

An Ethnolinguistic Analysis of Customary Law in a Vietnamese Ethnic Minority (Køho-Sre)*

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The purpose of this paper is to present an ethnolinguistic analysis of customary law from a Vietnamese ethnic minority, the Køho-speaking subgroup Sre, during the middle of the previous century. Their customary law, entitled *Nri*, consists of five categories of judgements: penalties; responsibility; testimony/evidence; test/examination; and contract/agreement. The full accounting of the *Nri* lists nine sections or *jonau* with a total of 92 individual cases (Dournes, 1951). One case from each of the nine sections is abstracted in this paper illustrating the rhyming scheme and reduplication of words to facilitate oral recitation. There are two appendices: (1) a lexicon of all the words; and (2) a detailed inventory of the sections with an example case noted and a reference category taken from Murdock's *Outline of World Cultures* (1983). The *Nri* is transcribed from Køho-Sre into French and then translated into English. Umberto Eco notes that a translator must take into account rules that are not strictly linguistic, but are also cultural. Eco's strategy includes: (1) analyze historical, social circumstances in the indigenous cultural; (2) analyze the source message; (3) transfer the message in the target language; (4) reconstruct the expression in the target language; (5) consider the target language; and (6) give a final version (2000). This paper attempts to accomplish that goal.

Keywords: Vietnam, ethnic minorities, indigenous legal practices, sociolinguistics

Background

The Køho-Sre People

Køho [kə'hɔ] is a Cham ethnonym applied collectively to a group of several peoples speaking mutually intelligible dialects in the Western Highlands (Tây Nguyên) of Vietnam. The Køho autonym *kon cau* [kɔn caw] is usually translated as "sons of men", but literally means "offspring of humans". They inhabit most of Lâm Đông Province in Vietnam along with several thousand who now live overseas mostly in North Carolina, USA. Although 251,122 ethnic Køho (including the Mả people) were enumerated in Vietnam in 2019 (Vietnam Central Population and Housing 2019), with about 2,000+ in North Carolina (U.S. Census 2000), there are no comparable figures for the current number of *speakers* of the language.

They are one of approximately 50 ethnic minority groups living in Vietnam; these people are also known as *montagnards* (an older French term) or highlanders. Køho, along with the Chrau, Mnong, and Stieng languages, comprise the South Bahnaric branch of the Mon-Khmer (Austroasiatic) language family.

* This paper is a substantial revision of my presentation at the 8th "Engaging With Vietnam: An Interdisciplinary Dialogue" Conference; Engaging With Vietnam Through Scholarship and the Arts, University of Hawai'i at Manoa, Honolulu, USA, 5-8 October 2016.

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Indigenous Customary Law

Indigenous customary law refers to the legal systems and practices uniquely belonging to indigenous peoples. Indigenous customary law developed over time from accepted moral norms within these societies. The law regulates human behavior over time from accepted moral norms. It regulates human behavior, mandates specific sanctions for non-compliance, and connects people with the land and with each other through a system of relationships.

Indigenous customary law developed over time from accepted moral norms with indigenous societies. They regulate human behavior, mandate specific sanctions for non-compliance, and connect people with the land and with each other, through a system of relationships. ... Learned from childhood, these laws dictate the rules on how to interact with the land, kinship, and community.

Indigenous customary law is intertwined with cultural customs, practices, and stories. Legal customs are passed on through the generations by means of oral tradition in cultural works, such as sing-lines, stories, and dance (Indigenous Australian Customary Law, 2020). Oral recitations often consist of mnemonic devices such as rhyming and repetition to facilitate delivery. Like Norse sagas, the language used is abstruse and words have hidden meanings.

The French anthropologist Jacques Dournes lived in Vietnam for 25 years, from 1946 to 1970, studying the culture of first the Sre people and subsequently the Jarai highland ethnic group. He became a renowned ethnographer of the Koho-Sre and later the Jarai people.

