

should feel for his offence. The capital punishment is not effective to reduce crimes in Society.

The *KEBANG*: A Self-Governing Indigenous Institution of the Adi Tribe of Arunachal Pradesh

*Jumri Koyu*¹
*Pradeep Singh*²

Abstract

Besides being a land of rising sun, the Arunachal Pradesh is having so many diverse dispute resolution mechanisms, which runs parallel to the adversarial courts. The Kebang of the Adi tribe is one such indigenous traditional system, which also looks after the day-to-day affairs of the Adi villages. Unlike courts, the Adi Kebang is a non-adversarial justice delivery system having belief in amicable settlement of the disputes outside the courts. The present paper is an attempt to make readers understand about the working of Kebang in a very simple and lucid manner. The research study also reflects some views that testifies the relevance of Kebang system in the present times.

Keywords: *Kebang, Adi, Non-Adversarial, Amicable Settlement, Local Self-Government.*

I. Introduction

Arunachal Pradesh is the largest State in terms of geographical area in the North-Eastern part of India covering an area of 83743 sq. km. The State stands out for its unique and distinct tribal traditions and customs. The varied tribes and sub-tribes makes the state a colourful showcase of diverse culture and tradition. The tribes of Arunachal Pradesh have their own traditional system of administration looking after daily affairs of their villages. The amalgamation of varied culture and distinct traditions along with its unique customary practices shows the presence of varied legal enforcement mechanisms in the State. The State experiences different indigenous village councils that run parallel to the conventional courts in India. The *Kebang* of the *Adi* tribe is one such indigenous

¹Research Scholar/ICSSR Fellow, Department of Law, Central University of Haryana

²Assistant Professor, Department of Law, Central University of Haryana.

traditional court system looking after the administration of justice in the *Adi* inhabited areas.

The historical study of *Adi* tribe tells that the tribal society never was under any extraneous authority. They did not have any king, ruler or even know of chieftainship. The *Adi* villages were and until today are an independent unit having their own self-administration system. Their daily village affairs are governed by an indigenous local self-government called '*Kebang*'. This local self-government has been recognised as 'village authority' under Section 5 of the Assam Frontier (Administration of Justice) Regulation 1945. The indigenous institution looks after the social, economic, and political life of the *Adi* villages. It is also bestowed with judicial power to adjudicate disputes. In a Joint Conference of the Chief Ministers and Chief Justices of High Courts at New Delhi³, Justice Altamas Kabir (the then Chief Justice of India) and Mr. Ashwini Kumar (the then Union Law Minister) were of all praise for the performance of Arunachal Pradesh after an overall assessment of the judicial system of the country. Justice Altamas Kabir was in agreement with the assertion of Mr. Nabam Tuki (the then Chief Minister of Arunachal Pradesh) on the tremendous working of the traditional *Kebang* system for covering the judicial needs of the tribal area backing in a negligible number of pending cases in the State.

II. Who the Adis are?

Adi means people residing in the hills. Even today the tribesmen of foothills, if



Figure 1- File photo of *Adi* women performing *ponung* dance (ballad) at Poblung village Dere, Lower-Dibang Valley District. (Dated- 26/11/2018).

has to travel to the hill part of the *Adi* inhabited place, they say- "*Adi danpeendak*" means "moving towards the hills". The *Adis* proudly call themselves people of the hills. The Assamese called the hill tribes as '*Abors*' which means 'unruly or disobedient'⁴. Later on, the term '*Abor*' being derogative was

replaced by '*Adi*' to get its own high court available at:

<https://economictimes.indiatimes.com/news/politics-and-nation/arunachal-pradesh-to-get-its-own-high-court/articleshow/19443895.cms> (last visited on August 11, 2019)

⁴VERRIER ELWIN, A PHILOSOPHY FOR NEFA 17 (M/s. Frontier Printers & Publishers, Itanagar, 1st edn.,1957).

resented by the tribal group and themselves suggested to call them *Adisor* hill men⁵. “*Abor* have always been a proud, independent people, resentful of interference and suspicious of strangers”⁶ writes Mr. Elwin. The author still remembers his older Schedule Tribe Certificate given by the office of the Deputy Commissioner, East-Siang district where it was written ‘belongs to Abor Gallong tribe’.

