and finally, the administration of justice. The Hindu law, Brahminical literature and interpretation percolated into the judicial system of the Ahom, particularly in the civil cases. Gunaviram says only for dividing succession rights sometimes *dayabhaga* or the opinion of the court pandit was followed.8

The political ideals of both of the Tais and Hindus suggest the sovereign was the fountain or supreme head of the justice. He exercises this according to his pleasure or in consultation with the one or more Dangarias. He could award any punishment as he liked. He could delegated the cases to any person to dispense justice viz the three Gohain, the Burahgohain, Bargohain, Barpatra Gohain and later on also the Barbarua and the Barphukan and also Sadlyakhowa Gohain, with full jurisdiction over civil and criminal matter. As the chief judicial officer in his respective sphere, each of them could administer justice according to the customary laws of the Ahoms and later on Hindu law at the best of his judgment.

Capital sentence was prerogative of the king and none was put to death without king's order in writing. To facilitate the judicial process king delegated this prerogative to some person, while controlling the form of death.

Three Gohains and the Barphukan were authorized to give capital punishment but never by shedding his blood but by drowning or clubbing-

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8 Gunabhiram Agar Din p 289
- (by dhum - small wooden cylinder). The BarBarua and the Sadiyakhowa Gohain had no power to inflict Capital punishment.

Because of the distance from the capital Barphukan enjoyed more power than Barbarua. Though they were equal in status Barphukan was invested with the power to order execution by drowning or clubbing. All the five councilors, could inflict the punishment by pulling out eyes, mutilated or chop off ears, nose and take out knee cape. Both Barphukan and Barbarua could hear appeal from the orders of his tributary rajas, which were empowered to justice.9

The court of Barbarua always attended and assisted by twelve Rajkhowas. According to Gogoi 10 the number of Rajkhowas increased to 18 in later on. The Barphukan with his court at Guwahati was assisted in his judicial and other duties by six Phukans. The Melkhowa Gohain could inflict punishment on criminal within their respective jurisdiction except capital punishment.

Rudra Simha established a new court of justice. As a legal expert, the Nyaya Shodha Phukan exercised his jurisdiction as the representative of the king during his absence only and in the palace and the fort. Nyayashodha Phukan could also receive appeals from the BarBarua and Barphukan.

The Phukan, Barua and Rajkhowa under the Barbarua could mutilate the ears and nose of their subordinates appointed by them and of their Paiks. The officer below the rank of the Phukan and the Baruas, such as Hazarika, the Saikia and Bora were not empowered –

— to try case, they could only make enquires about.

From the account of the Sadar Amin and Hamilton Buchanan (1807-14) it is evident that toward the end of the Ahom rule the administration of justice came to be entirely decentralized.

These officers who were placed over the Paiks, Chaudhuries or the revenue Paiks, and granters of freehold lands with police jurisdiction, all used to settle pretty disputes within their jurisdiction and resorted to whipping, which was however illegal. In regard the heavier punishment the traditional practice survived.¹¹

It is clear from the comment of Scott that the power of the Rajas also came to be curtailed considerably. They exercised judicial authority in minor cases only along with the Chaudhuries by sufferance. They were often given to exercise greater authority like to mutilate and put the people to death which were to be atoned by a fine under the Ahoms. However this practice has been stopped by the British.

As the nature of the criminal law in Assam under the Ahoms it was stern and harsh in one word severe as in Siam. The general principle followed in offences against the person was "an eye for an eye and a tooth for a tooth". The culprit was punished with the same injury as that inflicted on the complainant. No contemporary source catalogues the capital offences. These according to Hamilton were treason, murder, rape arson and voluntary abortion.¹²

¹¹. Sadar Amin, 108, Hamilton, 49
¹². Hamilton 59, Agar Din 292 (Forceful abortion was regarded as a capital punishment which testify the importance attached by the Ahoms to increase population as potential source of men power)
Various capital punishment were in vogue; (I) cutting of throat (II) impalement (shulat Dia) (III) grinding between two wooden cylinders (Shalat Dia) (IV) Sawing asunder between two planks (V) trampling under elephant's feet (VI) beating with hammer (dhum) or clubbing (VII) drawing (VIII) applying hoe to the body till death.

