

## SODUNG AND ITS EVIDENTIAL VALUE BEFORE THE JUDICIARY

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**Abstract:** Sodung is type of practice which is based on the local ritual performed by priest with high stature. It plays very vital role in administering justice in both civil and criminal matters in the NYISHI tribe of Arunachal Pradesh. The concept of sodung, a traditional form of evidence in certain legal systems, holds a unique place in judicial proceedings. This abstract explores the evidential value of sodung within the judiciary, examining its application, relevance, and challenges in modern legal contexts. The study highlights how sodung, which typically involves oral testimony or informal documentation, intersects with formal legal standards. It also discusses the potential for sodung to either support or undermine the credibility of legal claims depending on its integration into contemporary evidentiary frameworks. By analyzing case studies and legal precedents, this research aims to provide insights into the evolving role of sodung in adjudicating disputes and its implications for legal practice.

**Keywords:** sodung, priest chanting hymn, village authority, validity and legal status, mild, banned, govt institution, nyishi, tribes, corroborative, inconsistency, substantial, liberty, court, scientifically, intervention of govt, chanting, hymns, liability.

### Introduction

Sodung, an ancient dispute resolution method of the Nyishi tribe, remains a significant aspect of their traditional justice system. Historically, sodung was a prevalent practice for resolving unresolved disputes ("les-pendite") before local authorities. Although its use has diminished with the rise of formal judicial institutions, sodung still plays a role when village authorities cannot resolve conflicts through customary means. In such cases, with the consent of all parties involved, the matter is referred for sodung. The process involves a priest performing a ritual that may include various forms of sodung, such as hot water or hot iron tests. The ritual, which involves chanting hymns over 1-2 days, culminates in the accused undergoing a test—such as placing their hand in hot water. If the hand is burned, the accused is presumed guilty; if not, they are granted exemption from criminal liability.

## **Review of Related Literature**

Numerous studies and historical accounts have examined the role of local self-governance in Arunachal Pradesh, with a focus on traditional practices and legal frameworks. Key contributions include:

- i. Bani Dangen: This scholar has analyzed the logical framework of local self-government in Arunachal Pradesh, particularly through the lens of independent councils and the Panchayati Raj system. Dangen's work emphasizes the evolution and current structure of these local governance systems, including how traditional practices like sodung fit within the modern administrative landscape.
- ii. Prof. Christoph Von Furer-Haimendorf: Known for his ethnographic notes on the Subansiri area, Prof. Furer-Haimendorf provides detailed observations of the Nyishi tribe's customs and governance practices. His research includes insights into sodung as a traditional method of dispute resolution and its role within the tribal justice system.
- iii. Dr. N. Lego: In "Modern History of Arunachal Pradesh (1825-2006)," Dr. Lego covers the historical development of Arunachal Pradesh, including the evolution of its legal and administrative systems. The book discusses traditional practices such as sodung and their legal validation over time.
- iv. M.L. Bose: In his work, "History of Arunachal Pradesh," M.L. Bose provides a comprehensive overview of the region's history, including the role and transformation of traditional practices like sodung within the broader context of Arunachal Pradesh's governance.
- v. Assam Frontier (Administration of Justice) Regulation Act, 1945: This legislation was pivotal in defining the powers and jurisdiction of local authorities within the Nyishi village councils. It aimed to streamline the administration of justice and provided a framework for integrating traditional dispute resolution methods like sodung with formal legal structures.

These works collectively contribute to understanding the intersection of traditional practices and modern legal frameworks in Arunachal Pradesh, highlighting the ongoing relevance and adaptation of practices like sodung in contemporary governance.

## **Research gap**

While existing literature provides only a conceptual understanding of sodung with minimal information, there is a notable lack of comprehensive studies offering valuable insights into the practice. Furthermore, there is a need for research to systematically gather information to determine

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the legal status of sodung within competent authorities and judicial institutions in the governmental framework.

### Significance of the study

This study aims to identify research gaps by providing a comprehensive analysis of sodung practices among the Nyishi tribe of Arunachal Pradesh. By examining sodung from "stem to stern," the research seeks to offer a holistic understanding of this traditional practice. Additionally, it explores the sentiments of the Nyishi people towards sodung, addressing the contrast between cultural attachment and potential blind faith that may lack scientific validity. The study will also assess the legal status of sodung, evaluating its acceptance and integration within formal legal frameworks and judicial institutions. This approach will help bridge the gap between traditional practices and modern legal standards, providing insights into how sodung can be understood and potentially harmonized within contemporary governance structures.

### Objective of study

- i. To identify the legal validity of sodung in the court of law or any governmental institution which is empowered to hear and adjudicated any disputes irrespective of both civil and criminal.
- ii. To examine the role and significance of sodung in Nyishi tribe of Arunachal Pradesh in administering justice within their local authority.
- iii. To evaluate the role of priest and governmental authority in due course of performing sodung.

### Hypothesis of the study

- i. Blind faith, which is inherently problematic, should be banned, even if such practices are carried out in the name of tradition and custom.
- ii. Patronage from governmental institutions and influential members of the tribe contributes to the continued practice of sodung.
- iii. The practices of sodung cannot be considered scientifically valid.
- iv. Sodung, if it aligns with legal standards, should be legalized in a manner that respects the traditions and culture of the Nyishi tribe.

