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## CUSTOMARY LAW OF HILL TIWA TRIBE OF ASSAM

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### ABSTRACT

North-East India represents a mosaic of indigenous communities whose identities are shaped by distinctive histories, cultures, and normative systems. Among them, the Tiwa (earlier known as Lalung) tribe occupies a unique position due to its dual social organization—patrilineal in the plains and matrilineal in the hills—and its strong commitment to communal harmony, equality, and collective responsibility. The Hill Tiwa society, in particular, has preserved an elaborate system of unwritten customary laws and institutions that regulate social conduct, resolve disputes, and sustain cultural continuity. These indigenous norms are deeply intertwined with everyday life, religion, agriculture, and kinship, reflecting a worldview that prioritizes family, dignity, and social cohesion over hierarchy and coercion.

This paper examines the institutional framework of Hill Tiwa customary governance, with special emphasis on Shamadi (Dekasang) and the traditional courts such as Raj Pishar, Lorone Pishar, Kraikhel Pishar, and Barokhel Pishar. It explores their composition, jurisdiction, and functions, highlighting how justice is delivered through participatory processes, moral persuasion, and reformative principles rather than punitive sanctions. The study reveals that Hill Tiwa customary justice is restorative in nature, aiming at reconciliation, public acknowledgment of wrongdoing, and reintegration of the offender into society, thereby maintaining long-term social stability.

Further, the paper analyzes the interaction between Hill Tiwa customary law and the constitutional framework, particularly the role of the Sixth Schedule in recognizing and protecting tribal autonomy in Karbi Anglong and Ri-Bhoi regions. It argues that the continued relevance of Hill Tiwa customary law lies in its adaptability, community legitimacy, and preventive approach to crime. By situating this indigenous justice system within India's broader plural legal landscape, the paper underscores the importance of

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safeguarding customary institutions while ensuring their harmony with constitutional values and human rights.

**Keywords:** Hill Tiwa Tribe; Customary Law; Indigenous Justice System; Shamadi (Dekasang); Sixth Schedule.

## 1. Introduction:

North-East India is the homeland of various ethnic groups having diverse racial, linguistic and cultural backgrounds. The Tiwas or Lalungs are one of those ethnic groups inhabited in North-Eastern region of India. Earlier they used to stay in hill area of North-East India, but later on, they started to come into the plain areas in search of food. The Tiwas living in plain areas are called '*Thalmathi*' and the Tiwas living in Hill areas are called '*Hajowali*'. The Tiwas are very peace-loving people. Earlier they were known as '*Lalungs*', but they prefer to identify themselves as '*Tiwa*'.<sup>1</sup> The plain Tiwa people follow a patrilineal descent system bearing Assamese patronyms and those who are residing in hill areas follow a matrilineal descent system.<sup>2</sup>

The Hill Tiwas have been following certain unwritten rules and regulations to unite the people and to run smooth functioning of the societal norms since time immemorial. The Hill Tiwas are very loving people, they do not support Jamidari system since it humiliates weaker section of the society. Family is their first priority. The hill Tiwa society is basically matriarchal in nature where the female elders have authority over a group of people.

They are pure devotee of Lord Shiva, the '*Fa-Mahadeo*'. They do not differentiate people on the basis of class, rank, caste etc.<sup>3</sup>

Agriculture is their main source of income. They have unique ethnic food habits, unique festivals, tradition attires etc. All we can say that they are very much rich in culture and tradition. The Hill Tiwa tribe is more successful in preserving their roots.<sup>4</sup>

The Tiwa population figured for the first time in the census of 1871/72, conducted during colonial rule. In this period, the number increased from thirty-four thousand to fifty-two

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<sup>1</sup> Lakhinanda Bordoloi and Ravindra Bordoloi, *Politics and Administration of the Tiwas* 16 (Notion Press Media Pvt Ltd, Chennai, 2021)

<sup>2</sup> Raktim Patar, *The Tiwa Ethnohistory* 11 (Notion Press, Chennai, 2021)

