

# Customary Laws and Environmental Conservation: A Case Study on Idu-Mishmi Tribe of Arunachal Pradesh

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**Abstract:** Customary is a usual practice and activities associated with a certain society, places, or set of circumstances and laws are regulating that state of affairs. The general philosophical basis of the concept 'Custom' is it refers to a set of established patterns of interactive behavior among mankind, which can be objectively verified in a particular social setting, because these behaviors are adopted in everyday routines. The term 'Law' refers to the principles, rules, rights and obligations that administer social interactions and processes. Idu-Mishmi one of the tribes of Arunachal Pradesh known for strong believer of indigenous knowledge system including the customary laws in almost all the practices. All activities are guided by some set of laws that the legitimate obligation during the ancestral period. There are some sets of laws on land, river and forest which is intrinsically followed. Land, river and forest are owned by individual, clan or community. Customary laws complement the statutory laws against the uncontrolled exploitation of natural resources and local environmental laws. They are central to the very identity of indigenous peoples and local communities, defining rights, obligations, and responsibilities of members relating to important aspects of their lives, including use of and access to natural resources. With the advent of modern education system, the changes in customary laws are much deviated from its originality. The customary laws on ecology are also become lesser followed by the present generation. The writings and the documentation of this laws are important for the future use and to impart the value of local knowledge system and customary laws vis-a vis environmental conservation.

**Keywords:** Customary laws, Conservation, Ecology, Traditional, Indigenous, Local-Knowledge

## 1. Introduction

The level of interaction may be different in every society but all are either directly or indirectly hooked on natural resources i.e. land, forest and water. Some societies are continuously depended on nature for primary occupation such as agriculture, fishing, hunting and food gathering. Whatever may be the level of interaction, there is constantly a regulatory system for utilization of natural resources as a guiding principle. In every society, a certain system that controls the management of natural resources. In relation to human ecology, there is a relationship between humans and nature, such is the thought of indigenous people who have lived in the forests for several generations; that they are part of the environment so that the core of life is the environment itself. According to the Osborne Concise Law Dictionary, a custom is a "norm of behavior, binding to those within its domain, established by repeated practice." To be valid, these conventions must be old, well-established, and reasonable (Lun Yin, 2022). Legal philosophers have identified three pillars of legal administration since the time of Aristotle in ancient Greece: natural law (universal moral principles), customary law (unwritten law that people bound by it believe binding), and positive law (written law, statutory law).

Values and norms that apply in society are formed based on their life experiences interacting with their environment. This paradigm is called "society in self" (D. Asteria et al., 2021). In due course of time, these are formed as customary laws. Customary law on environmental protection is potential to

effectively suppress and reduce environmental damages caused by humans, and is also considered appropriate to support the lives of generations to come. (Ratih Lestari et al. 2018). Customary law serves to regulate the use and management of natural resources. This law is intended for the people to maintain and preserve their natural resources.

At the Glasgow COP26, Honourable Prime Minister of India, Shri. Narendra Modi called for Lifestyle for Environment (LIFE) as a mass movement for climate action. LIFE resonates with the customary laws and traditional knowledge systems of the communities that promote 'mindful utilization' of natural resources.

The study mainly focuses on Idu Mishmi tribe of Arunachal Pradesh dominantly settled in Dibang Valley and Lower Dibang Valley districts. This tribe also settled in some pockets of East Sinag, Upper Sinag and Lohit districts of the state. The study area extended between the latitudinal extent of 27° 45' N to 28° 60' north latitude and longitudinal extension of 95° 5' E-98° 4' East longitudes. It has geographical area of about 13,029 sq km. The entire region is covered by hilly and mountainous topography except the few river valleys where the settlements and agricultural activities are visibly prominent. The Dibang River drains the whole study area including numerous major tributaries like Angi, Mathu, Tallon, Emra, and Ahhi river in Upper Dibang valley and Inthu, Ephi and Eze (Deopani) river etc. in Lower Dibang valley. Geographically, the study area is vast partially isolated and sharing as border district in the north-eastern part of the

state which is purely inhabitant by single tribe called Idu-Mishmi also known as 'Chaulikata-Mishmi'. They have gained this nomenclature of 'Chaulikata' probably due to half round haircut by all genders.