### Methodology of the study

#### Method

This study employs a mixed-method approach, combining quantitative surveys with qualitative interviews to gather comprehensive data on the role and significance of sodung in both local institutions and the judiciary in the current scenario.

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### Population

The population for this study includes judicial magistrate, executive magistrate, local authority like PI HGB/GB, Intellectual public and the public, Panchayat members, eminent personality in the field of education who are well acquainted with the justice delivery system and sodung practices.

### Sample

A systematic sample of over 200 individuals from various Nyishi-dominated areas, both urban and rural, will be selected for the study. These participants are primarily individuals who have experienced both the formal legal system and the local customary laws of the Nyishi tribe.

### Tools Used

- i. Structured questionnaire for qualitative data collection.
- ii. Semi-structured interview guides for qualitative data collection

### Statistical Technique Used For Data Analysis

Quantitative data will be analysed using description statistics, correlation analysis, and regression analysis. Qualitative data will be analysed using thematic analysis to identify common themes and patterns.

### Analysis and interpretation of Data

**Objective-1:** To identify the legal validity of sodung within a court of law or any governmental institution empowered to adjudicate disputes, whether civil or criminal, the study will:

- i. **Examine Historical and Legal Contexts:** Review historical and legal documents, including traditional laws and modern legislation, to understand how sodung has been historically integrated into or challenged by formal legal systems.
- ii. **Assess Judicial Recognition:** Investigate cases and legal precedents where sodung has been referenced or considered in judicial proceedings to determine its acceptance and application by courts.
- iii. **Evaluate Governmental Regulations:** Analyze relevant regulations and administrative frameworks to understand how governmental institutions view and handle sodung, focusing on its legitimacy and procedural integration.
- iv. **Conduct Interviews with Legal Experts:** Engage with legal scholars, practitioners, and governmental officials to gather insights into the current status and potential legal standing of sodung within formal dispute resolution processes.
- v. **Compare with Other Traditional Practices:** Compare the legal treatment of sodung with other traditional dispute resolution methods to identify similarities, differences, and potential pathways for legal validation.

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- vi. **Survey Community Perceptions:** Collect data from members of the Nyishi tribe and other stakeholders to gauge their views on the legal recognition of sodung and its alignment with formal legal practices.

**From the analysis of Objective 1, it was also found that a trust barrier exists:**

Trust barriers affect the justice delivery system, as blind faith in traditional concepts has encouraged adherence to these systems over time. Historically, the Nyishi tribe in Arunachal Pradesh had no formal judiciary. It was not until the mid-19th century that government efforts aimed to bring systematic administration and streamline judicial processes to the region. In earlier times, the orthodox traditional methods were the only means of resolving disputes, whether civil or criminal, without any pecuniary limits. These resolutions were carried out with the consent of the parties involved and monitored by village authority members.

**Objective-2** To examine the role and significance of sodung in administering justice within the local authority of the Nyishi tribe in Arunachal Pradesh, the study will:

- i. **Investigate Traditional Practices:** Analyze how sodung is traditionally implemented in Nyishi dispute resolution, including the rituals and procedures involved.
- ii. **Assess Community Impact:** Evaluate the impact of sodung on the Nyishi community, including how it influences social cohesion and trust within the local authority.
- iii. **Explore Historical Context:** Examine the historical development of sodung and its integration into the Nyishi tribe's justice system over time.
- iv. **Analyze Authority Roles:** Study the role of local authority members in overseeing and facilitating sodung, and how their involvement affects the practice and its outcomes.
- v. **Collect Stakeholder Perspectives:** Gather insights from various stakeholders, including community members and local leaders, to understand their views on the effectiveness and relevance of sodung.
- vi. **Compare with Other Methods:** Compare sodung with other traditional and modern dispute resolution methods to highlight its unique aspects and significance in the local justice system.

**From the analysis of Objective 2, it was also found that a patronize barrier exist:**

Patronage from government-established institutions is a significant factor in the continued practice of sodung. Although sodung lacks legal validity in courts, executive magistrates in the area do not prohibit it; instead, they assign government representatives to oversee and facilitate peaceful sodung. Public Interpreters (PIs) and police personnel are deployed to monitor and supervise the entire process. Based on the outcome of sodung, government authorities make decisions in favor of one party

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or the other. Thus, this indirect support from government machinery sustains the practice of sodung despite the presence of formal judicial systems in the area.

In addition to governmental patronage, intellectuals and influential members of society also hold strong beliefs in sodung. Often, they give significant respect to the outcomes of sodung judgments, valuing them more than formal judicial pronouncements on issues.