The *Adi* tribe is one of the major tribe in the state of Arunachal Pradesh. The *Adi* inhabiting places in the state of Arunachal Pradesh are the districts of Siang, East-Siang, West-Siang, Upper Siang, Lower-Dibang Valley and some parts of Lower-Siang, Shi Yomi districts and Lohit districts. These tribal groups belongs to the Tibeto-Burmese⁷ ethnic group. The *Adis* have a mythological belief of mapping out their origin and proudly calling themselves the descendants of *Abo Tani*- the first man who was again the descendant of *PedongNane*- the great granddaughter of *Sedi Melo* (the creator). There are different tribes belonging to the same ethnic group claiming to have a common origin, performing and celebrating similar kind of festivals and rituals. These people belonging from the same ethnic group are called the sub-tribes of the *Adi*. These sub-tribes are: *Minyong, Pasi, Padam, Bori, Bokar, Karko, Simong, Panggi, Milang, Pailibo, Ramo, and Adi Samoa*. They are bonded to one another through the indigenous political institution by means of social *Kebang* and judicial *Kebang* (brief discussion made in the succeeding pages).

III. What is *Kebang*?

The term ‘*Kebang*’ denotes a pluralistic character. It is a village council consisting of elderly members sharing opinion on certain issues of a village. In simple terms a *Kebang* is an assembly of villagers to address issues relating to their village. Therefore, no single person can constitute a *Kebang*.

Kebang is a unique and distinct way of administering the social, economic and political life of an *Adi* village. This village council system has been in practice

⁵Idat 18.

⁶Idat 17.

⁷DR. D. PANDEY, HISTORY OF ARUNACHAL PRADESH¹⁰ (Bani Mandir Publishing House, Pasighat, 5th edn., 2012).

since time immemorial. The village council runs administration according to the traditions, customs and conventions of the *Adis*. These traditions, customs and conventions in want of script do not have any written record. Thus, were orally handed down from a generation to other generation in the form of proverbs, sayings, *ponungs* (ballads), *abangs*(religious literature mainly represented by rhapsodies).

The *Adi Kebang* also has judicial power to try cases of both civil and criminal nature. Like that of a Lok Adalat, the *Adi Kebang* system is an instrument of Alternative Dispute Resolution. It is a non-adversarial traditional village council system; where disputing parties approach, to have an amicable settlement. The tribesmen prefer going to the *Kebang* for seeking justice instead of approaching the formal courts. The traditional court system believes in more of a compensation than inflicting physical punishment on one found guilty of an offence. The *Adi Kebang* since ages have the practice of mediation and conciliation providing a platform to disputing parties to have an amicable settlement. The supporting provisions of the Code of Civil procedure, 1908 (as inserted by Act No.46 of 1999 w.e.f. 1.7.2002) and as rightly interpreted by Supreme Court of India in the case of *Afcons Infrastructure Limited v. Cherian Varkey Construction Company Private Limited*⁸ for making use of alternative dispute resolution mechanism also substantiate the working of *Kebang*.

Section 89(1) of the Code of Civil procedure, 1908 provides for an option of outside court settlement. Section 89 (1) reads as follows:

“Where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties, the Court shall formulate the terms of settlement and give them to the parties for their observations and after receiving the observations of the parties, the Court may reformulate the terms of a possible settlement and refer the same for- (a) arbitration;

(b) conciliation; (c) judicial settlement including settlement through Lok Adalat; or (d) mediation.”

In the context of the above mentioned provisions under Section 89 (1) read with corresponding Rules viz. Order 10 Rules 1-A, 1-B & 1-C of the Code of Civil

⁸2010 (8) SCC 24.

Procedure, the Courts in the State always have an option for an amicable outside court settlement.

A *Kebang* headed by village elders called '*KebangAbus*' and assisted by other experienced member of a village. A person becomes *Kebang Abu* by virtue of his wisdom, knowledge of customary legal practices, good oratory power, and integrity. The ability and experience of *KebangAbus* guided by customary practices and conventions helps them to present and decide matters/disputes on merits. Anyone who deviates from right path, disturbing the peace and tranquillity of village is punished by *Kebang* by way of fines and compensation. The *Adi* believe that the decision arrived at and the judgment pronounced by a *Kebang* is impartial as they consider the same as collective decision of village community. There can be seen the presence of precedence of earlier judgments as village elders habitually cite ancestral practice of deciding a particular matter. A *Kebang* in no way deviates from customary practices except some changes brought in line with the modern legal system and changing dimensions of the society. Dr. D. Pandey asserts that: "the *Kebang* operates on the principle of unquestionable loyalty to the village community and customary laws".⁹