<sup>3</sup> *Id.* at 90

<sup>4</sup> *Id.* at 76

thousand. During 1911 to 1921, the Tiwa population has increased to four thousand. But in 1931 to 1941 a sharp rise of 18% was recorded. In the next decade from 1941 to 1951 the rate was reduced to 2%, but in the decade from 1951 to 1961, it suddenly leaped up to 17% rise.<sup>5</sup>

## 2. Objectives:

- a) To study the socio-cultural background and traditional organization of the Hill Tiwa tribe.
- b) To examine the structure and functions of Shamadi (Dekasang) as a key customary institution.
- c) To analyze the hierarchy, jurisdiction, and procedures of Hill Tiwa traditional courts.
- d) To understand the nature of punishment and the reformatory philosophy underlying Hill Tiwa customary justice.
- e) To assess the impact and relevance of the Sixth Schedule on the customary laws of the Hill Tiwa tribe.
- f) To evaluate the role of customary law in maintaining social harmony and collective responsibility.

## 3. Methodology

The research paper adopts a doctrinal methodology, relying primarily on the analysis of statutes, customary practices, judicial decisions, and scholarly literature to explore the role of Hill Tiwa customary law within the broader framework of the modern Indian legal system.

## 4. Literature review

*Politics and Administration of the Tiwas*<sup>6</sup> by Lakhinanda Bordoloi and Rabindra Bordoloi systematically examines the political and administrative structure of the Tiwa community. While the work is valuable for understanding governance, it gives limited attention to the Tiwa customary justice system.

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<sup>5</sup> *Id.* at 18

<sup>6</sup> *Supra* note 1

*The Tiwa Ethnohistory*<sup>7</sup> by Raktim Patar documents the origin, history, religion, and cultural traditions of the Tiwas. It serves as an important ethnohistorical reference but does not focus on legal or justice institutions.

*Sixth Schedule in Karbi Anglong*<sup>8</sup> by B. C. Bhuyan provides a detailed constitutional analysis of the Sixth Schedule and tribal administration in Karbi Anglong, offering useful legal context for tribal governance.

*Tiwa Janagushthir Bhasa-Sahitya-Sanskriti*<sup>9</sup>, edited by Pankaj Kumar Deka, compiles writings on Tiwa language, culture, food habits, and social life, contributing to cultural and sociological understanding of the community.

*Karbi Anglong Jilar Pahariya Tiwa Sakalor Samaj aru Sanskriti*<sup>10</sup> by Mowsumi Bordoloi Hazarika highlights the social and cultural life of the Hill Tiwas, offering micro-level insights into their traditions.

*Tiwa Samaj aru Sahitya-Pratibhar Saneki*<sup>11</sup>, edited by Rupkrishna Patar with Maitrayee Patar and Dhiraj Patar, presents contemporary perspectives on Hill Tiwa society and its changing conditions.

## 5. Justice delivery system of the tribe

### a) Shamadi:

The *Shamadi* (*Dekasang*) is an institution Tiwa society that plays an important role in rendering help to the villagers. *Shamadi* looks after the smooth administration of the village. Moreover, it covers a large area of social needs ranging from social security, civil administration, manpower training, personal development, promotion and preservation of culture etc. This system was established by the Kings of the Tiwas to maintain peace and security in the

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<sup>7</sup> *Supra* note 2

<sup>8</sup> B.C. Bhuyan, *Sixth Schedule in Karbi Anglong* (Omsons Publications, New Delhi, First edition/2018)

<sup>9</sup> Dr. Pankaj Kumar Deka, Barnali Gohain, *et.al.* (eds.), “*Tiwa Janagushthir Bhasa-Sahitya-Sanskriti*”, (Olimpia Prakashan, Guwahati, 2<sup>nd</sup> edition/2017)

<sup>10</sup> Dr. Mowsumi Bordoloi Hazarika, *Karbi Anglong Jilar Pahariya Tiwa Sakalor Samaj aru Sanskriti* (Jagaran Sahitya Prakashan, Panbazar, 2019)

