

# Role of Customary Governance in Resource Management of a Legal Pluralist Indigenous Community

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SMC Journal of Sociology 2024, Vol. 1(1) 101-119

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Article Details

Received: Sept. 16, 2023; Reviewed: Sept. 21, 2023; Reviewed: Oct. 2, 2023

Revised: Dec. 2, 2023; Accepted: Dec. 20, 2023

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## Abstract

This paper explores the role of customary governance in sustainable natural resources management within a pluralist indigenous community. It employs qualitative research design in which key informant interviews, focus group discussions and observations were used as research tools. It discusses how customary governance has worked for the management of resources of Loma community, Lomanthang, upper-Mustang. It considers legal pluralism and modernization as major theories to analyze sustainable resource management issues in the community setup. The modern governance system has influenced in effecting customary governance system at all levels including the political-economic. The political influence is made subtly through colonizing tools such as development, education, and modernization. The Ghenpa governance system in Lomanthang has withstood several assimilation processes with state intervention and is now strongly opposing the western type of modernization. Although modernization opened the door of Lomanthang to a wide variety of people from outside, the coexistence and complementary relationship between the state legal system and Ghenpa customary governance kept the legal pluralist indigenous community more intact.

## Keywords

customary governance, Ghenpa, legal plurality, modernization, political change

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Nepal consists of a history of rich cultural traditions and complex social dynamics. Many indigenous people's communities have long-standing traditions of managing their natural resources through their customary institutions. Customary governance system has played a crucial role in managing the natural resources of a pluralist indigenous communities of Nepal.

Ghenpa is a customarily-working indigenous institution in Loma community of Lo-Manthang. It appears to be a highly sustainable and adaptive institution in the modern changing contexts. The Ghenpa system coexists and interacts with state legal systems. It coexists with and complements the jurisdiction of the rural municipalities and the Annapurna Conservation Area Project (ACAP). It functions for sustainable natural resource management and conflict management. It contributes to the continuation of cultural practices and identity of indigenous communities and maintaining social order and harmony within.

Ghenpa system is contested by external forces in this globalized context, where geographic borders of nation-states are gradually decaying, and a neoliberal technological change is fueling for change in community values. Customary governance is heavily influenced by the global, regional, to national level laws and policies in different levels, but the Ghenpa system has perpetuated and appeared effective in regulating and operating its social functions, cultural practices, and societal values. Therefore, this article discusses the vital role that the customary governance plays in the management of natural resources in Lomanthang area and the challenges and opportunities it has faced in the present context.

Legal pluralistic theory explains the coexistence of two different legal systems such as the formal legal system and the customary governance system. Legal pluralistic theory reflects and produces new perspectives on the role of the state in plural legal orders (Beckmann and Turner 2018). This theoretical lens explains the supplementary relationship between the de facto Ghenpa system and the de jure state regulation. It highlights how these plural legal orders are complementary and coexisting. The paper also tries to explain the factors contributing to the continuity of the de facto Ghenpa system amidst the nation-states' formal endorsement of a monolithic law.

Modernization theory focuses on changes that particularly take place in the village settings due to the influx of tourists, the replacement of local tradition by complex technologies, increased use and access to social media, and materialism. Therefore, modernization is more likely to threaten community's integrity and the future of the Ghenpa system in the remote mountainous Nepal. Modernization is taken as a transition from primitive to technological economies, and is subject to a participatory political system from open status, religious to secular (Tipps 2012 as cited in Pyakurel and Bhatta 2021). Although modernization is associated with singularity and homogenization and can contradict to the legal plurality, (Beckmann and Turner 2018) the modernization theory in this study appraises the wimp of modernization experience in the Lomanthang, and how the indigenous Lowa people are interacting and continuing their practices despite being influenced by modernity. Moreover, the lens will also look at the changes that are occurring in the community, such as the emergence of hotels, restaurants, shops, and the opening of new economic opportunities, among many others. Wagner (2012) also believes that modernity has been considered mostly in terms of economic progress, followed by capitalism and market liberalization post-World War II (Pyakurel and Bhatta 2021). Since modernization is infamous for creating a more individualistic existence against the sovereign power of the society and increased social inequality (Simmel 1971), this theory also looks at the dynamics that has worked inversely in Lomanthang, which had a maximum amount of "we feeling" among indigenous people and their collective ownership of and continuity to their traditional customary type of governance system.

