

KARNATAKA STATE LAW UNIVERSITY

Navanagar, Hubballi- 580025

Sponsored

Minor Research Project on
Non State Justice Systems in Karnataka



**NYAYADAANA SYSTEM
AT
SHRI KSHETRA DHARMASTHALA**

Submitted by

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Report Submitted to:
Karnataka State Law University, Hubballi
2021


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CERTIFICATE

This is to certify that the minor research project entitled “NYAYADAANA SYSTEM AT SHRI KSHETRA DHARMASTHALA” is an original and independent research work carried out by us under my guidance and supervision.

Place : Mangaluru

Date : 23.09.2021



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DECLARATION

This minor research work titled “Nyayadaana System At Shri Kshetra Dharmasthala” is the bonafide work undertaken by me with my co investigators. Any part of this work is not reproduced or published



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CHAPTER I

INTRODUCTION

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1.1 General Introduction

Law and justice are the two faces of the same coin. Justice through western and institutional means is the prevailing system of dispensation in the countries with colonial background and common law traditions. This is technically called as 'adversarial system' where parties contest against each other and develop a sense of hostile feeling towards each other. The system places an undue emphasis on evidence; archaic procedures and is built on the edifice of precedents through hierarchy of courts. The outcome is unwillingly accepted by the parties which once again results in strained relationships between parties as in any typical judgment where there would invariably be a losing or winning phenomenon.

Indian tradition attaches much importance to Dharma. Dharma means the right way of life. It is not equivalent to religion. Religion is a mere outer manifestation of Dharma laying emphasis on practices and rituals. Dharma is based on the conscience of an individual. It is an effective thing which makes a man to surrender himself with all humility towards god. The well known proverb " Dharmo Rakshathi Rakshitaha" i.e. One who protects the Dharma in turn is protected by the dharma has served as the unwritten enduring law of all times.

Right from ancient times the determination of guilt of the accused was undertaken in different manners. When there is no human evidence to prove the wrong, the determination of offence was based on Divya (the English version of the same is called ordeal). These types of divyas are said to be prevalent in India and few African countries. Divya was said to be the last step of determination of offence. In the process of divya both the judge and the person said to undergo divya should maintain fasting a day before. On the day of divya, after taking bath in the early morning the disputing parties need to come before the judge upon whom the spirit of god assumes and the process of divyashoda begins. This practice of dispute settlement is manifested through different forms which are considered as Non State Adjudicating


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Systems. Hoylu is one such traditional non-state adjudication system that India developed and occupies a very significant place in dispensing justice.

1.2 Hoylu Meaning

Hoylu in Simple words means shout, raise, hue or cry. The 12th century Indian statesman, philosopher, Jagajyothi Shri Basavanna mentions about hoylu in his Vachanas. According to him, hoylu means prayer to God. But for a layman it appears to be a concept of tribal justice and is a request to supernatural power for aid or justice. It is offered by a person when he is cheated or deprived of his property by illegal or immoral means, he seeks the help of supernatural aid in recovering the lost property. In this process, the man who has given hoylu renders a payment to the spirit either in cash (a promised fixed sum or a percentage of the value of the restored property) or by giving a puja or animal sacrifice.

It is believed that the spirit causes harm to the wrong-doer and when this happens, the man who gave hoylu renders the payment as promised earlier. The spirit itself never does any harm but when a request is made by the man offering hoylu it is believed that the wrongdoer is punished. In the process of hoylu an intermediary known as shaman or priest entices the spirit on behalf of the client. The pattern of hoylu varies according to Caste, economic status and the motive of giver. The changing cultural pattern is also has an impact on the nature of hoylu offered .The offer made to sanskirt gods (satwik Gods) and the offers made to supernatural powers (non satwik gods) are different in terms of performance, practice and expectations . When hoylu is given to crude god or supernatural forces, or village Chaudi, the performance, practice, expectations and rewards are different.

The hoylu is practiced at different types in different set ups. Theory and Practice of giving hoylu vary according to the motive of the giver and the caste of the individual involved. For example at Thotagudde in North Western Mysore, the Havyakbrahmins offer Hoylu for land disputes and exceptionally for the loss of

movable items such as gold ornaments or brass vessels etc. On the other hand, the Sudras, the labour class offer hoylus to village Chaudis for loss of items of low value such loss of utensils or exceptionally for loss of gold as they have little affordability to the precious items such as gold . This shows that the nature of hoylu is corresponding to the nature of economic activities undertaken.