Nri “Oral Law” is a collection of small symbolic rhythmic poems. Jacques Dournes collected these judicial decisions from the provincial Tribune from 1948 to 1949. In the *Nri*, he distinguishes chapters and articles, which he notes are rather arbitrary (1951, p. 1). He writes that the *Nri* serves as a metaphor for the regulation of society. In his work, Dournes employs the 1949 Dalat orthography, which was created to facilitate that minority languages could be written using a typewriter with no “exotic” diacritics (Nguyễn & Phan, 1983, p. 246). A lexicon of words may be found in Appendix A.

There Are Five Categories of Judgements in the Nri

Penalties

- Penalties are composed of two elements: (1) a sacrifice to appease the spirits and (2) a fine conceived as restitution to restore human balance.
- Both are also inseparable; the expression *lis* “reparation”, *caras* “reconciliation”, and *dous* “fine, debt” apply to spirits and men. The sacred envelopes everything.
- Imprisonment and the death penalty are unknown under this law.

Responsibility

- The individual is not an isolated person; one is always a member of an extended family. Possessions such as buffalos, gongs, jars, and land are property of the family.
- The parents are responsible for the crimes of their offspring.
- The responsibility of the family, on the maternal side, is solid.

Testimony/Evidence

- The testimony or evidence consists of the *khaa* employed in two ways: stick-witness or notch security. One way involves a wooden notched stick, or carving on copper bracelet. The procedure is very metaphorical and obscure to outsiders.

- The *khaa* can still guarantee a subsequent decision, contract, or judgment.
- Interestingly, the land may also testify.
- The Sre speak of *u cōng* “ground-control” and *u ya* “land charges”.

Test/Examination

The height of the testimony consists of judicial proof: The spiritual powers are then invoked to testify. There is a boiling water test, essentially a trial by ordeal (*tam nyhöp daa*), and a fire test, holding hot coals in one’s hands (*tam görchah*), and holding one’s breath under water (*sou daa*). The “innocent” is protected by the Spirits who testify in his/her favor. It is essentially a religious act that begins with a prayer and a sacrifice.

Contract/Agreement

- The contract process requires the two parties to sit down and come to an agreement.
- Smaller offenses may be settled by an exchange of bracelets, rice wine, etc.
- Two main subjects include purchase of land (a rice field) and marriage dowry.
- There are very specific exchanges of possessions for each of these situations.

The “Classic” Template: An Example

Ddös	göna	gle	göna
Mi	gla	nkor	pis
Mi	lis	plae	böryang
Ri	ang	drim	

This template has the coda of the final (4th) syllable rhyme with the coda of the 2nd syllable in the next verse. Dournes notes that there are many other variations of this template.

The following examples are abstracted from Dournes’ comprehensive presentation of the *Nri* (1951). One case has been abstracted from each of the nine sections of the *Nri* code. Each example presents a different template, illustrating the complexity of the different cases and their mnemonic devices. Each case has the *jōnau* section number in roman numerals followed by a slash and the sequential numbering in Dournes, e.g., VI/46. This cites Section VI, Crimes, and Case 46, Murder by accusation of diabolical possession.

Generalities

Löh yöh bal (I/1)				Accessory in crime
Löh	sömprōng	dōng	daa	The wicked, evil-monger
Sōmpa	ta	u		Another one uses to draw
Cau	ju	rōpu	krau	One who misbehaves his buffalo
Cau	dörnyu	kon	gung	One that leads to the path of evil
Penalty = dous <dôs> “a debt”				

Offenses Against Chiefs

Blei bōr kuang (II/9)				Attempted bribery of a chief
Kōnrany bê	rōpu	me	piang toan	The old chief did not repay the good of others
Mut	mō Yoan	jiin	kuan	Between home abroad, it will close hand over money
Ran	mi cau	kuang	pria’ bong	Going to see the chief he has enough money