Others punishments were pulling the eyes out, cutting off ears and nose, cutting out of knee capes, whipping, applying hot oil on the body, confiscating of property etc.

Treason or rebellion against the country was inexcusable. It was punishable in different forms, by capital punishment including starvation, flaying alive, impaling, transportation to Namrup.\(^{13}\) (Namrup was panel settlement of Assam notorious for its pestilential climate, where the culprit would slowly die). Not the rebel and the traitor alone but the entire family (including parents, brothers, sisters, wives and children) was often victimized.

The rigorous panel code reflected the traditional Tai (Siamese) practice based on the saying; "when cutting down rattans don't leave the sprouts". It means in killing the father do not leave the offspring.\(^{14}\) Pardon for other offences could be purchased. Punishment for such would be mutilation, branding with hot iron or burning hoe. It is noteworthy that even criminal who committed theft were sometime beheaded by three Gohains and the Barphukan with royal sanction.

\(^{13}\) Wales HGQ. Ancient Siamese Government p 158,194. According to him this was similar to the family bond as in China. The same idea is expressed on Ahom Criminal law in several Buranjis and observation of foreign chronicles.

\(^{14}\) Hamilton p49, Fathiyyah p60, J.B.O.R.S 1951, 190, Gait 211, Barbarua 41
There was a class of person called Chaudangs and Baruk (in lower Assam) who actually inflicted above mentioned punishment to convict.\textsuperscript{15}

Cutting off the knee pans usually resulted in death, which pulling of the eyes, though fatal, resulted in total blindness. However the pretty theft were punishable with whipping by any considerable officer, whereas punishment through mutilation of nose and ears, could only inflict by the chief judge of the district \textsuperscript{16}

In civil cases a summary of the proceedings (\textit{sidhantapatra}) was drawn and deliver to the successful party. Hamilton Buchanan, observes that no person is put to death without an order from the king and that order is always communicated in writing and procured by a written account of the proceedings having been submitted to the royal consideration. Thus it clear that there were written record of a kind at least in criminal court.

All judicial delegates of the king worked as the presiding judges in their respective courts. They were assisted in settling the cases by the Kakatis, katakis, Ganakas, and the pundits as "assessors". These judicial delegates were usually guided by the opinion of the" assessors".

\textsuperscript{15} Satsari, 3,369 Chaudang was a clan, whose members were appointed to inflict punishment on criminals including capital sentence. A Buruk or Baruk mean a pretty officer, generally working as a courier or punisher. by Tungkhunngia Buranji p235

\textsuperscript{16} Hamilton, 50 Barbarua, op, cit Agar Din 272.
In the absence of any written laws before the introduction of Brahmanism judges decided the cases according to the prevailing customs of by truthful report. The case was decided on it. The various officers duly remunerated like, Tamuli, Naosalii TekelaBora, MajumderBarua, Chabukdhara Barua, KeulyaBarua, Rajkhowa, were openly accused of taking bribes. The Changes was found by Hamilton to be true as the Judge used to depute as “menial servant or needy follower” for settlement, in expectation of a little gain.\textsuperscript{17}

Captain Welsh summed the position in regard to appeals. Every officer was a judge in his own department with an appeal from the subordinate to his superior and finally to the royal representative.

In upper Assam appeal lay from all officers and Raja's decisions to the BarBarua, in lower Assam to the Barphukan. Appeals from the Barphukan and the BarBarua lay to the King and could be heard on his behalf by the Nyayasodha Phukan.

Hamilton also affirmed the view that no execution could take place without a written warrant based or a prior written account of the proceedings; such trials were carried on openly. However Hamilton does not rule out the possibility of corruption —“The guilty who could bribe were often allowed to escape with impunity and the “guilty poor” were subjected to “exceedingly severe” punishments.\textsuperscript{18}

\textsuperscript{17} Account, 72, Mackanize op cit 180, Hamilton, 49.

\textsuperscript{18} As injustice was not held to be odious, the judges were found by Hamilton to be uncommonly Venal (p 50). It seems there was a steady decline in the standard of judicial integrity toward the end of the Ahom rule. Hamilton 50
The governor considered the possession of jurisdiction in police and in civil and criminal law without any salary or regular fees as a valuable and protective authority.\textsuperscript{19}

The administration of justice had been better administered in the early centuries but on the eve of the Moamariya uprising the system of justice became harsh, cruel, oppressive and unreasonable. The decentralization of justice led to the corruption in the system. The provincial authority started to utilize the judicial machinery for their selfish interest as the central authority became week.