IV. Broader Understanding of *Kebang* System

Kebang is not limited to adjudication of disputes between parties. It is rather, as discussed earlier, a traditional local self-government which looks after everyday affairs of a village, may it be social, economic or political. Therefore, the *Kebang* system can be understood into two broad sense based on its existence in the *Adi* society viz. social *Kebang* and judicial *Kebang*. Social *Kebang* in its sense can be understood as a meeting or a village gathering. The entire village activities including the developmental works of a village is administered by a *Kebang*. It determines the rights and obligations of the villagers. A *Kebang* is called to discuss the affairs of a village pertaining to community fence, community hunting and fishing, cleanliness of village, festival celebration, utilization of village fund etc. A *Kebang* imposes fine on village members failing to participate in community works. It also hold a meeting to discuss matters relating to overall development of the *Adi* community within and

⁹DR. D. PANDEY, HISTORY OF ARUNACHAL PRADESH 215 (Bani Mandir Publishing House, Pasighat, 5th edn., 2012).

outside the State which is taken care of by the *Adi Bane Kebang* (Supreme Council of the *Adis*). On other hand, *Judicial Kebang*, as the term signifies, is a gathering of village council to adjudicate disputes between parties. However, there is an important difference between the two *Kebang*. In a social *Kebang* every member of a village has a right to speak and share his opinion as a participant in the meeting or the gathering; whereas in a judicial *Kebang* only the *Gaon Burahs/Gaon Burihs* and those whose name is listed (persons related to the matter) have the right to speak. The *Kebang* system thus provides political justice to the village community by giving opportunity to every village member to participate in the self-governing institution.

V. *Adi Kebang Ayon* (AKA)

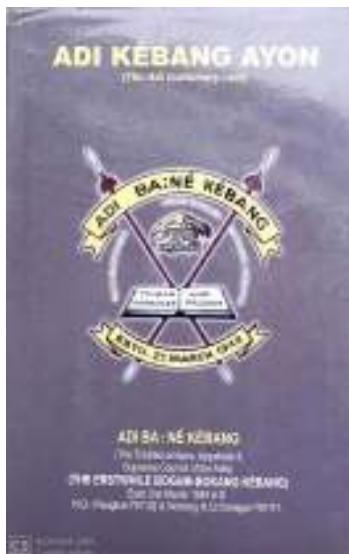


Figure 2- Cover Page of *Adi Kebang Ayon*

The *Adi Kebang Ayon* is the written form of the customary laws of the *Adi* tribe. It is maintained under Section 1 (a) of AKA that it be called as the *Adi Kebang Ayon, 2012* (the Drafting Committee of the *Adi Bane Kebang*, the traditional supreme council of the *Adis* started its work in this year). The *Adi Kebang Ayon* as a written form of customary laws is the result of the *Adi Bane Kebang* Conference held at Tuting of Upper-Siang District on 16/01/2014. It is maintained by the *Adi Bane Kebang* that the provisions in the AKA be strictly adhered to in *Kebang* proceedings of the *Adis*. The *Adis* of different places had slight different form of rules in terms of fines, compensation and punishment; Therefore, in order to bring out a uniform law governing every *Adi* and to uphold

their unity the AKA was created. The AKA has been amended only once so far and is known as “**Adi Kebang Igenana Ayon, (Ijun Kunam), 2017**” (Rules of *Adi* Customary Law, (Amended), 2017).

Field study by the author revealed that the *AKA* translated in English language is put before the State Government of Arunachal Pradesh for its recognition and codification as *Adi* customary law in the recent times.

VI. Understanding *Gaon Burahs* and *Gaon Burihs*

Gaon Burahs and *Gaon Burihs* (herein after as *GBs*) as the name suggests are the village elderly men and women having good knowledge of customary practices and having a good oratory power. They are village elders appointed by Deputy Commissioner under Section 5 of the Assam Frontier (Administration of Justice) Regulation 1945. The persons to be appointed as *GBs* are voted through raising of hands by villagers in presence of Circle Officer or other officials delegated by Deputy Commissioner. The Regulation under Section 5 specifically does not mention the term *GBs* rather it provides for ‘village authority’. *GBs* are authorised by the Government to assist a Deputy Commissioner in the administration of villages. They play a vital role in the governance of the State. Even during British India, the *GBs* along with the *Kotok is* (Political Interpreters or popularly known as PI) played a vital role in the governance of the tribal areas.

