


ARUNACHAL PRADESH



A Study of the
Legal System
of Adi Tribe

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Usha K. Singh

Arunachal Pradesh : A Study of the Legal System of the Adi Tribe by Usha K. Singh is an in depth study of the legal system of the Adis of Arunachal. This work attempts to discuss the customary laws of the Adis, their Administration of justice and the legal procedure in its entirety. The author has not only utilised fully the work already done by previous scholars but also did her own field work to gather more information and data on several aspects of the Legal System of the Adis. Chapter I is introductory and discusses in brief history of the formation of Arunachal Pradesh, physical features of the Siang District, the habitat of the Adis, and their social structure. Chapter II traces the growth of the system of Administration of Justice discussing the nature of law and custom. Chapter III discusses Kejang, the dispute settlement machinery, its origin, history, organisation, nature, types, functions and nature of disputes. Chapter IV deals with the procedural aspects of dispute settlement- initiation, hearing, procedure, evidence, ordeals, judgement and its implementation. Chapter V deals with civil and criminal laws with the help of case laws, ideas of punishment its nature and types etc. Chapter VI concludes her findings.

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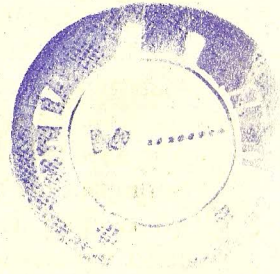
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USHA K. SINGH



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Preface

The present study is an indepth account of the customs and customary laws, the procedure of administration of justice, the ideas of punishment and the modes of punishment in the 'Adi' society of the Siang District in Arunachal Pradesh. It relates to the indigenous system of administration of justice, the institution named 'Kebang'. Before Independence, the Britishers introduced many administrative and judicial innovations in this area, provisions of the I. P. C. and procedural laws to administer justice were also introduced. After Independence, the government of India introduced 'Panchayat Raj System' but by and large the policy of the administration has been to preserve the indigenous system of imparting justice in the areas of Arunachal Pradesh.

The 'Kebang' is the most powerful institution in the 'Adi' society. As the institution is still active and functioning with its natural vigour for the administration of justice, its study will be beneficial to the scholars of legal systems and the jurists as a whole as it would add to the existing knowledge of various indigenous systems operating in India. India is a nation of diversities and to understand the country its problems and needs one has to understand its diverse culture, institutions etc. specially when the question of legal reforms arises study of various legal institutions of the country becomes essential. Adis of Arunachal are a group of tribes in the infancy of civilization. They have been undergoing changes due to contact with people belonging to different cultures for over a century now. During this period many attempts have been made to study their life and culture. These attempts have over the years accumulated a substantial literature on the subject.

Comparative studies of the legal systems of primitive cultures can make important contribution to an understanding of the modern legal phenomena as well. Anthropological inquiry can generate new hypotheses about our legal system. The importance of comparative research is enhanced by the point that it is a good means of introducing new ideas into a legal system. Our dependence on formalistic western rules can hinder our legal system from evolving an indigenous jurisprudence. However, it does not mean that we should revert back to the past but we should certainly evolve a new approach of jurisprudence on indigenous

model in conformity with the demands of the present time. The traditional system can add depth and richness, can supply a sense of perspective and direction to our consideration of the problems of the present. It would be unfortunate if we were to disregard the deep roots of our justice, traditions and institutions merely because the basic framework within which we have to function now is western and was imposed on us by the British rulers.