From the ontological part, this study focuses on the rich governance of Lowa community's Ghenpah system. It studies how customary governance has been possible despite the country's monolithic legal system and the demarcation of Lowa communities under the Annapurna Conservation Area Project (ACAP). This study also highlights the position of Ghenpa system in relationship to the encroaching modernization and how the individual and institutional dynamics interplay along with the changing traditional livelihoods and social values in modern changing contexts.

## **THEORETICAL LENSES AND RESEARCH METHODS**

This study employs legal pluralism theory to elucidate how customary law functions alongside formal state laws and how their collaborative synergy contributes to maintain social order and the sustainable management of natural resources, environment, and biodiversity. Hertogh (2008) argues that legal pluralism involves two key concepts: firstly, the coexistence of multiple legal orders within the same territory, and secondly, the acknowledgment that sources of law can originate beyond the state's jurisdiction. Hertogh's theory of legal pluralism delves into the simultaneous existence of various legal systems within a single social context. It recognizes the presence of multiple legal orders that interact and occasionally clash with each other. This theory underscores the assortment of legal norms and systems present in societies, often stemming from historical, cultural, religious, or indigenous roots. These legal orders encompass state law, customary law, religious law, and international law.

The most prevalent practice among the Loma indigenous community in Lomanthang is legal pluralism. The customary laws and practices hold significant role in governing various aspects of daily life. While Nepal's national legal system is present in the region, the Loma people continue to maintain and apply their customary laws in parallel. Additionally, modernization theory is also employed to shed light on the significant social and political transformations that transpired in the country after the 1950s and to show its interrelationship with the Ghenpa System in Lomanthang.

The study was conducted in the Loma community, Lomanthang, Upper Mustang, Mustang district. The district is recognized as the walled capital of the Kingdom of Lo and is often referred to as the "Himal Paari ko Jilla," meaning the district beyond the Himalayas or mountains. A qualitative research design was employed in this study, using both primary and secondary information. Qualitative information was collected through observation, key informant interviews, and focus group discussions. While the study predominantly relied on qualitative data, a supplementary collection of quantitative data was also conducted. Apart from the primary qualitative data, all the available and related data were consulted, and these data were

analyzed thoroughly. Specifically, the study extensively conducted focus group discussions (FGDs) within the community to extract diverse perspectives on the natural resources management issues.

Furthermore, sixteen key informants' interviews were conducted to fill up the gaps in information obtained from the secondary data, and the primary data from FGD. Key informants and focus groups participants were selected by applying snowball and purposive sampling methods. Key informant interviews involved individuals such as Ghenpas, the Rural Municipality chairperson, Indigenous leaders, knowledge holders, Lamas, Amchis, school teachers, and ACAP staff among others. Additionally, five focus group discussions were conducted separately with distinct groups including Ghenpas, women, youth, and Amchis.

The study also encompassed a comprehensive review of existing literature pertinent to the subject matter. Specifically, it delved into customary practices related to the conservation and sustainable management of natural resources, environment and biodiversity prevalent among Lowa indigenous people's communities. During the study, desktop review of the available literature on the related issues was done. A review of different indigenous communities, whose traditional practices were concerned particularly to the conservation and management of natural resources, were also included in the study.

## **LEGAL SYSTEM AND CUSSTOMARY GOVERNANCE**

Customary Governance system throughout the world has been affected largely by the singular policy of the state or state-colonization. The governance paradigm has shifted from "where there is society, there is law" to "where there is state, there is law" (Beckmann and Turner 2018). Hence, state law is perceived as more dominant than customary law. Customary governance is highly susceptible to change since it is fragile compared to the state-law. After overthrowing more than 100-year-old Rana autocratic regime in 1950, there was a massive restructuring in the political, social, economic, and education system in Nepal. Before the 1950s, the Himalayan region of Nepal was a forbidden land and was left untouched for political and geographical reasons (Devkota 2013). However, with the onset of democracy in 1950, Nepal