The terminology *Gaon Burah* is not native to the state of Arunachal Pradesh. It is an Assamese connotation of village elderly man. The term seems to have inculcated in the customary system as being called by the Assamese people of the plain. This is because until 1972 when the state was rechristened from North-East Frontier Agency to Arunachal Pradesh and given the status of a Union Territory the region was a part of tribal area of Assam.

Traditionally speaking, the ancient *Adi* society had village elders called ‘*Milum*’ who guided and looked after the village administration. *Milum* are those elderly persons having good knowledge of customary practices and usages. While dealing with a matter they often referred to proverbs and sayings, which were deep rooted in the *Adi* societies since ages. This knowledge of *Milum* probably came from extensive personal experiences in *Kebang* proceedings and most importantly the careful hearing of teachings imparted by the elders. With the advent of British in the region and framing of the Regulation 1945 the customary system was recognised and given the status of ‘village authority’ as an institution; And henceforth deriving the term *Gaon Burah* in the traditional

system. The letter of recognition (*GB Certificate*) on appointment as village authority by Deputy Commissioner also maintains the term *Gaon Burah/Gaon Burih*.

An *Adi* village comprises of as many *GBs* depending upon the population size of village. Where, in a village, there are more than 2 (two) *GBs* there is a Head *Gaon Burih/Burih*. The rule for permissible number of *GBs* in a village is given under Section 22 (4) of the *AKA* which provides-

- In 100 (one hundred) people a single *GB*.
- In 150 (one hundred and fifty) people two *GBs*.
- A village may have at the most 10 (ten) *GBs*.
- A village may have more than 10 (ten) *GBs* if it exceeds 1500 people.

The *GBs* and Head *GBs* get a monthly honorarium of ₹1500/- and ₹2000/- respectively from the State government. They also get an amount of ₹2000/- every two years for the purchase of Red Coat.

VII. Importance of Red Coat in *Kebang*



Figure 3- File photo after a *Kebang* hearing at village Takilalung, East-Siang District, Arunachal Pradesh (Dated-14/11/2018).

Whenever a *Kebang* is called, the *Gaon Burahs* and *Gaon Burih*s are required to come in a Red Coat given to them by the District Administration. This red coat is the dress code of the village authority. It is commonly known as '*galiing*' in the *Adi* inhabited areas. Donning of the Red Coat commands a great respect in *Adi* society.

VIII. *Dere/Moshup*



Figure 4- Rayang village Dere, East-Siang District, Arunachal Pradesh (File pic by author on field work).

The proceedings of a *Kebang* is held in *Dere/Moshup*(Community Hall). It is a generally a rectangular structure building with a platform like that of a stage in an auditorium. It has also fire place/places. *Dere/Moshup* is generally constructed at the centre of a village. All the village activities, may it be social, cultural, political or judicial takes place in the *Dere/Moshup*. The *Adis* believe that the *guminsoyin* (village spirit) and the spirit of the village elders resides in the *Dere* and looks after the *Kebang* proceedings.

It is pertinent to mention here that not every dispute is heard inside a *Dere*. Cases of such nature that may pollute the divinity of a *Dere* are heard in an open area and never brought up in a *Dere/Moshup*.

