

**KARNATAKA STATE LAW UNIVERSITY**

**NAVANAGAR, HUBBALLI-25**



**MINOR RESEARCH PROJECT**

**ON NON-STATE JUDICIAL SYSTEMS PREVALENT IN  
DISTRICT OF CHIKAMAGALUR OF KARNATAKA  
STATE: WITH SPECIAL REFERENCE TO  
BUTHANATHESHWAR TEMPLE, RAJADEVI TEMPLE  
AND UJJAINI TEMPLE**

**FINAL REPORT SUBMITTED TO**

**THE REGISTRAR  
Karnataka State Law University  
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## DECLARATION

We hereby declare that, the Minor Research Project “**On Non-State Judicial Systems prevalent in District of Chikamagalur of Karnataka State: with special reference to Buthanatheshwar temple, Rajadevi temple, and Ujjaini temple**” is a bonafide record of research work carried out by us during the year 2019-2020. We further declare that the work presented in the report is original and carried out according to the guidelines of the ~~and~~ Karnataka State Law University, Hubballi-25.

  
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**Date:- 30-09-2021**

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# **Research project on Non-State Judicial Systems prevalent in District of Chikmagalur of Karnataka State: with special reference to Buthanatheshwar temple, Rajadevi temple, and Ujjaini temple**

## **1. INTRODUCTION:**

In various parts of the world, elders' groups and temple management committees, and *panchayats* play an important role in resolving disputes. Despite there being cultural and caste differences among these non-state authorities, some common features can be observed. If such institutions are not recognized by the state, they face certain amount of problems in relation with state authorities. The fact that such institutions are perceived as legitimate institutions by the local population would help in developing new strategies of making access to justice improved and building rule of law by including such informal justice institutions. This would help in meeting human rights standards. But visible changes may not be expected in the short term.<sup>1</sup>

Chikmagalur is a district in the State of Karnataka. Coffee was first cultivated in India in Chikmagalur. The Mountains in Chikmagalur which are a part of the Western Ghats are the source of rivers like Tunga and Bhadra. Mullayanagiri, which is the highest peak in Karnataka, is located in the district. It is also a tourist's paradise containing hill stations like Kemmanagundi and Kudremukh and waterfalls like Manikyadhara, Hebbe, Kallathigiri. Chikmagalur district has a rich history as seen in the Hoysala temple at Amrithapura. Wildlife enthusiasts would be interested in the

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<sup>1</sup> Tilman J. Röder, Informal Justice Systems: Challenges and Perspectives Available at [https://worldjusticeproject.org/sites/default/files/informal\\_justice\\_systems\\_roder.pdf](https://worldjusticeproject.org/sites/default/files/informal_justice_systems_roder.pdf), last visited on 24.5.2020

Kudremukh National Park and Bhadra Wildlife Sanctuary present in this district.

Socio-economic conditions of Chikamagaluru District: According to 2011 census 81% of the population resides in rural area of the district with the remaining 19% being the urban population. Agriculture is the economical back bone of the Chikmagalur district with coffee cultivation forming the major part of it. The district is backward as far as industrial development is concerned. This is due to poor roads, poor rail network and inadequate infrastructure.

With a view to understand non-state judicial dispute resolution systems or informal dispute resolution systems working in temples of chikamagalur district, we visited various temples and collected relevant materials, at Boothanatheshwara Temple, situated at Vlgerhalli which is about 15 to 20 kilometers away from Chikmagalur, and Rajya Devati temple situated at Chikmagaravalli village and temple situated at Ujjaini. People get their disputes resolved through the committees constituted at these temples. We are of the opinion that recording and reporting of the dispute resolution systems that are prevalent in these temples will be of great help in policy formulation by formal state agencies. Such systems are working for more than four centuries.

In Boothnatheshwara Temple, Valgerhalli village Chikmagalur taluk, the litigations between the parties are resolved through compromise between the parties with the help of temple management committee and in cases where compromise is not possible, parties to the litigation accept final verdict of the committee.

Research and field visit was started from the beginning (January) of 2019 and substantial information and relevant documents were collected before March 2020.