In the analysis of the Ahom administration of justice two extreme ends are found dominated the entire system. In the later centuries the justice percolated with the religion. In religious chapter the religious discontentment has been discussed. Here we are trying to arrange some of these acts which undermined the system of justice. The fear of barbaric punishment also could not stop the people against the royalty.

Sutamala (1648-1663) on ascending the throne, assumed the Hindu name Jayadhwaj Simha. The new king shared the fate of all usurpers, and several conspiracies were formed against him, which he repressed with ferocious severity.

In once, the Burha Gohain was concerned, he was tortured along with his fellow men. The conspirators were tortured to death by the barbarous expedient of putting hot coal in their mouth.–

\textsuperscript{19} Hamilton p 49. The assessment of the imperial Gazetteer (574) that the governor was strong and justice was administer in a fairly liberal manner, that death sentence when inflicted took savage forms and that no mercy was shown to rebels or their families.
In another case Bar Gohain who helped some person to escape was stripped off naked and whipped and made to eat the flesh of his own son and was than tortured to death. The nature was clear to destroy any kind of dissenting tendency, but, it could not do so.

Gadadhar Simha (1681-1696) was instrumental of construction of numerous Siva temple and Monastery. He permitted to celebrate Durga Puja in the Royal palace. At that time, the neo-Vaisnavism sects attained a remarkable dimension. The religious preceptor and followers increased gradually. They claimed exemption from the compulsory public work. It created a chaos in the administration which the Sakta Brahman, who had the kings ear left no opportunity of exaggerate.

Gadadhar Simha again thought that this injunction of the Gossain and to much emphasize on vegetarianism would lead physical deterioration. Moreover, he bore a personal grudge against some of the leading Gossain who insulted him during his exile and not wanted to make him as king in the place of Lara Raja. Many of them were sent to Namrup and put to death. The Dakhinpat Gossain Ram Bapu was captured and deprived of his eyes and nose, his property was confiscated and his gold and silver idols were melted down. Keshab Deb - the Gossain of Auniati fled to a Chutiya village.

The disciples' conditions were much worse. The Ganak, Kayasthas and Kalita there who belong to the better castes were left alone.

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Dutta S.K Assam Buranji (1648-1681) Ippl0 11
22. Ibid
The lower caste people like Kewats, Koches, Dooms and Haris were hunted down robbed of their property and forced to eat the flesh of Swine, cows and fowls. Many of them were deported to out of the way places and made to work as coolies on the roads, others were mutilated, some were put to death, and a few were offered up as scarifies to idols.23

In case of Jakhalabandha Gossain, however, an exception was made who had sheltered the king when he was a fugitive and had foretold that he would eventually gain the throne.

The act then proved not totally administrative but revenge. If it was at all administrative to curb the power of the Gossain for the sake of the state than, why an exception was made to Jakhalabandha Gossain?

It was done as the Gossain was sympathetic to him. But same treatment was not meted out to Bandar Barphukan, who was instrumental to install him as a king. He regarded those as traitors and punished them accordingly who helped him to became king ,as they did so when one king Lara Raja was alive .It was definitely his inclination toward Sakta faith and cast philosophy designed by the Brahmans.

The persecutions spread far and wide and at last no one off any persuasion was safe if he had anything worth taking, then the king found that things had reached this pass he ordered the persecution to be stopped, and restitution to be made in all cases where people had been wrongly despoiled".—

— Gait again observes. "It is impossible to justify, or palliate the brutal severity of the measure which he adopted within a view to overthrow the Vaishnava sects...\textsuperscript{24}

However, in the eyes of common people it was injustice from the part of Gadadhar Simha. The administrative machinery failed to cope up with the changing situation instead of expend the administrative consolidation through different way he took up the measure to "Status queue". Domination of extravagant Mahantas and power hungry Gossain were necessary but by this act he created the discontentment among the people who already tested the spirit of equality and individuality through Vaisnavite teachings.

This treatment well suited to the Ahom monarch in their initial stages. But now people learnt the equality of caste and creed. Those contemporary people were spiritually much more advance then the people of old age. These barbaric treatments which inflicted to them looked as an injustice from the part of Royal house favoring the Sakta cult.