IX. Structure of *Kebang*

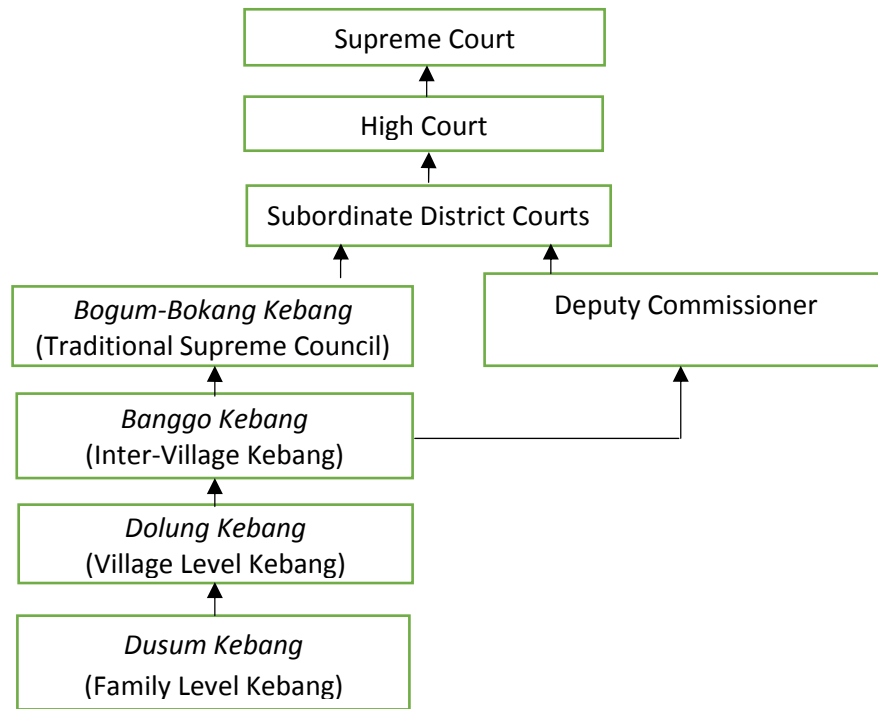


Figure 5- Appeal in order of hierarchy

The ancient *Adi* villages as were single independent units knew only their village councils (*DolungKebang*). There was no other *Kebang* classification. With the changing situation, other levels of *Kebang* came into existence. The *Adis* say that these new forms of *Kebang* came into existence as a necessity of growing suspicion because of the extension of British regime in the region. Therefore, to have a better understanding of the working of *Kebang* system at different levels as per the present practice it is good to understand its nomenclature, which is classified into:

i. DusumKebang

DusumKebang is the smallest unit of *Kebang* system. It is a form of *Kebang* adjudication where parties without bringing out their dispute to the village community try to settle within the family. The elders of families and neighborhood take part in the *Kebang* proceedings. Disputes such as theft, marital disputes, adultery, family property and land dispute, etc. are tried to be settled within the families. The *AKA* Section 4 (1) (d) provides that there is a chairperson heading the *Kebang* proceedings with 15 other members participating in it. If the matter fails to be resolved within the family then it is brought before the *DolungKebang*. It is important to note here that a *DusumKebang* is an endeavor of parties to settle disputes within families as to uphold family dignity in the village, otherwise they are free to bring their matter before the *DolungKebang* (village council).

ii. DolungKebang

DolungKebang is a village level *Kebang* looking after the day-to-day affairs of village relating to social, economic and political life of people. Every adult members of a village participates in the *DolungKebang* irrespective of rich and poor, and gender bias. In *Adi* societies it is the most effective form of *Kebang*. It has been taking care of village administration since ages and is independent of any external influence. Not only this, the village councils play a significant role in maintaining its relation with other neighboring villages. It is the *Kebang* which promulgated laws and issued ordinances when other forms of *Kebang* was still not known. From the history of the *Adi* tribe one could sense enormous role of *DolungKebang* dedicating their time and energy for the smooth functioning of the village administration. It not only guides village community in social and cultural activities but also adjudicates disputes between parties.

With some exceptions in certain cases a *DolungKebang* is generally held at *Dere/Moshup* (community hall). It is headed and guided by *GBs* of a particular village and no outsider is allowed in the *Kebang* deliberation. The Head *GB* of a village presides as the chairperson in the village level *Kebang* proceedings. In the absence of Head *GB*, the Assistant Head *GB* and if both are absent then any one of the concern village *GB* presides on the chair. It is to be noted here that the *GBs* only sits to adjudicate a *Kebang* proceedings and do not take part in the *Kebang* debate. Only disputes involving parties and property from same village

are entertained by a *DolungKebang*. Section 19 (of criminal offences) and Section 40 (of civil suits) of the AFR also provides that a village authority to try cases involving person(s) accused if resident within the jurisdiction and are indigenous to the State. If disputing parties are from different villages then *Kebang* is held at the village where the cause of action arose or where the matter in question located. However, if agreed upon by everyone, the matter could be heard in the village of any one of the disputing parties. The jurisdiction and practice of the *Kebang* system is thus governed by the AFR 1945 and *AKA* (as provided under different provisions). During ancient times, village councils could declare war against other villages and also could punish convicts in heinous crimes with death penalty which after the AFR 1945 (Section 31) came under the jurisdiction of Deputy Commissioner and presently governed by the Indian legal provisions.

