



The Animistic Practices: Cradle of Ao Naga Customary Law

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ABSTRACT

The Primary Courts and village elders in the state of Nagaland adjudicate disputes by application of customary laws. Animistic based customs and usages that have been in practice since time immemorial are often used in settlement of disputes by invoking providence. This paper endeavors to study the sagacity of a few frequently used animistic practices and usages in the administration of justice as the cradle of Ao Naga customary law. The paper further examines their legal rationality with the help of natural law theory and concludes with the *ius positum* special provision under the Constitution of India.

Keywords: Animism, positive law, natural law

1. Introduction

The Ao tribe of Nagaland hails from the present Mokokchung district of Nagaland. It may however be mentioned that the term 'district' is a colonial administrative word. Before the colonial administration, it was called 'Ao Lima' which means 'Ao Land' or 'Ao Country'. The district is about 1,615 Sq. Km with about 114 villages. It is surrounded by the State of Assam on the North, Wokha District on the West, Zunheboto District on the South and Tuensang and Longleng Districts on the East. The Ao tribe has a population of about 2,20,052.¹ Each village was independent and would usually attack each other for head.² The Ao country is divided into six ranges, namely, Ongpangkong, Asetkong, Jangpetkong, Japukong, Langpangkong and Tzurangkong. The villages are commonly divided into two Khels on dialect basis – Mongsen and Chungli and the Khels are further divided into different 'kiong' (sector or colony). The Aos speak three dialects – Chungli, Mongsen and Changki. Thus, in a village, one may find two dialects, the Chungli Khel speaking Chungli dialects and the Mongsen Khel speaking Mongsen dialect. Changki is the lone village that speaks Changki dialect. The village is governed by 'Putu Menden' (Village Council) headed by a nominal and nonhereditary 'Onger Menden' (seat of the priest or headman). The Village Council is composed of representatives from different clans in the village. The Village Council is empowered with all the three organs of the village administration. Customs and usages based on animistic practices and rituals are often used in settlement of disputes by invoking providence by the Village Council Courts and Dobhasi Courts which are primary courts.³ This paper endeavors to study the sagacity of a few frequently used animistic practices and usages in the administration of justice as the cradle of Ao Naga customary law. The paper further examines their legal rationality with the help of natural law theory and concludes with the *ius positum* special provision under the Constitution of India.

2. Divine God and Human

The benevolent and most powerful gods of divine the Aos believed are– Lichaba (the creator of earth and living beings), Anungtsüngba (the controller of sky), Longkitsüngba (the sustainer of all living forms – humans, animals and plants) and Meyutsüngba (the god of judgement after death). According to the stories

¹ Source: <https://nagaland.gov.in> (last visited on 23 June 2023)

² Head-hunting among the villages was a common practice among the Naga tribes. The more a man hunted the head of his enemies; he gains higher social status in the village. It was valor that even his future generations will be named after his act of bravery.

³ See, *Tekaba Ao and Anr. v. Sakumeren Ao & Anr.* AIR 2004 SC 3674, wherein the Supreme Court set aside the order of the High Court and held that the High Court has deprived the Village Court as the primary court.

and history of civilization that has been handed down orally, the Aos originated from 'Longtrok' (Six Stones),⁴ which indicates that they are not creation of God or any supernatural powers. Thus, the Aos are naturally evolved. The religion of the Ao Nagas is called 'Limaüoer'. The practice of Limaüoer is about intimation of his activities to the supernatural powers that controls the land and offering of sacrifices and gifts to please or to bargain with the supernatural powers. When one goes to the jungle, he calls the forest tsüngrem (god) informing he has come for fishing, hunting or to cut wood or collect wild fruits and vegetables. When he leaves in the evening after the work, he bid adieu to the forest god and thank him. The favoritism of the tsüngrem to individual(s) is strongly believed among Aos. In the same forest or a river one may get a good hunt and the other nothing. In other forest or river, the later gets a good hunt and the former nothing. If he falls ill, his spirit is detained or punished by the tsüngrem of the forest or the river as the case may be. When this happens frequently, it is believed that the tsüngrem does not like him. The reason may be he did something which the god did not like⁵ or simply the tsüngrem don't like him. Thus, to please and set his soul free from the custody of the god, the sacrifice or gifts are offered.

