

**International Conference Research Paper Presentations of Dr. Lwin Lwin
Mon, Professor, Dept. of Anthropology**

1. *The Leading Role of Anthropologist in the maintenance and preservation of Myanmar Ancient Monasteries in Bagan*, International Conference of Asia Leadership Fellow 2013, International House of Japan, Tokyo, September, 2013
2. *The Social Value and Function of Myanmar Lacquer ware in Bagan*, International Conference on Japan &- Myanmar, 21/22 February 2014, Myanmar- Korea Local Knowledge Centre, University of Yangon
3. *Sustainable development in livelihood of Shan National (Zaw Ti Gone Village, Hmwe Bi Township, Yangon, Myanmar)*, International Conference on Myanmar & The Sustainable Development Goals: Informed by the Past, Looking to the Future, presented by the Australia Myanmar Institute, University of Yangon and Myanmar Institute of Strategic and International Studies, University of Yangon, 11 July, 2015 . Website- Australia Myanmar Institute, [aumi.edu.au> uploads> sites> 2014/10](http://aumi.edu.au/uploads/sites/2014/10))
4. *Kinship Terminologies and Naming System of Shan National, Zaw-ti-gone Village, Hmaw-bi Township, Yangon*, Asia Pacific Sociological Association (APSA) Conference, Transforming Societies: Contestations and Convergences in Asia and The Pacific, Chaing Mei University, Thailand, 23 July, 2015
5. *Legal hybridity in everyday justice provision in a Mon village*, 2017 Myanmar Update Conference, Australia, Australian National University, Feb, 2017



Fig.6. Training horse riding for the novice-to-be

5. *Legal hybridity in everyday justice provision in a Mon village, 2017 Myanmar Update Conference, Australia, Australian National University, Feb, 2017*

Abstract

This paper explores everyday justice provision in a village in Mon state where a majority of the population belongs to the Mon ethnic group. Based on ethnographic fieldwork in 2016, I argue that people prefer to resolve their cases locally. But in many dispute resolution situations they use legal hybridity with a combination of law, customary rules, religious beliefs, and social media. The most common problems in the village include drinking and fighting among youths, land disputes, neighbor quarrels, and car accidents. Serious crimes are rare in the area but youth men group fighting happens between this village and other neighbouring village. According to the field works, the paper shows that the vast majority of problems are resolved by the village level justice providers; 100 household leaders, village administrators, local voluntary paramilitary groups, monks, and astrologers. These actors resolve local disputes, punish crimes and social breaches. 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 shame by bringing their cases to official institutions. Nowadays especially young people have begun to use social media like Facebook to help them to win disputes and crime cases.

Introduction

This article explores everyday justice and security provision in a village in Mon state where a majority of the population belongs to the Mon ethnic group. Based on ethnographic fieldwork on small-scale problems, I argue that people prefer to resolve their cases locally, rather than through the state system. They do not want to go to the Myanmar state institutions, because of fear of authority, low level of knowledge of state law, religious beliefs, poverty, and because they feel shame by bringing their cases to official institutions. They trust their village leader and even though people know that serious crimes are not supposed to be resolved locally, they still try to negotiate cases at the village level.

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

The village under study has remained under Myanmar government control during the entire ethnic armed conflict, but the relationship to the state is contested and fragile. Whereas some villagers were involved in the 1988 uprisings, others have relatives and connections to the Ethnic Armed Organizations (EAO). Trust in the state system is low. The Mon villagers believe in Buddhism and some also believe in traditional spirits or Nats, magic as well as reincarnation. These beliefs affect substantially how people deal with the problems they face. Since the Myanmar transition, the economy is improving and people have increased access to internet and mobile phones. This has meant that villagers have also begun to use social media in addressing disputes.

This article is based on fieldwork in April and October 2016 in Hountsar village. I used qualitative research methods and draw on political and legal anthropology. In-depth interviews, key informant interviews, participatory learning appraisal methods were used to understand specific problems in the village. The reason I selected this village as my field work site is that it is the typical Mon village and people maintain their Mon identity and culture by building their houses according to their traditional style and opening Mon Language Literacy Training in their village's monastery. In addition, almost all the villagers are typical Mon ethnic group and they all are unite and believe strongly Buddhism and traditional Nat spirits. Moreover, the area is beside the Thaton- Mawlamyaing High-way Road so that it can be easy to travel and conduct the field-work safely. In this field-work, I had 80 respondents in the village for KI interviews during April and October 2016 in Hountsar village.

