



DIPLOMACY, DISPLACEMENT, AND DEVELOPMENT: INDIA-PAKISTAN RELATIONS FROM PARTITION TO THE PRESENT

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ABSTRACT

This article takes a close look at the long and complex journey of India-Pakistan relations - from the deep trauma of Partition in 1947 to the many challenges that still define the relationship today. It draws on official government documents, peer-reviewed academic journals, policy reports from think tanks, and archival records to explore five key themes: Indira Gandhi's 1968 appeals for bilateral peace; the origins and lasting importance of the 1974 Joint Protocol on Religious Pilgrimage; the institutional history of the India-Pakistan Joint Commission; the refugee settlement and evacuee property policies introduced under the Ayub Khan regime (1958–1969) in Pakistani Punjab and their consequences; and the insightful analytical framework offered by E. Sridharan's influential Stimson Center study on how economic cooperation could help improve security. The central argument is that India-Pakistan relations work like a troubled, repeating cycle. Every once in a while, practical needs - such as economic benefits or humanitarian concerns - create brief windows of hope, but these moments are almost always undermined by deeper, more powerful forces: territorial disputes, state-supported cross-border violence, entrenched institutional habits, and the unresolved pain and grievances left behind by Partition. The study also argues that the massive chaos surrounding refugees and evacuee properties in the decades following Partition became a root cause of institutional corruption and political instability in Pakistan - problems that continue to cast a long and troubling shadow over relations between the two countries even today.

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Introduction

The history of India-Pakistan relations since the Partition in August 1947 is one of the most important and most closely studied bilateral relationships in the modern world. Yet academic writing on the subject remains quite fragmented. Scholars have paid a great deal of attention to the major military conflicts of 1947-48, 1965, 1971, and 1999, while the quieter, everyday aspects of diplomacy - such as confidence-building measures, religious pilgrimage arrangements, joint institutional mechanisms, and the potential for economic cooperation - have received far less systematic analysis. This article tries to fill that gap by exploring several important but often overlooked episodes and institutional arrangements. These examples help us see the recurring pattern in India-Pakistan engagement: a genuine diplomatic desire to achieve normal, peaceful relations that is constantly blocked by deep structural challenges rooted in territory, identity, and the painful, unresolved legacies of 1947.

The article is structured thematically into five main sections, each corresponding to the five key areas mentioned earlier. Section 1 looks at Indira Gandhi's 1968 peace initiatives and places them within the larger geopolitical setting of the Cold War. Section 2 examines the 1974 Joint Protocol on Religious Pilgrimage and how it has functioned as a lasting channel for people-to-people diplomacy. Section 3 traces the institutional journey of the India-Pakistan Joint Commission from its establishment in 1983 through to its relevance in the present day. Section 4 provides a detailed analytical analysis of the refugee-settlement and evacuee-property policies introduced under the Ayub Khan regime, drawing on an archival case study published in *Pakistan Vision* (Khan, 2023). Section 5 brings together the main arguments from E. Sridharan's Stimson Center study on economic cooperation and its potential security benefits in the India-Pakistan context (Sridharan, n.d.). Section 6 provides a concluding synthesis of the entire article.

Methodologically, this article combines careful examination of official documents and archival records with a review of existing academic literature. It follows well-established methods used in comparative foreign policy studies and research on South Asia. Primary sources are drawn from the Ministry of External Affairs (MEA) of the Government of India, official Pakistani government and parliamentary records, and diplomatic correspondence from the High Commission of India in Islamabad. Secondary sources include peer-reviewed journals such as *Modern Asian Studies* and *Pacific Affairs*, policy monographs from the Stimson Center, and

institutional reports from the Observer Research Foundation, the International Crisis Group, and others.

THEORETICAL FRAMEWORK

One of the biggest strengths of using a multi-theoretical approach to understand India-Pakistan relations - from Partition to the present day - through the themes of diplomacy, displacement, and development is that no single theory can fully explain every side of this deep-rooted rivalry. A whole range of issues come into play, from security dilemma thinking and the creation of imagined enemies and in-groups, to the psychological trauma of a shared and painful history, and the stark differences in economic development between the two countries. The international relations theories that work best when brought together to make sense of these dynamics are neo-realism, constructivism, and postcolonial theory. They focus, respectively, on issues of power (especially in diplomacy and security), on how threats, enemies, and identities are socially constructed (including around migration and narrative-building), and on the lasting impact of colonialism (particularly on development) (Rajagopalan, 1998).

Neo-realism (or structural realism) and the security dilemma in relation to diplomacy

Neo-realism, which builds largely from the ideas of Kenneth Waltz, is a theory of international politics that focuses on the anarchic structure of the global system. In such a system, where there is no central authority to balance power between countries, states are primarily worried about their own survival and security. Neo-realism explains the India-Pakistan conflict through Pakistan's deep sense of insecurity when faced with India's significant material advantages in population, economy, and military strength. This insecurity drives Pakistan's balancing behavior - including its historical alliances with China and the United States, its pursuit of nuclear weapons, and its support for militant groups in Kashmir (Rajagopalan, 1998).

The essential idea of the security dilemma, which drives much of this balancing behavior, is a simple but powerful idea: when one country takes steps to protect its own security, those same actions are often seen as threatening by the other side. This is clearly visible in how Pakistan perceives India's military buildup and modernization efforts as offensive and threatening. Because of these dynamic, confidence-building measures (CBMs), arms control agreements, and peace agreements like the Tashkent Agreement of 1966 and the Simla Agreement of 1972 have achieved only limited success. The hard structural reality of the power imbalance between the two countries usually ends up mattering more than any attempts to change perceptions.

Extensions of neo-realism, such as Stephen Walt's balance of threat theory, offer additional insight. This theory considers not just raw power, but also factors like geography, whether weapons are more suited for offense or defense, and perceived aggressive intentions. It helps explain those occasional periods of reduced tension and limited cooperation between India and Pakistan (Shafique, 2011).

Constructivism: Identity, Narratives, and Displacement

Constructivism helps explain why identities, norms, and shared understandings play such a crucial role in international relations. It offers a strong counter to the material and power-focused determinism of neo-realism. For instance, the hostility between India and Pakistan is not something inevitable or preordained. Instead, this deep-rooted enmity is socially constructed through shared narratives and beliefs - particularly the stories surrounding Partition and the two-nation theory, which insisted that Hindus and Muslims were two separate nations (Shafique, 2011).

Constructivism helps us understand the issue of displacement by looking at how the Partition created between 10-18 million refugees, and how the violence of that time shaped personal experiences, passed-down family stories of trauma, and collective national memories that continue to fuel majoritarian nationalist narratives in both countries. Because these narratives are constantly reinforced and presented as unquestioned truths - through school textbooks, movies, political speeches, and so on - they become deeply embedded social facts that keep hostility alive between India and Pakistan, even when the actual material conditions on the ground begin to change. Constructivists argue that these identities are not fixed forever and can evolve over time, especially through people-to-people exchanges, cultural diplomacy, and informal Track II contact.

Postcolonial Theory: Legacies of Partition and Development

Post-colonialism examines how the legacy of colonialism shaped the birth of new nations, including their borders, government institutions, economic development, and many other aspects. The Partition was essentially a colonial border drawn in a great hurry at the very last minute, with the British simply sketching a line on the map - the infamous Radcliffe Line. This line split up countless families, paid little attention to minority populations on either side, and triggered horrific communal violence that killed thousands in the chaotic days before the British fully withdrew. We can even talk about the long shadow of colonialism during Partition - what many

refer to as the “long Partition.” The long Partition includes the border disputes that still rage today, the vulnerable minority communities left stranded on both sides and the continuing conflicts over shared water resources.