Among Idus, there are numerous customary laws applied to management of natural resources. The forest, river, land are owned by individuals, clan or community. For violation of prevailing customary laws, punishments are imposed as per enormity of the crime. Such judgments are decided within the individual, village or community level. These customary laws are very much integral part of constrictive wasteful management of ecological resources. Destinations and host communities of the state of North East India govern and control natural resources through customary laws and traditional knowledge. Compared to huge bureaucratic administration of federal government of India, traditional villages based institutional interventions have delivered better results in its management (Dutta Mridul. 2019). In the past, normally any dispute arises among the community members because of intrusion to other's territory is solved out by following the customary laws.

The description about the customary laws on different resources and areas are discussed as follows: -

## 2. Customary laws on forest land

Forest land is one of the most important ecological resources for human society on earth. This land is owned at different levels by different groups. There is no existence of any cadastral map, the ownership of land is decided based on the first occupation in Idu-Mishmi society. The one who cleared first would be the owner of that patches of forest land. In individually owned forest, the permission of owner of the land must be taken to collect any kind of resources. For example, one has to get permission from the owner of the forest land to collect huge quantity of firewood. Other daily activities are also required to get permission from the land owner like collection of wild vegetables; micro or macro level hunting and trapping etc. Indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development (Principle 22 of the Rio Declaration).

In village, usually there are unequal distributions of land among the villagers. Some of individual or family owned large and accessible land and vice versa. There are also families who do not owned enough land for cultivation. In such case, the landless family can acquire some patches of land from others with certain terms and condition on temporary basis for cultivation purpose. The land acquired is normally returned after few years of cultivation. The borrowers of land are conditioned with customary laws for appropriate use of land. The land in a village can be classified into different categories such as:

### (a) Village level settlement land and customary law

Most of the forests near to settlement are owned by individuals. Every individual take care of their own forest land. Large scale collection of forest items from such individually own forest is restricted but extractions of minor items are allowed. Traditionally, majority of Idu-Mishmi villages are difficult to separate from the agricultural land. The jhum cultivation is sometime practiced along the settlement. But, the greater part of agriculture fields is far from the main settlement. The history of settlement reveals that, Idus prefers to settle on the top of the hills on many grounds. Some prefer to remain in the isolated village where natural resources are plentiful. The source of water, availability of cultivable land, hunting and fishing are the deciding factors. Today many villages are abandoned and shifted along the road side or at the gentle slope area.

The area under settlement belongs to village community land but after decades of construction of the house in the same plot; the particular plot is considered as belonged to that particular family. Traditionally, the selling and buying of land is restricted in the village, though conditions are changing considerably in today's modern days. The natural or man-made boundaries are created to avoid any dispute among the villagers. These boundaries are created with natural standing trees, natural drainage or by erecting stone pillar. Sometimes disputes arise among the neighbors over the plot of land for construction of house which is settled at village council level. The tradition of co-existence among the villagers led to respect towards the nature which is very important for the conservation of ecological elements. House is constructed keeping sufficient space which is safe technique during the fire accident. People who live in the road side and near to urban areas have started constructing permanent structure. The village council system is one of the important laws that prevent from over exploitation or unnecessary infringement between man and the nature. Today, many go to judiciary for settlement of local disputes which is changing the value of customary system that existed since time immemorial.

### (b) The agricultural land and customary law

The land between the settlement and far distant forest is the agricultural land mostly for shifting cultivation. As most of the study area is mountainous, shifting cultivation is practiced on the slope where farmers can move easily. Thus, steep slopes are avoided where human movement is not possible and downward movement of top soil is also high. The average size of field varies from one hectare and above. As mentioned, the forest patch used for shifting cultivation is owned by individual family and clan who cleared it first.

Due to absence of proper map, the frequent disputes arise over the boundary which is settled at village level. Generally natural entities like ridge, drain, standing rock, standing big tree, and any prominent structures are considered as mark of the boundary. Sometimes fines are imposed for illegal encroachment of others land. Limited use of the forest land is an intangible act which minimizes the over exploitation of both flora and fauna. Generally, it is observed that the old

aged villagers are more sensitive in using the forest products. They do not destroy the living tender trees while cutting the bamboos and firewood.