The Ao religion of animism does not provide for a code of religious moral practices. However, it does not mean that Aos are not capable of distinguishing between right and wrong or moral and immoral. The distinction of right and wrong is regulated by custom and usages based on good conscience the society has developed and adopted over ages and made binding. Unlike other religion, the Ao's practices of sacrifice and gifts to the tsüngrems are not prescribed by a prophet or a messenger of tsüngrem or by the tsüngrem himself. Those practices of Ao religion have been the norm of conduct developed over the ages of yore by the Ao forefathers in their just belief to live harmoniously with the nature and supernatural powers for the progress of the Ao society. Mills observed that, "the religion of the Ao is not a moral code. It is a system of ceremonies, and, strive to do that which is lawful and rightful in the moral sphere, he will not prosper if he omit the sacrifices due to the deities around him, who unappeased, are ever ready to blight his corps and bring illness upon him."⁶ A couple of decades later, Kelsen in his natural law doctrine defined animism as "a social interpretation of nature, for primitive man considers nature to be a part of his society. Since the spirits or souls animating the natural phenomena are believed to be very powerful and able to harm as well as to protect man, they must be worshipped."⁷ Both Mills and Kelsen has a similar view on the reason why people worshipped natural beings during the primitive days. Though Mills has not termed the Ao religion as 'Animism' his observation that it is a system of ceremonies to appease the deities qualifies the definition of animism by Kelsen. In both the theories, worship, submission and sacrifices were practiced due to 'fear' and 'belief' on the more powerful and supernatural being either to ward off harm and misfortune or to appease for greater benefit that is not under the control of humans. The Ao religion 'Limaüoer' means worshipers of the 'land' or 'nature' and the practices of sacrifice or gifts to the tsüngrem is either due to fear of harm being inflicted to his life, health and crops or the appease the tsüngrem for a greater benefit. It may therefore be termed as 'animism' for they thus worshipped the tsüngrem of the cosmology and the non-physical entities and natural beings who they believed has powers beyond human control and potentiality.

3. Birth and Death

From the day a person is born to his death, practices of ceremonial rituals are observed. It is perhaps intricate to state as to why such practices are followed. On one hand it maybe for the invoking the divine blessings and on the other the fear of adversity requires one to submit to the supernatural powers. Irrespective of the arguments on the scientific rationality on supernatural powers, such practices have been in practice since time immemorial and the tribe has survived the times and flourished with rich knowledge and history. On the birth of a male child, seven bamboo sticks sharpened on both ends and six sticks in case of a female child are shoved through the roof above the mother's bed. By piercing the sticks over the surface of the roof, the Sun, the Moon, Stars and other heavenly bodies would know that a child is born in the house. This practice is of expressing respect to the god of cosmos. Thus, when a child is born during noon, an egg is sacrificed to the Sun by the father or an elder person present at the time of delivery by piercing the egg with a bamboo stick and hung it up on the wall of the house. This sacrifice is to save the child from the dreadful sun. During the naming ceremony which begins on the third day after the birth, a cock is sacrificed for male child and a hen for a female child. The sacrifice is done by saying "the baby would grow tall like a bamboo, long cane and a ficus tree."⁸ The fortune of the baby is decided by examining the intestine of the fowl. The mother eats only with a bamboo or wooden spoon and does not go out of the house during those three days. On the fourth day,

⁴ See the Gazetteer of India, Nagaland, Mokokchung District, Govt. of Nagaland, 1979 for the story about the evolution of the Ao Nagas from Longtrok.

⁵ See the romantic folktale of Etiben and Jinasungba where Etiben collected Burmese grapes in her Mekhala.

⁶ J.P. Mills, *The Ao Nagas*, (Directorate of Art and Culture, Govt. of Nagaland, Nagaland, 3rd Edition, 2003), 215.

⁷ Hans Kelsen, "The Natural-Law Doctrine before the Tribunal of Science", 2 (II) *The Western Political Quarterly* 482 (Dec. 1949).

⁸ Tajen Ao, *Ao Naga Customary Law* (Aowati Imchen, Mokokchung, 1980), 3.

the naming ceremony concludes with 'Atzü-Zulak' where the relatives and friends go to river, catch fish, and enjoy merrily the fish they caught.

