

Legal hybridity in everyday justice provision in a Mon village

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Abstract

This article explores everyday justice provision in a village in Mon State where a majority of the population belongs to the Mon ethnic group. The village remained under government control during the ethnic conflict, but some villagers were involved in the 1988 uprisings and some had connections to ethnic armed groups. Based on ethnographic fieldwork in 2016, I argue that villagers preferred to resolve their cases locally with the village leaders. They do not want to go to the Myanmar state institutions, because of fear of authority, low knowledge of state law, religious beliefs, poverty, and feelings of shame generated by bringing their cases to official institutions. Simultaneously, village dispute resolution was combined with a kind of legal hybridity. In many dispute resolution situations people used a combination of law, customary rules, religious beliefs, and social media. Particularly, I show that religious beliefs and actors (monks, healers, and astrologers) played a significant role in dealing with health and social problems, and in making people feel safe. In addition, especially young people began to use social media, especially Facebook, to help them to win disputes and crimes.

Introduction

This article explores everyday justice and security provision in a largely ethnic Mon village in Mon State. Based on ethnographic fieldwork on small-scale problems, I argue that people prefer to resolve their cases locally, rather than through the state system. Fear of authority, low level of knowledge of state law, religious beliefs, poverty, and shame deterred them from bringing their cases to official institutions. They trusted their village leader and even though people knew that serious crimes were not supposed to be resolved locally, they still tried to negotiate cases at the village level.

Even when people resolved their cases at the village level, they tended to rely on hybrid forms of legal resources. This included a combination of state law, customary rules, religious beliefs, and social media. Particularly, I show that religious beliefs and actors (monks, healers, and astrologers) played a significant role in dealing with health and social problems. Religion and traditional Mon customs also served to make people feel safe. Although government officials and civilian paramilitaries also provide security, many villagers believe that religion and customs help prevent major crimes from afflicting the village. Local government officials were also involved in spiritual matters. They did not only enforce the law.

The village under study had remained under Myanmar government control during the entire ethnic armed conflict, but the relationship to the state was contested and fragile. Whereas some villagers were involved in the 1988 uprisings, others had relatives and connections to the Ethnic Armed Organisations (EAO). Trust in the state system was low. The Mon villagers believed in Buddhism and some also believed in traditional spirits or nats, magic, and reincarnation. These beliefs affected substantially how people dealt with the

problems they faced. The economy was improving since the political transition, and people had increased access to internet and mobile phones. This meant that villagers also began to use social media in addressing disputes.

This article is based on fieldwork in April and October 2016 in Hountsar village.¹ I used qualitative research methods and draw on political and legal anthropology. In-depth interviews, key informant interviews, and participatory learning appraisal methods were used to understand specific problems in the village. I conducted 80 interviews. I selected this particular village because people were known to preserve their Mon identity and culture, for instance by building their houses according to the Mon traditional style and by having a Mon literacy training. In addition, the villagers believed strongly Buddhism and traditional nat spirits associated with the Mon ethnic group. Finally, the area is beside the Thaton–Mawlamyaing Highway and therefore easily accessible for conducting safe fieldwork.

Theoretically, I engage with the concept of legal hybridity, which derives from debates about legal pluralism within anthropology and sociology. This article adds to the literature on hybridity by focusing on Myanmar.² It brings new empirical

¹ The fieldwork was conducted as part of the EverJust research project (see Introduction to this issue). I changed the name of the village to ensure anonymity.

² Research on religion in general in Myanmar, has long been limited due to the political situation and military rule since 1962. There have been many restrictions on academic research in the past, and universities have been closed or under strict surveillance. Foreign academics have had especially limited access, and have had to be careful whom they contacted in order not to bring their informants trouble. Religious freedom research per se is thus a highly underdeveloped field within Burmese Studies. Fortunately, the situation for scholarly inquiry since the 2010 elections has begun to change. Access to information and communication has improved significantly, and more studies and publications are in the future.

insights about the various legal hybridity practices in a Mon village. While contributing to the general debate about legal pluralism, I particularly relate my study to the discussion of the significant role of religion in legal pluralism. According to Sandberg (2015), religion has often not received sufficient attention in the legal pluralism debate. A core exception is the work of the legal pluralism project at the Max Planck Institute, which since 2000 paid special attention to the role of religion and religious laws in plural legal constellations.³ In Asia, Hussain's (2011) study of legal pluralism in South East Asia and Moore's (1993) study in India are also important exceptions to the meagre focus on religion in the legal pluralism field. Both authors highlight religion as a significant part of the legal field.

In the following pages, I first discuss the key concepts used in this article and then provide a brief historical contextual introduction to the fieldwork area and the role of religion in Mon State. Next, I present my main findings on disputes and health and social problems. I draw out particular patterns of dispute resolution by presenting 2 case studies. Lastly, in the discussion and conclusion I draw some general analytical points, relating my case study back to a discussion of hybridity and legal pluralism in Myanmar.

The concept of legal pluralism and hybridity

Legal pluralism is defined as a situation in which two or more legal systems coexist in the same social field (Pospisil 1971; Griffiths 1986; Moore 1986; Merry 1988). Recent work defines 'legal system' broadly to include the system of courts and judges supported by the state as well as non-legal forms of normative ordering. Some of these are part of institutions such as factories, corporations, and universities and include written

³ On this project see: <https://www.eth.mpg.de/3720186/pglp>. See also Benda-Beckmann and Benda-Beckmann (2001) on legal pluralism and religion in West Sumatra.

codes, tribunals, and security forces, sometimes replicating the structure and symbolic form of state law (Macaulay 1986; Henry 1983; Merry 1988, 870).