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.¹ It brings new empirical 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.¹ 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.

¹ 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.

In the following, 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 two 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 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, p. 2, quoted in Griffiths 1986, p.9). 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, p. 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, P. 1-2, quoted in Griffiths, 1986, p.9).

Similarly, in Myanmar in general and Mon state in particular, I find different rules, norms and institutions for the resolution of disputes. The state and its official procedures are often not efficient and villagers prefer to use other solutions. Especially religious beliefs and practices play a crucial role, rather than only formal procedures. Even educated persons engage with religious beliefs when they address problems. Although people say that they use the formal step-by-step procedure (going from lower to higher levels of the state hierarchy of institutions), in reality several people go to the 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 two different systems – one local and one state. Sometimes villagers mix or use different rules, norms and mechanisms at the same time to resolve a problem. These kinds of mixture have been described as legal hybridity or legal hybridization 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 three main ways. First, it describes situations where one legal system within a social field mixes different sets of laws, like customary and state law. Second, it covers situations where more than one 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 like in a case where spiritual beliefs mixed with the use of Facebook and the desire for secular punishments.

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 and also 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. Southeast Asia was the center 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; Watson-Gegeo and White 1990), although it sometimes examines witchcraft or religion as an alterNative remedy (see Collier 1973; Evans-Pritchard 1937; Greenhouse 1986; 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 one of the main eight ethnic groups in Myanmar. They live mostly in Mon State, Bago Division, Kayin State, Tanintharyi Division and the Gulf of Martaban. Mon people live along side other ethnic groups like the Pao, Dawei and Shan. The capital city of Mon state is Mawlamyaine and the area is 4,748 square miles. Mon State is organized into ten Townships, 443 Wards and Village Tracts. The population is about 1682,041 (Myanmar's NET 1998-2012).

Mon people were a major source of 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 by Burmans migrating southward in 1057. Most Mon are bilingual, speaking Burmese as well as their own language, which is of Austro-Asiatic stock.

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 labor, and arbitrary taxations, land confiscation, and the destruction of whole villages. State agents and their proxies and ethnic armed organizations (EAOs) perpetrated these serious violations. People suffered from multiple masters, paying taxes to two or more armed groups. The maintenance of cultural and religious identities is a major concern to protect their livelihood. In Mon state the main EAO is the New Mon State Party, which represents the Mon ethnic group and fought the military until 1995 when it signed a ceasefire that was re-ratified in 2012 (South 2012).

In 1988, people demanded democracy due to economic deterioration, the demonetization of currency and the discontent with human rights abuses. The military regime. At the time it was the State Law and Order Restoration Council (SLORC) that governed the country. It offered the New Mon State Party (NMSP) and other ethnic non-Burma EAOs to enter into a cease-fire deal and end the war. After the ceasefire zones in 2006, civil society networks have begun to expand in some non-government controlled areas and many NGOs were organized by Chin, Kachin, Shan, Lahu, Karenni, Karen, Tavoyan, Mon and all-Burma student and youth, women's, environmental and human rights groups in border areas and helped to develop community networks of trust and support and strengthen civil society, under the most difficult of conditions (South 2007 & 2008:ch.6). Moreover, the lives of civilians affected by decades of armed conflict in Myanmar are undergoing profound transformation for the better in political, social and economic condition after a dozen ethnic armed groups' ceasefires agreements. (South 2014)

The Mon village under my study has remained under Myanmar government control during the entire ethnic armed conflict between the military and the NMSP. However, the relationship to the state is contested and fragile, and whereas some villagers were involved in the 1988 uprisings, others have relatives and connections to the NMSP. Trust in the state system is low. Distrust can 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 did not get any help from the Myanmar government officials, but had to pay the tax to all armed groups. Sometimes the military kidnapped the villagers. At that time, 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 do not trust the upper level state, especially government police officers.

Democratization in the country has been a patchy process, but a nominally civilian government was installed in March 2011, which raised hopes about democratization 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 comprehensive victory in National elections, helping to consolidate peaceful political change (Rieffel 2012).

However, peace remains fragile in some areas of the country, like Shan, Kachin and Rakhine states, and a substantial National peace agreement still has to be reached. In addition, the NMSP has still not signed the National Ceasefire Agreement (NCA) that eight other ethnic armed groups signed in October 2015. In the Mon village under study the risk of armed conflict is however very low at the moment.