adopted many colonial strategies and policies in state regulations, mostly borrowed from a neighboring country India. Nevertheless, the governance system adopted from India was merely the residue of the colonial structuring effort, to homogenize its colonies. Therefore, it can be assumed that governance after 1950 was a critical juncture, which shaped the future of Nepal's governance system, making the base of legal system of Nepal blend of Hindu and Western (both common and civil or continental) legal traditions (Subedi, n.d.). Moreover, the colonial distinction of "modern" law from customs, tradition, and "primitive" law (Beckmann and Turner 2018) established customary laws as primitive and something that should be disregarded by the administrators. Such narratives further weakened the efficacy of many customary governance of Indigenous Peoples in Nepal. In the same way, the state's land reform strategy, which attempted to bring all the public lands, rivers, forests, mountains, and lakes under the single jurisdiction of the state further crevassed the customary governance practice and connection of Indigenous People with their land. Further, it helped to weaken the autonomy of Indigenous People to regulate their forests and pasturelands.

During the Panchayat system, there was a massive homogenization process taking place through Hinduization and Nepalization. King Mahendra's Panchayat regime was noted for embracing the postcolonial wave of development, albeit to launch new oppressive regimes (Shakya 2018). There was a massive assimilation effort made through the state's 'one language one religion' policy. Likewise, to strengthen the state administration, the whole country was divided into five development regions, 14 zones, 75 districts, and more than 3,276 village development committees (VDCs) (Agergaard, Subedi, and Brogger 2022). This new governance strategy brought the distant villages, which were mostly invisible to the state for a long time, to come under the jurisdiction of the state. The central law became more dominant over its satellite states. Hence, under this new structure, many customary governances were influenced and weakened by the state law.

## **INSTITUTIONALIZING THE EXPROPRIATION**

One major setback get by the indigenous peoples' governance system in Nepal was from the state laws on national parks and conservation Areas. As main stakeholders, governments are responsible for implementing international law in domestic settings (Tennberg, Broderstand, and Hernes 2022). Hence, the increasing concern on environment change and biodiversity loss manifested in the global level as preserving National Parks and Wildlife Conservation started in Nepal. The National Park and Wildlife Conservation Act 1973 legitimized the land-grabbing and conversion of Indigenous lands into national parks and conservation areas through strict territorialization. However, by the 1980s there was a paradigm shift from the nature-human dichotomy and to human-environment agency, which was a socially inclusive approach to environment protection (Campbell 2013). The progressive and inclusive approach, which was adopted previously, freed nature from human encroachment by giving rise to a more integrated conservation approach.

The conservation and protected area approach of nature protection dates back to the nineteenth century, when there was a growing resentment among stakeholders about the ecological changes caused by anthropogenic activities, such as through massive urbanization, industrialization, population growth, labor migration, and colonial resource extraction (e.g. Groove 1995 as cited in Campbell 2013). The policy response to such deterioration emerged as a nature-centric conservation approach, free from human access (Campbell 2013). These nature-centric protection approaches gave birth to the concept of national parks in the West and their colonies. This nature-centric protected area approach expanded through the 20th century, and by 1970 Nepal avowed Royal Chitwan National Park as its first national park following the Yellow Stone National Parks' nature-centric protection approach, which displaced many Indigenous Tharu communities from land (McLean 1999). The global movement against forced displacement and land grabbing for the protection of nature inducted a more sensitive approach to nature conservation through the nature-human integrated approach conservation.

## **ANNAPURNA CONSERVATION AREA**

Annapurna Conservation Area Project (ACAP) was established in 1986 with the aim to conserve natural resources for the benefit of present and future generations, bring sustainable social and economic development to the local people, and develop tourism in a way that has a minimum negative impact on the natural, socio-cultural, and economic environments (NTNC 2010 as cited in Franca et al. 2019). The ACAP was well-managed by National Trust for Nature Conservation (NTNC), a Nepali NGO, which was granted a temporary management authority under the supervision of the Department of National Parks and Wildlife Conservation within the Ministry of Forest and Soil Conservation. The period of conservation in Nepal from 1973 to 1996, characterized by a protection-oriented conservation approach, did not yield substantial results. The wildlife-focused conservation without consideration for the social value and human welfare deteriorated the conditions of indigenous people. Recognizing the gap, Nepal took a significant step in 1996 by declaring the establishment of buffer zones. In 1993, the Government of Nepal had included Upper Mustang in the Annapurna Conservation Area and implemented more integrated approach to conservation through the involvement of local communities. Researchers and practitioners take ACAP as highly successful in implementing the Integrated Community Development Program (ICDP) (Franca et al. 2019).