Like other scholars of legal pluralism, Hooker (1975) contests the idea of legal centralism or singularity of law. This perspective relies on the idea that only one set of law and legal institutions are valid. In legal centralism law is seen 'as a set of consistent principles, valid for and binding upon the whole population and principles from a single source', i.e. the state and its institutions. (Hooker 1975, 2) Hooker argues that this kind of view of law 'may be a proper view in a culturally and economically homogeneous society, but such societies are the exception rather than the rule.' (Hooker 1975, 2) He further adds, 'An undue emphasis on this view of law is often a distortion of reality and not uncommonly a downright misrepresentation in many states. The official or state legal system may not in fact be effective for a number of reasons.' (Hooker 1975, 1-2)

Similarly, in Myanmar in general and Mon State in particular, I found different rules, norms and institutions for the resolution of disputes. The state and its official procedures were often not efficient and villagers preferred other solutions. Especially, religious beliefs and practices played a crucial role, rather than only formal procedures. Even educated persons engaged with religious beliefs when they addressed problems. Although people said that they used the formal step-by-step procedure (going from lower to higher levels of the state hierarchy of institutions), in reality several people went to religious or supernatural actors. In addition, when I did my field research I discovered that the step-by-step pattern of dispute resolution was not fixed.

However, legal pluralism did not simply mean the co-existence of 2 different systems — 1 local and 1 state. Sometimes villagers mixed or used different rules, norms, and mechanisms at the same time to resolve a problem. These kinds of mixtures have been described as legal hybridity or legal hybridisation in the later literature on legal pluralism (see Santos 2006).

My findings confirm Clark and Stephen's (2009) understanding of legal hybridity as occurring in 3 main ways. First, it describes situations where 1 legal system within a social field mixes different sets of laws, like customary and state law. Second, it covers situations where more than 1 legal system exists in a social field, sometimes with overlapping jurisdictions. Thirdly, hybridity is seen as a characteristic of an individual legal institution rather than the justice sector as a whole. The latter could be when for instance the police or a local administrator applies both state law and informal or customary norms. This means that institutions function in a hybrid manner.

Santos (2006) understands legal hybridity as 'a new kind of legal pluralism [which] challenges conventional dichotomies to the extent that legal practices frequently combine the opposite poles of the dichotomies and contain an infinite number of intermediary situations.' (Santos 2006, 46) This is also evident in my research area in Mon State where seemingly contradictory understandings and mechanisms co-existed, as seen in a case where spiritual beliefs mixed with the use of Facebook and the desire for secular punishment.

In this article, I argue for the need to consider more the role of religion and spiritual beliefs in legal pluralism. Hussain (2011) and Moore (1993) are useful in this respect. Hussain (2011) shows how legal pluralism emerged in South-east Asia as colonial laws were overlaid upon existing local legal systems, a mix of long-established customary law, and more recent

influences from periods of Hindu and Buddhist dominance. In Malaysia and Indonesia, these periods were followed by the widespread acceptance of Islam, which brought its own law but did not succeed in eradicating entirely either the customary or some later Hindu and Buddhist practices in areas where they were established. New migrations added further religious and ethnic influences to this mix. South-east Asia was the centre of trade routes between China, India and Europe and the many migrants introduced a variety of Indian laws and customs to an already complex mix (Hussain 2011, 378). Similarly, in Myanmar pre-colonial movements created legal pluralism as Buddhism spread and was layered upon animist beliefs. After that, colonial rule brought new laws.

Moore (1993) offers an introduction to the pluralistic systems of normative ordering in rural Rajasthan, India, presenting the villagers' experiences of the central legal institutions, the councils and courts. By considering spirit healers as part of the legal system, she challenges the usual sociological boundaries of the 'law'. The study of cross-cultural conflict and legal pluralism most often focuses on statutory law, courts and councils, not on healers (see, for example, Merry 1988; Nader and Todd 1978), although it sometimes examines witchcraft or religion as an alternative remedy (see Collier 1973; Evans-Pritchard 1937; Kluckhohn 1944; Nader 1964 ; and Whiting 1950). In research that does explore healing and dispute processing, the healing ceremony is considered the dominant mode of resolution rather than an alternative for the powerless (Gibbs 1963). The resort to traditional healers ought to be examined within a sociological framework, Moore (1993), argues. In this article, I similarly argue that in the Mon village, we must consider religious and supernatural actors as part of the legal pluralism landscape.

A brief introduction to the field area and religion

The Mon ethnic group is 1 of the 8 main ethnic groups in Myanmar. Most of them live in Mon State, Bago Division, Kayin State, Tanintharyi Division, and the Gulf of Martaban. Mon people live alongside other ethnic groups like the Pao, Dawei and Shan. The capital of Mon State is Mawlamyaine and the area is 4,748 square miles (12,297km²). Mon State is organised into 10 townships, 443 wards and village tracts. The population is about 1,682,041 (Myanmars NET 1998-2012).