Offenses of the Chiefs

Poa saa könyau phan cau (III/13)	Abuse of power
Blac <i>ddös₁</i> <i>tang₂</i> <i>saa₃</i>	His word wrong and enriches
<i>Ddös₁</i> pölhoa <i>tang₂</i> <i>geh₄</i>	He speaks up, so he gets what he wants
<i>Ddös₁</i> törleh <i>tang₂</i> <i>geh₄</i> <i>saa₃</i> phan cau	He speaks in rhyme and seizes the goods of others

Offenses Against the People

Yal goe kôp götöp cau (IV/18)	Accusation of freely spreading disease
Pruh a <i>jökiat</i> any <i>jökiat</i> röyao	How herbs are cooked cause itchy throat or not
Trau a <i>jökiat</i> any <i>jökiat</i> mpar	Taro does not itch, but wild plants do

(We must distinguish what is bad and what is not.)

Marriage

Pörnyat bao (V/38)	Slandorous accusation of adultery
Puu sur bas pô	Striking a pig is a disgrace to the in-laws
Tiah köh bany bao <i>daa</i>	When you climb a hill, do not say you are thirsty
Öm mö <i>Maa</i> bany joe <i>yau</i>	Among the Maa (Mà) don't look for old stories
Öm mö <i>bao</i> bany yal uur	With your wife, do not talk to young girls

Crimes

Sreh cau caa (VI/46)	Murder by accusation of diabolical possession
Pat ddör pac dö ti go <i>haa</i>	Working bamboo, cut finger
Lah <i>caa</i> dö cau yau gö joe	Acknowledging a <i>caa</i> must be sought in his family
Tam bao lu ya mö <i>daa</i>	Like marriage of a stone with water

Caa = evil spirit, demon
Judgement = one year of servitude plus 400 piastres [1950 value]

Possessions

Könyau long pönggar (VII/75)	Breaking a fence to steal wood
Ling <i>long₁</i> lang a <i>dous₂</i>	Plain wood, we can take without history
<i>Long₁</i> görnöl <i>dous₂</i>	But there is a case for wood than other cut
<i>Koe₃</i> pöl <i>koe₃</i> wa a <i>dous₂</i>	There is no fine to borrow rice
<i>Koe₃</i> könyau <i>dous₂</i>	But there is for stolen rice
Kon cau bao cau <i>dous₂</i>	Like "attending" the married woman

While there is no fine for one who "attends" a young girl.

Domestic Animals

A siin röpu nhai koe (VIII/86)	Unsupervised buffalo eats rice
Geh <i>wang</i> jut <i>wang</i> ja	There is a pen for buffalo and a fence to the rice fields
Gö <i>saa</i> prit <i>saa</i> <i>tao</i>	The buffalo eats bananas and sugar cane
Gö <i>hao</i> piör pönggar	He crossed the fence posts

Töm = restitution

Without clear evidence that it is such an animal that has made damage, the owner is not required to return.

Land

Blei u (IX/90)				The purchase of land
<i>Löwang</i> tour	doo	böno		The lobe being distended, it puts the earring
<i>Löwang</i> nko	wan	nyong		The neck willing, we will wear the necklace
Rom jönau	adös	tang srê	tac	It is agreed after discussing it sells the rice field

A Very Old Oral Tradition

Ethnographer Georges Condominas documented an analogous set of laws in the neighboring Mnong Gar people during his field work from 1948 to 1950. He details the complexity of their laws in his classic work (Condominas, 1977).

John Balaban notes that Vietnamese *ca dao* “folksongs” prosodic structures are found among the related Mường people and other ethnic minorities, such as the Koho-Sre. He surmises that this suggests “a common origin that evolved from a Mon-Khmer singing tradition as old as the 4,000-year-old Đông Sơn culture and the ancient origins of the Vietnamese” (2003, p. 15). Balaban further writes “One can only hope, through the play of rhyme and meter and imagery, to give some inkling of the vast, ongoing tradition” (2003, p. 18).