Under the authority of a conservation-oriented Non-Government Organization (NGO), ACAP's ICDP strategy engages local communities in a participatory approach for resource management. This cooperative approach ensures that the natural environment can be better preserved by allowing local community to maintain its traditional way of life. The Conservation Area Management Committee (CAMC) within ACAP enrolls residents as custodians of the forests and other natural resources, which increases the effectiveness of resource management. The (CAMC) as per conservation Area Regulation always consults and coordinates with Ghenpa for the implementation of program activities and management of natural resources.

## **INDIGENOUS PEOPLE AND NATURAL RESOURCE MANAGEMENT**

Indigenous peoples' relationship with the land is unique (Toledo 2019). For Indigenous peoples land is important not only for social organization, economic, system, and cultural identification, but also for habitual or frontier purposes (Baird 2020). The idea of 'nature conservation' came to Indigenous People's mind because of their high dependence on natural resources and their connectedness to ancestral land. That is why indigenous people protect and conserve the natural resources around them, and the availability of resources supports for their survival (Toledo 2019).

Empirically natural resource includes "all resources" that exist in a natural state and all systems that are or can be useful to man in the actual technological, economic, and social circumstances (Flavin 2002 as cited in Zaharia and Suteu 2010). The objectivity of natural resources, as something of value that is present in the environment, as living or nonliving, capable of meeting the social and economic needs of the people draws a line between people and nature.

In contrast to the established definition of nature as resource, indigenous peoples' approach to understand their environment is more holistic. From the Indigenous world view, the dichotomy between nature and human converges. They see nature through the lens of interconnectivity and reciprocity, that is why the trees and rocks are equally alive and constitute a significant part of their cosmic world (Negi 2010). Their animistic characteristics stem from the belief in spiritual forces of nature. Hence, they engage in a range of rituals and nature-worshipping activities.

Over many generations, indigenous people have developed a holistic traditional ecological knowledge system of their land and territory. It is integrated-type, which focuses on cultural adjustment to the biophysical environment at the local level (Laudari 2011). The cultural value manifests in their ritualistic activities, their knowledge on the sustainable use and management of the resources, and their customary governance system. It could be due to the same reason, the culture and cultural practices of indigenous peoples and local communities contribute to the conservation of nature in and around them (Rai, Lama, and Verschuuren 2016; Mehta 2017).

Despite a deep connection of indigenous peoples with their environment, and their significant contribution in maintaining the balance with the environment, in current time due to the increasing modernization, and globalization process, indigenous peoples face constant contestation to continue their practice as usual.

## THE NOTORIOUS MODERNIZATION

Modernization is an encompassing process of massive social changes that, once set in motion, tends to penetrate all domains of life, from economic activities to social life to political institutions, in a self-reinforcing process (Inglehart and Welzel 2007). It appears, the modernization in Nepal emerged and spread like wildfire ever since the establishment of democracy in 1950, before that, Nepal was totally isolated from the external world (Gurung 2018). The government of Nepal opened its door to the outside world in the form of tourism, since as early as 1950. After that, the process of modernization has moved neck to neck with the changing social- political context. The education system, the infrastructures and tourism began progressing and people were able to contest government; Overthrew Panchayat system, because they could not experience Bikas under the regime (Hutt 2003).

Wagner (2012) believes that modernity has been considered mostly in terms of economic progress, followed by capitalism and market liberalization Post-World War II. By 1990 the constitutional monarchy was introduced, and economic liberalization opened the door to the international arena for Nepal (Shakya 2018). Hence, there were massive social, political, and economic changes taking place after the modernization.