Mon people were a major cultural influence in Myanmar and also gave Myanmar its writing (Pali) and its religion (Buddhism). The Mon are believed to have spread from western China over the river lowlands from the Irrawaddy River delta south to the Chao Phraya River basin in Thailand. The Mon city of Thaton was conquered in 1057 by Burmans migrating southward. Most Mon are bilingual, speaking Burmese as well as their own language, which is Austro-Asiatic.

During the many years of armed conflict in Myanmar since the end of colonial rule in 1948, threats against the people have included murder, rape, torture, looting, forced labour, arbitrary taxation, land confiscation, and the destruction of whole villages. State agents, their proxies, and EAOs perpetrated these serious violations. People suffered from multiple masters, paying taxes to 2 or more armed groups. The maintenance of cultural and religious identities was a major concern to protect their livelihood. In Mon State the main EAO is the New Mon State Party (NMSP), which represented the Mon ethnic group and fought the military until 1995, when it agreed to a ceasefire that was re-ratified in 2012 (South 2012).

In 1988, people demanded democracy due to economic deterioration, the demonetisation of currency and the discontent with human rights abuses. After 1988, a military regime, the State Law and Order Restoration Council (SLORC), governed

the country. It offered the NMSP and other ethnic non-Burman EAOs to enter into a ceasefire deal and end the war. After the ceasefire, civil society networks began to expand in some EAO-controlled areas and many NGOs were organised by ethnic minorities like the Mon, helping to develop community networks of trust and support and strengthen civil society, even under the most difficult of conditions. (South 2007; 2008) Moreover, the lives of civilians affected by decades of armed conflict in Myanmar underwent profound transformation for the better in political, social and economic condition after the ceasefires agreements (South 2014).

The Mon village under my study remained under Myanmar government control during the entire ethnic armed conflict between the military and the NMSP. However, the relationship to the state is still contested and fragile, despite the ceasefires. Whereas some villagers were involved in the 1988 uprisings, others had relatives and connections to the NMSP. Trust in the state system was low. Distrust could be linked to the many years of civil war. Mon people in my study suffered considerably especially in the 1960s when the Mon rebellion was strong. They got no help from Myanmar government officials, but had to pay the tax to all armed groups. Sometimes the military kidnapped the villagers. When that happened, they had to solve their disputes and crimes by themselves. Due to the long history of military rule and conflict, people in the Mon village did not trust the upper level state, especially government police officers.

Democratisation in the country has been a patchy process, but a nominally civilian government was installed in March 2011, which raised hopes for democratisation and reconciliation. Numerous ceasefires were also made with the EAOs in 2012, including with the NMSP. In 2015, Aung San Suu Kyi's National League for Democracy (NLD) Party won a compre-

hensive victory in national elections, helping to consolidate peaceful political change. (Rieffel 2012) However, peace remained fragile in some areas of the country, like Shan, Kachin and Rakhine States, and a substantial national peace agreement still had to be reached at the time of writing. In addition, the NMSP had still not signed the National Ceasefire Agreement (NCA) that 8 other ethnic armed groups signed in October 2015. In the Mon village under study the risk of armed conflict was however very low at the time of study.

The economic situation of the Hountsar villagers had improved in recent years. Part of the reason was that villagers took jobs in Thailand, Malaysia, Singapore, Korea, and Japan. Incomes from remittances supported individual families and village development projects, such as the repair of village roads and religious buildings. Economic and technological developments meant that the villagers used mobile phones and internet, also to connect them to their relatives abroad. They used social media, especially Facebook, and even children were familiar with the internet.

The Mon ethnic group is unusual among ethnic people in Myanmar in that there are no sub-groups like other ethnic people in Myanmar, meaning they are more united, having only 1 language and literature. The Mon strongly believe in Buddhism as well as traditional beliefs and customs in their everyday life. Most villages have a monastery that also functions as a school, as well as pagodas, an image house where images of the Buddha are kept, and a rest house or meeting-house. In the village under study there was a new monastery and a new pagoda, which also had a meditation centre. Mon children also attended a Mon literature class during school holidays, where they were taught the history of the Mon kings and the traditional customs. The family unit is nuclear rather than extended. The Mon religion of Theravada (Hinayana)

Buddhism is combined with belief in various spirits and nats. In order to understand the significant role of religion for the Mon villagers, it is necessary to have some background on Buddhism and spiritual beliefs in Myanmar in general and among the Mon in particular.

Religious beliefs in Myanmar

According to the 2014 census conducted by the Myanmar government, the total population was 51.4 million, including a non-enumerated population of approximately 1.2 million (MIMU census data, 2017). Buddhism was the dominant religion, at 87.9 percent.

I draw on Thanegi (2013) in order to understand Buddhist beliefs in relation to legal pluralism. Theravada Buddhists believe in practicing 3 principles: *thila*, *dana*, and *b'wana* (morality, charity, and awareness). Moreover, they believe in *metta* (loving kindness), *khandi parami* (endurance), and *cedana* (goodwill) to build moral character. Moreover, luck or fate, *kan* is derived from the Pali word *kamma*, which means action. This underscores the belief that what happens to a person is directly caused by his or her own actions. People suffer according to their actions and if guilty of committing a crime or another illegitimate action, will suffer later in this life or in the next life. This belief is called *wut*.