Selling of agricultural land is generally not preferred but sometime barter system is followed. Even for individually owned land, one has to obtain the consent of the clan from where one belongs to. Such land property is shared among the brothers where major share goes to one who looks after the land. When father is alive, he is the head of the family. Daughters cannot inherit land unless presented to them by father or brothers. Before marriage, daughters have the equal right over the land property of her parents.

### (c) Community forest and customary law

The community forest is basically in the form of grazing land and hunting forest land. It is normally situated far distant beyond the agricultural area, which is usually avoided of cultivation. The most important community land is grazing land own by the villagers at some distant from the settlement and agricultural area. This type of community forest land is commonly found in Dibang Valley district where Idu-Mishmi is the main inhabitant tribe. Traditionally, this land cannot be reserved by any individual but sometime one can cultivate for temporary period. Anyone can collect forest items from such forest land but large-scale destruction is restricted.

The hunting forest is divided into two types i.e. community or clan hunting forest and individual hunting forest normally situated at the very high altitude. Hunting by other people is strictly prohibited. One has to get permission from the owner of the land if the hunter willing to do so. The restriction over the forest land protects from the uncontrolled hunting of wild animals and birds. In Mishmi hills lots of valuable flora and faunal species are found which always tends to attracts outsiders to exploit. Example, the Musk Deer is one of the most valuable animals found in the region. Other most valuable species are Paris polyphylla, Mishmi-teeta/Coptis teeta and etc. commonly found in the region. Venturing into the others territory led to disputes and conflict among the community members. So, the existence of strong customary laws controls the excessive exploitation of both flora and faunal resources. And the customary laws are always attributed with natural boundaries in the form of ridges, stream, stone pillar, river, waterfalls, and other historical evidences.

## 3. Customary laws on rivers and streams

Similar to forest land resource, rivers are owned by individual, clan and community. River flows through many villages and the portion of river flowing through the particular village territory is owned by respective villages and all village members enjoy equal rights over it. In some cases, individual family and clan owned the entire stretch of stream or river as their property. This system of inheritance is followed throughout the ages. Traditionally, the fishing right over the individual's reserved river or stream is restricted. As per traditional law, fellow villagers are also required to take

permission for fishing and other activities. For example, *Ayuu-chi* is a small stream owned by individual family where seasonal small fish known as Ayuu (Local name), *Garra ranganesis* (Scientific name) is found. This fish entered the small stream via main river for seasonal breeding of eggs. The local people trap the fish during downward movement after the breeding period is over. During this entire period, the area around the stream is restricted of human activities. This restriction allows the fish to complete the breeding period and sustains the lives of offsprings for continuous existence of this particular species.

The major river is also owned by individual family and clan. The rights over the river are completely rest on to the owner of the river. They are the guardians of the river and its periphery. Any activities in and around the periphery is required consent of the owner. This customary law prohibits over exploitation of fish species and other resources available around.

## 4. Sacred places in the forest

Balinese people consider that preserving nature is a religious commitment which is translated into their customary law. "They keep their traditional early Balinese Austronesian lifestyle, with relatively free access to natural resources according to their traditional law" (Caneva et. al., 2017).

According to Idu's mythology, there are many sacred places in the forest and human interference is delimited. Practically, even in today's modern world, those places in the forests are strictly prohibited from any human activities. This practice is followed since time immemorial. In some way, it is helping in maintaining the ecosystem of the area. Following are the sacred places found in Idu-Mishmi inhabitant area such as;

**(a) Ansha-no (Devil's Home):** Traditionally, it is believed that '*Ansha*' is an evil spirit who lives in the thick forest known as *Ansha-no*. It is believed that, when he is offended by men, he visits with adversities like dysentery, fever and other psychological diseases. This type of forest is avoided from any kind of activities. There are many places in the study area where these kinds of forests are commonly found. For example, *Rilly* village of Dibang Valley under Anini-Acheso administrative circle, is spotted with multiple patches of *Ansha-no* which are completely devoid from all kind of human activities.