During the time of Rudra Simha (1669-1714) the Brahmans questioned the authority of the Sudra Mahanta to initiate Brahman. The Brahmans submitted a petition to the king to decide the point. The king summoned the Sudra Mahanta to show from what scripture they derived their authority to initiate Brahmans.

\textsuperscript{24} Gait E History of Assam p160/161
Mahanta of Moamariya Sattra Chatrubhuj Mahanta and four other Sudra Mahantas accepted the challenge. But later on they failed to point out the authority. "The king ordered the five Medhi to be imprisoned in the elephant stall. The Baruas and the Phukans impaled for mercy, and he king said, "I wanted to execute them but as my offices have begged for mercy I forgive them this time." Than five earthen jaws were pointed with lime and suspended from the neck of the five Medhies, and the king commanded that they should be sent back and settled as follows - Sriram Thakur at katanipur, Chatrubhuj Thakur at Moamara, Ramchandra of Naroa at Koamara, the Bhatnokhowa Thakur at Elengi and Ramananda the grandson of Bhavanipuria Gopal at his own place."  

By an order he forbidden the Brahmana to bend the knee to the Sudra Mahanta and they were compelled to wear as their distinctive badge small earthen jar hanging from a string round the neck.  

As, "the Brahmans who are now living in the Sattras should no longer be given shelter there. The Brahmanas of the neighboring villages should not also be permitted to visit the sattras. Any violation of this order will be attended by due punishment which will be extended to the Brahmans as well."  

In the month of Ahin 1625, the spies informed the king that two brahmans were seen at Moamara. The king caused the arrest of the Moamariya Medhi and punished him in the open Courtyard.

25 Bhuyan s.k. (Edit) Tungkhungla Buranji 33/34 1990
26/27. Ibid
The two Brahmans were also given a thrashing and had their ears and noses clipped. The Brahmans who were formerly disciples of Sudra priest were initiated again by religious preachers of their own castes. On information being received that the Kamalabaria and Madhupuria priests were not offering worship to images, they were also whipped and turned out with pitchers suspended from their neck.28 Siva Simha (1714-1744), in 1722 to avert his danger of predicted dethronement declared his chief queen Phulesvari to be 'Bar Raja' of chief king. Phulesvari was a great devotee of Sakta she organized an assembly of the religious preachers of the Thakuria domination and made them bow down before the head of the Auniati and Gaurmur monasteries which were belong to Brahma Samhati and favoured by oyal house.29

They were asked to offer worship to the Gods with the help of images. In the celebration connected with the worship of Durga she invited Vaisnavite Mahantas and asked them to bow before the image of the goddess which was refused by the Mahantas. Infuriated queen ordered their forehead to be besmeared within the blood of the sacrificial goat and buffaloes and were forced to eat the offerings made to Durga.30

During the time of Swargadeu Rajesvar Simha(1751-1769) in the month of Kartik at Rangpur a murderous attack on Kritichandra committed by some conspirators in one evening. Kritichandra was narrowly escaped.

28. Ibid
29. Bhuyan, s.k. Anglo Assamese Relation p203 1974
   Gogoi L. Bali Mar Gol P33 1983
30. Bhuyan, s.k. Anglo Assamese Relation p203 1974
   Gogoi L. Bali Mar Gol P33 1983
At day break, the murderous criminal was recognized by all. The two persons being found guilty in the trial were fettered with iron chains and imprisoned at the Hatisal at the entrance of the Bardua. The Naoboicha phukan was also accused of having entered the city at a prohibited hours and was imprisoned with fetters. The Gharphalia Barua of the Barukial BarGohain family was going out after discharging his duties at the guard. When he was accosted by Dhekial BarBarua from the palace of the imprisonment. Who said -- "I have no hachati (or handkerchief) on my head. Please send me your hachati." The Gharphalia Barua in his sincerest motive sent his hachati to the prisoner. The Tekalas on guard saw this and communicated the fact to the BarBarua who reported the same to the king.31

The Swargadeu having heard this changed the Gharohalia who was the brother-in-law of the BarBarua, of the offence of giving a handkerchief to a prisoner and remove him from the office and drove him away. BarBarua own elder sister was given in marriage to Gharphalia Barua. In the trial the Dhekial Barua as well as his nephew were both convicted and pressed to death under wooden cylinder, their dead bodies placed on a raft, with a hachāti on the nephew's shoulder, and were made to float adrift. In a similar trial Thabuli and Naoboicha Phukan had their noses and ears cut off and they were placed at Nibok. The Barchamua, Mandhaj was fried to death in oil, and his three accomplish were hewn with axes, Ratikanta Ganak was also torn asunder with axe.