Myanmar Buddhists believe in meditation called *Vipasana* and *Thamahta* to strive to attain constant, conscious awareness, as well as to purify the mind by discarding attachments. Some can gain supernatural power through meditation. In Hountsar village, people believed that an old Mon man had gained supernatural powers by *Thamahta* meditation. When people faced a problem, they asked this man how to resolve it. He could predict their fate and career. They believed he could change his face after he coming from deep meditation. In addition,

people believed in astrology and palmistry when it came to health, social, and economic problems.

Buddhists also recite sutras for protection against harm. Most sutras are verses in the old Pali language, and most of the meanings are not understood by those who recite them. To fulfil wishes, a person recites certain sutras while simultaneously telling the 108 holy beads for a few 100 rounds. Some Buddhists also worship traditional *nat* spirits. Mon villagers in Hountsar both believe in Buddhism and in various nats (*Ywa-taw-shin* Nat, Traditional Nat, Earth spirit, Tree spirit, and the House spirit). They worship spirits hoping to improve their livelihood. A main reason for the existence of spirit worship is that nats grant favours. Many spirits already exist in Buddhist lore as celestials, somewhat like angels. Conversely, spirits of animist worship are ghosts. The idea of many Westerners that all Buddhists are spirit worshippers might have emerged from the confusion of celestials and spirits.

There is a strong belief in the Buddhist principle that hardship is the result of past life defilements and transgressions. I also found this belief in my study area. Moreover, the villagers believed that extreme tragedies such as a violent and sudden death of a family member were due to past misdeeds. People knew they would pay one day for a crime committed against others, even if not in this life. This belief kept most people from perpetrating cold-blooded bodily harm on others and perhaps this was the reason for the lack of violent street crime in the village. It is not the police they feared, but future lives. Because of these beliefs, people in Hountsar donated to monks and persons in need.

Most of the villagers believed that the chief monk of Kyaung-thit-kyauing monastery, situated in the village, was powerful, and that the supernatural world supported him to build a new monastery and a new pagoda. The chief monk

entered novicehood when he was 11 years old and said he would become the chief monk of the monastery one day. At the time of writing he was around 30. Some people thought he was crazy but later his predictions came true. He was the main religious actor in the village. He also managed to persuade the villagers to change their habits with respect to their worshipping of the nat. Instead of offering expensive meat and alcohol, he urged them to instead reduce the cost by offering vegetables.

Another important part of Buddhism is the role of religious practitioners such as the *arahat* (an enlightened one who is worshipped as a Buddhist saint), *weikza* (meaning higher or esoteric knowledge), spirit mediums, monks, and nuns. Furthermore, other factors in the religious system are important to the people like charisma, transmission of authority, dissemination of knowledge, and gender. The religious practitioners need to have unique skills and spiritual qualities, but their role is also important within the wider context of social transition. The changing needs of clients and devotees in contemporary society also affect their religious positions.

Mon villagers believe deeply in religious power and this is connected to their socio-cultural traditions. Therefore, it is necessary to understand the various hierarchies in their belief in religious power relations. For example, the belief in *arahat*, *weikza*, and spirit mediums was also found in my study area. People thought the Katon monastery chief monk (well known as Ko Yin Lay) was an *arahat* and could cure any disease with holy water. In addition, they believed the Kyaung-thit-kyaung chief monk was also supported by *weikza* and *thaik* (from the supernatural world) in religious affairs. These beliefs influenced how disputes were resolved and how people understood security and safety in the village. I turn to this topic now.

Everyday dispute resolution and security

Generally, Hountsar village was peaceful and people felt safe in daily life. There were small cases related to drunkenness, theft, and land issues. These cases were resolved at the 100-household leader level or at the village administrator level. I did not encounter any severe criminal cases. In this section, I first look at security provision and what mechanisms people used to feel safe. Second, I explore how social disputes and other problems were resolved. In both these areas, I illustrate the important role of religion and spiritual beliefs, often mixed with some secular mechanisms.

Security provision

There was a strong perception that the village was safe because the villagers all knew each other. As a traditional healer of the village said:

My house and surrounding areas are safe and we live peacefully because most of us are Mon nationals and we all are relatives. So we do not make even a fence. The houses near the highway have to be careful about theft but near my house all are safe.⁴

Despite the general sense of safety, there were mechanisms in place for security provision. The main security providers in the village were the paramilitary, who worked with the village 10-household leaders, 100-household leaders and the village administrator, sometimes in collaboration with the police. They helped the township administrator safeguard security during the Zin Kyaik pagoda festival. The paramilitary groups were formed for village security 40-50 years earlier by

⁴Interview, healer, 15 October 2016.

the Myanmar army. They are composed of volunteer civilians from the village who receive training and arms from the army. The villagers support the paramilitary with rice. At the time of study, the paramilitary no longer worked with the army, but with local leaders and police.

Apart from the security provision by these actors, people also sought protection through spiritual means and by engaging with monks, astrologers, and nats. Thus, there was legal hybridity in security provision and understandings of safety.

Hountsar villagers believed their traditional nat protected their home from any danger. They worshipped their traditional nats with silk longyis, and other clothing and hats. These material things were put in a package and hung up on the main pole on the roof of the house. If someone was ill, the villagers believed that it may be because the clothing they offered had a small hole and thus they offered new clothing immediately. By doing so, they felt safe and the ill person recovered. Moreover, they put a small spirit house in front of their house. They believed this provided security for the house.