Hoylu involves psychological aspects too. The following factors can be cited to substantiate the nexus between hoylu and human psychology:

- a. Man fears God the most
- b. Every man has psychological inhibition when he has done something wrong.
- c. People believe that when anyone does the wrong, he fears due to his wrong and it may incur divine displeasure not only for him but also for his near and dear ones.
- d. Man has the tendency to set right his wrong when the occasion comes. Thus, he wait for this opportunity.

1.3. The Fundamentals of Hoylu

The following are the fundamentals of hoylu

- a. A person cheated/deprived sees that something has been taken from him by illegal or immoral means.
- b. He resorts to (appeal to)supernatural forces to aid or recover his lost property.
- c. The supernatural forces/spirit may harm the guilty party.
- d. The punishment ceases only after return of the property.
- e. When this happen, the man who has given hoylu returns the payment to the spirit in cash or percentage of the value of the property or as prayed during the offering of hoylu
- f. If the victim wants the wrongdoer to undergo punishment, the spirit directly doesn't resort to such action but it is done through the priest.


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- g. Hoylu doesn't require proof or evidence and the only evidence is the right conscience

1.4 Differences Between Hoylu and Other Similar Practices:

There are few systems/practices which have close resemblance with hoylu. A deep analysis of both practices bring out the following dissimilarities and differences between the both

1.4.1 Harake (Vow)

An appeal to the god which involves invoking the blessings of spirit to do the good is harake or vow. It is quite different from hoylu as;

- a. It is an appeal to the god to make good for one self. For e.g. couple craving for male/female child pray accordingly or the prayer to cure the person or domestic animal under ailment etc.
- b. It is a day to today common event and the same gods may not appealed every time i.e one can appeal to wide varieties of deities
- c. It is done privately and very common in all temples
- d. It is appreciated by the society and the objective has social acceptance

1.4.2 Black Magic or Sorcery

The second type of system which resembles hoylu is the system to offer a reward (payment to do harm) to the spirit is literally known as maata (sorcery) where the help of the spirit is sought to harm another person.

- a. Black Magic is undertaken to seek destruction of someone who is disliked.
- b. It is resorted to the supernatural forces mostly wicked in nature.
- c. It is never appreciated by the society and thus is socially disapproved
- d. It is mostly undertaken privately and the spirit is expected to do direct harm either to the opponent or his family. Harm is the end of black magic.

1.4.3. Raji (Compromise)

- a. Raji is an amicable and cordial settlement of disputes.
- b. It requires the presence of mediators/arbitrators.
- c. It is Non-violent/peaceful method resulting in a win-win situation.
- d. It is Public or private depending upon the option of the parties.
- e. It is appreciated by society.

Hoylu basically seeks the help of spirit to remedy the injustice. Therefore, the hoylu is different from above two systems i.e, Harake (owe) and black magic in the following ways;

- a. Hoylu never seeks for detriment/destruction of physical or mental aspects of opponents (Be it property, health or happiness)
- b. Hoylu is given publicly and in some cases in the presence of the gentlemen of the place (10 samastharu or ten well-known people of the area)
- c. Hoylu is undertaken only in a few temples of India like Dharmasthala and SakshiGopalanatha temple in Odisha etc.

1.5 Why is Hoylu Preferred?

- a. It was a mechanism in rural areas to protect the goods, cattle and property as there was no police network in the good olden days..
- b. Fear/respect towards god was looming large in those days.
- c. Absence of local administrative units such as Gram Panchayats.

1.6 Kinds of Dispute Involved in Hoylu

The Hoylu at Shri Kshetra Dharmasthala usually involve the following kind of disputes.

- a. Land disputes:
- b. Theft of small movable objects such as jewellery, brass vessels and utensils;


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- c. Unpaid debts which had different manifestations such as saala (debt), bhumi (land), vishwasa droha (breach of trust) sambanda (relationship) etc.

Hoylu is therefore a distinct practice of seeking justice by resorting to supernatural aid. It has multiple dimensions depending upon the place of offering, status of the parties, motive of the person who offers it, expected outcome, reward to be given etc. It also has a different dimension in terms of Gods to whom it is offered and the intermediary through whom hoylu is offered.

Having understood the principles, practice and procedure of varieties of hoylu system practiced in southern Karnataka especially places like old Mysore region, coastal Karnataka, Uttarkannada and Shimoga districts, we now dwell upon one of the well established yet unique and a continuing system of hoylu being practiced in Shri kshethra Dharmasthala which is the most reformed, refined system of hoylu implemented without barriers of caste, religion, status or economic considerations.