The economic situation of the Hountsar villagers has improved over the past years. Part of the reason is that villagers take over-sea jobs in Thailand, Malaysia, Singapore, Korea and Japan. Incomes from remittances support individual families and village development projects, like the repair of village roads and religious buildings. Economic and technological developments mean that the villagers now use mobile phones and internet, also to connect them to their relatives abroad. They use social media, especially Facebook a lot and even the children are familiar with the internet.

One specific thing about the Mon ethnic group is that there are no sub-groups like other ethnic people in Myanmar and only one entire group of Mon and they unite themselves a lot. They use only one 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 meetinghouse. In the village under study there is a new monastery and a new pagoda, which also has a meditation center. Mon children also attend the Mon literature class during summer holidays and they are taught about 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 with 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 of the Myanmar government, Buddhism is the dominant religion. According to the figures, Buddhists constitute 87.9 percent of the country, Christians make up 6.2 percent, Muslims comprise 4.3 percent, animists are counted at 0.8 percent and Hindus are listed at 0.5 percent. People who identify with other religions constitute 0.2 percent and 0.1 percent identified as following no religion. These percentages represent the composition of Burma's total population of 51.4 million, including a non-enumerated population of 1.2 million approximately.

([http:// www.themimu.info](http://www.themimu.info)> census- data)

In order to understand Buddhist beliefs in relation to legal pluralism, I draw on Thanegi (2013). In Theravada Buddhism, Buddhists believe in three principles: *Thila*, *Dana*, and *B'wana* (morality, charity and awareness). Moreover, they believe in *Metta* (loving kindness), *Khandi Parami* (endurance), and *Cedana* (good will) 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 he or she is guilty of committing a crime or another illegitimate action, he or she will suffer later in this life or in the next life. This belief is called *Wut*.

Myanmar Buddhist people believe in the meditation of striving to attain constant, conscious awareness, as well as purifying the mind by discarding attachments called *Vipasana* and *Thamahta*, by which someone can gain supernatural power.

Similarly, in Hountsar village, people believed that one Mon old man had gained superNatural powers by meditation (*Thamahta*). When people face a problem, they ask this man how they can resolve it. He can predict their future fate and job carriers. They believe that he can change his face after he comes from his deep meditation. In addition, I found that people believed in astrology and palmistry when it came to health, social and economic problems.

Buddhists also recite sutras for protection against harms. These are usually in the old Pali language, and mostly the meanings are not even understood by the one who recites them. Moreover, certain sutras are recited, while the person at the same time speaks a few hundred rounds with the 108 holy beads. This is believed to fulfill wishes.

Some Buddhist people also worship traditional spirits. Mon villagers in Hountsar both believe in Buddhism and in various traditional spirits (*Ywa-taw-shin* Nat, Traditional Nat, Earth spirit, Tree spirit, and the House spirit). They worship spirits in the hope to improve their livelihood. A main reason for the existence of spirit worship is that they grant favors. Many spirits already exist in Buddhist lore as celestials, who are 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 that celestials and spirits are the same.

There is a strong belief that the Buddhist principles of hardship is the result of past life defilements and transgressions. I also found this belief in my study area. Moreover, the villagers believe that it is due to past misdeeds that extreme tragedies such as a violent and sudden death of a family member, happen. If people commit a crime against others, they know they will pay for it one day, even if not in this life. This belief keeps most people from doing cold-blooded bodily harm to others and perhaps this is the reason for the lack of violent street crime in the village. It is not the police they fear but the afterlife. Because of these beliefs, people in Hountsar donate to the monks and persons in need.

Moreover, most of the villagers believe that the chief monk of Kyaung-thit-kyauing monastery, which is situated in the village, is powerful, because the supernatural world supported him to build a new monastery and a new pagoda. The chief monk (Age-30) entered novice hood when he was eleven years old and said he would become the chief monk of this monastery one day. Some people thought he was crazy but later his predictions became true. Now he is 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 using expensive meat and alcohol he urged them to instead reduce the costs by offering vegetables.