The blacksmith who made the *mit dao* (sword) or dragger with which the Barbarua was stuck had his ears, nose and eyes destroyed.

At the same time, the Barbarua obtained the king's permission to arm one man out of every twenty retainers with a club. From that time club men were attached to the Barbarua who also became entitled to daily guard\textsuperscript{32}.

After the death of Rajesvar Simha Kritichandra Barbarua installed Lakshmi Simha and became the all in all in the administration.

In 1691 saka on the 16th of Ahar two son of Rajesvar Simha – Charu Simha and Ratneswar Tipamia Gohain were sent to Namrup.

The trial of the old attempt to murder again started \textsuperscript{33}. Tipamia Gohain was asked to say the name of other conspirators and he disclosed the name of suspects and they were punished. The fact was that they were not at all guilty. Barbarua and Dhekial Phukan corrupted the power and punished the people on suspicion. That was the liquidation of power and misappropriation of justice which later on took the form of popular discontent.

Kritichandra Barbarua was a powerful officer but not popular. The old Ahom nobility quite often insulted him because of his origin, as he did not belong to the leading Ahom nobility or house. The story of his origin and his father's servitude in the house of —

\textsuperscript{32} Bhuyan S.K (edit) Tunkhungia Buranj. 1990 pp50/51

\textsuperscript{33} Ibid
— Mohammedan was narrated in a chronicle compiled by Numali Bar Gohain. The episode was also incorporated in other contemporary account. Kritichandra conducted a vigorous search of the entire chronicle and destroyed all those where he found some reference of his plebian origin. Kritichandra’s attitude toward the Moamariya Sattras has been discussed in the religious chapter that was the gross injustice in the name of justice.

Another blow of injustice provoked the Moamariya for the revolt. According to the customs the Morans supplied the king’s household with different articles. The Morans were divided into several units or Khels according to the nature of the supply they had to provide. The Hati Chungi khel used to supply the elephant to the Monarch.

Ragha Neog and Nahar Khora Saikia of Hati Chungis Khels delivered the usual supply of elephants to BarBarua on September 15, 1769. They know the haughty and irritable character of the BarBarua and for his purification they brought this time the best elephants. But BarBarua was not satisfied with the elephant provided by Hati Chungis. He found the elephant defective and ordered Ragha Neog to be flogged. He was pressed the ground with bamboos and given no lashes. Ragha fell prostrate with pain. He should out. "This land is infested with devils. The sun, the moon, the air and the cloud are standing spectators of this injustice and cruelty. Retribution is writ large on the forehead of the wrong-doer" Then Ragha under heavy bandage was taken to the presence of the Mahanta and his son. A full scale revolt was inevitable.

34. Bhuyan S.K. Anglo Assamese Relation p 207
Thus, the administration of justice had been better administered in the early centuries but on the eve of the Moamariya uprising the system of justice became harsh, cruel, oppressive and unreasonable. The decentralization of justice led to the corruption in to the system. As the central authority became week the provincial authority started to utilize the judicial machinery for their selfish interest.

The Ahom penal law, was severe and punishments were heavy even for trivial offences. The penalty of death might be meted out to the whole family of a rebel. A person who incurred the particular displeasure of the king might be made to eat his son's flesh. Extraction of knee-pans, eyes, and slicing off noses and ears were common practices, besides different cruel forms of execution. Though most of these punishments were in vogue in other parts of India, in Assam they produced the impression that the government of the Ahoms was inhuman and cruel. This impression made the Ahom government unpopular. Particularly, during problematic period, there were gross abuse of the penal law and ruthless Infliction of indiscriminate punishments. This naturally exasperated the masses

In the analysis of the Ahom administration of justice two extreme ends are found dominated the entire system. In the later centuries the justice percolated with the religion. It created discontentment far and wide. The fear of barbaric punishment also could not stop the people against the royalty.