But despite all the dazzling picture of modernization, it also created the rupture in the communality and increased hegemony of the west. Simmel's study (as cited in Pyakurel and Bhatta 2021) suggests, "The deepest problems of modern life flow from the attempt of the individual to maintain the independence and individuality of his existence against the sovereign power of the society". The quote is highly relevant to many communities of Nepal, the increased migration and the competition for economic gain has emptied

villages, it has reduced the communality amongst the villagers. The same was observed during our field visit to Mustang; many youths had migrated abroad and to the capital for economic opportunity and their traditional occupation was in decline.

## **INDIGENOUS PEOPLES' CUSTOMARY GOVERNANCE SYSTEM**

Indigenous Peoples have a long history of interacting with their land. Land for them is not just their space of habitat but it is their cultural, spiritual, and livelihood domain (Ford et al. 2020). The symbiotic relationship of people with their lands has developed a unique culture, knowledge system, and traditions that are important for their survival and well-being (Toledo 2019). Indigenous governance systems are locally developed, controlled by local elderly, and experienced members of the society and use unwritten laws, ethics, and values.

Customary law is a set of customs, practices and beliefs that are accepted as obligatory rules of conduct by indigenous peoples and local communities (WIPO 2016). Indigenous governance is a social and political organization, and decision making of indigenous peoples according to the imperatives of their unique cultures and world views (Pradhan, Razin, and Chidi 2013).

### *Ghenpa as a Customary Governance*

Ghenpa is a customary governance among the Loma community in Lomanthang, Upper Mustang, in Nepal. Meaning of Ghenpa is village head in the local language. 'Ghen' means 'responsibility taken for the village' and 'Pa' means 'the responsibility bearer' (Lama 2023). In Upper Mustang, the Ghenpa system plays a pivotal role in ensuring the sustainable use of these vital resources. It is responsible for overseeing the equitable distribution of water for irrigation, a critical task in an arid environment like this. Additionally, the Ghenpa system regulates and manages the use of pasture lands, a crucial aspect of the local economy as livestock rearing is a primary occupation. The Ghenpa system, deeply rooted in the region's culture and traditions, also focuses on maintaining the unique cultural heritage and traditions of the community. This system is highly effective in the Upper Mustang

because it aligns with the natural landscape and the needs of the local population. As such, there is little to no conflict regarding the utilization of forest resources, as these resources are relatively scarce, and the Ghenpa system ensures their judicious use.

### *Roles and Responsibilities*

Ghenpa is responsible for preservation and management of cultural heritage, such as monasteries and other cultural and religious institutions within the village. Ghenpa are also responsible for organizing rituals and ceremonies. They also play an important role in managing pastureland, regulating the number of livestock, and maintaining an adequate herd size to avoid overgrazing. They also function to regulate irrigation for the farm on a rotational basis and to ensure proper irrigation for all farmland, monitor irrigation management regulation and punish those who break the local laws. Additionally, they engage in regular monitoring of forest and pastureland in their territories for proper conservation and effective management of forest resource, they are found to set time for timber and fuel wood harvest, conflict resolution regarding natural resource use, boundary dispute, water sources management and distribution of benefits and managing other social cultural affairs, that befalls the village.

### *Governance Structure and Functions of Ghenpa*

The Ghenpa is a rotational governance system, made up nine executive committees: Ghenpa-1, Mithui-2, Chhumae/Chhimi-6. For Ghenpa, male, from Bista household, is selected, among two Mithui one is selected by the King of Mustang while another one is selected by Ghenpa. The main responsibilities of Mithui are judiciaries. The Chhumae means the representative of all the people residing in the village. The main responsibility of Chhumae is to inform the important notice to all the villagers of Katuwal. The village nominates six Chhumae (village foremen), one of whom is referred to as the Chhumae Ama, the head Chhumae. The Chhumae consult on the day-to-day village operation and issues with the Mithuis, and if these are not resolved at this level, they refer to the Ghenpa.

The Ghenpa system in upper Mustang is still functioning in its full fledge. Villagers still refer to Ghenpa system to settle disputes and plan and manage the common pool resources. Still the Ghenpa governance system follows same old rotational system; Ghenpa is selected from Bista lineage in rotational basis. Although the national politics and territorialization forced Lomanthang to become dependent after the unification of Nepal, still the hereditary ruler and the customary governance continues to persist mostly because of the geographical remoteness of the place. Hence, the Ghenpa selection process and the roles are still operational, despite the presence of local government, Annapurna conservation area, and the influence of modernization. Even more, the Ghenpa system and values remain as strong as ever. Possible factors contributing to the continuation of legal plurality in Loma community stem from the basic ground level.