Another important part of Buddhism is the role of religious practitioners such as the *arahat* (the enlightened one who is worshipped as a Buddhist saint), *weikza* (literally meaning the "higher or esoteric knowledge"), the 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 a lot about religious power and it is connected with their socio-cultural traditions. So it is needed to understand many different hierarchies in their beliefs in power relationship. For example, the belief in *arahat*, *weikza*, and spirit mediums was also found in my study area and people think the Katon monastery chief monk (he is well known as Ko Yin Lay) is *arahat* and can cure any disease with his holy water. In addition, the Kyaung-thit-chaung monastery chief monk is also supported by *weikza* and *thaik* (from the super natural world) when he does religious affairs. These different beliefs have an influence on how disputes are resolved and how people understand security and safety in the village. I turn to this topic now.

Everyday dispute resolution and security

Generally, Hountsar village is peaceful and people feel safe in their daily life. There are small cases related to alcohol drinking, theft and land issues. These cases are resolved at the one hundred household leader level or at the village administrator level. I did not encounter any severe criminal cases. In this section, I firstly look at security provision and what mechanisms people use to feel safe. Secondly, I explore how social disputes and other problems are resolved. In both these areas, I illustrate the important role of religion and spiritual beliefs, often mixed with some secular mechanisms.

Security provision

There is a strong perception that the village is safe because they all know each other. As one 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 did not make even fence. The houses near the highway road have to be careful about the theft case but near my house all are safe*(* 15 October 2016, House of Hountsar Village, Mon State.)

Despite the general sense of safety, there are mechanisms in place for security provision. The main security providers in the village are the paramilitary members, who work with the village ten household leaders, hundred household leaders and the village administrator, sometimes in collaboration with the police. Sometimes, they help the Township administrator to guard the security during Zin Kyaik pagoda festival. About 40-50 years ago the paramilitary groups were formed by the Myanmar army for village security. They are voluntary civilians from the village who received training and arms from the army. The villagers supported the paramilitary with rice. Today the difference is that the paramilitary no longer work with the army but with the local leaders and the police.

Apart from the security provision by these actors, people also seek security protection though spiritual means and by engaging with monks, astrologers and Nats. Thus, there is legal hybridity in security provision and understandings of safety.

Hountsar villagers believe that their traditional Nat protects their house from any danger. They worship their traditional Nats with silk longyi, silk dress and hats. These material things are put in one package and hung up on a main pole on the roof of the house. If someone is ill, the villagers believe that it may be because the dresses they offer had a small hole and thus they offer new dresses immediately. By doing so, they feel safe and the ill person becomes fine again. Moreover, they put a small spirit house in front of their house. They believe this will provide security for their house.

Moreover, they often recite myths and sutras to protect them from harm, to increase prosperity, and even to stay young. In addition, they go to the astrologer when they face some problems. Astrologers give them some amulets (*mana*) such as cotton threads of *Parrita*, perfume, scented sticks, ball-pens, handkerchiefs to get good luck and solve their problems. People who are not in good health can use the cotton thread and recite the monks' *Paritta* to recover quickly. For the jobless people, perfume combined with reciting the Buddhist text can provide them with good opportunities. For misfortunate people, scented sticks can expel all the bad luck. To get a good exam in the school, the villagers can use a ball-pen and a handkerchief, which are blessed by the astrologer who recites sutras. People in Hountsar also believe that astrologers and fortune-tellers can help to solve their health problems. For example, an educated girl had fallen down and hurt her thigh. It was believed that the accident was caused by the earth spirit, To get well the girl had to apologize with the help of an astrologer. Another example is divorce cases. I found that persons who think about getting a divorce first go to the astrologer to hear if it is a good or a bad idea before they go to the village administrator or the formal justice system to seek divorce.

Dispute resolution

Officially, people say they use the formal government channels from village administrator and upwards in the state system when they want to have a case resolved. Yet in practice, and as I got to know my informants better, it became apparent that people also draw 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 lottery. According to a 23 year old Mon, female beauty salon owner, who has a university degree:

Most cases based on fighting between couples, youths and neighbors can be seen in my village. Especially when the villagers do the fence of their house, they fight over who owns the land. When small cases happen, both parties go to the ten household leaders. Bigger cases such as money borrowing and land ownership go from the one hundred 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 diviner to solve their problems.

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

Fifty years ago, if someone disturbed a village girl, the village administrator locked the man in the *Takt Tone* (pillory) for about one week until he was released. If the perpetrator could not give money for compensation at the village level, he had to be handed over to the District level. But

nowadays, in Hountsar village, they do not use that kind of punishment anymore. Instead, the village administrator solve most of the disputes cases through negotiation and reconciliation and by using the *Kan-won*, which is a written, but informal agreement letter. *Kan Wan*, usually includes a promise not to repeat an offence again.