A study of indigenous system would reveal that certain concepts of law and procedure e.g. democratic and parliamentary practices, distributive justice, idea of welfare state, which we consider to be the gift of western jurisprudence are already deep rooted in the indigenous system. It is only due to our ignorance of the different indigenous systems that we are not proud of our heritage. Some of the basic postulates of the indigenous system e.g. group orientation (as against individualism emphasized in the western system) has to be highlighted as their neglect may be at the root of the failure of modern laws and also rise in litigation. These indigenous systems offer an alternative to the present system with its emphasis on subjective rights adversary process leading to proliferation in litigation and enactment of more laws which are not always implemented. One of the hypotheses which may have to be tested after this study would be the desirability of having different legal systems in different regions rather than passing the goal of one uniform system for the entire nation. It does not mean that the study of a particular system will bring about a change or provide a solution for the problems of the entire nation. It will certainly be helpful in solving the problems of the area to which it belongs. It is only a matter of further research and study.

My contact with the 'Adis' dates back to my childhood when I had several occasions to visit Pasighat and Along in Siang District with my parents. The simplicity and peculiarities of their village life kindled my curiosity about them. I visited the areas off and on and my curiosity gradually turned into a lasting interest. The close knit, peaceful society with few incidences of conflict and crime, their speedy way of settling the various conflicts and maintenance of amity in the society seemed to be of particular interest to me. Due to this interest and the reasons mentioned above I decided to study some aspects of the legal system of some of the Adi tribes for my LL. M. dissertation.

Even though the 'Adis' have been studied by a number of scholars, mainly anthropologists, their legal system has not been dealt with adequately. The anthropologists have in their monographs devoted a few

pages outlining the customary laws, crime and punishment of the tribe that forms the subject of their study. The only substantial contribution from the administrative and legal aspects is Verrier Elwin's **Democracy in N.E.F.A.** (1965). In this book he has dealt with the tribal courts of the various tribes of NEFA, 'Adis' being one of them. It has to be pointed out, however, in this connection that **Democracy in NEFA** is more of a compilation than an indepth study. Sachin Roy in his book **Aspects of Padam Minyong Culture** (1966) has described the rules of marriage, divorce, inheritance, rules related to the offences of theft, assault etc. but this cannot be said to be exhaustive. He has not dealt with the procedural aspect of administration of justice adequately. Recently another book has come out entitled **Law and Administration of Justice in Arunachal Pradesh** (1982) by Sheelendra Kumar. In about 62 pages he has given brief information about law and justice of twenty different tribes of Arunachal Pradesh, taken from the available monographs of anthropologists. As such, this work is merely a compilation of the 'information' already available and does not add anything new on the subject. He has neither attempted to discuss the different issues connected with his topic nor has interpreted the material available to him.

In addition to these some papers have been published in journals and magazines from time to time dealing with certain aspects related to our study. In 1984, the Department of Research, Govt. of Arunachal, organised a Seminar on "Customary laws of Arunachal Pradesh and its applicability in the context of Indian Penal Code". Some of the papers presented at this seminar deal with the Adis. The proceedings of the seminar is under publication but we have used mimeographed copies of the papers submitted.

The above review of the material shows that the judicial aspects of the tribes of Arunachal in general, have not been studied so far adequately. I decided to study the 'Adis' not only because of my familiarity with them but also because I thought that it would be more useful to concentrate on only one group and make an indepth and detailed study. In this study I have used all the available published and unpublished material. In addition to this during my field study I interviewed a large number of Adi individuals belonging to different walks of life. Fortunately my knowledge of Assamese came to me as a great help in gathering first hand information.

The study is divided into five chapters. Chapter I is introductory and gives a brief history of the formation of Arunachal Pradesh, features of

Siang district, the habitat of the 'Adis', and their social structure. Chapter II seeks to trace the growth of the system of administration of justice in Arunachal while discussing the nature of law and custom, with a view to understand the nature of customary law in general. Chapter III deals with dispute settlement machinery 'Kebang', its origin, its history, organization, nature, types, functions and nature of disputes which are most frequently decided by the 'Kebang'. Chapter IV deals with the procedure of settlement: initiation, hearing procedure, evidence, ordeals, judgments and implementation of the judgement. Chapter V deals with civil and criminal laws with the help of the illustrations of case laws gathered. The ideas of punishment, its nature, types etc. are also discussed in it. At the end is given a conclusion followed by a bibliography.