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Appendix A: Lexicon

The lexicon lists all the words from the Nri examples. If a word cited is identical to the current orthography, only the phonemic citation may be listed in slash brackets, e.g., /ʔa/. If a word in the 1949 Dalat orthography differs from the current orthography, it is listed between angle brackets e.g., <àng>. Some of the words could not be found in either older or recent linguistic publications (e.g., Cassaigne, 1936). They are noted by a question mark (?). CT indicates the Classic Template as the source.

a (18, 75, 86)	/ʔa/ <ò ~ ǝ> no, not (negative)
adös (90)	/ʔa + dʔs/ <ò đos> negative + speech
ang (CT)	<àng> light, clear, bright
any (18)	<añ ~ ãñ> 1st person singular: I, me
bal (1)	together with
bany (38)	<bañ> not (imperative prohibitory)
bao (38, 46, 75)	/baw/ <bau> spouse
bas (38)	to lose face; be the laughing stock of others
bê	<bi> elder sibling; the oldest
blac (13)	lie, false
blei (9, 90)	/blej/ <blɔi> to buy
bong (9)	rub, anoint; smell
bönö (90)	/böno/ <bono> earring
bör (9)	mouth
böryang (CT)	/bʔɾɲaŋ/ accident which causes death
caa (46)	/ca:/ <câ> evil spirit, spirit of death, demon
caras	a ceremony to atone for an insult or offence that ends with drinking a jar of rice beer
cau (1, 9, 13, 18, 46, 75)	people
daa (1, 38, 46)	<dâ> water (in the liquid state)
doo (90)	= dul > do 'one' CL (?)
dous (75)	<dôs> fine, debt
dö (46)	particle of direction and attribution; with, towards, for
döng (1)	according to, depending, some responding to what is expected
dörnyu (1)	?
drim (CT)	morning
ddör (46)	<đor> bamboo species (<i>Oxytenanthera</i> sp.)
ddös (CT, 13)	<đos> speak, say, recite
geh (13, 86)	to have; there is/are
gla (CT)	notch; to curl, make a circle
gle (CT)	kind of small bamboo (<i>Oxytenanthera</i> sp.)
go (46)	to see
goe (18)	(for) nothing; free
gö (46, 86)	<gɔ> it (3rd person singular, inanimate neuter pronoun)
göna (CT)	diadem (?)
görnöl (75)	?

götöp (18)	<gotop> that propagated by contagion
gung (1)	<gùng> path, way, road
haa (46)	/ha:/ remove, open, split (wood)
hao (86)	/ha:w/ <hào> climb, mount, ascend
ja (86)	thatch
jiin (9)	<jên> money, silver; currency
joe (38, 46)	<joi> look for, seek
jökia (18)	<jökia> itchy, scratchy
jönau (90)	<jonau> thing (very general)
ju (1)	black
jut (86)	small type of bamboo
koe (75, 86)	/kɔj/ <kòì> unhusked paddy rice
kon (1)	/kɔn ~ kɔŋ/ <koñ> want, wish to; like; desire
kôp (18)	/ko:p/ sickness
köh (38)	/kəh/ <koh> inclined, precipice, steep
könran (1)	<konrañ> elder overseeing cultivation practice
könyau (13, 75)	/kəŋaw/ <koñau> to steal, rob
krau (1)	/kraw/ call, crow
kuan (9)	to clench, grip hand, to close the hand
kuang (9)	<kwang> chief, official, ruler
khaa (khae)	/khaj/ accuse; bring charges against someone
lah (46)	to say, speak, tell
lang (75)	in order that; so that
ling (75)	here and there; back and forth
lis (CT)	reparation (moral or legal); repair
long (75)	/lɔŋ/ firewood
löh (1, 9)	<löh> to do, make, build
löwang (90)	?
lu (46)	<lu ~ lǔ> stone
Maa (38)	a Koho-speaking group (also Mä)
me (9)	female of animals (?)
mi (CT, 9)	level in the hierarchy; first (?)
mpar (18)	kind of vegetable <i>biap</i> that grow in the wild
mö (9)	<mɔ> with
mut (9)	to enter; go in, penetrate
nhai (86)	?
Nri	oral tradition, including poems, songs, laws, etc.
nko (90)	<ngko> neck, throat
nkor (CT)	/nkəɾ/ <nkor> handle of a tool
nyhöp	/ŋhəp/ <ñhop> to plunge (the head under water)
nyong (90)	/no:ŋ/ <ñong> necklace