**Objective-3** To evaluate the role of priests and governmental authorities in the performance of sodung, the study will:

- i. **Examine the Role of Priests:** Investigate the duties and responsibilities of priests in conducting sodung, including the rituals and procedures they perform. Analyze their influence on the process and the community's perception of their role.
- ii. **Assess Governmental Involvement:** Evaluate how governmental authorities, such as public interpreters (PIs) and police personnel, are involved in overseeing and supervising the sodung process. Explore their roles in maintaining order and ensuring that the process is conducted peacefully.
- iii. **Analyze Interaction Between Priests and Authorities:** Study how priests and governmental authorities collaborate or interact during sodung proceedings. Assess the impact of this collaboration on the effectiveness and acceptance of sodung.
- iv. **Evaluate the Impact on Justice Delivery:** Investigate how the roles of priests and governmental authorities affect the outcomes of sodung and its integration into the broader justice system. Assess whether their involvement enhances or undermines the process.
- v. **Collect Stakeholder Perspectives:** Gather insights from community members, priests, and government officials to understand their views on the roles and effectiveness of both priests and governmental authorities in the sodung process.

**From the analysis of Objective 3, it was also found that a scientifically inconsistency exists:**

When a person places their hand in hot water or holds a heated iron, it is scientifically inevitable that they will get burned due to the flammable nature of skin tissue. However, it is believed that if a person is innocent of the alleged offense, their hand will not burn, despite holding hot iron or immersing it in hot water. This belief reflects a blind trust in the traditional practices of the Nyishi tribe, which have been used in justice delivery for many years. In the past, parties involved in disputes would risk their lives based on the outcome of such tests. Over time, life betting has been completely banned and replaced with monetary or other types of penalties if parties lose their cases in sodung practices. Furthermore, this practice is now followed only in a few areas within the Nyishi tribe.

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**Finding of the study**

- i. **Trust Barriers Impacting Justice Delivery:** The analysis reveals a significant trust barrier affecting the justice delivery system in the Nyishi tribe. The blind faith in traditional practices like sodung has persisted despite the introduction of formal judicial systems in the mid-19th century. Historically, sodung was the primary method for resolving disputes, with village authorities overseeing these processes. This enduring trust in traditional methods has influenced the continued practice of sodung even as formal judicial mechanisms have been established.
- ii. **Patronage and Continuation of Sodung:** Governmental patronage has played a crucial role in the continuation of sodung. Despite its lack of legal validity, executive magistrates and government representatives, including Public Interpreters (PIs) and police personnel, facilitate and supervise sodung proceedings. This indirect support from governmental institutions helps sustain sodung practices, reflecting a broader acceptance of traditional methods by influential societal members.
- iii. **Scientific Inconsistency of Sodung:** The practice of sodung, particularly tests involving hot water or heated iron, is scientifically inconsistent. The belief that an innocent person will not be harmed by these tests does not align with scientific understanding of skin tissue's response to extreme heat. This scientifically flawed premise underscores the reliance on traditional beliefs rather than empirical evidence in the administration of justice within the Nyishi tribe.

**Conclusion**

The analysis highlights that while sodung remains a significant cultural practice among the Nyishi tribe, it faces several challenges in terms of legal validity, scientific credibility, and governmental influence. The continued practice of sodung is heavily influenced by historical trust in traditional methods and the patronage of governmental institutions. Despite its deep-rooted cultural significance, sodung's lack of scientific validity raises concerns about its efficacy and fairness in dispute resolution. Additionally, the role of governmental authorities in facilitating sodung, along with the respect afforded to its outcomes by influential members of society, underscores a complex interplay between tradition and modern legal standards. This situation reflects the ongoing tension between maintaining cultural heritage and adhering to contemporary legal and scientific principles.

**Recommendation of study**

- i. **Promote Legal and Scientific Education:** It is essential to enhance awareness and education about the limitations of traditional practices like sodung from a scientific and legal

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perspective. Governmental and educational institutions should engage with the Nyishi community to provide information on the scientific principles related to justice and the benefits of modern legal procedures.

- ii. **Integrate Traditional and Modern Practices:** Efforts should be made to integrate traditional dispute resolution methods with formal legal systems in a way that respects cultural heritage while ensuring fairness and scientific validity. This could involve developing hybrid systems where traditional practices are adapted to fit within modern legal frameworks, providing a culturally sensitive yet scientifically grounded approach to justice.
- iii. **Regulate Governmental Involvement:** The role of governmental authorities in facilitating sodung should be reassessed to ensure that their involvement does not perpetuate practices lacking legal validity. Policies should be implemented to provide oversight and guidance on how traditional practices are integrated with the formal judicial system, ensuring that they do not undermine the principles of modern justice.
- iv. **Support Cultural and Legal Research:** Encourage further research into the cultural significance of sodung and its impact on the Nyishi community. Support studies that explore how traditional practices can be harmonized with contemporary legal standards to promote both cultural preservation and justice.
- v. **Strengthen Community Dialogue:** Facilitate open dialogues between the Nyishi community, legal experts, and government officials to address concerns about traditional practices. Such dialogues should focus on finding common ground that respects cultural traditions while advancing legal and scientific understanding.
- vi. **Review and Reform Dispute Resolution Processes:** Consider reforming dispute resolution processes within the Nyishi tribe to ensure they are equitable and scientifically valid. This may involve revising or supplementing traditional practices with modern methods to improve fairness and effectiveness in resolving disputes.

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