I must acknowledge the help and cooperation received in the course of this study from a large number of people both Adis and Non-Adis connected with Arunachal in different capacities. The officials who were of particular help to me are Shri J. M. Shrivastava, Secretary, Ministry of Law, Shri B. S. Tyagi, Deputy Chief Election Officer, A. P., Shri Premanand of Civil Supplies, Mr. B. Das Shastri, former Director of Research, A. P., Dr. P. C. Dutta, Director of Research, Shri J. N. Choudhary, former Librarian, Department of Research, A. P., Mrs. B. Borah, Librarian, Department of Research, Arunachal, Mr. Oshang Ering, Extra Assistant Commissioner, and Mr. K. Riba, extra Assistant Commissioner (Judicial), Pasighat. Among political leaders I am specially thankful to Mrs. Omem Deori, M. P. who not only encouraged me in various ways but also arranged for my stay in Arunachal. I am indebted to Shri Tomo Riba, former Chief Minister of A. P. and now leader of opposition, for his long interview, and his friend Shri Jinni for providing me authentic accounts based on his experiences. My thanks also go to Mr. Mokal Riba, Secretary, N. S. U. I., Shri L. Panyang, District Education Officer, Pasighat, Shri Talem Tapok and many others whose faces are vivid in my memory. I am thankful to Hon'ble Chief Minister Shri Gegong Apang who was kind enough to give me sometime out of his busy schedule.

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USHA K. SINGH

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INTRODUCTION

History of the Formation of Arunachal Pradesh

The State, Arunachal Pradesh of the Indian Union was known during the British period and even later till 1971, as the North Eastern Frontier Agency¹. It is the eastern most state of India and borders the state of Assam and Nagaland on its south, Bhutan on the west, Tibet on the north, China on the north and north east & Burma on the east. It is a hilly region, situated on the Himalayan ranges, sometimes rising very high. Its dense tropical forests, high snowcapped peaks, dangerous rivers and extreme climate all make access to the area difficult.²

The British came to occupy the province of Assam in 1826, after the treaty of Yandaboo³ was signed with the Burmese. As a result of this, the hill areas of the North East were opened up for British imperial expansion, gradually they explored the hill areas like Khasi and Jaintiya, Naga and Mizo hills. North East Frontier Agency was the last among all these mainly due to the difficult terrain of the region. The Assam Frontier Tracts Regulation of 1880, was extended to North East Frontier Agency in 1914, by the Government of India, Foreign & Political Department, Notification of 1914.⁴ As a result the NEFA tract was separated from Assam-frontier tract like Darrang and Lakhimpur. Thus, NEFA tract came into being consisting of the administration units known as, 1) The Central & Eastern Section, (2) The Lakhimpur Frontier Tract, and 3) The Western Section. Political Officers and Deputy Commissioners were provided to administer these units. A few years later in 1919 the first and third of these units were renamed as Sadiya Frontier Tract and Balipara Frontier Tract. In the year 1937, these frontier tracts together came to be known as Excluded Areas of the province of ASSAM.⁵

These excluded areas now came under the direct administrative control of the Governor of Assam. He administered these areas directly

using his discretion as provided in Section 92 of the Govt. of India Act, 1935, through political officers and Deputy Commissioner of Lakhimpur.

In 1943, some areas of Lakhimpur and Sadiya Frontier Tract were taken out and a new administrative unit called Tirap Frontier Tract was formed like other units. It was also placed under a Political Officer stationed at Margherita. Balipara Frontier Tract was separated into Se La Sub-Agency and Subansiri Area in 1946. The year 1948, saw the separation of the remaining parts of Sadiya Frontier Tract into Abor Hills District.