öm (38)	/Əm/ <om> to be; remain, stay; live, inhabit
pac (46)	to carve with knife (bracelets, pipes, ...)
pat (46)	complex movement produced by traction, torsion, pressure; knead, squeeze
piang (9)	cooked rice
piör (86)	<piör> stakes, pickets (of a palisade)
pis (CT)	<pês> knife
plae (CT)	?
poa (9, 13)	<poà> village chief
pô (38)	<pô> in-laws
pöl (75)	<pöl> to borrow rice; to scrounge rice
pölhoa (13)	?
pönggar (75, 86)	<pönggar> fence
pörnyat {bao}(38)	to accuse—without proof—a spouse of adultery
pria' (9)	<priã> money, silver; currency
prit (86)	<prit ~ prêt> banana
pruh (18)	to make squirt, sprinkle, vaporize; to spurt out, to squirt out
puu (38)	/pu:/ <pù> to beat; to strike, deliver blows
phan (13)	goods, property; affairs; thing(s)
ran (9)	?
ri (CT)	<rê> to return
rom (90)	agree to be together; to agree to join
röpu (1, 9, 86)	<rpu ~ ropu> Asian water buffalo
röyao (18)	?
saa (13, 86)	<sa> consume (by eating, burning, or fever, etc.); eat (general term)
siin (86)	/si:n/ <sin ~ sên> to look at, see, watch, examine, inspect
sou daa	<su dà> a trial by ordeal
sömpa (1)	?
sömpröng (1)	?
srê (90)	<sre> wet paddy rice, low land irrigated rice field
sreh (46)	/sreh/ to slice, cut (vegetation)
sur (38)	pig
ta (1)	<tã> extract, pull up, take out
tac (90)	to sell
tam (46)	<töm> at, in, to, and during
tam görchah (Test)	/tam gƏrchah/ crucible of coals held in the hand
tang (13, 90)	so then, too; therefore
tao (86)	/ta:w/ sugarcane
ti (46)	<tê> finger
tiah (38)	earth, ground; place, location
toan (9)	bind into bundles to carry on the head
tour (90)	<tôr> ear

törleh (13)	?
trau (18)	<trao ~ trau> taro roots
u (1, 90)	/ʔu/ <ù> ground, earth, dirt
uur (38)	<ùr> woman, girl
wa (75)	<wă> understand (?)
wan (90)	hang or wear something around the neck
wang (86)	<wàng> buffalo corral, any pen for animals
ya (46)	?
yal (18)	<yal ~ yäl> to say, tell or recount (a story or tale)
yau (38, 46)	ancient; old, formerly, distant (in time)
Yoan (9)	<Yoan ~ Yoăn> Vietnamese person or language
yöh (1)	/jƏh/ <yoh> bad, unpleasant

Appendix B: The 9 Chapters of the Code

Jonau indicates a particular chapter or section of the Code. The individual cases abstracted from Dournes 1951 are numbered by roman numerals. Categories from Murdock's *Outline of World Cultures* (1983) cite the Outline of Cultural Materials (OCM) section number.

Generalities	Jonau I/ Case 1	OCM 674 Crime
Offenses against chiefs	Jonau II/Case 9	OCM 425 Acquisition and relinquishment of property
Offenses of the chiefs	Jonau III/Case13	OCM 622 Community heads
Offenses against people	Jonau IV/Case 18	OCM 683 Offenses against the person
Marriage	Jonau V/Case 38	OCM 832 Extramarital sex relations
Crimes	Jonau VI/Case 46	OCM 674 Crime
Possessions	Jonau VII/Case 75	OCM 685 Property offenses
Domestic animals	JonauVIII/Case 86	OCM 231 Animal husbandry
Land	Jonau IX/Case 90	OCM 685 Property offenses