On the death of a warrior a dog is killed and placed it near the head of the dead person so that the dog will accompany the dead person to the land of the dead. The spirit of the dog will protect him on his way by frightening away the spirits of his enemies and animals who he has killed during his life time. Clothes, ornaments and other food items were also placed in the coffin. Relatives, friends and elderly people of the village would come near the dead person and say their farewell. Together with farewell words old man would say to the dead person that "now you are leaving us and travelling across the sea to the other land, so don't think of anyone of us but go peacefully and don't look us back from the other land. Pigs, buffalos and Mithun are killed and all the villagers would have a feast called 'Tüsaba benjong' after the funeral service. The villagers would visit the dead person's house in the evening and sing songs all through the night. The next day after the disposal of the dead body, the relatives and friends go to river and observe 'Atzü-Zulak'.

On a rich man death, the women who sang songs of pride and valor of the dead man were given a basket of paddy and the men who participated by singing songs and danced during the procession of the funeral were given a dao or a spear. The relatives who nursed and looked after the dead person during his illness are entitled by custom some share in the property of the deceased.

4. The Deities and Spirits

Unlike the Trinity, the Aos belief in the cosmology of heaven, earth and underworld populated by gods, deities, humans, nature, animals and departed spirits. Thus, they believe that every mountain, river, field (Jhum land cultivation), house site, forest, etc. has a tsüngrem (god). J.P. Mills precisely describes the Ao tsüngrem "they are everywhere – in the village, in the fields, in the jungle, by the streams, in trees, and, most favourite haunt of all, in the huge boulders which are so numerous in the Ao country."⁹ Aos believe that humans have 'tümela' or 'tünala' (spirit) and 'tiya' (aura), that regulates his present life and after death. However, 'tiya' is mostly used in context of fate and luck. One therefore may say "your tiyar was bad when a misfortune happens" or "I pass the exam just because of tiya" when he pass the exam despite his poor performance. When one fell ill after coming back from the field, Aos believe that his tümela is detained or punished by the 'Tekong-Lu tsüngrem' (god of Jhum land) or by the 'tanum tsüngrem' when one fell ill after coming back from the mountain. Similarly, is with the 'Kini tsüngrem' (god of the house site), the 'Ayung tsüngrem' (river god), and 'Aong tsüngrem' (forest god). To bail out his tümela from the custody of the tsüngrem, an elder or an old man of the village will go to the spot and sacrifice a rooster saying to the tsüngrem "take this rooster and release the person tümela". In some cases, where rooster is not sacrificed, the old man would admonish the tsüngrem and loudly shout in the spot calling the name of the person (whose tümela is detained) to follow him home. These tsüngrems may therefore be described as malevolent gods. Some old men call them as 'motsung' (evil) rather than as tsüngrem. Post the advent of Christianity, these tsüngrem are commonly called 'motsung' – Tekong-Lu motsung, Aong motsung, Ayung mostung, etc. Sickness, sudden death due to an unknown disease, drowning, accidental death in the jungle, etc. were ascribed to these tsüngrems.

5. Settlement of Disputes

Disputes of every kind are adjudicated by the Primary Courts and village elders in accordance with the custom and practices of the parties. But, where a dispute could not be amicably settled, the providence is invoked. When a deadlock is reached, the parties take oath by swearing that death or misfortune would happen to him or his family, and for which a reckoning period was fixed, commonly in the next thirty days. This settlement of dispute is called 'Azungngüshi'. Different procedures of Azungngüshi were adopted for different types of cases.¹⁰ The procedure may also vary from village to village. In cases of land dispute, each party would in the presence of the 'samen' or 'tatar' (village councilor) and other witnesses take a morsel of soil from the spot of the disputed land, eat the soil and take an oath "If I have sworn falsely, the tsüngrem would punish him by bringing death or misfortune to him or to his family members." Another type was that the accused would bite the skull of a tiger and swear that he would have a miserable and painful death if he has sworn falsely. Such type of Azungngüshi was followed when the accuser challenges the veracity of the accused statement. Biting of human skull collected from the corpse platform¹¹ was also used in grave cases by swearing that his spirit would join the skull owner if he has sworn falsely. In paternity disputes, both the woman and the man bites the undergarment of the other and swear that myriad of sufferings would inflict

⁹ Supra Note 6 at 216.