Some land disputes and crimes, they send to the upper level state system, because they think these cases cannot be resolved at the level of the family and village leaders.

For exceptional cases, like fighting and land disputes people go only informally to the village administrator, not to religious actors or astrologers, because they think such cases are concerned with official issues. Mostly, people do not like to go to the government offices outside the village (not even for ID), but the police may get involved in dealing with physical fights.

In some cases, the villagers have also begun to use social media, especially Facebook. Because of these developments, some disputes and social problems are attempted resolved by using social media. In addition, I found that sometimes there is a connection between traditional belief and social media when people resolve problems. I want to illustrate these different patterns of hybridity with some 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

One Mon woman is a traditional healer in Hountsar village. She has two daughters who were attending Grade-Four and Grade-Eleven. She opens her clinic every evening and most of her clients are Kayin migrant workers. According to her, most of her cases are high blood pressure, diabetes and Malaria. Later one of the villagers told me that when she came back from the DKBA (Democratic Karen Buddhist Army), an EAO, she was an expert in doing operations. She was working in the army since around the 1980s. Sometimes, when children get diarrhea, they come to her clinic and take some medicine to reduce the disease before they go to the hospital. Nowadays, the public healthcare system has improved and some health workers now exist in the village.

One of her patients is called Mi Kon Pon. She is 15 years old, Mon Buddhist and Native to the village. She is a very strange girl, and she did not attend her school well since her childhood. Her parents are rich but she always runs away from her house. She told some strangers that she ran away from her house because her mother beats her. These strangers believed her. They thought that she had lost her way and then advertised her photo on Facebook. The local villagers knew her well so they wrote some comments on Facebook, stating that she was from our village and she was telling lies. This happened several times.

The strangers brought the girl to the police, who phoned the village administrator to call back the girl. This happened many times. She always gave the police the village administrator's phone number, but did not give them her parents' number. The village administrator was angry because he always had to pick up the girl from the police station. He had done this three to four 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 shameful about her daughter. She was angry, but said that she never beat her, but the strangers thought that she was beating her daughter. The villagers and the village administrator know that the mother is not beating the daughter. However, sometimes, her parents locked her in a room with many keys and locked her feet with 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 out how she escaped and opened the key. For this reason many villagers believed that the girl has supernatural powers with which she can open any key. In Mon language, this is referred to as *Konpin Konchan*. It is a two brothers' spirit who has supernatural power and can go wherever it wants.

The girl's grandmother also believes that the girl has supernatural powers, and she told the traditional healer about the story of how the girl escaped the chains.

Even when her parents brought the girl to Bangkok two to three years ago, 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 ran 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 to do this, because the girl is under-aged, only 15 years old. The parents then went to ask the traditional healer, who agreed to give the girl protection against pregnancy. She agreed because she is a relative of the parents, and does not want the girl and the parents to face problems with pregnancy. Just a few days after, the girl ran away again. She lied to the neighbors who saw her on the highway road, saying that her mother was waiting for her at the next bus-station. Then the girl went away. So the family members felt miserably, because they could not resolve her problem.

According to the village administrator, the girl came back to the village in October 2016. Most of the time she had been in Yangon where one of the Youth Training Schools took care of her and taught her sewing. She is not stable: she likes Yangon, but she also wants to come back to the village. She came back 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 allows the parents to chain the daughter, but he is of the opinion that the girl should be cured by a psychologist. He does not believe that the girl has supernatural powers, but the villagers and the traditional healer believe that she does. The administrator thinks that she was able to run away because her parents untied 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 the 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 believes in these powers. The village administrator is suspicious and rather thinks that the girl should be cured with modern