Information shared by the villagers: All the members of the village Chikkamagaravalli have believed that they all belong to one family and they are descendents of one common ancestor. Because of this sapinda relationship, they are not giving their daughters in marriage to their own village people. The villagers get their sons married only with outsiders i.e. other than their village people. In, Rajadevate and Buthanatheshwar temple, people with disputes visit on Saturday and Sunday. Women and people belonging to S.C./S.T category are not allowed to enter the temple premises of Rajadevate. But, there is no such restriction, as far as, entry into the temple of Boothanatheshwar, is concerned. Opposite party is invited through phone calls in Rajadevi Temple. Here also date is scheduled on which both parties have to be present to put forth their cases. Once the committee members hear the case, any one of them will be authorized, after having consultation and discussion, to announce the decision on behalf of the committee. The decision will be communicated to the parties. There is faith in the parties that if they do not follow the decision of the committee, they would face evil consequences. This type of faith in the committee is secured due to fear of god. To support this stand, one incident was narrated by the person who was a member of the temple committee at Rajya Devati temple, Chikkmagaravalli village. One person did not obey the advice given by temple committee in relation with one dispute. Because of this a cow belonging that person died due to electrocution. It was believed that the supernatural spirit of this deity had worked on him. Such incidents make the people of this locality to follow the advice of the temple committee.



## **2. HISTORICAL BACKGROUND**

This temple has rich heritage and its history relates back to 400 years. The people of this village used to go to Mangalore and other places by bullock-carts and sell their paddy, corns etc., and while returning back from Mangalore to Chikmagalur via Charmudi ghat, they used to pickup certain stones from Nethravathi river and by keeping such stone to the wheels of the bullock carts in order to restrict its movements, while they were resting and those stones were brought by them and also they had thrown the same in a vacant place of the said Velgaharahalli village. Things, being so at that time there was a famine and the leader of the Community, Gowda approached the Astrologer and he in turn suggested that, those thrown stones were to be arranged and pratistapana pooja to be conducted so that famine problem could be resolved, and if any problems arise in future they have to worship "Bhoothanatheswara". By adhering to the words of the said astrologer, the leader of the community and the people of localities named the temple as "Bhoothanatheswra Temple" since then, if any dispute arises, they can submit their grievances to Bhoothanatheswara Deity Sannidanna, so that, the said deity will appear in the dream of the concerned person, then he would appear before Bhoothanatheswra Sanidana and in the presence of the deity, the members of the committee will render justice to the parties.

## **3. DISPUTES REDRESSAL MECHANISM**

In Bhoothanatheswra Temple, on every Saturday disputes of the parties are getting resolved. Any person having a dispute can submit his grievance to the deity by paying Rs.50. towards notice charges and a receipt will be issued for the same, a notice will be issued to opposite party by fixing three dates (only Saturdays). In the said notice, the name of the party who has willingness to get his issue resolved is mentioned and it is also stated that

the opposite party (if willing) and with a free consent can appear before Nyaa peeta. There is no pressure or coercion.

After the due receipt of the said notice both the parties appear before the Nya peeta and after due enquiry if both the parties agree to the decision final verdict will be delivered. Every Saturday approximately 200 members appear before Nya peetam and get resolved their grievances. New cases will be registered only on Saturdays.

Our research assistant team has interviewed several parties both applicant and opponent and members of the Nyaa peetam and collected the above said information, 90% of the parties to the disputes have opined that they are satisfied with the judgment rendered by the Nya petam. The grievances are addressed very quickly and resolved.

#### **4. NATURE OF DISPUTES REDRESSED**

Majority of the disputes are relating to money recovery, family and land disputes. Sometimes cases pending in the courts are resolved through such non-state judicial systems. As for as, money recovery is concerned, only principal amount is permitted to be recovered. That is, no amount of interest money is directed to be recovered. Such similar type of practice is also observed amongst Hindus which is called as *damdupat* under Hindu legal system. This rule prohibits the recovery of the amount of interest at any one time in excess of the principal amount of the loan. In this type of non-state justice system, criminal cases like, rape cases, dowry cases, juvenile cases are not allowed but civil matter like money transactions, labour issues, wages problems etc., are taken up for resolution.

The people from Chikmagalur district and other districts and state of Tamilnadu, Maharastra and other states approach the temple for getting their issues resolved. People belonging to different caste, creed, and race go to

temple to get their disputes resolved by the temple committee. It shows that there is no discrimination on the ground of caste, religion and race by the temple committee.

## **5. OBJECTIVES:**

- a. To understand the working systems of non-state judicial systems in the District of Chikamagalur.
- b. To find out the relationship between state judicial systems and non-state judicial systems in the district of Chikamagalur.
- c. To assess the efficacy of the non-state judicial systems' justice delivery function to achieve the constitutionally ordained goals.