They often recited myths and sutras to protect from harm, increase prosperity, and even to stay young. In addition, they went to astrologers when facing some problems. Astrologers gave them amulets (*mana*) such as cotton threads of *parrita*, perfume, scented sticks, pens, and handkerchiefs for good luck and to solve their problems. People in poor health could use the cotton thread and recite the monks' *paritta* to speed recovery. For jobless people, perfume combined with reciting Buddhist texts could provide them with good opportunities. For the unfortunate, scented sticks could dispel all the bad luck. To get a good exam score in school, the villagers could use a pen and a handkerchief blessed by the astrologer by reciting sutras. People in Hountsar also believed that astrologers and fortune-tellers could help to solve their health problems. For

example, an educated girl fell and hurt her thigh. It was believed that the accident was caused by the earth spirit. The girl had to apologise with the help of an astrologer to get well. Another example is divorce cases. I found that persons thinking about divorcing first went to the astrologer to hear if it was a good or a bad idea before going to the village administrator or the formal justice system to seek divorce.

Dispute resolution

Officially, people said they used the formal government channels from village administrator and upwards in the state system when they wanted to resolve a case. Yet in practice, and as I got to know my informants better, it became apparent that people also drew on cultural and religious domains to tackle problems, not only in terms of health, but also disappearance cases, job issues, theft cases, marriage disputes, and the lottery. According to a 23-year-old Mon beauty salon owner, a woman with a university degree:

Most cases seen in my village are based on fighting between couples, youths and neighbours. Especially when the villagers fence their houses, they fight over who owns the land. When small cases happen, both parties go to the 10-household leaders. Bigger cases such as money borrowing and land ownership go from the 100-household leaders to the village administrators. Some cases go to Paung legal court. But for health problems, social problems and theft cases, people prefer to go to astrologers and traditional *Nat-ka-daw* and diviners to solve their problems.⁵

⁵Interview, female villager, Beauty salon owner, 30 April 2016.

In this statement, we can see that some cases more than others involve spiritual elements and advice.

If someone disturbed a village girl, 50 years ago the village administrator would have locked the man in the *takt tone* (pillory) for about 1 week. If the perpetrator could not pay compensation at the village level, he would be handed over to the district level. But this kind of punishment was no longer used in Hountsar village. Instead, the village administrator solved most dispute cases through negotiation and reconciliation and by using the *kan-won*, which is a written, but informal agreement letter. *Kan-won* usually included a promise not to repeat an offence.

Some land disputes and crimes were sent to the upper level state system, because these cases could not be resolved at the level of the family and village leaders. For exceptional cases, like fighting and land disputes, people went informally to the village administrator, not to religious actors or astrologers, because they thought of such cases as concerned with official issues. Mostly, people did not like to go to government offices outside the village (not even for ID), but the police might get involved in dealing with physical fights.

The villagers also began to use social media, especially Facebook. With this development, they also attempted to solve some disputes and social problems using social media. In addition, I found that sometimes there was a connection between traditional beliefs and social media when people resolved problems.

I will illustrate these different patterns of hybridity with 2 case studies. The first illustrates the use of social media and the informal resolution by village leaders. The second case illustrates the mixture of spiritual beliefs with formal justice.

Case 1: disappearance case and the role of traditional healer and Facebook

A Mon woman, a traditional healer in Hountsar village, had 2 daughters attending grade 4 and grade 11. She opened her clinic every evening. Most of her clients were Kayin migrant workers. According to her, most of her cases were high blood pressure, diabetes and malaria. Later a villager told me that when she came back from the Democratic Karen Benevolent Army (DKBA), an EAO, she was an expert in performing operations. She had worked in the army since around the 1980s. Sometimes when children got diarrhoea, they were brought to her clinic for treatment to reduce the diarrhoea before going to hospital. At the time of study, the public healthcare system had improved and there were some health workers in the village.

One of her patients was a 15-year-old called Mi Kon Pon. She was Mon Buddhist and from the village. She was a very strange girl, and did not attend school since childhood. Her parents were rich but she always ran away from home. She told some strangers that she ran away because her mother beat her. These strangers believed her. They thought that she was lost and posted her photo on Facebook. The local villagers knew her well so they wrote some comments on Facebook, stating that she was from the village and she was telling lies. This happened several times.

The strangers brought the girl to the police, who phoned the village administrator to bring the girl back. This happened many times. She always gave the police the village administrator's telephone number, but not her parents'. The village administrator was angry because he always had to pick her up from the police station. He had done this 3 or 4 times. Therefore, he scolded her and told her not to run away again. He called her mother to pick her up. Her mother also felt ashamed about her daughter. She was angry, but said that she never beat her, but the strangers thought that she was. The villagers

and the village administrator knew that the mother was not beating the daughter. However, sometimes her parents locked her in a room with many locks and chained her feet with an iron chain so that she would not run away. Despite this, the girl escaped, and according to the villagers' belief, the parents could not find how she opened the locks and escaped. For this reason many villagers believed that the girl had supernatural powers with which she could open any lock. In Mon, this is referred to as *konpin konchan*. It is the spirit of 2 brothers which has supernatural power to go wherever it wants.

The girl's grandmother also believed the girl had supernatural powers, and she told the traditional healer the story of how the girl escaped the chains.