¹⁰ For detail and complete procedures of Azungngüshi in different type of cases, See Moatoshi Ao, *A Treatise on Customary and Fundamental Laws of the Nagas in Nagaland*, 18-23 (Notion Press, 2019).

¹¹ Before the colonial administration, the dead bodies were wrapped with cane or bamboo mat together with the deceased belongings and gifts from relatives and friends and kept in an elevated platform beyond the reach of wild animals. The corpse platform looked like a small elevated thatched house.

upon her/him if she/he has sworn falsely. The party in whose family any sickness, misfortune or death happened during the reckoning period is declared guilty. If no such incident happened in either of the parties, the disputed property is divided equally and in the case of paternity dispute, the accused is discharged from all accusations and declared innocent.

Dissension and disputes with blood-related elders are settled by reconciliation initiated from the younger one by gifting a pig to the elder. With a cock the elder visit the younger house accepting the offer. The younger kills both the pig and the cock and enjoy with 'müjem' (rice beer). Thus, many disputes between family members are settled avoiding lengthy litigations. However, if the elder one dies before the younger could initiate the reconciliation, than 'Mangzungruk' ceremony is performed.¹² A 'Tezütaponger' (person who has the power of precognition and clairvoyance) is engaged to meet the dead elder in his dream and convey the younger one's message and gift of reconciliation to the dead elder. The Tezütaponger is given some gifts and some offerings of food and pork are placed in the platform of the dead man's corpse as a token of offering meat to the dead man. The Tezütaponger is not a councilor of the village council nor is he given any official position. He is just an ordinary villager whose services are voluntarily offered to his fellow villagers for he has those powers which are bestowed upon him by the nature.

To science the Azungngüshi and Tezütaponger appears to be superstitious. The said two practices also would not qualify the characteristics of *ius positum*. However, these practices have been in practice since antediluvian and have kept the Ao society in order. The belief of the Aos in Limaüoer Tsüngrem perhaps have thwarted the tyranny of a human dictatorship and thus saved from anarchism in the society. The practice of Limaüoer was based generally on the natural law doctrine of 'inherently correct' devoid of command from any higher and powerful one. The Aos practiced sacrifices of animals and offering of gifts not in pursuance of a command or a code of religious dictates but as an offering of negotiation with the more powerful supernatural being for his health, family, crops and the village. Thus, the practice of Limaüoer does not come from the top authority or from the state enacted law and hence is not a state responsive legal system. It caters to maintain equilibrium between the human behavior and the supernatural being without the involvement of state made law. The absence of state machineries and agencies in the enforcement of legal order in the Limaüoer system has eliminated greed and corruption, thus the probability of frustration of human constituted judicial and administrative orders are zilch; for there is seldom one would disobey the command of the non-physical entities.

6. Dream Interpretation

Dreaming during sleep or a nap perhaps happen to many irrespective of the culture and the religion he practices. The interpretation of dream may not be similar to everyone, but many communities regard dream as an important divination. According to Sérgio A. Mota-Rolim & others "Lucid dreaming in Judaism, Christianity, and Islam are ways to communicate with God to understand the present and predict the future, Buddhism and Hinduism are more engaged in cultivating self-awareness."¹³ Thus in religion, dream are studied according to the Holy Scriptures and mythology. For Hinduism, in Chapter 7 of the Agni Purana, Lord Rama explained to Laxmana and Sita the meaning dreams, omens and signs.¹⁴ Genesis 41, Matthew 2:13, Daniel 7, Acts 2:17, Jeremiah 29:8, etc. in the Christian Holy Bible are God's communication through dreams and what the Holy Scriptures says about dreams. In the Holy Qur'an of Islam we find the interpretation of dreams in Volume 9, Book 87, Numbers 111 to 171.¹⁵ In Buddhism, "they provide dramatic shifts in the action, underscore the inevitability of subsequent events, and precipitate significant changes in the spiritual and temporal life of the dreamer."¹⁶ In the science of oneirology, "Dreams are a succession of images, emotions, ideas and sensations that occur in the mind during REM (Rapid Eye Movement). Additionally, dreams are a form of thinking that occurs when there is a very small amount of brain activity. External stimuli are blocked from our mind and our self-system shuts down. Our self-system is our collection of self-perceptions."¹⁷ To Heidi Moawad, "there are several possible explanations on dreaming coming true"¹⁸

¹² Supra Note 6 at 176.