## **6. IMPORTANCE OF THE STUDY:**

Chikamagaluru district is basically peaceful district. Residents of this district are not inclined to approach the courts for resolution of their disputes. There was a need to conduct a study on the pattern of behavior of the people residing in the district as far as resolution of disputes is concerned. As a consequence of apparent failure of state justice delivery systems, instances of non-state justice systems such as believing in God and goddess for resolution of disputes have come into existence as a major forms of dispute resolution. The type of methods followed in resolving the disputes is different in three temples selected for study. Even though certain amount of similarity regarding procedure for resolving disputes is observed in these temples, there are unique characters found in the temples. As there is a need to understand and revive the strength of indigenous justice delivery systems in India, the study of functioning of temples and temple committees in the district of Chikamagalur in resolving the disputes assumes importance. Research was conducted with a view to bring to the notice of

policy makers that temple and temple committees have been working in favour of maintaining social harmony and peace in the society by resolving the disputes. It is very important to know about the nature, scope, structure and methods of these temple committees, so as to draw an inference in regard to their status in the overall administration of justice. It is also useful to understand that these systems can act as supplement systems to the main stream state judicial systems. In order to curb the activities of some anti-social elements who take advantage of poor litigants, this is an appropriate time to strengthen these non-state judicial systems in the form of support and recognition by the state.

## **7. LITERATURE REVIEW:**

Before approaching any research problem, one should be aware of the relevant literature already available so as to understand the stage from which research can be further carried on. With a view to have a better understanding of the research project, we have presented a brief review of literature here. Prof. Upendra Baxi in a monograph titled as 'Towards Sociology of Indian Law' published by Satvahan Publications New Delhi, refers to the implications of law as a social process. He states that dispute institutions and processes figure in ethnographic account only incidentally. Their significance to social stability and change is perceived only occasionally. He calls Non-State Justice Systems as people's law. He observes that there two broad complexes of norms, institutions and processes that exist in Indian society by which disputes are settled. One is indigenized and the inherited official national and regional legal systems and other one is traditional 'systems 'of local tribunals operating with customary law norms. Equally indubitably, these systems support and complement each other in a variety of ways (Iswaran, 1964; 241-43). Prof. Baxi discusses in chapter titled as People's Law, Development and Justice,

some the available literature in terms of description, explanation and evaluation. He opines that the case studies focusing on dispute processes are infrequent. According to him such studies should essentially focus on

1. Dispute processing structure,
2. Types of disputes involved
3. Process by which settlement structures were activated
4. Ways in which dispute matters were considered
5. Decision-making process by which substantive outcomes were reached
6. Types of sanctions attaching to substantive outcomes,
7. Ways of handling intransigent sanctionees,
8. Relationship of local system of dispute resolution with wider national legal system
9. Functions of local dispute settlement processes
10. Identification of recurrently applied rules, standards and precepts called as customary or local law.

Prof. Baxi mentions that there are three types of non-state judicial systems in rural India. One is caste based, second is community based and third is innovative, reformist non-state judicial system. The distinctions among these types of non-state judicial systems are explained in detail by the author. The author opines that the effectiveness of sanctions is an empirical question, which has not been closely examined in relation to non-state judicial systems. The author makes reference to Cohn's statement that "the way a people settles disputes is a part of its social structure and value system." He also makes reference to Kidder's failure of adjudicative ideal because of which there is over recourse and non recourse to courts. There is also reference to the relationship between "local laws way" and "lawyers' law". At the end of the chapter he raises certain relevant questions by analyzing Henderson-type critique of indigenous dispute settlement systems and by making reference to the study of avoidance of disputes.

Michael Dusche in his article<sup>2</sup> on Butas and Daivas as Justices in Tulu Nadu: Implications for the Philosophy of Law, explains about the relationship between

spirit-based justice system with a modern state-based legal system. Author is of the opinion that the continued existence of spirit-based justice systems in much of the post-colonial world falsifies the modernist view that only small and relatively undifferentiated groups are able to integrate by regulating behaviour through archaic religious institutions like spirits. He also argues that these spirits are efficacious institutions of justice. The author depicts the direct confrontation of the two justice systems, the spirit-based and the law-based by referring to one case that was adjudicated by a daiva in Kasargod. Author also refers to one ban on cock fight case to show that how villagers and police personal are equally afraid of daiva. There is also explanation about the concept of the "illocutionary" and "perlocutionary force" attributed to utterances and performances of rituals through which desired consequences ensured. It involves people of all castes so as to naturalise the social order of the village by making it tangible. The author makes an important observation that India never experienced a breakdown of its sacral-moral order comparable to the turmoil of the religious wars in early modern Europe and the secularisation thesis as promulgated by the fathers of modern sociology has proved fallacious in most of the world outside Europe, which continues to be staunchly religious in spite of its (different) modernity. He concludes that a spirit-based justice system ideal could legitimately be called a legal system, but he opted for calling it a justice system.

Tilmann J. Röder in his article on Informal Justice Systems: Challenges and Perspectives<sup>3</sup> opines that Informal Justice Systems (IJS)

<sup>2</sup> Available at <https://edoc.hu-berlin.de/bitstream/handle/18452/9166/53.pdf?sequence=1> last visited on 25.5.2020

  
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