Even when her parents brought the girl to Bangkok 2 to 3 years earlier, when they were working there, the girl ran away from home. The Thai police caught her, but she tricked them, saying that she lost her way, rather than ran away. The police sent her back safely to her parents. After she had run away from her parents in April 2016 her parents started to get worried that she would get pregnant when she ran away. Therefore, they wanted her to get a contraception injection to protect her against pregnancy, but the government clinic denied her treatment, because at 15, the girl was under-age. The parents then went to ask the traditional healer, who agreed to give the girl protection against pregnancy. She agreed because she was a relative of the parents, and did not want the girl and the parents to face problems with pregnancy. The girl ran away again just a few days later. She lied to the neighbours who saw her on the highway, saying that her mother was waiting for her at the next bus station. The family members felt miserable because they could not resolve her problem.

According to the village administrator, the girl came back to the village in October 2016. She had been in Yangon for most of the time. There, a Youth Training School took care of her and taught her sewing. She was not stable. She liked Yangon, but she also wanted to come back to the village. She returned to the village on her own this time.

After she came back in October 2016, her parents put her back in the iron chains. The village administrator allowed the parents to chain the daughter, but he was of the opinion that the girl should be cured by a psychologist. He did not believe that the girl had supernatural powers, but the villagers and the traditional healer believed that she did. The administrator thought that she was able to run away because her parents undid the chains when she needed to go to the toilet or when they felt sorry for her. The village administrator did not prohibit the use of chains – he was only involved in resolving the case by telling the girl not to run away again. The parents tried to get help from astrologers to cure the girl, but this failed. They did not believe in modern medicine.

In this case, legal hybridity is evident in how the actors tried to resolve this girl's problem. First, we can see the mixture of a use of Facebook to help the girl and the understanding of her problem as related to supernatural powers. However, not everyone believed in those powers. The village administrator was suspicious and rather thought the girl should be cured with modern medicine. Simultaneously, he did not fully follow the modern way of thinking, but accepted the local ways of dealing with the problem, as he only warned the girl that she should not run away again. He and the other villagers did not approach the use of iron chains for locking up the girl's feet as against human rights. They accepted this as a family punishment and as a kind of protection for the girl. In addition,

people did not want to get involved in such family affairs, especially involving mentally ill people. They did not want the family to feel more shame, as would happen if the problem became public. This can be related to a general observation across Myanmar that bringing cases out in the open is associated with shame (*Dee jaka jaka halike dapao kaw kyee janaaw* in Mon, which is akin to the English proverb, you do not air your dirty laundry in public). Second, hybridity is evident in the involvement of different actors in trying to deal with the case: the police, the village administrator, the traditional healer and astrologers.

Whether the girl had supernatural powers or not was unclear, but people who saw the girl pitied her. Every time she left home, she escaped danger and arrived back safely. Because of that people in the village trusted her supernatural powers. Buddhist people believe in past lives. In this case they believed that because the girl did a good thing in her past life, she was able to escape danger and there always appeared a person who helped her. Even if she had supernatural powers, her mentally unstable mind could not be cured, because her unstable mind was caused by her *wut* – that is, her bad deeds from a past life. What this meant is that a secular solution to her situation was not enough and therefore going to the village administrator or the formal state institutions would not resolve the problem.

Case 2: marriage dispute related to misfortune about traditional Nat worship

Ma Thin was 23 years old, Mon, Buddhist and from Hountsar village. She lived with her family in the village. They believed in Buddhism, but also strongly in traditional nat worship. When I met her, she was 5 months pregnant. The father had left her and did not agree to marry to her. She told him about the pregnancy, but he did not accept that he was the father, and had an affair with another girlfriend. At first, she did not

do anything about the problem and just kept it to herself. She was ashamed, and believed it was her fate. However, when people could see that she was pregnant, she told an aunt and a male cousin. They called a man to negotiate with the father, but he did not agree. They then brought him to the village administrator, who was the brother-in-law of the aunt. They wanted the father to commit to marry the woman. After negotiations, in front of the village administrator, the man agreed to the marriage, but before he signed the agreement, the other girlfriend telephoned him. After the call, he told the village administrator that he wanted to go out to buy betel, and he ran away with the other girlfriend. Later the pregnant woman heard that the man and the girlfriend were living in Thailand. The pregnant woman, with help from her family and the village administrator, reported the case to the Myanmar police, who then informed the Thai police. They did so because they were very angry with the man and they wanted him to get punishment. The case was still pending, while the woman carried on the pregnancy. She would like to have an abortion, but because the case has reached the police, she could not, because if there is a court case she would have to show the pregnancy. Abortion is illegal in Myanmar, and also is not accepted by Mon traditional and Buddhist beliefs. However, in some situations abortion is done informally.

Ma Thin believed that her misfortune was due to angry nat spirits caused by what her father did in the past: cutting the branch of a mango tree in front of their house. Later, her mother got an eye disease and a lot of pain. She could not open her eyes. When they were waiting to see an eye specialist in Yangon, they saw a traditional diviner and he told them the mother was suffering this disease because when her father cut the mango branch, the nat spirit of the mango tree got angry. Due to this anger, the nat caused misfortunes to their family.

Her mother was not good enough in her fate and she herself did not have good luck. Because of the anger of the spirit, her mother suffered eye disease, and Ma Thin's boyfriend lied and left her. For her mother's eye disease, they worshipped and apologised to the traditional nat by building a house for the nat in their garden. After this Ma Thin's mother recovered. But Ma Thin was still waiting for news about her boyfriend in Thailand. She was not satisfied with a spiritual resolution. She also wanted monetary support for the baby from the father.