**(b) Mbroka-chaa (Graveyard):** It is a sacred place where any form of settlement, cultivation, resource extraction, and other economic and social activities are prohibited to avoid any kind of untoward incidence. The restriction of human activity in this place resultant into regeneration of forest which may help in ecosystem of the surrounding.

Traditionally, Idus has a unique eco-friendly technique of maintaining graveyard. Dead bodies are buried in the forest near to the village. Collection of any materials from this forest is believed to be inauspicious and in due course of time it turns into primary forest maintaining a perfect forest



ecosystem. The graveyard is a community owned land and traditionally and socially, one cannot do any activities in the area. Now a day people use to construct cement-concrete graveyard which is gaining much concern for soil and vegetation regeneration as well as occupying as permanent structure in the forest.

**(c) Aencha-Doh (Holy stone place):** It is a sacred place of shaman where the *holy stone*, a very rare and distinct from common stone or rocks is kept. *Aencha* is a holy stone of shaman essentially kept away from home or beyond the reach of common people. It is a powerful stone and only the owner, the shaman can touch or alter as and when it is needed. Any kind of physical activities like cutting of tree, bamboos and clearance of jungles etc. are restricted around this place. The unnecessary shouting or abusive behavior in an around this place is also highly restricted. Therefore, the place around is completely free of human disturbances and natural growth of vegetation is maintained.

**(d) Athu-popu (mythological place):** *Athu-popu* is a sacred place of the Idu-Mishmi community and found to exist in reality as mentioned in the sacred hymns. This place bears the high reverence in the minds of Idu-Mishmis. It is located near *Keya pass* (China border) and considered as a holy place of Idu tribe. The rock '*Athu-popu*' has a palm mark impression on it. It is believed that the palm mark on the rock is laid by great *Igu* (shaman) known as *Sinewru*. According to the sacred hymns, the place around the rock is completely dry but it oozes water and it is considered as the tears of *Sinewru*. Given the mythological importance, the local people avoid activities that distress the surrounding area. In order to preserve its mythical value, Idus have recently started the 'religious' trekking under the concept of *Athu Popu* expedition in the year 2021.

**(e) Others:** Traditionally it is forbidden to shout near the unknown lake, pond, hills and mountains as it is believed that these natural landscapes are the home of supernatural being who rules the natural world. It is also believed that disturbance in such area may enrage the spirit of the place and may bring natural calamities or may cause untoward incidence to mankind. This strong believes hold a special human behavior towards the nature. Particularly the Idu-Mishmis are strong believer of myth, they also practice the activities accordingly. This strong believes system reduces the excessive use of natural resources and draw the sense of fear among the people.

## 5. Conclusion

The customary law is the root and guiding principle of all modern laws. It is defined as the knowledge, innovations and practices of indigenous and local communities around the world, so reflects the aesthetic of tribal people. To some extent it is different from the Indigenous Knowledge System (IKS), as Traditional Ecological Knowledge system (TEKs) mainly takes on traditional knowledge-based activities and believes on it. It is mainly a practical nature, particularly in the field of agriculture, hunting and fishing, use of natural resources and

related beliefs and taboos. Whereas customary laws take on overall laws in the form of cultural values, beliefs, rituals, and agricultural practices, etc.

In the case of strategy of implementation of customary law in protecting the environmental coercions are the strengths, weakness, opportunities, and threats to be addressed as follows:

Strengths, customary law can control people behavior and the interactions with nature. Customary law has strong connection between traditions and its believers. Weakness, the role of customary law in environmental protection is still low. Customary law is not used as the main regulations for environmental protection instead of formal law in present context. Opportunity, customary law can protect environment, customary law can strengthen the environmental law. Connection between traditions and believers in customary law expected to protect the environment effectively. Threats, environmental sustainability can be threatened without a strong law. Strong connections in customary law can be used to reach environmental sustainability.

The combination of these above features relates the assumptions and beliefs about how things work, and explains the way in which manner things are connected, and gives principles that regulate man-nature relationship. From an anthropological perspective, it attempted to understand the human-nature relationship and how these directly influence social relationships, obligations toward community members, and ecological management practices.

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