iii. **BanggoKebang**

Banggo in *Adi* means a territory constituting of many villages. The English translation of a *Banggo* can be said to be a territorial Circle. *BanggoKebang* is a council dealing with inter-village matters. Section 4(3)(a) of the *AKA* provides that the council constitutes of at least 10GBs belonging from different villages. A Head GB of any one of the village within the *Banggo* sits as a Chairperson in the *Kebang* proceedings. A *BanggoKebang* is generally called for when disputing parties or the property in question involves two villages, and the matter could not be resolved in *DolungKebang*. Under Section 4 (3) (d) of the *AKA*, for a *BanggoKebang* to be held it is important that the same be informed to the Additional Deputy Commissioner through *Banggo* Secretary who thereby will call for the *Kebang*. The notice for conducting the *Kebang* with date and venue is provided well in advance to the disputing parties and village authorities.

iv. **Bogum Bokang Kebang**

Bogum Bokang Kebang (hereinafter referred to as **BBK**) is the highest appellate forum for adjudication of disputes in appeal. The disputes which could not be resolved by *BanggoKebang* comes in appeal before the **BBK**. It is a *Kebang* composition of different *Banggos*/Blocks. The cases involving two or more

villages, and matters where *DolungKebang* and *BanggoKebang* are undermined are brought before the *BBK*. It is a body constituting of President, Secretary and other office bearers. However, it's office bearers don't participate as judge in the adjudication proceedings but cause the conduct of the *Kebang*. Section 4 (3) (h) of the *AKA* provides that, for a *Bogum Bokang Kebang* to be held it is important that a letter be sent to the President of the *BBK* with the decisions of the *BanggoKebang*, and the same is accepted. The President/Vice President/Secretary of the *BBK* sits as the chairperson in the *Kebang* proceedings, and in their absence an elderly Head *GB* chairs the proceedings. It constitutes of at least 10 *Gaon Burahs* and *Gaon Burihs* as judge. All the disputes relating to the *Adis* is taken care of by the *Bogum Bokang Kebang*.

v. Adi Bane Kebang

Adi Bane Kebang(hereinafter *ABK*) is the Apex and Supreme Council of the *Adis*. It is like a Non-Governmental Organization which looks after the development and welfare of the whole *Adi* societies. It is an Organization consisting of President, Vice President, Secretary General, Treasurer and other office bearers. The *ABK* has sub-ordinate bodies like the *ABK* Women Wing and the *ABK* Youth Wing. Any representation of the *Adis* before the state machinery is brought by the *ABK*. The adjudication of disputes by *DolungKebang* or *BanggoKebang* unless is contradictory to the common law practice of the *Adis*, is not interfered by the *ABK*. If there is any conflict between the *Adis* and other tribes of the State or the neighboring States, the *ABK* plays an important role in resolving the same. The *ABK* holds meetings occasionally as and when required.

It is pertinent to put here that there has been always a doubt of simultaneous existence of the *Bogum Bokang Kebang* and the *Adi Bane Kebang*, there power and functioning. It is always misunderstood that the *ABK* is the highest appellate body against the decisions of the village councils (*DolungKebang* and *BanggoKebang*). To make out a simple understanding, the *Adi Bane Kebang* and the *Bogum Bokang Kebang* are the two sides of a coin. The only difference is that while the *ABK* deals in with the social issues relating to whole of the *Adis*, the *BBK* deals with the judicial aspects in appeal. It is also pertinent to mention here that a *Bogum Bokang Kebang* cannot be held without the presence of village authorities (*Gaon Burahs* and *Gaon Burihs*) from the hamlets of

*Galo*¹⁰ community as the term ‘*bogum*’ denotes ‘*Galos*’. This was told to the author by Mr. Taging Taki (former Secretary General of the *ABK* and an Ex Zila Parishad Member) in an interview on 9th November, 2018. Still there exists confusions and debates regarding the power sharing and functions of the *ABK* and *BBK* which requires a sound debate from all stakeholders of the *Adi* community.