medicine. Simultaneously, he does not fully follow the modern way of thinking, but accepts the local ways of dealing with the problem, as he only warns 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 of the girl. In addition, people do not want to get involved in such family affairs, especially if it is about mentally ill people. They do not want the family to feel more shame. This will happen if the problem becomes 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 Nyee Janaaw* in Mon Language, which is akin to the English proverb, you do not air your dirty laundry in public). Secondly, 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 has supernatural powers or not is unclear, but people who saw the girl felt pity for her. Every time when she left the house, she escaped the danger and arrived home safely. Because of that people in the village trusted her supernatural powers. Buddhist people believe in the past life. In this case they believed that because the girl did a good thing in her past life, she was able to escape the danger and there always appeared a person who helped her. Even though she has supernatural powers, her mentally unstable mind cannot be cured, because her unstable mind is caused by her *Wut* – that is, her bad deeds from her past life. What this means is that a secular solution to her situation is 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 is 23 years old, Mon, Buddhist and Hountsar village Native. She lives together with her family in the village. They believe in Buddhism, but also strongly in traditional Nat worshipping. When I met her, she was 5 months pregnant. Her lover (the father of the unborn baby) had left her and did not agree to marry to her. When she knew about the pregnancy, she told him. But he did not agree that he was the father and he had an affair with another girlfriend. At first, she did not do anything about the problem and just kept it to herself. She felt shame, and she believes it is her fate. However, when the pregnancy got bigger and people could see that she was pregnant, she told her aunty and male cousin about the problem. They called the man to negotiate with him, but he did not agree. They then brought him to the village administration office. The village administrator is the brother-in-law of the aunty. They wanted him to commit to marry the girl. 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 said to the village administrator that he wanted to buy betel leaf outside the office. He ran away with the other girl. Later the pregnant woman heard the news that the man and the girlfriend now lived in Thailand. The pregnant girl, with help from her family and the village administrator reported the case to the Myanmar police, who then informed the Thai police. They informed the police because they were very angry with the man and they wanted him to get a punishment. The case is still pending, while the girl continues to be pregnant. She would like to have an abortion, but because the case has reached the police, she cannot have an abortion, because if there is a court

case she has to show the pregnancy. Abortion is illegal in Myanmar, and also it is not accepted by Mon traditional and Buddhist beliefs. However, in some situations abortion is done informally.

Ma Thin believes that her misfortune is due to angry Nat spirits caused by what her father did in the past: he cut the branch of a mango tree in front of their house. Later, her mother got eye disease and a lot of pain. She could not open her eyes. So they went to Yangon to see an eye specialist. When they were waiting for the doctor, they saw one traditional diviner and he said that the mother was suffering this disease, because when her father cut the branch of a mango tree, the Nat spirit of the mango tree got angry. Due to this anger, the Nat caused misfortunes to their family. Her mother is not good enough in her fate and she herself does not have good luck. Because of the anger of the spirit, her mother suffered eye decease, and Ma Thin's boyfriend lied to her and left her. For her mother's eye decease, they worshipped and apologized to the traditional Nat by building a house for the Nat in their garden. After this the mother was fine. But for Ma Thin's case, she is still waiting for news about her boy-friend in Thailand. She is not satisfied with a spiritual resolution. She also wants (monetary) compensation for the baby from the man.

In this case, legal hybridity occurs in the sense that the case is dealt with through a secular resolution, first with the village administrator and then the police. However, interpretations of the case is influenced by spiritual beliefs in misfortune. Moreover, because the girl is the relative of the village administrator, it is easier for her to go to a government official. Otherwise, people prefer not to do this, but to keep such cases for themselves. In the beginning, the girl did not want to go anywhere. She felt shame 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 believe 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 that she has done in her past life. However, the girl's understanding of justice is hybrid: even though she sees the misfortune has being caused by spiritual matters, she still desires that the perpetrator who lied to her is 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 do not prefer to report cases to the state institutions, and why they address religious actors. Legal hybridity occurs for instance in marriage disputes, because such disputes are also seen as related to misfortune and traditional Nat worship. The lack of preference for state institutions is in addition caused by fear of state authority due to the history of military rule and conflict. Furthermore, it is related to low knowledge of the law, culturally embedded feelings of shame of 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 is that people experience some disputes and problems in such a way that they believe that these problems cannot 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.

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 punishments and the use of a mixture of actors is evident in many case resolutions. Consequently, justice provision is characterized by legal hybridity. By focusing on the significance of religion in legal pluralism does not mean that the analysis excludes the existence of non-religious mechanisms and norms. To capture the mixtures occurring, hybridity serves as a valuable analytical concept. Such hybridity may occur even within the resolution process of one singular case, like in case two of this article, where the girl both wanted a secular punishment as well as looked for spiritual help.