India became independent in 1947. The process of reorganisation of the administrative units started almost immediately. In 1951, the plains of Balipara Frontier tract, Tirap Frontier Tract, Abor Hills District and Mishmi Hills District were brought under the administrative control of the Government of Assam by Notification No. TAD/R/35/50/109 dated February 23, 1951. All the areas but for the transferred plains portions to Assam now together came to be known as North Eastern Frontier Agency. The North East Frontier Areas (Administration) Regulation, 1954, defined, constituted and renamed these administrative units as follows:

Earlier names	New names
I. Balipara Frontier Tract	1. Kameng Frontier Division
II. Abor Hills District	2. Subansiri Frontier Division
III. Tirap Frontier Tract	3. Siang Frontier Division
IV. Mishmi Hills District	4. Tirap Frontier Division
V. Naga Tribal Area	5. Lohit Frontier Division
	6. Tuensang Frontier Division

In 1957, Tuensang Frontier Division was separated from NEFA and included in the Naga Hills, now part of the province of Nagaland. The other Frontier Divisions of NEFA were renamed in 1965, as Kameng District, Subansiri District, Siang District, Lohit District and Tirap District respectively. The political officers and Additional Political Officers through whom these were administered now came to be known as Deputy Commissioners, Additional Deputy Commissioners and Assistant Commissioners respectively.⁶

The NEFA area was again reorganised in 1971, by North Eastern Areas (Reorganisation Act, 1971) and the region came to be known as

Union Territory of Arunachal Pradesh. It was granted a Legislative Assembly of its own in 1975.

In 1986, the Union Territory has been given the status of a fullfledged state of the Union of India.

Siang District (Area of Study)

Siang District of NEFA was divided in 1980, into two districts East Siang and West Siang districts with headquarters at Pasighat and Along respectively. For the purpose of this study we shall take both these districts as a single unit and refer to them only as Siang district, as the Adi tribal groups inhabit both these districts.

Amongst Adis Siang is the name of the river which is known as Brahmaputra in the plains of Assam and in the Indian religious tradition. Siang district is situated in Central Arunachal and is a mountainous region. It is flanked by erstwhile Subansiri and Lohit Districts of Arunachal Pradesh on the west and east respectively. On South it is bound by Assam plains and Tibet on the north.

The district is about 23,723 square kilometers lying between 93°11 to 95°35E longitude and 27°22 to 29°20N latitude.⁷ In the extreme north and east the hills are higher ranging from 10000' to 14000' in height. In the rest of the district the hills are of a moderate height rising to about 4000'. Siang, also known as Dibang is the main river. Siyam, Nigang and Yamne are its main tributaries, and have their own feeder-streams.⁸

'Adi' People

History

Siang District is inhabited by a number of tribes of which the Adis form the most dominant group. 'Adi' signifies hillmen. This is the name by which these people now prefer to be known. Earlier, however, they were known to their neighbours in Assam as 'Abors'. This name was used for them throughout the British period. Abor, as a word means 'savage', 'unruly'.⁹ According to another view the word 'Abor' in Assamese means "an independent, remote and unknown people", and was "applied to all those people who occupied the hills east of the Miris as far as the Dibang river."¹⁰

After India gained independence in 1947, these people gradually came to be known as Adis.¹¹

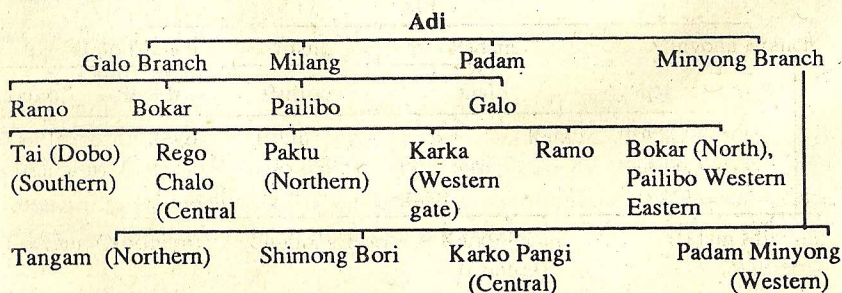
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The earliest¹² direct reference to the Adis is in the Tezpur rock inscription of King Harjjarvarman of A. D. 830. The inscription records an order whereby the rowing of boats by fishermen in an area is prohibited. The boundary of the area in the north is given as Abor hills.¹³ Thereafter, during the invasion of Mir Zumla in 1662-63, the author of *Fathiyah-i-Ibriyah*, refers to some of the neighbours of the Adis like Miris, Mishmis, Dafla's and others.¹⁴