X. Punishment System in *Kebang*

An *Adi Kebang* believes in ‘compensation’ than to inflict physical harm on the one found guilty of an offence. The *Adi* belief that a wrong done to a person cannot be undone; but for the larger interest of the disputing parties in particular and the village community in general, a compromise can be entered into by way of compensating the victim by the wrong doer. This compensation during olden days was in terms of *tadok* (traditional beads), *Adam* (traditional brass plates), Cattle, pig, goat, *Mithun* (*bos frontalis*) or a property equivalent to that of a wrong done. These way of compensation systems still exist; however, the modern day practice is that an equivalent amount in cash, in lieu of the above mentioned properties is handed over to the victim. Fines are imposed on parties if obstruct the proceedings of a *Kebangin* an unruly manner, violating any specific law provided under the *Adi Kebang Ayon*, abstaining oneself from community services, acts or omissions affecting the peace and order of whole village etc.

XI. *Kebang*: A Democratic Institution

The *Kebang* system has always been portrayed as a democratic political institution by various scholars and writers in the past. Mr. Bani Danggen on the democratic character of *Kebang* writes that: “Yes, it is democratic theoretically and practically. It is democratic in spirit, in origin and function. It acts

¹⁰ ‘*Galo*’ is one of the major tribes of Arunachal Pradesh. Until year 2000-2001 *Galo* was one of the sub-tribe of the *Adi* tribe.

democratically in every field of activity”¹¹. This democratic aspect of *Kebang* has to be seen from the mirror of the *Adi* societies. The history of *Adis* tells that there were *KebangAbus* who headed and guided the *Kebang* proceedings; a close look at the statement depicts the non-participation of women in the *Kebang* proceedings. The author during a field study was told by respondents/participants that women were not even allowed to sit inside a *Dere/Moshup*. Even after the advent of British in the region and the introduction of Assam Frontier (Administration of Justice) Regulation 1945, the status of women in relation to their participation in *Kebang* deliberation did not improve. This could be assumed from the fact that until recent years only the term ‘*GaonBurah*’ (village elderly men) prevailed in *Kebang* system. It is also to be noted here that the term ‘*Gaon Burih*’ could not find place even in the Certificates of appointment by the Deputy Commissioner for this long time. The term could find its place in the Certificates only in the first half of the year 2018. Before this, an overwrite can be seen in the Certificates of few new generation of women village authorities. An interview with Mr. TacheLombi, General Secretary of the Arunachal Pradesh *Gaon Burahs* and *Gaon Burihs* Association also revealed that the term ‘*Gaon Burihs*’ was added recently in the name of the Association in order to encourage more women’s participation in the traditional court systems of the State.

The terms ‘*Kebang Abu*’ and ‘*Gaon Burah*’ as discussed earlier in this paper itself is discriminatory. Both reflects only the representation of male members of a village.

The tag of democratic institution was given even after the non-participation of women in the *Kebang* system. It is to be noted here that the term ‘democracy’ meaning ‘the people’ is a connotation of the opinion of the majority. But in the practice of *Adi Kebang* there was complete absence of women participation. Women and *pagbos* (slave) in *Adi* society were never considered to be part of the *Kebang* system. The status of *pagbos* were little better than that of the women as the *pagbos* could represent their master in *Kebang* if authorised to do

¹¹BANI DUNGGEN, THE KEBANG: A UNIQUE INDIGENOUS POLITICAL INSTITUTION OF THE ADIS51 (Himalayan Publishers, 1st edn., 2003).

so. An author in article on *Kebang* of the *Adis* of Arunachal Pradesh¹² very aptly made a vertical division of *Adi* society in respect of *Kebang* into two groups viz. (i) adult male and (ii) women and *pagbos*. The author concludes his research article while saying that: “the *Adi Kebang* seemed to have been constituted with the rich and influential members of the society in total exclusion of women and slaves. It is, perhaps, justified to call an *Adi Kebang* a partial democracy with lenience toward oligarchy”.

The status of women’s participation in *Kebang* even after the introduction of modern laws in the region did not improve until recent years. It was only in the year 1998 that for the first time a woman Ms. YameTapak was appointed as a



Figure 6- The author with Ms. YameTapak (*Gaon Buri*, Rani village, East-Siang District, Arunachal Pradesh, Dated- 12/11/2018).

Gaon Burih of Rani village. An interview (12th Nov. 2018) with her revealed that her participation in *Kebang* was not very much welcomed by her male counterparts. However, there is a wind of change in the present time as field study reveals that there is a positive response from all walks of *Adi* society for women’s participation in *Kebang*. During the field study the author was told that the present *Adi* society is accepting and encouraging women’s participation in *Kebang* system.