#### *The Recognition of Customary Governance*

Principalities Act, 1961, allowed the 'Raja' title, with some traditional rights, allowances, and honorary positions, untouched. This position of Raja or king has been possessed by the same dynasty for 21 generations in Mustang (Dhungel 2002). The recognition of customary governance system as independent from the state, allows legal plurality, hence giving the customary governance weightage to execute some power. It could be due to the same token, every other government institution and state regulations that were implemented in the region worked collaboratively with the Ghenpa. Based on interaction with one of the local government officials, he confirmed that the local government works in close collaboration and frequently coordinates with the Ghenpa system. He adds, the implementation through the Ghenpa system to be more effective and sees Ghenpa system as an important partner in implementing the plan. Furthermore, the historical presence, and the continued role of Ghenpa strengthens the trust of community in the institution, hence making the implementation from Ghenpa more effective.

In the same way, another legal institution governing the resources management in Lomanthang is ACAP. The customary Ghenpa governance elicits an interesting exchange with the ACAPs conservation

program. ACAP's mandate for conservation dovetails harmoniously with the Ghenpa system. Likewise, the ICDP implementation through the Ghenpa system supplements the aspiration of conservation and management of resources in the Loma territory, without interfering with the Ghenpa's resource management practices. Hence, both the institutions reciprocate respect for protection and conservation on their own terms. For example, even after the emergence of the Annapurna Conservation Area Project, the autonomy of the resources use centered on the customary governance practice of Ghenpa. Although the conservation in other parts of the country seems to be struggling- increased conflict between the park and people, poaching, human- wildlife conflict and park people conflict, the experience of Loma community with the ACAP was exceptional. ACAP proudly mentions Lomanthang as a successful ICDP implementation area. The success of ICDP could be due to the increased engagement, coordination, and collaboration with the Ghenpa system. Both the institutions, ACAP and Ghenpa show increased concern for the management of pasture lands and other resources in their vicinity, the common aspiration and engagement could have further made the ICDP success story in Lomanthang.

Legal plurality systems from the recognition of the laws that are place bound and existing independent of the nation-state law. Such recognition perpetuates and strengthens the customary governance law in the local communities. It further strengthens the collaborative and coordination action between the state and local. The Loma community hence believes, Ghenpa system is important not only in maintaining their village autonomy over natural resources but also in sustaining the well-being of their villages (Lama 2021). The recognition and continuation of collaborative action through increased coordination is even more pertinent in the modern times because the modernization is well known for creating isolation and more individualistic society that can affect the collective action, management and protection of the resources, and heritages.

### *Geographical Remoteness and Changing Face of Lomanthang*

For most of the centuries, mountain region of Nepal has remained completely isolated and oblivious to the nation state. The area located beyond the mountains and rough terrains could have kept the place isolated and free from central influence for a long time. The stateless situation and the poor influence from the outside contributed to the continuation of customary governance of common pool resources and management of the conflicts and adversities in their communities. However, it was only after the 1950s state restructuring effort through development regions, zones, districts, and VDCs the remote villages came under the state regulation. The isolation from the state also contributed to the continuation of customary governance at its best.

Ever since upper mustang was opened for tourism in 1992 there has been series of changes taking place, such as people have diversified their economy to tourism, leading to increased number of hotels and shops. Likewise, many youths are also now encouraged to migrate outside, for economic opportunity and the traditional occupation is in declining trend. In the same way, several studies suggest, the increased tourism also has environmental and cultural implication, the study by Boselli, Caravello, and Baroni 2005 shows that with the increase in tourism the ecosystem of the region is also simultaneously deterring, such as increased solid wastes and water pollution, in Mustang.