We can also connect this to displacement by looking at how Partition created distinct minority identities and how postcolonial states in the region continued many of the old colonial policies of “Divide and Rule.” When it comes to development, one could highlight how India and Pakistan have followed very uneven paths. India benefited greatly from its much larger economy and population, which gave it the space to diversify and grow in multiple directions. In contrast, Pakistan has faced serious setbacks due to prolonged authoritarian military rule, which undermined democratic development, created chronic instability, and left the country heavily dependent on foreign aid. Finally, one could point out how the bitterness left by Partition has rendered regional organizations like SAARC largely ineffective, while the deep resentment between the two countries has led to highly uneven trade relations. This situation only widens the economic gap between a much stronger India and a weaker Pakistan - a gap that India can often use to its advantage in diplomatic negotiations.

Neorealist structures place real limits on the choices available to both India and Pakistan. Constructivist processes have played a major role in shaping and deepening the intensity of the India-Pakistan rivalry. Post-colonialism helps explain the massive displacement caused by Partition as well as the persistent development gap between the two countries. This combined framework can account for both periods of thaw and improved relations - such as the Composite Dialogue in the 2000s - as well as the times when tensions sharply worsen. Overall, this approach helps us understand how the trauma of Partition continues to affect human security and the broader relationship between India and Pakistan even today.

1. Indira Gandhi and the 1968 Appeal for Peace

The year 1968 was a moment full of surprising possibility in India-Pakistan relations. The scars from the 1965 Indo-Pakistani War were still fresh, and the Tashkent Declaration of January 1966 - brokered by Soviet Premier Alexei Kosygin after the sudden death of Prime Minister Lal Bahadur Shastri - had only managed to create a fragile ceasefire. Against this uncertain backdrop, Prime Minister Indira Gandhi made a sustained public appeal, calling for 1970 to be declared a year of peace in the subcontinent (India Today, 2007). Mrs. Gandhi’s appeal was not a formal diplomatic proposal, but rather a political signal. Mrs. Gandhi was trying to shift the way people

saw the India-Pakistan relationship - to highlight that the two countries actually shared important common goals around regional stability, economic progress, and the well-being of their people.

Mrs. Gandhi's peace efforts in 1968 need to be understood against the larger backdrop of Cold War politics, which heavily influenced diplomacy across South Asia at the time. India was already building a close strategic partnership with the Soviet Union - a relationship that would later be formalised in the 1971 Treaty of Peace, Friendship and Cooperation. Pakistan, on the other hand, was strengthening its security ties with the United States through the Central Treaty Organisation (CENTO) and the Southeast Asia Treaty Organisation (SEATO), while also developing a growing strategic relationship with China. These Cold War alignments created powerful structural barriers that made genuine normalisation between India and Pakistan extremely difficult, even when leaders on both sides showed sincere interest in peace.

Gandhi's 1968 initiative also hinted at the more assertive diplomatic style she would later adopt during the 1971 Bangladesh crisis. During that crisis, India's military intervention to support the independence of East Pakistan completely reshaped the geopolitical balance across the subcontinent. The Simla Agreement that came out of it in July, 1972, which set up a framework for bilateral resolution of the Kashmir dispute, can be seen as both the fulfillment of Gandhi's earlier diplomatic vision and its practical limitation. The agreement created institutional procedures for dialogue, but it left the core territorial dispute over Kashmir entirely unresolved (ICDI, 2025).

Indira Gandhi's appeals for peace continue to stand out in today's historical accounts as a clear example of a recurring pattern in Indian diplomacy. India would often express a strong, principled commitment to regional stability, while at the same time showing reluctance to make the political concessions - particularly on Kashmir - that Pakistani leaders considered necessary for any genuine improvement in relations. This fundamental difference in how both sides understood the meaning of "peace" has been highlighted by several scholars as a key reason behind the cyclical nature of India-Pakistan relations - the repeated pattern of hope followed by renewed tension (Sridharan, n.d.; ICDI, 2025).

2. The 1974 Joint Protocol on Religious Pilgrimage

One of the most enduring and practically important bilateral agreements between India and Pakistan is the Joint Protocol on Visits to Religious Shrines, signed in 1974. Even today in 2026, the Protocol is still in force. It stands out as one of the few genuine, long-term successes in India-

Pakistan confidence-building efforts because it has managed to survive multiple serious crises - including those in 1999, 2001–02, and 2019–2024 - while keeping its core institutional framework intact.

Under the terms of the Protocol, both countries agreed to make it easier for people to visit religious shrines on a reciprocal basis, without any discrimination based on religion or sect (Yojna IAS, 2022). The agreed arrangement, as currently constituted allows three Hindu and four Sikh pilgrimages from India to Pakistan each year, covering fifteen shrines on the Pakistani side. In return, five pilgrimages from Pakistan visit seven shrines on the Indian side every year. The Protocol also makes clear that pilgrims receive a special pilgrimage-category visa, that both countries share the responsibility for preserving the sanctity and maintenance of these shrine sites, and that the list of pilgrimage sites can be expanded whenever both sides mutually agree (High Commission of India, Islamabad, 2024).

The most visible and meaningful recent success of the Protocol has been the Kartarpur Corridor, which was inaugurated in November, 2019. The Corridor provides a direct link between Dera Baba Nanak Sahib Gurdwara in Gurdaspur district, Punjab, India, and Darbar Sahib Gurdwara in Narowal district, Pakistan. It allows Sikh pilgrims to easily visit the final resting place of Guru Nanak Dev, the founder of Sikhism. The Corridor was built to commemorate the 550th birth anniversary of Guru Nanak Dev. It stands as the most important people-to-people infrastructure project between India and Pakistan in the twenty-first century (Yojna IAS, 2022).

In February 2022, India's Ministry of External Affairs expressed its willingness to hold talks with Pakistan on upgrading the 1974 Protocol. The discussions were expected to explore ideas such as introducing air travel for pilgrims and increasing the number of people allowed to visit each year (Yojna IAS, 2022). This initiative aligned with India's broader diplomatic approach of keeping people-to-people connections alive, even during times of serious tension between the two countries. The Kartarpur Corridor was a key focus of these discussions. It had been suspended during the COVID-19 pandemic and continued to face operational restrictions after the 2019 bilateral freeze that followed India's decision to revoke Article 370 regarding Jammu and Kashmir.

The 1974 Protocol is a clear example of what Sridharan (n.d.) described as the 'Indus Waters Treaty model' of India-Pakistan cooperation. This model focuses on creating practical, functional areas of bilateral engagement based on separate but parallel use, rather than pushing for deep

economic or political integration between the two countries. By setting up a legal framework for religious access that does not require either side to make concessions on the central territorial dispute, the Protocol has shown remarkable institutional resilience. Its ability to survive repeated bilateral crises suggests that both countries recognise the diplomatic value of keeping at least minimal channels of people-to-people contact alive, even when their overall relationship is deeply hostile.

3. The India-Pakistan Joint Commission: Institutional History and Contemporary Relevance

The India-Pakistan Joint Commission, or JCM, was created in 1983. It was meant to be a high-level platform where ministers from both countries could sit down and work together on a wide range of issues that weren't covered by the Composite Dialogue Process on core political and security issues. The commission was chaired by the foreign ministers of both nations and was designed to act as an umbrella body. Under it, expert working groups could quietly push forward practical cooperation in areas like trade, economic ties, culture, science and technology, and consular matters. According to official records from India's Ministry of External Affairs presented in the Lok Sabha in 2012 (Ministry of External Affairs, 2012, as cited in Deccan Herald, 2012), the Commission only held three formal meetings between its launch in 1983 and its first suspension - in 1983, 1985, and 1989.