XII. *Kebang* and the Natural Justice Principles

When we say Natural Justice Principles, it is always understood that it involves two things viz. (i) right to be heard (*audi alteram partem*) and (ii) rule against

¹²*Kebang* of the *Adis* of Arunachal Pradesh: A Study of its Democratic Aspects, available at: <https://www.articonews.com/study-of-kebang-of-adis-of-arunachal-pradesh-india> (last visited on August 19, 2019).

bias (*nemo judex in causa sua*). These principles are the reflections of the 'equality before law and equal protection of law' provided under the Constitution of India. When we apply these principles in the practice of *Kebang*, the very first impression is that the principles have a significant place in the traditional system. However, field study conducted by the author creates a little doubt to this view. The study reveals that the *Kebang* system is blameworthy of corruption in different manner as informed by the respondents/participants. It is told that *GBs* in *Kebang* while adjudicating a dispute sometimes have clan considerations. They have a bias attitude favouring a disputing party if belonging from same clan. The *GBs* are also accused of gaining monetary considerations in lieu of a favourable decision for persons paying them in cash or in kind. This is opposing to the principle of rule against bias. An instance of bias attitude could be experienced by the author in a recent land dispute hearing wherein some *GBs* did not turn up the scheduled following second day *Kebang* hearing which could not be concluded the first day. The author asserts biasness here as only those *GBs* were absent the next day whose views were in favour of the complainant. The *GBs* had a duty not to be bias and participate in the *Kebang* deliberation the next day irrespective of their opinion on the first day, reason being the matter was referred back to the *Kebang* by the Additional Deputy Commissioner (ADC) to have their observations and decision.

The principle *audi alteram partem* does not simply mean a right of hearing rather it connotes a right that is fair and is devoid of fear against biasness. The fairness of hearing includes prior notice of the cases against them, a fair opportunity to answer them, and the opportunity to present their own cases¹³. The *Kebang* system without any doubt fulfils the requirement of giving prior notice and opportunity to the contending parties to present their side of the case. However, the study reveals that the *Kebang* system falls short of exacting this right to be heard. As per British Captain Dunbar: "the moot like method of shouting down any dissentient and so obtaining unanimity in the council is presumably adopted."¹⁴ This is what been told to the author by the respondents/participants during his field study also. This problem even though rare requires

¹³Natural Justice, available at:https://en.wikipedia.org/wiki/Natural_justice (last visited on August 11, 2019).

¹⁴*Supra* note 10.

timely intervention so that influential and rich do not undermine the system and justice prevails.

XIII. Conclusion

Social Engineering is not just a set of rules but is an instrument solving and harmonizing the conflicting interests by providing for maximum wants with minimum friction. This forms an idea of resolving disputes amicably without dragging it for a long period of time. The *Adi* also believes in the same context of an amicable settlement when they talk of the presence of *Kebang* in their society. They believe that unlike adversarial court system, where disputing parties fight for their rights, in *Kebang* system the parties seek for an amicable settlement. They also believe that the *Kebang* system protect the contending parties from having any bitter experience.

When Indian judiciary at different levels have crores of pending cases due to its long and tiresome proceedings, the right to speedy trial and getting justice becomes a distant dream. Further, the procrastination of court verdicts adds hindrance in getting access to justice. At this juncture customary legal practices like that of the *Adi Kebangcan* save the day. This traditional court system boasts of consuming much lesser time and energy building the confidence of the disputing parties. The systems alike *Kebang* if adopted in other parts of the country definitely it may give a shiver of relief to the already over-burdened Indian Judiciary.

Further, it has always been talk of the day regarding commercialised practices by the advocates, along with the sky rocketed fees which drains out the pocket of the one seeking justice adding woes to their agonies. In this regard also, the *Adi* believe that the *Kebang* system provides a cost effective speedy settlement.

It is again to put that when most of the people (both literate and illiterate) in India and particularly the tribes of Arunachal Pradesh are not familiar with the legal technicalities of adversarial court system, this simple way of traditional court system can give confidence to larger masses to approach the village authorities seeking for justice.

The *Kebang* way of village administration and adjudication of disputes makes it very distinct. Its importance and presence in the tribal society is worth

mentioning owing to its informal approach towards access to justice, which is again faster, cheaper and non-technical. The only check upon *Kebang* like traditional system should be to ensure the maximum democratisation in its functioning. With an inclusive democratisation, these systems of non-adversarial process are always welcome steps.