Most of the cases are connected with spiritual beliefs and these influences are still so strong despite other apparent influences. This is because the villagers believe their Nats protect them from danger. Paying homage to Nats gives them luck in their social and economic life. Moreover, they do not trust the government officials according to their experiences in the past. With the exception of cases like blood fights, theft, land disputes and divorce they prefer to use Nats worshipping 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, 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 is high due to the history of military government. They still do not trust government officials. Especially they mistrust the police and justice providers due to their corruption. This is exacerbated by the fact that most of the people lack knowledge about legal documents and procedures, so often they end up paying a lot of money to get their problems resolved (for example to get National ID cards, land certificates, moneylending documents and so forth). In line with Merry (1988), I found that despite the Hountsar village being a relatively homogenous society, they practice 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 occurs when cases are 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 you follow actual cases and you analyze everyday dispute resolution and 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 prefer to resolve their cases locally, rather than in the state system. It showed that local resolution is hybrid. Officially people say that they use the formal government channels from the ward administrator and upwards in the state system, but in practice people also draw 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 prefer to use social media like Facebook, but this is often mixed with religious aspects and beliefs.

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

To sum up, this study illustrated how legal hybridity is practiced in everyday justice and security provision in 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 who are 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 recognizing that people's minds work in legally hybrid ways, even when they come from apparently homogenous ethnic minority villages.

Notes

1 The fieldwork was conducted as part of the EverJust research project which is a collaboration between Yangon University, EMReF, Danish Institute for InterNational Studies, and Aarhus University.

2 This research involved thirty-one interviews with house-wives, over-sea migrant workers, chief monks, village ten household leaders, village one hundred household leaders, village administrator, township administrator, former paramilitary actors, traditional healers, astrologers,

fortune-teller, traditional spiritual healer (Nat-ka-daw), farmers, university students, primary school, middle school and high school students, Mon literature teachers, beauty salon owner, gold-smith owner conducted in English language by the researcher over a seven-month period in 2016 April- October. The year and language of the interviews is indicated in in-text citations.

3 Research on religion in general in Myanmar, much less religious freedom specifically, 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 Burma 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 can be expected in the future.

4 Interview on 4 May 2016 with the traditional healer ; 44 years old, Mon, Buddhist, Hountsar Native. She opens her clinic every day and most of the cases she needs to cure are diarrhoea, TB, diabetes, and hypertension.

5 Interview on 30 April 2016 with 23 year old Mon, female beauty salon owner, who has a university degree.

6 I changed the village name to secure anonymity.

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 Stephens, Matthew. 2011. *Reducing Injustice? A Grounded Approach to Strengthening Hybrid Justice Systems, Customary Justice: Perspectives on Legal Empowerment*, Rome: IDLO, 69.

Graver, Michael. 2013. *Spiritual Politics, Political Religion And Religious Freedom in Burma*. *The Review of Faith & International Affairs*, 11:2, 46-54.

Hooker quoted in Griffiths, John. 1986. *What is legal pluralism?*. *Journal of Legal Pluralism*, no.24.

Hussain, Jamila. 2011. *More than One Law for all. Legal Pluralism in Southeast Asia. Democracy and Security*, 7 (4), 374-89.

<http://www.state.gov/outofdate/bgn/burma/88022.htm.....288> (Accessed on 16 November 2016)

Merry, Sally Engle. 1988. *Legal Pluralism*. *Law & Society Review*, Vol.22, No.5, 870.

Mon Unity League (MUL). 2004. *The Mon History*. Mon News Agency..
<<http://monnews.org/mon-people/>> (accessed 10 November 2016).

Myanmar NET, 1998-2012. *Mon State, States & Regions of Myanmar*, < www.myanmars.net>
(accessed 16 November 2016).

Rieffel, Lex.2012. *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, Volume 40, Number 1.

South, Ashley. 2008. *Mon Nationalist Movements: insurgency, ceasefires and political struggle*. The Mon Unity League Press, Bangkok, January.

South, Ashley. 2012. *The Politics of Protection in Burma- Beyond the Humanitarian Mainstream*. Critical Asian Studies, 44:2, 186.

South, Ashley. 2014. *Inside the peace process*. The Myanmar Times. Monday 6 January.

Tamanaha, Brian Z. 2008. *Understanding Legal Pluralism: Past to Present, Local to Global*. Sydney Law Review, Vol.30 (3), 375 - 411.

Thanegi, Khin Win.2012. *Burmese Cultural Orientation*. Defense Language Institute Foreign Language Center, 1-93.

<http://www.themimu.info>> census- data (Accessed on 16 October 2016)

¹ Research on religion in general in Myanmar, much less religious freedom specifically, 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 Burma 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 can be expected in the future.