The JCM was revived in October 2005 after a sixteen-year break. It was co-chaired by Pakistan's then Foreign Minister Khurshid Mehmood Kasuri and India's External Affairs Minister Natwar Singh during its fourth meeting in Islamabad. The decision to bring it back was made at the presidential level when President Pervez Musharraf visited New Delhi in April, 2005. This reflected the positive momentum created by the Composite Dialogue process that had been launched the previous year. In the 2005 meeting, both sides focused on exchanging draft agreements on visa liberalisation, consular access rules, and most importantly, an updated protocol for visits to religious shrines. This effort directly connected the JCM's work to the 1974 Pilgrimage Protocol.

The JCM met again in 2006 and 2007 as the Composite Dialogue process gained fresh momentum. The 2006 session was particularly significant - it produced an agreement to set up a joint mechanism for sharing intelligence and counterterrorism information. This was a landmark step that showed the real political will present during that short period of improved relations

between the two countries (Global Security, 2006). The Commission was later suspended after the Mumbai terrorist attacks in November, 2008. Those attacks completely derailed the entire Composite Dialogue framework.

The JCM was revived for a second time in September, 2012. India's External Affairs Minister S. M. Krishna travelled to Islamabad to co-chair the meeting with his Pakistani counterpart, Hina Rabbani Khar. This visit was particularly significant as it marked the first trip to Pakistan by an Indian Foreign Minister since 2005 (Deccan Herald, 2012). During the meeting, both sides reviewed the progress made in the second round of the Composite Dialogue and drew up a roadmap for future cooperation. However, this revival also proved short-lived. The JCM mechanism soon fell into abeyance as cross-border tensions returned and the Composite Dialogue process deteriorated once again, especially in the aftermath of the Pathankot airbase attack in January, 2016.

As of 2026, the India-Pakistan Joint Commission has not met since its 2012 session. That means it has now been fourteen years since the last meeting - a long institutional pause. In its response to Lok Sabha Unstarred Question No. 217 on reviving the Indo-Pak Joint Commission, the Ministry of External Affairs made India's position clear: the revival of such bilateral mechanisms depends on Pakistan stopping its support for cross-border terrorism (Ministry of External Affairs, n.d.). The JCM's overall history perfectly reflects a broader pattern noted by the ICDI (2025). Diplomatic progress between India and Pakistan has always been uneven and non-linear. Time and again, these institutional dialogue mechanisms get up and running, only to be suspended when violence flares up or political relations take a turn for the worse.

4. Refugee Settlement, Evacuee Property, and Institutional Corruption: The Ayub Khan Regime in Pakistani Punjab

4.1 Background: The Scale of the Partition Displacement Crisis

The Partition of British India in August, 1947 triggered one of the largest forced migrations in human history. Around fourteen million people crossed the newly drawn borders between India and Pakistan in the months around independence. Roughly seven million Muslims moved from India to Pakistan, while a similar number of Hindus and Sikhs travelled in the opposite direction (Zamindar, 2007, as cited in Khan, 2023). In Punjab, the province hit hardest by the Radcliffe Line boundary award - the violence and displacement were especially devastating. The region's economy had been built over many decades as one integrated commercial ecosystem. Property

ownership, tenancy systems, industrial assets, and financial institutions all crossed communal lines. The mass displacement of Hindu and Sikh property owners from West Punjab, along with Muslim property owners from East Punjab, left behind a vast amount of abandoned land and assets. These were collectively called ‘evacuee property’. Deciding how to allocate this huge vacated estate quickly became the biggest administrative and political challenge for both newly independent countries.

In Pakistan, two key laws - the Administration of Evacuee Property Act of 1957 and the Displaced Persons (Compensation and Rehabilitation) Act of 1958 - created the formal legal framework for handling refugee claims and distributing evacuee property. As Chattha (2012) documented in his influential study published in *Modern Asian Studies*, the evacuee property issue played a major role in shaping Pakistan’s early institutional culture. The intense competition between incoming refugees and long-settled local residents over abandoned Hindu and Sikh properties created a lasting environment of corruption. Chattha argued that this widespread corruption later served as a retrospective justification for the military coup of 1958. Khan (2023) builds directly on Chattha’s work in his analysis of how the Ayub Khan regime (1958–1969) tried - with only partial success - to resolve these long-standing problems.

4.2 Legislative Framework under Ayub Khan

When Ayub Khan's government came to power after the military coup in October, 1958, they inherited a messy refugee settlement crisis. There was a huge backlog of unresolved claims, plenty of fraudulent applications, and a settlement bureaucracy compromised by systemic corruption. The regime placed legislative reform the heart of their response. They understood that the old laws had created so many complicated procedures that they were holding up genuine claims while also making it easy for well-connected people to manipulate the system (Khan, 2023).

The Ministry of Rehabilitation and Works put forward several amendments to key laws, including the Punjab Revenue Act, the Punjab Tenancy Act, the Administration of Evacuee Property Act of 1957, and the Displaced Persons (Compensation and Rehabilitation) Act of 1958. These amendments aimed to make the whole process faster and simpler. They gave more decision-making power to Collectors and Assistant Collectors, placed all evacuee property cases under the central authority of the Chief Settlement Commissioner, and protected the appellate decisions of Settlement Commissioners in property division cases from being challenged in court

(Khan, 2023). The government also introduced Martial Law Regulations No. 49 and No. 89. These created stricter verification procedures and gave refugees one last chance to submit correct and honest claims. The rules were clear: anyone found making fraudulent claims could have their earlier allotments cancelled, and no court or authority would be allowed to interfere with these administrative decisions (Khan, 2023).

According to Khan (2023), the real aim behind these new laws was to generate revenue for the government by carefully selling and allocating evacuee properties. This strong focus on making money ended up undermining the policy's stated goal of helping refugees rebuild their lives. The 1958 legislation also barred giving refugees any priority over local residents when selling evacuee property. This decision clearly favoured the interests of powerful local elites rather than the displaced communities the policy was supposedly meant to support.

4.3 The Claims Process and Its Structural Failures

The claims verification process under Ayub Khan's regime revealed some deep contradictions in how the state was handling refugee rehabilitation. The government divided refugees into three distinct categories: those coming from 'agreed areas' (mainly East Punjab), those from 'non-agreed areas' (other parts of India), and those from territories 'forcibly annexed by India' (including Jammu and Kashmir, Hyderabad, and Junagadh). Under MLR No. 89, the new graduated allotment system imposed heavy cuts - sometimes as high as 90 percent on the claims of the largest applicants from non-agreed areas. This created a system of unequal treatment that left many refugees feeling deeply resentful (Khan, 2023).

Out of roughly 14 lakh claims that were filed, the government accepted about 10 lakh and 30 thousand, while rejecting 3.5 lakh due to a lack of supporting documents. The total land area covered by the accepted claims came to 83,25,380 acres, which worked out to an average of 8.5 acres per accepted claim. In contrast, the average verified claim from non-agreed areas stood at 80.2 acres - a stark reflection of the massive differences in landholdings between the two groups (Khan, 2023). The verification process depended heavily on oral testimony and official documents such as jamabandis (revenue records) obtained from the Indian government - a mechanism subject to significant delays, political friction, and opportunities for fraudulent manipulation.