¹³ Sérgio A. Mota-Rolim, *et al.*, "The Dream of God: How Do Religion and Science See Lucid Dreaming and Other Conscious States During Sleep?", 11 *Front. Psychol.* (2020). doi: 10.3389/fpsyg.2020.555731.

¹⁴ Abhijeet Christopher Loreng, "Significance and meaning of bad dreams in Hindisim" Available at: www.timesnews.com, 13 March 2023 (last visited on 23 June 2023).

¹⁵ Source: International Islamic University, Malaysia, available at https://www.iiu.edu.my/deed/hadith/bukhari/o87_sbt.html (last visited on 25 June 2023).

¹⁶ Serinity Young, *Dreaming in the Lotus: Buddhist Dream Narrative, Imagery & Practice* 8 (Wisdom Publication, Boston, 1999).

¹⁷Source: The Ox Bowbow School, "Oneirology: The scientific study of dreams", available at: <https://www.oxbowschool.org/assets/gallery/os-28-final-projects/docs/robbins.pdf> (last visited on 2 July 2023)

Thus the study of dreams, be it either religious mythology or in science is not nugatory. It has some significance either in that way or the other. In the Limaüoer, an “amang-tezuer” (a person who has the talent of interpreting dreams or in science oneirologist) is approached in cases where one could not interpret his dream. Like the Hindu mythology, in the Limaüoer, dreaming of different objects, animals, plants, sun, moon, water, fire, person, etc., have different interpretations. Analogous with the Hindu Agni Purana, in the Limaüoer, the stage of the sleep during which one has the dream is also important in the interpretation, viz., immediately after sleep, middle of sleep, early morning just before waking up, etc. Dreaming of dirty water flooding his house is considered as a good dream and may bring wealth. Dreaming of rice or money is considered bad and may bring trouble and stress to him because the rice or money is a heavy thing and will burden him. Where one dream of a living person, the dream is interpreted by the meaning of the person and in case of a dead person – to some it is good and to some other bad. Death of a close blood related relative may be interpreted where one dream of losing one of molar teeth or wisdom teeth. Being chased by animals is considered not good but killing or a friendly approached by the animals are considered good. The Ao Nagas keep their dream always secret but, in situations where he cannot give an accurate interpretation by himself, he approaches the amang-tezuer, who accordingly interprets and suggests ways to ward off evil or misfortune in case of a bad dream.

7. Tiger Spirit Man

Unlike ordinary man, among the Ao Nagas there are men whose spirit is Tiger, who are called “Aku-Mila Keter.” In the Ao Limaüoer, Aku-Mila Keter may be analogous to the Icchadhari Naag in the Hindu mythology. One may find such Aku-Mila Keter in all the Ao villages. Aku-Mila Keter is hereditary and passed down from the father to the son. Women do not and cannot have “Aku-Mila” (Tiger Spirit) in the Ao Limaüoer, it is only for man. The father before his death decides to whom among his sons should inherit the Aku-Mila and after his death the son inherits so. The son is conveyed in his dreams of the inheritance of Aku-Mila. When the Tiger hunt its prey and have his dinner, when the Aku-Mila Keter wakes up in the morning there are pieces of meat trap between his teeth, though he may not have eaten anything. The Aku-Mila Keter throws things (whatever is around him) in the house, scratch the walls, stamp on the ground with his feet and make a growling noise like an animal or even beat people around him; he behaves in a strange manner – like an angry mad animal behavior. He does so subconsciously. It is said that he does so, when his Aku-Mila is angry or hurt during hunting.¹⁹ This behavior may also be in a situation where his fellow villagers are out for Tiger hunting or where his Tiger is being chased by hunters with traps and weapons and the Tiger is trying to escape.²⁰ In such situation, the family members try to calm him down by application ingenious medicines and in extreme cases the Aku-Mila Keter is left alone locked inside his home until he comes to normal. This is to prevent from causing injury to a third person. When the Tiger is injured or captured or killed, the man fall sick. It is said that if a Tiger is killed or died naturally, an Aku-Mila Keter is given a replacement by another Tiger, but to a maximum of five replacements.²¹ If the Tiger is captured and kept in captivity, the Aku-Mila Keter's health deteriorates and is ill most of the time until the Tiger dies or is released. After which he gets a replacement and his health comes back to normal. A man with Aku-Mila can also use his Tiger for taking revenge on his enemies by scaring them on their way or by scratching the house walls and growling near their homes or field when they are asleep or working in the field. He also uses his Tiger to help others (relatives and friends) during hunting of wild forest animals, by escorting one home when he is lost in the deep jungle and by giving company at night when one sleep alone in the field or jungle.