Modernization theory suggests that society goes through linear series of development from agricultural, rural, and traditional to postindustrial, urban, and modern forms (Bradshaw 1987; Escobar 1995; Chiro and Hall 1982; Shrum 2000 as cited in Ynalvez and Shrum 2015). Upper Mustang is already experiencing some level of modernization and globalization, although still in nascent stage, the place is experiencing shift in occupation, from farming and animal husbandry to tourism and hospitality industry. There is also an increasing trend of outward migration to capital or to abroad, for better opportunities. Such subtle changes are eroding the traditional culture and society, because of the growing mobility of population (Castles 2000 as cited in Pradhan, Razin, and Chidi 2013).

Despite these graving changes in the traditional livelihood, customary Ghenpa system has emerged highly adaptive. It has reacted and developed appropriate approaches to the changing time and context. It still functions to conduct festivals, address grievances, and manage and monitor resources. Hence, villagers still believe that customary Ghenpa system should continue to function.

However, for the last two decades the population in Lomanthang is in decreasing trend, because most of the young generations are migrating to different parts of the world such as the USA and European nations and seeking asylum there. Since these generations are abandoning their farm, pastureland, and livestock, the discontinuation of the trend could pose a serious threat to the Ghenpa system in future. Hence these distinct but subtle changes could be alarming to the future of Ghenpa system.

Nevertheless, despite the strong adaptation and continuation of Ghenpa system, the system is not without flaws. There is strong social stratification, which sees Kuthag people as the highest level, Phalwa below the Kuthag, and Ghara belonging to the lowest level. These different old Tibetan terms present Kuthag (Bista) as the ruling class, Phalwa themselves as similar to the Gurung ethnic group, and Ghara as tailors, smiths, butchers (Ojha et al. 2008 as cited in Pyakurel and Bhatta 2021) The Ghenpa system in its construct was highly dominated by one sector of the community: Bista. The eligibility for the post of Ghenpa was limited to male, Bista lineage. Hence most of the decision making and power centered on the Bista household.

## CONCLUSION

The customary Ghenpa governance system of Loma stands in a critical stature. The system persisted way before the modern boundaries of countries and developed, time tested knowledge and withstood several waves of assimilation process such as, unification, Hinduization, Nepalization, and now it is contesting modernization.

Lomanthang remained isolated and disconnected from the outside world for a long time. It was only after the 1950s the state and some western scholars found ways to explore the rich heritage and cultural practices of Lho people. Nevertheless, the years that

followed experienced exponential expansion of state control and administration with the inception of VDCs, DDC, development zones and development regions. On many occasions, the state's central law came contrasting or complementing the customary law of different Indigenous communities, hence creating the situation of legal ambiguity.

Despite the complexity induced by legal plurality in Lomanthang, the legal practice that followed was more positive. Several actions by state, such as, the continued recognition of traditional kingship system (Raja) could have balanced the power between the newly appointed bureaucrats and the customary governing system in Lomanthang. The practice of inclusion, participation, and partnership with customary governance institutions to carry development and conservation practices are the example of states reaffirmation of the existing laws and governance of Loma people. Furthermore, the successful implementation of ICDP, under the ACAPs project were inclusive and participatory, it created space for self-determination of Loma community at the same time contributing to conservation.

The existence of multiple law of state and that of Ghenpa, in Lomanthang, in carrying out the common objective in conservation and development exemplifies the possibility of legal plurality. It points to few attempts and efforts from the state such as respect, recognition, inclusion, participation, self-determination, and consent that complements the governance and sets the principle of reciprocity. The recognition of the customary governance system of Loma and the coexistence of customary governance and state legal systems provides strong evidence of legal plurality in practice.

Likewise, Lomanthang is experiencing a rapid modernization in the past few decades, such as tourism, increasing outward migration, commodification which has reduced the inclination of people to their traditional occupation and increased outward migration for economic gain in the capital or abroad. Although such migration for economic gain does not seem to affect the role of Ghenpa governance system at present, the increasing trend in migration could be alarming, for the future of Ghenpa system.

Hence there is need for further exploration of Ghenpa system

practice and performance in days to come, and how the youths perceive and express their sense of belonging to the land and the continuation of Ghenpa governance.

### Acknowledgements

I express my sincere thanks to the Department of Sociology, Saraswati Multiple Campus, for inviting me to write this paper. I would further extend my gratitude to two anonymous reviewers of this paper for their constructive comments.

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