The massive scale of fraudulent claims was openly acknowledged even at the highest levels of the Pakistani government. As Qudratullah Shahab (1997) documented in his book *Shahab-Nama*

(cited in Khan, 2023), when the government announced a policy to allocate evacuee factories, cinema houses, and educational institutions to people who had owned similar properties in India, it immediately triggered a flood of fake applications. People suddenly claimed ownership of properties stretching across a huge area from Amritsar to Delhi. In the end, the Federal Cabinet had to appoint a Supreme Court judge to supervise the entire claims verification process. This move clearly showed how badly the ordinary administrative system had been overwhelmed by the sheer volume of fraudulent activity.

4.4 Urban Compensation and Systematic Corruption

The urban compensation scheme, which was launched in 1960, aimed to settle the remaining claims of refugees who could not be assigned evacuee property through direct allotment. The first phase focused on claimants living in East Pakistan. Later phases extended to orphans, elderly persons, and those with verified claims below Rs. 15,000. Under the Ayub regime, the government ended up disbursing a total of Rs. 25 crore to meet verified refugee claims. President Ayub personally warned the Finance Ministry to make sure these cash payments did not create inflationary pressures in the economy (Khan, 2023).

Despite these payments, the urban compensation process was deeply undermined by corruption at multiple level of the administration. As Khan (2023) documented, urban properties were often sold at much lower than their actual value, and the custodians in charge pocketed money from these transfers that should have gone into the evacuee property fund. In Lahore, fake government officials were caught running scams that tricked vulnerable refugees with false promises of permanent property allotments. Revenue department clerks even printed counterfeit claim books, with an estimated Rs. 2 crore worth of these fake documents circulating just in Jhang and Lyallpur. Niaz (2013, as cited in Khan, 2023) viewed all of this corruption as part of a larger pattern of bureaucratic elite capture that was common in Pakistan during the 1960s and 1970s.

Chattha (2012) argued in the journal *Modern Asian Studies* that the evacuee property crisis was not just a side issue - it actually played a major role in shaping Pakistan's institutional culture of corruption. More than 50 percent of abandoned houses and 36 percent of shops in West Punjab were illegally occupied by local residents instead of being given to refugee claimants. At the same time, politicians and officials regularly diverted evacuee assets to themselves and their family members. The Ayub Khan regime tried to fix this crisis through legislative reforms and greater administrative centralisation. These efforts had some success in clearing the backlog - by

May 1964, 4,66,993 units out of 5,10,778 total units of evacuee property had been disposed of. However, they failed to tackle the deeper structural problems that were fueling corruption, because those problems were deeply rooted in the political economy of the regime itself (Khan, 2023).

4.5 Bilateral Implications of the Evacuee Property Crisis

The evacuee property crisis had direct and long-lasting effects on India-Pakistan relations. The regular exchange of jamabandis (revenue records) between Indian and Pakistani authorities, along with the series of Inter-Dominion Conferences held between 1947 and 1955 to discuss refugee property issues, marked one of the earliest and most continuous bilateral administrative engagements between the two newly independent countries (Khan, 2023). The politics surrounding evacuee property also influenced migration patterns, communal identities, and political alignments in both nations. This created ongoing sources of tension between India and Pakistan - especially regarding the situation of minority communities and their property rights in each country.

5. Economic Cooperation and Security Spillovers: The Sridharan Framework

E. Sridharan's monograph *Economic Cooperation and Security Spill-Overs: The Case of India and Pakistan* was written for the Stimson Center's comparative study on cross-border economic relations and regional security. It stands out as one of the most thorough and analytically rigorous examinations of how trade interdependence affects conflict management between India and Pakistan (Sridharan, n.d.). The study was part of a three-case comparative project that also included Japan-China and Argentina-Chile. It reaches a clear and sharp conclusion: in the India-Pakistan relationship, the conditions needed for economic cooperation to create positive security spillovers are mostly missing. The only major exception to this pattern is the Indus Waters Treaty of 1960.

Sridharan's central argument is that the 1998 nuclear tests conducted by both India and Pakistan, along with the failure of Pakistan's Kargil incursion in 1999 to alter the territorial status quo through military force, created a new structural foundation for greater economic cooperation. By eliminating the credible possibility of achieving territorial gains through war, these events made economic engagement more viable (Sridharan, n.d.). This argument carries significant implications. It suggests that mutual nuclear deterrence, instead of being a source of instability, has actually acted as an enabling condition for economic ties. By closing off the military route, it

made the economic pathway relatively more attractive. The irony here is striking: nuclear weapons, which are usually seen as a major threat to regional stability, may have unintentionally helped create the conditions for a limited form of commercial peace between India and Pakistan.

Sridharan's analysis of SAPTA (the SAARC Preferential Trading Arrangement) clearly shows how fragmented and politically constrained India-Pakistan trade liberalisation efforts have been. While SAPTA-I offered trade concessions on 226 commodities, SAPTA-II added another 1,868 products, and SAPTA-III added 3,456 more commodities, these concessions were largely handled on a bilateral basis in the early stages rather than through genuine multilateral liberalisation. This reflected both countries' strong desire to keep full control over how fast and how far they opened up trade with each other (Sridharan, n.d.). As a result, the actual trading relationship between India and Pakistan has massively underperformed compared to what could have been achieved, given their close geography, complementary economies, and long history of commercial ties.

A key factor in Sridharan's analysis is the role of third-country trade. An estimated 25-30 percent of the bilateral trade that could have flowed directly between India and Pakistan was instead routed through other countries, mainly in the Gulf. This added significant extra costs, making exports from both countries less competitive, while generating profits for intermediary traders (Sridharan, n.d.). This structural inefficiency clearly showed how political hostility was imposing real and measurable economic costs on ordinary people in both countries. At the same time, it concentrated the benefits of this inefficiency in the hands of intermediary networks that had a strong vested interest in keeping political tensions alive.

The Stimson Center study concludes that major infrastructure projects - especially a proposed natural gas pipeline connecting Iran, Pakistan, and India - could, if completed, create strong ongoing economic interests in maintaining bilateral stability. This would gradually narrow the areas of conflict between the two countries, much like the precedent set by the Indus Waters Treaty. As Sridharan (n.d.) explicitly argued, such projects "will narrow but not end the arena of conflict, removing some issues from the arena - as the Indus Waters Treaty removed the issue of river waters." This 'issue removal' model of managing bilateral conflict - steadily reducing the number of disputed issues through practical, functional agreements without needing to solve the core territorial dispute - offers a well-grounded theoretical alternative to the repeated deadlocks created by attempts at comprehensive settlements.

The India-Pakistan gas pipeline project, widely discussed in the early 2000s as the 'Peace Pipeline,' ultimately never came to fruition. This outcome clearly reflected the persistent inability of economic logic to overcome security concerns in the India-Pakistan relationship. The Pulwama/Balakot crisis of 2019, followed by Pakistan's suspension of bilateral trade in August, 2019, provided yet another clear example. The trade suspension inflicted a severe cost on Pakistani textile and agricultural exporters, according to estimates by South Asian Voices (2025). This episode perfectly illustrates the recurring pattern identified by Sridharan: economic cooperation between India and Pakistan is structurally fragile, easily reversible, and heavily dependent on a political framework of bilateral engagement that remains chronically vulnerable to disruption by security incidents.

6. Synthesis and Conclusion

The five analytical pillars examined in this article - Indira Gandhi's 1968 peace appeals, the 1974 Pilgrimage Protocol, the India-Pakistan Joint Commission, the Ayub Khan refugee settlement policies, and Sridharan's economic cooperation framework - lead to a set of important common conclusions about the fundamental character and inherent limits of India-Pakistan bilateral relations.