8. The Haunting by Death Man Spirit

Though may sound superficial and mythical, an “asur temila” (dead man spirit) haunts his relatives and friends. When a person is haunted by a dead man's spirit haunt, he or she is ill all the time. One comes to know that he is being haunted upon seeing dream of the dead person by himself or by his relatives and friends. Usually, in such dream, one may see the dead person asking him to come along with him to his house or to accompany him somewhere. Friends and relatives may see dream where the dead person asking to give him (dead person) domesticated animals or anything close and dear to the dreamer. In such situation, three procedures are practiced to ward off the evil spirit of the dead person. Firstly, copper identical rings are worn

¹⁸ Heidi Moawad, MD, “Dreams... Why Do Some Come True?”, www.neurologylive.com, Available at: <https://www.neurologylive.com/view/dreams-why-do-some-really-do-come-true> (last visited on 10 July 2023).

¹⁹ In his native village, the author as child noticed this behavior in his grandparents neighbor house.

²⁰ See also, Rebekka Sutter, “*Collective imagination or intimate knowledge of other worlds? Tigermen in Nagaland*” A paper presented at the Workshop “Performing Identity: Ethnicity and Ethno-Nationalism in Northeast India”, Göttingen, Germany (15-17 Dec. 2011).

²¹ As narrated to the author by native village elders.

by all the members of the family, to confuse the evil spirit. Secondly, in a cup of water, some pieces “Aie tong” (a wild hay plant) is kept near the door, indicating that there is a sea apart between the living and the dead. If these two procedures fail to work, the oldest man among the relatives will go to the corpse platform (graveyard) of the dead person and warn saying “there is a sea apart between us now; do not remember and visit us; go and live peacefully in your new land. If you remember and visit us, we will take out your coffin and corpse in the public footpath and break into pieces, shaming you amongst all the villagers.” In some cases, one may be advised to say the said words (like a warning) and spit on the floor before going to sleep, which is usually practiced by elderly mothers in the family.