During later years of the Ahom rule the Abors seem to have come in a closer contact with the Assam valley. This is attested to by the Ahom Buranjis. During the reign of Pratap Simha "The Abors were also given by the Ahom government some villages in the plains where inhabitants had to cultivate paddy for their masters, the Abors". Some fishing waters were also given. Both these, the cultivators and fishermen, were exempted from paying taxes to the Ahoms. In return of this favour, the Abors, paid an annual tribute to the Ahoms. The Ahoms and the Abors, however, had indirect relation too, through the Miris.¹⁵ The Singhphos and Khamptis made raids on Assam plains in 1798, and 1800, respectively. The raiders in both these cases were helped by the Abors but were defeated.¹⁶ Thereafter, from 1848 to 1936-37, the Adis are known to have made, at least, fifteen raids, killing a number of people and looting property each time.¹⁷

'Adi' and Subgroups

Adi is officially considered a major tribe and the communities included in it as sub-tribes. These sub-tribes easily fall into two major branches, their distinction being based on a number of cultural differences. Each community comprises a number of villages. Each community has a 'mother' village. Each village is an independent socio-political unit by itself. Diagrammatically the structure of the Adi tribe may be represented as follows:¹⁸



Social Structure of the 'Adis'¹⁹

Law is a part of the social web. Its fibers weaved without break into the total tapestry of culture and society and it has no clear cut edges. Law is not sharply separable from all other norms. To understand the law of a particular group, a study of their social institution and structure is necessary. To find the place of law within the total structure we have to look at the society and culture at large. Law must have its proper frame of reference. Eugen Ehrlich²⁰ puts "A juristic act is never an individual, an isolated thing, it is part of the prevailing social order". Sidney Post Simpson & Ruth Field point "Law without social context or significance.... law without flesh, blood or bowels..".²¹

✓ The Adi village usually grows from a small nucleus. Family is the basic functional unit of Adi society. ✓ Adi family consists of a nucleus of father and mother with separable units in sons and daughters. ✓ With in the family there is a series of varying degrees of closeness in attachment and relationship. ✓ Descent is traced through the father. Inheritance descends in the male line. The groups of families form sub-clans, a number of sub-clans form clans and a number of clans compose a group. ✓ Each group traces its descent from a single ancestor. In all their affairs every family feels its duty to support its fellow members against other families, they align themselves on the basis of sub-clans. ✓ Sub-clans are strictly exogamous. As soon as the elementary family reaches its fullest development, it splits itself into independent units but during the life time of the father, however, the joint property holds the different units together in an economic bond. ✓ Seen from this angle they may be said to constitute a family federation of autonomous bodies independent in their internal affairs. ✓ Monogamy is the general rule but instances of a man with two wives are not rare. Divorce and desertion may occur with no great difficulty. Within the family the world of man is clearly distinguished from that of woman. There is no segregation or seclusion of women but each has a distinct sphere of activities clearly demarcated. Boys and girls build up their behaviour on the pattern of their father and mother respectively. Both man and woman accept the traditional pattern without any question and grumbling. When a village is founded each family is allotted a piece of land. This land belongs to the family as a whole and as the family splits economically after the death of the father the land is divided among the sons. ✓ Property is divided into two categories, personal and joint, immovable and movable. In the centre of this world of

concentric circles of affinities the Adi grows and leads his life of graded and well determined responsibilities and attachments.