First, the article supports the argument that India-Pakistan bilateral relations are shaped by a deep structural asymmetry in how each side defines the conditions for normalisation. India has consistently argued that normalisation can only happen if Pakistan stops supporting cross-border militant activity. In contrast, Pakistan has consistently maintained that normalisation depends on meaningful progress toward resolving the Kashmir territorial dispute. This fundamental difference in definition is not just a tactical bargaining position. It reflects genuinely incompatible state interests that have remained largely unchanged over more than seven decades of bilateral engagement (ICDI, 2025; Sridharan, n.d.).

Second, the article highlights the importance of what can be called 'institutional resilience' in India-Pakistan relations. The 1974 Pilgrimage Protocol has survived numerous bilateral crises, including the suspension of the Kartarpur Corridor during the COVID-19 pandemic and the diplomatic freeze after 2019. This remarkable endurance shows that even deeply hostile states recognise the value of keeping at least some minimal humanitarian and people-to-people channels open. By contrast, the history of the Joint Commission demonstrates how more

ambitious and politically sensitive bilateral mechanisms remain highly vulnerable to the repeated ruptures that characterise the relationship (Deccan Herald, 2012; IRNA, 2005).

Third, the article highlights the foundational importance of the Partition-era evacuee property crisis in shaping Pakistan's later institutional development. Khan's (2023) archival research, when read alongside Chattha's (2012) theoretical framework in *Modern Asian Studies*, shows that the corruption, institutional dysfunction, and political resentment created by the refugee settlement process between 1947 and 1969 left deep structural legacies. These legacies influenced Pakistani state-society relations and helped create the conditions that enabled repeated military interventions in Pakistani politics. These domestic institutional consequences of Partition's unresolved grievances have indirect but significant implications for India-Pakistan bilateral relations. A state with weak civilian institutions and frequent military dominance tends to be a structurally less reliable partner for sustained bilateral diplomacy.

Fourth, Sridharan's (n.d.) economic cooperation framework gives us a clear analytical language to understand why the potential for commercial peace in the India-Pakistan relationship has been consistently frustrated. The combination of mutual nuclear deterrence, the rerouting of trade through third countries, and the structural fragility of bilateral trade in the face of security crises has created a unique situation. In this relationship, economic interdependence acts as both a potential stabiliser and a frequent casualty whenever security tensions rise. The 2019 suspension of bilateral trade made this reality clear: even significant economic interests were not strong enough to stop political decisions from overriding commercial logic.

In conclusion, the India-Pakistan relationship in 2026 is defined by a familiar paradox. There still exists a basic framework of bilateral institutions - including the Pilgrimage Protocol, the Indus Waters Treaty, and the Simla Agreement that reflects seven decades of partial diplomatic achievements. At the same time, there is a near-total breakdown in political engagement, resulting in the most sustained period of estrangement since the Kargil War of 1999. As *South Asian Voices* (2025) observed, the path ahead requires "restoring trade ties, including Most Favored Nation status," together with the resumption of institutional dialogue.

The historical analysis presented in this article suggests that such a restoration is possible. However, it will demand sustained political will from both sides to overcome the deep structural asymmetries - in territorial claims, institutional capacity, and the definition of normalisation - that have frustrated previous attempts time and again.

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Arunachal Pradesh known as the land of the rising sun is the eastern most state of the Union of India. It is predominantly inhabited by a number of tribes. The Adi tribe constitute as one of the major tribe among them and they inhabit mostly along both the banks of the mighty Siang River. <https://eijhss.com/index.php/hss/index>

Edward Gait in his book *The History of Assam* observed that “They are the most ruthless savages on the whole of the northern frontier, and the former sparseness of population of the north bank of the Brahmaputra, from opposite Dibrugarh to Sadiya, was due to dread of their raids” (Gait, 1906: 373). Further, he explains the meaning of Abor by which the Adi tribe was known earlier as “Their designation in Assamese means ‘independent’, as contrasted with bori, meaning ‘subject’ (Gait, 1906: 373-74).

However, on the other hand the Adi’s are also known for their democratic nature because of their indigenous village council known as *Kebang*. Father N.M. Krick observed that “Each village is self-governing and independent. It has its own administration, both legislative and executive,” (Elwin, 1999: 157). Sachin Roy also notes that “the administrative structure of the Adi’s is essentially democratic; autocracy in any form has not been known to them and in the absence of a distinct class of nobility, oligarchy has remained equally unknown. Theirs is, in true sense, a government by the people and for the people,” (Roy, 1960:222). This indigenous self governing institution which follows the principles of democracy is called *Kebang* and it is the subject matter of this paper.

Objective of the study

The *Kebang* is known for performing so many activities but this paper deals with only the legal aspects of it. Therefore, the objective of this paper is to:

1. Explore the tribal nature of law and justice in contrast to modern jurisprudence.
2. How does *Kebang* act as a legal system for the Adi tribe?
3. What are the various methods of crime detection?
4. What are the punishments prescribed for the violation of various customary laws?

Tribal Nature of Law and Justice: Conceptual Framework

Modern Law are Laws which come into existence through the intervention of legislative, executive and judicial organs of the state. It is usually written and codified. On the other hand Tribal Law refers to the legal systems found within the tribes which are characterised by unwritten, orally transmitted and custom based regulations (See Table 1). As such, such laws are known as Customary Law. It is custom based but there is a clear distinction between Custom and Customary Law. In the words of Adino Vitso :

Custom is a usage or a practice which may or may not have social recognition and whose violations may or may not result in sanction. On the otherhand, Customary Law is a usage and a

practice which is socially recognised and the breach of this will result in some penal action. When a custom is practiced over a period of time and found to be useful in maintaining harmony in a society, it becomes established as customary law (Vitso 2003:5).

For M.S. Vani, “Customary law is generally understood to be that body of law, which is predominantly oral rather than written, and which derives its authority from the sources other than the state” (Vani2003:409). It has been loosely defined as “non-legislated law in the context of a tribal society” (Pospisil 1971:195).

Therefore, Tribal Laws also known as Primitive laws are largely derived from societal customs and traditional practices. They were orally transmitted and formed an integral part of the society’s moral code. Its primary focus was in restoring balance which was often through compensation or restitution rather than punitive measures. The responsibility of offence often fell on the group rather than the individual and it reflected the importance of collective and kinship ties.

Reciprocity and reconciliation are the hallmark of Customary Law. In the words of Malinowski, Customary Law is “the positive law governing all phases of tribal life consists then of a body of binding obligations, regarded as a right by one party and acknowledge as a duty by the other, kept in force by a specific mechanism of reciprocity and publicity in the structure of their society (Malinowski, 1926:58). Its aim is not to condemn the guilty but finding a solution for both the parties in conflict which is amicable and to the satisfaction of both. However, this does not mean that those found guilty are not punished under customary law. In the Administration of Justice among the Adi tribe, the Kebang is also based on customary law.

Table 1: Comparison between Tribal Law and Modern Law

Sl.No.	Theme	Tribal Law	Modern Law
1	Origin	Oral and Custom Based	Written and Codified
2	Punishment	Reparation/Restitution(Compensation)	Retributive(Punitive)
3	Responsibility of Offence	Collective (Family/Clan)	Individual
4	Power & Authority	Unified	Divided (Separation of Power)

Kebang as Legal System of the Adi Tribe

Traditionally, the Adi village rest on the authority of the Kebang. It was firmly rooted in custom and tradition and had wide authority over every aspect of Adi life. Verrier Elwin observed

Kebang to be “the most highly developed and effective of all the tribal councils..,which may well become a model for the whole of NEFA” (Elwin, 1999: 156).