9. Limaüoer and Natural Law Doctrine

When struck with adversity and misfortune beyond the comprehension of human, humbling down the ascendancy of human superiority with accommodation and acceptance to the supernatural non-physical entities conceivably is befitting for his wellbeing and progress of society. The hereinbefore discussed Limaüoer practices (a few) of the Ao Nagas are indigenous to the Ao people unwritten in any form; developed solely in their struggle to live in harmony with nature and the supernatural non-physical entities. It is not a sophisticated form of religious thought and great monotheistic religions of modern period. It is but primal to customs and traditions practiced till date. The question is why one obeys those customs and traditions, though one may argue that Limaüoer practices are primitive and has no standing in the modern universally accepted monotheistic religions. The Social Contract of Thomas Hobbes reasons that obedience of the people to positive law is for security and to escape a war like situation or anarchy, and for the society to flourish.²² Hobbes also writes “the notions of right and wrong, justice and injustice, have there no place. Where there is no common power, there is no law; where no law, no injustice.”²³ Thus, in the absence of “power” the concept of law, justice and what is right and wrong would not exist. The practice of customs and traditions in Limaüoer indicates the conciliation of the human superiority to the powers of supernatural non-physical being for his well being and for the flourishing of his society. Thus, according to Prof. Richard H. McAdmas “law works as a focal point to help people avoid conflict or other undesirable situations.”²⁴ Further, law according to him also “works expressively by signaling information about risk or public attitudes that causes people to update their behavior.”²⁵ The imminence of being harmed to his health, crops, etc. by the more superior non-physical being is thus the central element that compelled him to change his behavior and therefore acted with such practices as he think would best please the superior non-physical being. Thus, the Limaüoer appears to fit into the social contract of Hobbes. However, the social contract of Hobbes is inclined to positive law, whereas the Limaüoer is based on “inherently correct” devoid of a contract with the society or an authority of command. There is no religious doctrine, prayers, scriptures, clergy and worship services in the Ao Naga Limaüoer. He acts in accordance to his best belief and in a way that is suitable and appropriate to him when faced with a situation. Thus, he may offer a pig or a cock or just a short thread from the fringe of his shawl or he may even not offer anything but go himself or sent someone to the spot and make conciliation with the Tsüngrem. Natural law philosopher Thomas Aquinas based his argument on the obedience of natural law on “*gratia non tollit naturam, sed perficit*” and thus to him the study of nature is study of God, for God reveal Himself through nature. In congruity, on God’s revelation, Kelson wrote, “It can deduce from nature just rules of human behavior only because and insofar as nature is conceived of as a revelation of God’s will, so that examining nature amounts exploring God’s will.”²⁶ Further, defining the essence of natural law, Kelson wrote, “that the rights established by natural law are sacred rights inborn in man because implanted in man by divine nature; and that positive law can neither establish nor abolish these rights, but only protect them.”²⁷ The Ao Naga Limaüoer practices are not religious doctrines or command of an authority but are implanted through ages by the circumstances the divine nature bestowed upon him. Thus, an examination of the natural law theory of Thomas Aquinas and Kelson and contemporary law professor McAdmas on powers of law, indicates Limaüoer as a part of natural law.

²² See, Thomas Hobbes, *The Leviathan or the Matter, Forme & Power of Commonwealth, Ecclesiastical and Civil*, Chapter XIII, 83-84 (Cambridge University Press, 1904).

²³ Ibid at 85.

²⁴ Richard H. McAdmas, *The Expressive Powers of Law*, The Law School, University of Chicago, 2015. Also available at: <https://www.law.uchicago.edu/news/why-do-people-obey-law#:~:text=The%20coordination%20theory%2C%20McAdams%20told,ignore%20it%2C%E2%80%9D%20he%20said>. (last visited on 20 July 2023).

²⁵ Ibid.

²⁶ Supra Note 7.

²⁷ Ibid.

10. Conclusion

Irrespective of what the colonial administrators like Mills says on the moral code of the Ao Naga religion, the practices of Limaüoer was left untouched during the British Raj; except the practice of head-hunting was forbidden. Post the Indian independence, in the Constitution of India, a special provision i.e., Article 371A was inserted by the Thirteenth Constitution Amendment Act, 1962 providing complete freedom on all realms of Naga customary law. One amongst them is Sub-clause (a)(i) of Clause 1 which provide for “religious or social practices of the Nagas”. The Limaüoer practice thus today has not only a fundamental right protection under Article 25 of the Constitution but also a special protection under Article 371A(1)(a)(i). The special feature of this provision is that “no Act of Parliament shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides”. Thus, the present-day legal protection of Limaüoer practice is a positive law.²⁸ However, as discussed hereinbefore the Limaüoer is a part of natural law akin to the theory of Thomas Aquinas and Kelson. Hence, the question is natural law or positive law. The animism existed before positive law, the state, and monotheistic religions. The origin of positive law and the state can be traced but not animism and its practices. The practice of Limaüoer of the Ao Nagas has existed time immemorial and its origin cannot be traced like the special provision under the Constitution of India. Law cannot remain static to the needs and ends of the society. It must also be not scattered to cause ambiguity in its judicial interpretation. Law must evolve and amend to balance the ends of the society. Limaüoer undoubtedly is a part of natural law that has been metamorphosed to positive law for an unambiguous Constitutional safeguard. And, thus the Limaüoer is the cradle of Ao Naga customary laws.

²⁸ Article 371A was inserted as a result of 16-Point Agreement between the Naga People’s Convention and the Government of India signed on 26 July 1960. It thus qualifies the Social Contract of Hobbes and therefore can be termed as positive law.