In this case, legal hybridity occurs in the sense that the case was dealt with through a secular resolution, first with the village administrator and then the police. However, interpretations of the case were influenced by spiritual beliefs in misfortune. Moreover, because the woman was a relative of the village administrator, it was easier for her to go to a government official. Otherwise, people preferred not to do this, but to keep such cases for themselves. In the beginning, the girl did not want to go anywhere. She was ashamed and did not want to bring her case out into the public. Her aunt and cousin took the case to the government office. The girl believed that she was suffering due to the nat spirit being angry with her father and she also thought it was due to *wut*. As explained earlier, *wut* refers to the debt a person has to pay for deeds done in a past life. However, the girl's understanding of justice was hybrid: even though she saw the misfortune as being caused by spiritual matters, she still desired that the perpetrator who lied to her be punished in the secular system.

Discussion

In this section, I discuss the reasons behind people's actions in dispute resolution, based on the case studies above and then relate my findings back to the theoretical debate on legal hybridity. There are several reasons why villagers in my

research site preferred not to report cases to the state institutions, and why they addressed religious actors. Legal hybridity occurred for instance in marriage disputes, because such disputes were also seen as related to misfortune and traditional nat worship. The lack of preference for state institutions was in addition caused by fear of state authority due to the history of military rule and conflict. Furthermore, it was related to low knowledge of the law, culturally embedded feelings of shame in bringing cases out in the public, and delayed case resolutions in the official state system. What I also found was that even if efforts were made to resolve a case in both the formal and informal justice systems, cases were seldom resolved easily. This lack of effectiveness in the secular systems is another reason behind the fact that people often consult religious actors.

Another core reason was that people experienced some disputes and problems in such a way that they believed that these problems could not be resolved sufficiently in a secular way. They must be dealt with spiritually, which requires consulting a religious or spiritual actor. This supports Moore's (1993) argument that the concept of legal pluralism must include religious actors, even if these actors do not necessarily define themselves as part of the legal field — i.e. as judges or justice providers.

Most of the cases were resolved by the village administrator because the villagers trusted their village leader. They saw him as a respectful person and as providing real resolution. Informal negotiations were regarded as better by the villagers, because they save time and money.

The strong beliefs in nats and Buddhist ideas about past life deeds, like *wut*, should not however be seen as a static or isolated kind of tradition. Social media, ideas about modern medicine, secular punishment and the use of a mixture of

actors is evident in many case resolutions. Consequently, justice provision is characterised by legal hybridity. Focusing on the significance of religion in legal pluralism does not mean that the analysis excludes the existence of non-religious mechanisms and norms. Hybridity serves as a valuable analytical concept to capture the mixtures. Such hybridity may occur even within the resolution process of a single case, as in case 2 of this article, where the girl both wanted a secular punishment as well as looking for spiritual help.

Most of the cases were connected with spiritual beliefs and these influences were still strong despite other apparent influences. This was because villagers believe their nats protected them from danger. Paying homage to nats gave them luck in social and economic life. Moreover, they did not trust government officials according to their experiences in the past. With the exception of cases like blood fights, theft, land disputes and divorce they preferred to use nat worship and advice from astrologers, fortunetellers, and elderly persons in their village. Hussain (2011) makes a similar point about South-east Asia in general when he argues that there is a mixture of local and other influences, and that lack of trust in the state system and its lack of efficiency is also part of sustaining beliefs in the spiritual matters within the areas of justice and security provision.

Because beliefs in Buddhism and traditional nats are an integrated part of everyday reality, the legal domain in the village is not only secular, as Moore (1993) also shows for India. This role of religion is often overlooked in the legal pluralism literature as well as in government justice sector reforms, where the focus is on administrative actors and courts or disputing forums. The same regards Myanmar.

In Hountsar village, people's mistrust in the official justice system was high due to the history of military government.

They especially mistrusted police and justice providers due to their corruption. This was exacerbated by the fact that most of the people lacked knowledge of legal documents and procedures, so often they ended up paying a lot of money to get their problems resolved (for example to get national ID cards, land certificates, money-lending documents and so forth). In line with Merry (1988), I found that despite Hountsar village being a relatively homogenous society, they practiced legal hybridity in their own specific ways: family, lineage, community, religion and the wider political context are significant to this. They do not practice only legal centralism or a singularity of law. (Griffiths 1986) Legal hybridity occurred when cases were dealt with both by going to religious actors and by resolving cases through secular mechanisms.

Conclusion

This article has described legal hybridity in everyday security and dispute resolution among Mon villagers. My core argument was that when studying these fields it is important to include religious and spiritual beliefs in Myanmar, and in Mon State in particular. This becomes apparent when following actual cases and analysing everyday dispute resolution, security provision, and perceptions from the perspective of local villagers. A legal pluralist perspective means that the analysis is open to mutual influences of norms, beliefs and practices in social regulation.

This article also explored how and why people preferred to resolve cases locally, rather than in the state system. It showed that local resolution is hybrid. Officially people said that they used formal government channels from the ward administrator and upwards in the state system, but in practice people also drew on cultural and religious domains (nats, astrologers, monks, healers) to tackle problems and disputes.