The term Kebang originally meant an intelligent, wiseman well versed in history, customs as well as traditional knowledge. As per this connotation, a Kebang is an acknowledge man in all spheres of knowledge and wisdom prevalent in the past Adi society. A council consisting of such wiseman and the common people is also known as Kebang. It is in this connotation Kebang is understood today (Nath, 1998:210).

The Kebang performs different functions such as executive functions, administrative functions , judicial functions, functions relating to village security, socio-cultural/religious functions. As the paper is limited to the judicial aspects, it will limit itself to understand the functions of Kebang in the administration of Justice.

Administration of Justice

The Kebang was the only Court in Adi society which tried both Civil and Criminal cases. All types of disputes which arose in the village were adjudicated by the Kebang. It settled cases like adultery, divorce, murder, theft and other criminal offences. It has been the tradition that the fine for the crime committed by a particular man is usually paid by the clan (Megu, 1999:211).

Membership

The Kebang is headed by the Kebang Abus. Any influential elder of the village, capable of arguing and judging can become the Kebang Abu. Criteria like old age, honesty as well as intelligence are considered the most suitable person for the Kebang Abu. George D.S.Dunbar notes that “the headman (Gam1) is chosen by the voice of the community. In this election experience to guide such affairs as policy and the selection and division of fresh sites for ‘jhums,’ and wealth to entertain strangers when necessary in the name of the village, all weigh. Age is also a factor, for the Gam is the village Nestor” (Elwin, 2007: 106). However, in practice, every clan of the village have their representative, the Kebang Abu/ Gam in the Council.

Every male, reaching the age of reason, is by right active member of the Kebang. Attainment of adulthood by a member was the criteria. Adulthood meant the boy who shows adult behaviour while performing his duties in the Dere /Mushup. A membership to the boy’s dormitory should not be confused with the membership of the Kebang (Nath, 2000:217).

The status of the Kebang members is the same. However, as observed by the explorer Wilcox “though not acknowledged by them it is evident that some few, either through superior wealth, hereditary esteem, or real ability exert a very strong influence on the rest and can sway them to any measure” (Elwin, 1999: 156-57). In addition, what is to be noted is that women can sit in the proceedings of the Kebang but they are not treated as members.

Sessions

The sessions of the Kebang are usually held in the Dere/Mushup which is the bachelor’s dormitory of the Adi’s. The explorer Wilcox who visited the Adi country in 1825 described the “hall of audience and debate” where Kebang met and emphasised that the fact that everyone had an equal vote in the sessions of the Kebang (Elwin, 1999: 156).

The Kebang does not sit regularly. It sits only when there is a complaint, a dispute or any other activities to be performed by the villagers. The Gam arranges the sitting time and date for the Kebang whenever it is necessary. It is to be noted that Kebang sittings does not have time limit. It can sit for days till a decision is reached. Any member can speak for whatever length of time he chooses to speak. However, according to convention, the senior members present are generally given preference for speaking ahead.

The decision of the Kebang is final and it is automatically carried out. However, the decision of the Kebang is not binding. There is no body to enforce its decisions. An appeal can be made by the aggrieved if he/she is not satisfied by the decision of the Kebang. The procedure of appeal is discussed below in the organisational structure of Kebang.

Organisational Structure of Kebang

The Kebang as a legal system is organised in a hierarchical structure (See Figure 1). The family and the clan are the smallest unit of the society. Any disputes that arises among them are settled by the Erang (family) or Opin (Clan) in Du:sum Kebang. If the Du:sum Kebang fails to settle the case than it is placed before the Do:lung (Village) Kebang. It is held under the chairman of Head Gam. All the disputes in a village were decided by a Do:lung Kebang.

The inter-village disputes as well as cases which Do:lung Kebang could not settle were decided by Banggo Kebang or inter-village councils. According to the Adi Kebang Ayon, the Banggo Kebang is held under the chairman of Banggo Head Gam and around 10(ten) Gams are to be selected to perform as Judge(ABK, 2017: 26)

Again, the inter-banggo disputes as well as cases undecided by Banggo Kebang were brought to Bogum Bokang Kebang, the supreme court of the Adi's. Anyone of President/Vice President or Secretary acts as the Chairman of Bogum Bokang Kebang. In their absence an elderly Head Gam acts as the Chairman and around 10(ten) Head Gam/Gams are to act as Judge (ABK, 2017:28).

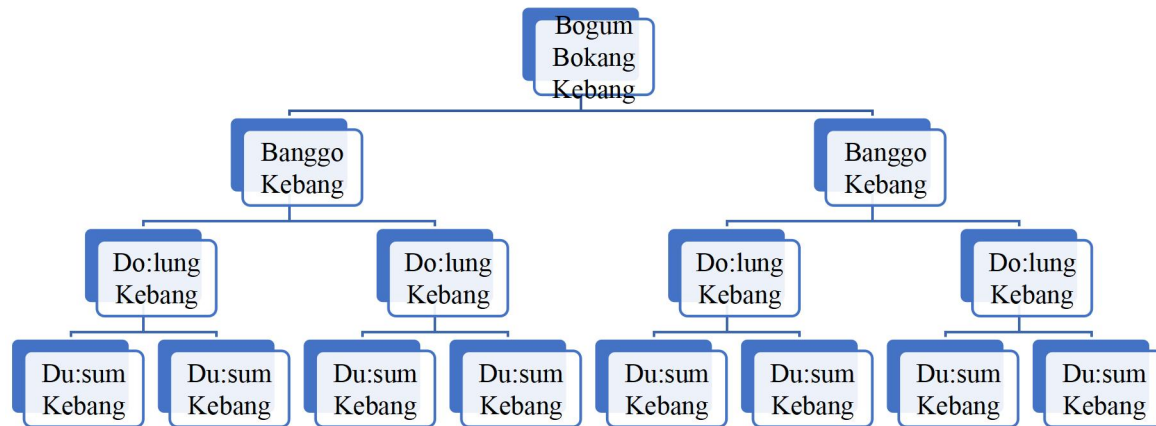


Figure 1: Organisational Structure of Kebang as a Legal System

Methods of Crime Detection

In Adi society, crimes are usually detected as a result of catching them red-handed. Another way of identification of crime is through arguments and inquiry in the Kebang through witness and evidence based. According to Adi Customary Law, when all methods of argument, inquiries and human intellect fail to detect a crime, the assistance from supernatural agency is sought. Therefore, it is through divination the crimes are detected by the Miri (Priest). The various methods of detecting crime by divination are by Aiyin (Liver)², Limeng (Grains/Pebbles), Peki (Oath) and Amki (Ordeals).

1. Divination through Aiyin and Limeng: When a theft takes place and there is no other way to find out the actual culprit, in such situation, the Miris are called for divination through Aiyin and

(¹During the British days, the Kebang was transformed to some extent. Official Gams were appointed from every clan in a village who were given red coats and recognised by the government. Their appointment caused the authority of the priest who largely dominated the Kebang to decline.)

Limeng. As per the lines of the Chicken liver and other indications, the Miris detect the real culprit. In this regard Verrier Elwin notes that:

“Priest and shamans are believed to have the power of tracking down thieves and recovering stolen property by divination,” (Elwin, 1965:33).