The "Moshup" or bachelor's dormitory for boys and "Rasheng" the dormitory for girls are important institutions in the Adi society. An idea of these institutions is necessary as they are helpful in social set up and in the enforcement of customary laws and decisions reached by the tribal court. In various ways they act as the protectors of the society. "Boys and girls enter the community life through these two different organizations. There are two underlying principles on which the institution is built, namely, the creating of the habit of discipline among children at their formative stage of life and in the developing of a spirit of co-operation and collaboration so that the tribe can act as a unit, and fissiparous tendencies within the body politic of the tribe may have very little room for growth..."²²

There are social but not caste distinctions. They have developed an elaborate system of barter and they look on most things in a commercial way. A marriage is a matter of paying bride-price, crimes and disputes are generally settled on the basis of compensation.

Society acts as the enforcing agent of rules of conduct. These rules of conduct are mainly based on the ethical principles that have grown out of historical and economic circumstances which have conditioned the development of the society. These go to form the conscience of the members of the society individually and of the group as a whole and so a simple standard is set up to which the society and individuals subscribe without any question and reservation. These rules or norms of conduct are meant for the maintenance of social order and harmony.

The most striking feature of the Adi society is its highly organized political institution represented by the 'Kebang', a tribal council. It exercises a centralized authority over every important matter affecting the life of the community. Its functions can be divided into two categories, namely (1) Administrative, & (2) Judicial. Judicial aspect of it will be taken up in detail in the coming chapters. There is no practice of chieftainship amongst the Adis. They are strongly democratic in character and their psychology is the love of truth and a belief in justice. The Kebang settles administrative matters, such as when and where to clear the forests and sow the seed, when to go on a hunting or a fishing expedition, when and how a festival will be performed etc. It organises for developmental functions too, with the help of younger boys of "Mushup" (dormitory), such as making roads, building bridges etc. The

Kebang has great potentialities established in history and tradition and is supported by social and religious sanctions. Expression of a genuine democracy can be seen here.

Religion²³, supernatural belief, superstition etc. still play a dominant role in the society. Their religious outlook has been to a great extent coloured by their environment. They predominantly believe in the existence of invisible spirits called "Uyus" who are not favourable to man. Besides spiritism and animism they believe in a hierarchy of powerful deities responsible for the creation and sustenance of the moral order of things. Doni-Polo (Sun and Moon) god is the nearest approximation to the supreme deity. They reign unchallenged in the heavens and are the 'eyes of the world'. They watch everything and are the witness. They are endowed with light that illuminates the world and lifts the cover of darkness and are favoured with a position high above in the sky to overlook all. They are extremely regular in their courses across the heavenly expanse. Naturally they are looked upon as the custodian of law and truth. They are invoked in the beginning of Kebangs on settling the disputes, to reveal the truth and expose the falsehood. Traditional administration of justice is conducted in the name of Donyi-Polo.

These people have a sense of geneology and history. They have their own ideas about crime, guilt and punishment which differs from our own.

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9. J. N. Choudhary, *A Comparative study of Adi religion* (Shillong, 1971), p. 3.
10. L. N. Chakravarti, *Glimpses of the Early History of Arunachal* (Shillong, 1973), p. 36. cf. also, for the meaning of the word Abor, G. S. Banerjee, *Adis of Arunachal* (24 Parganas, W. B., 1975), pp. 30-31.
11. J. N. Choudhary, *ibid.*
12. The view that Chinese pilgrim Hiuen Tsang in the 7th cent. has also mentioned the Abors or Adis (cf. L. N. Chakravarti, *Glimpses of the Early History of Arunachal*, p. 36) is not correct. He has not specifically referred to any tribe of Arunachal. Hiuen Tsang has only mentioned the 'barbarians' that lived in the area falling between the kingdom of Kamrupa and the Chinese province of Szechwan. This statement does not indicate that Hiuen Tsang was familiar with the Abors.
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