In elaborating on dispute resolution processes, I illustrated the relationship between modern technology and traditional

and religious beliefs. In some cases, people preferred to use social media like Facebook, but this was often mixed with religious aspects and beliefs.

The villagers' strong spiritual beliefs correlated with their common habits and experiences in the village. Belief in fate and misfortune related to past life deeds, belief in magic and the power of astrologers and monks also influenced people's experiences with dispute resolution. These beliefs also constituted a strong reason why they did not go to the state institutions. Apart from lack of trust in the state, traditional and religious beliefs meant that some cases were seen to require a spiritual solution – as with the girl who repeatedly ran away from her parents.

To sum up, this study illustrated how legal hybridity is practiced in everyday justice and security provision in a Mon village. I suggest that this knowledge ought to inform justice sector reform initiatives in Myanmar. Practical resolution systems in the Mon village needs to be understood by formal government actors engaged with health and dispute matters, and it is important to consider the role of religion and traditional beliefs in plural legal contexts in general and in Myanmar in particular. This includes recognising that people's minds work in legally hybrid ways, even when they come from apparently homogenous ethnic minority villages.

References

- Benda-Beckmann, Franz von and Keebet V. Benda-Beckmann. 2001. "State, Religion and legal pluralism: Changing constellations in West Sumatra (Minagkabau) and Comparative issues". *Max Planck Institute for Social Anthropology working papers*, 19.
- Clark, Samuel and Matthew Stephens. 2011. "Reducing Injustice? A Grounded Approach to Strengthening Hybrid Justice

- Systems", In *Customary Justice: Perspectives on Legal Empowerment*, edited by Jane Ubink, 67-90. Rome: IDLO.
- Collier, Jane Fishburne. 1973. *Law and Social Change in Zinacantan*. Stanford: Stanford University Press.
- Evans- Prichard, E.E. 1937. *Witchcraft, Oracles and Magic Among the Azande*. Oxford: Oxford University Press.
- Gibbs, Amy, 1963. "Diary of a Nobody", *Ministry of Health (MOH)* (www.bbc.co.uk/dbloch> picture)
- Gravers, Mikael. "Spiritual Politics, Political Religion and Religious Freedom in Burma ". *The Review of Faith & International Affairs*, 11, no. 2: 46-54.
- Griffiths, John. 1986. "What is Legal Pluralism." *Journal of legal Pluralism*, no 24: 4-9.
- Hooker, M.B. 1975. *Legal Pluralism – An Introduction to colonial and neo-colonial laws*. Oxford: Oxford University Press.
- Merry, Sally Engle, 1988. "Legal Pluralism", *Law & Society Review*, Vol.22.No.5, pp.869-896.
- Hussain, Jamila. 2011. "More than One Law for all. Legal Pluralism in Southeast Asia". *Democracy and Security*, 7, no 4: 374-89.
- Kluckhohn, Clyde. 1944. "Culture and A Conceptual Scheme". *American Anthropological Association Journal New*, Vol.46, Issue1: 1-29.
- Merry, Sally E. 1988. "Legal Pluralism". *Law & Society Review*, 22, no.5: 869-96.
- MIMU. 2017. Census data on religion, downloaded October 2017. <http://themimu.info/census-data>
- Mon Unity League (MUL). 2014. "The Mon History". Mon News Agency. <http://monnews.org/mon-people/> (accessed on 10 November 2016).
- Macaulay, Stewart, 1986. "Private Government". In Lipson & Wheeler (eds), *Law and Social Science*. Russell Sage Foundation. pp. 445-518.

- Moore, Erin P, 1993. "Gender, power, and legal pluralism: Rajasthan, India". *American Ethnologist*, Vol.20, Issue 3: 522-542.
- Nader, Laura and Todd, Harry F. 1978. *The Disputing Process: law in societies*. New York. Columbia University Press.
- Nader, Laura, 1964. "The Anthropological Study of Law". *American Anthropologist New Series*, Vol. 67, No. 6: 3-32
- Pospisil, Leopold. 1971. "The Anthropology of Law: Comparative Theory of Law". *New York: Harper and Row*.
- Rieffel, Lex. 2013. "Myanmar on the Move: An Overview of Recent Developments." *Journal of Current Southeast Asian Affairs*, 4: 31-49
- Santos, Boaventura de Sousa. 2006. "The Heterogeneous State and Legal Pluralism in Mozambique." *Law & Society Review*, 40, no. 1: 39-75.
- South, Ashley, 2007. "Contemporary Southeast Asia". *A Journal of International and Strategic Affairs*". *Singapore on Institute of Southeast Asian Studies*. Vol.29, No.1.
- South, Ashley. 2012. "The Politics of Protection in Burma- Beyond the Humanitarian Mainstream". *Critical Asian Studies*, 44, no. 2: 175-204.
- South, Ashley. 2014. "Inside the peace process". *Myanmar Times*. 10 Oct 2017.
- Tamanaha, Brian Z. 2008. "Understanding Legal Pluralism: Past to Present, Local to Global". *Sydney Law Review*, 30, no. 3: 375-411.
- Thanegi, Khin Win. 2012. "Burmese Cultural Orientation". *Defense Language Institute Foreign Language Center*, p.1-93. <http://www.state.gov/outofdate/bgn/burma/88022.htm.....288> (Accessed on 16 November 2016)
- Whiting, Bernice, 1950. "Painte Sorcery". *Viking Publication in Anthropology*.