However, the Adis sometimes do not believe on the detection by the Miri. The reason as observed by Gindu Borang is that, there is a saying on such detection:

“Rokyine Yinme ko; Limeye Menggong ko.” It means “Divination from chicken livers is not always true, divination from pebbles always swings” (Borang, 2013:135).

Therefore, the Kebang generally do not accept the findings of the Miri and try to solve the case with some concrete evidences. If the accused do not accept his guilt and makes counter challenge, the Kebang permits him to do Peki (Oath) or perform Amki (Ordeal). The Miris decision backed by Oath and Ordeals is helpful for detection of the guilty because the wrong doer gets scared of the possible suffering to be inflicted by Donyipolo, the supreme being and the upholder of truth, justice and wisdom (Borang, 2013:135-36).

2. Peki (Oath) and Amki (Ordeals)

Peki (Oath): Peki is sworn in the name of Donyipolo³ and it is known as Donyipolo pekisunam. The Adis swear in the name of Donyipolo in the Kebang. In the words of Oshong Ering, “Ngo Donyi-Polo pe pedung: Ngo aro agom luye: Menam lumaye: Donyi-Polo e ngom kaye.” It means “I swear in the name of truth, that I will not speak untruth; that truth will guide me” (Ering, 1998: 49).

The believers faithfully seek divine help from Donyipolo to stand as witness of truth and justice. If a person is fully confident of non-guilty, he will utter

²According to Adi Mythology, the Liver is supposed to resemble the Ekkam (Leaf) in which Nibo (the father of all mankind) had wrapped up his wisdom before he went out on the swing and it was stolen by Robo (the father of evil spirits). So the liver is considered to possess the power of revealing the mysteries of the spirit land and that is why, the Miris consult livers of the sacrificed animals in divining the causes of diseases, detecting crimes etc. (Roy, Sachin, 1960 :233-34, 250).

³Talom Rukbo notes that the term Donyipolo has three meanings: Donyipolo (God)-Spiritual meaning; Donyi (Sun), Polo (Moon)-Physical meaning; Donyipolo Spirit (Yelam)-Faith-Philosophical meaning. Peki is done in the name of, Donyipolo, the Supreme being (Rukbo, Talom, 1998:58).

immediately by pointing towards Sun and say, “Ane Donyie kaalangka” which means may Donyipolo punish the liar (Rukbo, 1998:60).

If any adverse happens to the accused or the aggrieved as per the conditional swearing, he is held guilty and his lifelong physical and mental suffering is considered to be the punishment of his wrong doing. Swearing in the name of Donyipolo is applied in the cases of allegation, counter allegation, cheating etc. which are of less importance. It is not enough for crimes of serious nature or disputes over valuable properties. For crimes of serious nature Amki needs to be conducted, (Borang, 2013:137).

Amki (Ordeals): When a case like dispute over land and water, ownership of animals, planted trees, paternity of an unborn child etc. is undecided due to lack of proper evidence and witness or non acceptance of Kebang decision, contending parties seek permission to perform certain Ordeals in the name of Donyipolo to get final verdict from him. Ordeals are conducted under the supervision and direction of Kebang. Ordeals performed as per traditional and customary laws are known as Amki (Borang, 2013: 137).

There are different types of Amki meant for different cases like Kedeng doki (to swallow a lump of soil), Ambin yuki (to bury rice), Perok iyyi tingki (to drink fowls blood), Pakde dingki (to beat plantain tree), Rokpi yuki (taking out egg from boiling water in bamboo tube), Pakrang jitki (pouring molten lead on palm) and Eso amki (marking the ears of Mithun). Kedeng doki , Ambin yuki, Perok iyyi tingki, Pakde dingki are generally performed at the disputed site. Rokpi yuki, Pakrang jitki and Eso amki are held at permanent Amki venue of the village. Edung bangki(burning of bamboo tube), Yokmo tekki(to make an arrow tip from iron) and Toti-Bangko Bangki(to burn leaves of Toti and Bangko bushes) are held near the house of pregnant woman in question or Kebang place and rest are held at the places as decided by Kebang (Borang, 2013: 139).

In the trials by Amki the maternal uncle is the sole pillar of confidence of success and failure and the middle man conduct the performance as neutral body. After erecting the structure for placing the materials for Amki, the disputing party will stand face to face at 10(ten) to 12(twelve) feet distance. The maternal uncle will initiate the trial in presence of huge public gathering with the following words:

“Today, on this day, for truth and justice my nephew is challenging an opponent and I have been invited to stand behind him as pillar of hope. Be bold and courageous to face the challenge and

do not tell a lie. You almighty Donyipolo the ever vigilant power show the truth and justice in favour of any party who is in the right path and punish the liar,” (Rukbo, 1998:60-61).

Some of the Amki performed by the Adi people are discussed as under:

A. Eso Amki: In this ordeal the disputants dedicate one she mithun each to their cause and mark the ears of each others mithun as their own. After invoking the evil spirits in the name of the Donyipolo the mithun is let loose in the jungle. The mithun belonging to the guilty is expected to die or lose their offspring at any time during the period three to five years. In case of denial of charges by the accused he may perform the ordeal one sided to prove his innocence. To get result out of Eso Amki the Kebang prescribes the period of two to five years depending upon the age of the Mithun dedicated for the purpose (Megu, 1990:122).

B. Kedeng Doki: This ordeal is prescribed only for land and water disputes, and is performed at the disputed site. In this ordeal the claimant select one man as Amki igena each to stand for their cause. Both Amki igena are required to take a lump of soil from the disputed site with ennok-take and perok iyyi (raw fermented millet, grated ginger and fowl blood). Calling Donyipolo by saying Donyi e Kalangka, to be a witness to the ordeal and to give justice, they swallow the mixed soil. It is believed that the wrong doer meets an early and tragic end within the prescribed period of one to five years (Borang, 2013: 141).

C. Rokpi Yuki: In case of a person charged with Theft he was made to pass through the ordeal of the egg in boiling water. In this ordeal, a large fire was kindled and a bamboo tube about a foot long, filled with water was placed on it. An egg was put into it when the water started boiling. The accused was directed to sit by the side of the fire with a fire screen to protect him from the heat. He was asked to approach the tube covering him from the heat of the fire with the fire screen when the water was boiling. He had to put his hand into the tube to bring out the egg. If he came out unhurt, he was believed to be innocent, and if found injured, he was declared guilty” (Mibang, 1994:49).

The description of an ordeal among the Adis has been given by J.F.Needham as follows:

A large fire having been kindled, it is fed until the flames reach the height of two or three feet. A bamboo chungu (tube), about one hat (cubit) long and not large enough to admit a man’s fist easily, is then filled with water, and into it, an egg having been dropped, the chungu is placed on the fire. The culprit then sits down by the fire in the company of one of his uncles (mothers brothers) and carries a fire screen about two feet square, made (by his uncle) from the leaves of a

creeper...,which contains a large quantity of watery sap and is consequently not inflammable. Just before the water in the chungga commences to boil, the culprit rises his feet, and repeats ‘Hear me ye heavens and ye sun! If I have really stolen this man’s (whatever it may be) cause my hand to be burnt, and donot permit the egg to leave chungga. If, however,on the other hand , I am not a thief, do not burn my hand, but permit me to take out the egg unscathed’ He then proceeds to endeavour to take the egg out of the chungga, protecting his face and from being burnt by means of the fire-screen, and all Adi’s assert and verily believe that if the experimenter is telling the truth, the egg will appear at the top of the chungga as soon as the water boils; but if it is lying, it will not, and he will consequently be unable to secure it (Elwin, 1959:288-89).

If the accused person succeeds in taking the egg out of the chungga, he was at once declared innocent and his accuser was ordered to give either one or two Eso (Mithun) for all he had gone through (Mibang, 1994: 50).

In one such ordeal of Rokpi Yuki, T.K Bhattacharjee had minutely examined the palm of both the men and found a faint burning sign on one hand and nothing abnormal was found on the other’s hand. He writes,

“It remained a puzzle to me as to why a blister did not appear when hand dipped in boiling water...people even say that nothing even happen to the innocent person even in the severe test of ordeal where molten lead is put on the palm”(Bhattacharjee, 1987:236).

D. Pakrang Jitki: Here two lumps of lead are heated in an iron pan till it gets melted. The molten lead is put on the palms of accused and the aggrieved. It is believed that the palm of the guilty person would get burnt while innocent remains unhurt. The consequence of this ordeal is seen just after its performance. Sometimes the accused may perform it on self to prove his innocence (Borang, 2013: 141).

E. Ambin Yuki: It is an ordeal prescribed for land and water boundary disputes. In it, the Kebang asks both the claimants to bring handful of rice. The rice of each claimant is packed separately in Tan leaves, believed to have been originated from the land of Kine Nane. Members of Kebang and claimants go to the disputed site. Kebang asks each of the claimants to put up a stick to point out the place where he claims the boundary to exist. Kebang members bury the rice packet at the places indicated by respective claimants and invoke Tusin Rodong, the guardian deity of land and water to eat up the rice belonging to wrong claimant. Restrictions are imposed for a stipulated period in the area where rice packets are buried. After the prescribed time

Kebang members and claimants revisit the spot, unearth the packets and examine the rice grains to find out loss or defacement. If any rice packet is found to have suffered loss or defacement, its owner is held guilty and the boundary is fixed on the other side where the packet did not suffer loss or damage (Borang, 2013: 141).

Ordeals are directed by and undergo under the supervision of the council. But the council must procure the consent of both the parties before prescribing it. This leaves an opportunity for either of the parties, especially if it has reason to fear divine judgement, to get out of the difficulty without any damage to its prestige and blemish to its character (Roy, 1960: 222).

Crime and Punishment

The notion of crime and punishment vary greatly in different societies. There are differences in the ideas of guilt and punishment according to tribal and modern law. For the Adi people, for any crime committed, the responsibility usually rests upon the family, clan or village just as much as on the individual. Dalton noted these long ago in 1885 as “The crime of an individual is treated as a public disgrace to be atoned for by all” (Elwin, 1959:263). Even today if a man, guilty of an offence, cannot pay the compensation demanded, his clansmen may club together to pay it, not so much out of kindness but because the other party may penalize them equally with the actual offender (Elwin, 2007:29).

Among the Adi's, the object of awarding punishment is to check breach of their customs and practices, to check crime and reform the law breakers and to compensate the aggrieved of his loss or damage. Some examples of Punishment for certain crimes are explained below:

1. Theft

In case of Doppyong-Ti:si (theft), the person who has committed the crime has to return the stolen property plus one more of the same kind of property stolen. According to Adi Kebang Ayon, the accused has to pay an Adum dumke in addition to the fine (ABK, 2017: 63). If the accused cannot pay the Adum Dumke, an amount of Rs 12500/- has to be paid as fine. It is the rate fixed by Adi Bane Kebang.

2. Adultery

In case of adultery leading to divorce, if it is the woman's fault, she is not entitled to get any share of movable properties of her husband. If the husband is at fault, she is entitled to receive

some part of movable properties of her husband. Immovable properties always remain with her husband.

3. Assault

In case of assault, compensation is usually commensurate with the injury inflicted. According to the Adi Ayon Kebang, for an assault a fine of an Adum is to be paid. If the accuse cannot pay the Adum, the Adi Bane Kebang has fixed an amount of Rs 25000/- which is to be paid in its place. If the assault is by a group, each of them has to pay a fine of an Adum and also has to pay all the medical expenses (ABK, 2017:57).

4. Murder

Murder is considered as the most heinous crime. In earlier time, the rule of eye for an eye was followed. Killing of a man to avenge murder was not considered a crime rather it was considered a fulfilment of the sacred and moral obligation of the deceased kinsmen or the tribe. Murder for revenge was declared illegal only after the British government started administering the Adi areas after the Anglo-Abor War of 1911-12. As a result, nowadays murder cases are brought before the Kebang for adjudication of justice. The savage punishment systems of earlier days have almost disappeared and the universal custom for the councils is to demand compensation for every type of offence. It is compensated with the heaviest amount possible.

In recent times, according to Adi Kebang Ayon, if a person is murdered intentionally, the accused has to pay a compensation of Dum-ying akngo or an amount of Rs 12, 50,000/- (twelve lakhs and fifty thousand) as fixed by Adi Bane Kebang. In addition, an Adum (for Taleng Dumten (eternal pillow for the deceased) and for Yenne-Ko:ten a fine of Adum has to be paid. If the death of a person happened unintentionally, Dum-ying annyí or an amount of Rs 500000/- (five lakhs) has to be given to the aggrieved person as compensation as fixed by Adi Bane Kebang. In such case, to receive or not to accept the compensation shall rest with the aggrieved family only (ABK, 2017:50). It is to be noted that if the guilty is unable to pay the Midum (compensation) as well as the penalty imposed by the Kebang, the whole clan members and allied groups contribute the required amount to be paid to the family of the victim.

It is to be observed that the most common way of settling disputes or punishing crime has always been by multiple restitution. If anyone stole a Mithun and was discovered, as he usually was, he was compelled to restore the original Mithun or its equivalent and give another Mithun as compensation. He had to also assist in providing food and beer for the members of the council

who tried his case, and he often had to provide animals for sacrifice. This system applied to almost every kind of offence and in some cases the amount of restitution was worked out in considerable detail (Elwin, 2007: 33).

The advantage of a system of compensation or restitution is that it does not involve sending anyone to jail, with the almost inevitable corruption which this involves; it inflicts a serious material and psychological penalty on the offender; and justice is speedy, on the spot and visible to all. Yet it does not make him an outcaste from society or deprive the village community of his service (Elwin, 2007:37).

Conclusion

The *Kebang* has been performing as a Judiciary among the Adi's, apart from other executive, administrative, socio-cultural and functions relating to village security since time immemorial. Traditionally, it tried both Civil and Criminal cases. With the coming of modern administration its power and functions have been somewhat limited in certain spheres. Though the Assam Frontier (Administration of Justice) Regulation 1945 under Section 5 recognises the Village Councils but it has curtailed the powers of *Kebang* with regards to giving Capital and Corporal punishment. However, *Kebang* still tries Criminal cases like Murder and has settled many cases regarding it.

The *Kebang* still finds relevance among the Adi's because they find it simple and practical. It seeks to maintain and establish the traditional concepts of Justice without involving in lengthy legal procedures. There is speedy deliverance of Justice in the *Kebang* System. As a result, Sachin Roy notes that "Jurists may find it difficult to classify these laws in well defined legal categories but if the primary duty (of legal bodies) is to get rid of disputes before them, the laws evolved by this people must be acknowledge to fulfil that function" (Roy,1960:230). Therefore, understanding the importance of this village council in the administration of justice in Arunachal Pradesh, the Arunachal Pradesh Civil Courts Act 2021 under Section 2(d) and 3(e) has recognised it as a Customary Court among the different classes of Civil Courts in Arunachal Pradesh.

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