<sup>11</sup> Rupkrishna Patar, Maitrayee Patar, *et.al.* (eds.), *Tiwa Samaj aru Sahitya-Pratibhar Saneki* (Assam Prakashan Parishad, Guwahati, 2018)

kingdom. It also appointed persons to guard and protect the village. Tough trainings were imparted in the *Shamadi*. It also trained people in learning handicrafts of cane and bamboo.<sup>12</sup>

### Functions of *Shamadi*

- i) *Shamadi* plays a very important role in maintaining peace and security of the village. For this, the youths are trained to fight battle if necessary. Heavy fine is imposed on those who fail to perform their duty.
- ii) *Shamadi* appoints fitted youths to safeguard the village and villagers.
- iii) *Shamadi* plays an important role in celebration of festivals peacefully in the villages.
- iv) *Shamadi* imparts training to the youths related to handicrafts of cane and bamboo. They also practice the songs and dances for the festivals.<sup>13</sup>
- v) *Shamadi* also imparts training on hunting, farming, *jhum* cultivation, fishing etc.<sup>14</sup>

### b) Tiwa Traditional courts:

The traditional Courts of Hill Tiwa Tribe can be divided into four main heads- *Raj Pishar*<sup>15</sup>, *Lorone Pishar*<sup>16</sup>, *Kraikhel Pishar*<sup>17</sup> and *Barokhel Pishar*<sup>18</sup>.

In the system of *Raj Pishar*, the king takes active part. In this system first the case is brought to the notice of the king. The king along with his officers sits in the *Rajaneno* (king's palace) to settle the case. It includes crime against the king, and kingdom, any act of torture on father or mother and senior person, killing of caws, buffalos, illegal sexual relations etc.<sup>19</sup>

In *Lorone Pishar* system, the *Loro*<sup>20</sup> is a regional head. When a case is not settled in *Kraikhel Pishar*, it is brought to the notice of *Loro*. Here, *Loro* and *Doloi* after hearing both

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<sup>12</sup> *Supra* note 2 at 46

<sup>13</sup> *Supra* note 1 at 118

<sup>14</sup> *Supra* note 10 at 50

<sup>15</sup> *Raj Pishar* is traditional court of hill Tiwa tribe which deals crimes related to kingdom (*Supra* note 1 at 119)

<sup>16</sup> *Lorone Pishar* is another traditional court which is headed by *Loro* (*Supra* note 1 at 120)

<sup>17</sup> *Kraikhel Pishar* is another traditional court of the tribe which decides crimes like theft, violation of social rules (*Supra* note 1 at 121)

<sup>18</sup> *Barokhel Pishar* is upper-level traditional court of the tribe (*Supra* note 1 at 122)

<sup>19</sup> *Supra* note 1 at 119

<sup>20</sup> *Doloi* and *Loro* are persons who play an important role in administering justice in the society (*Supra* note 1 at 120)

parties, give verdict. If the decision is partial, it can be appealed to *Barokhel Pishar* or *Raj Pishar*. It includes matters relating to land, violation of customary laws, any crime against any elder person, cases relating to family dispute, marriage, domestic violence etc.<sup>21</sup>

In *Kraikhel Pishar*, the village people sit together to give justice if any wrong is done by a person. Anybody violating the *Kraikhel Pishar* is excommunicated from the village. If any person is dissatisfied with the verdict, he can appeal in *Barokhel Pishar*. The cases taken up by *Kraikhel Pishar* include theft, misbehaviour, violation of any social norms etc.<sup>22</sup>

In *Barokhel Pishar* system, if anybody is suspected to commit wrong, a villager submits a complaint narrating the history of the activities of the wrongdoer before the other villagers. Then the elderly men- *Jela*, *Parikha*<sup>23</sup> and *Gaonbura* etc. gather with other villagers and hear the dispute and decide penalty. It is most popular system among the Hill Tiwa people. It includes misbehaviour of a junior to a senior, any kind of theft, violation of social norms, any kind of activity which might go against the interest of the village.<sup>24</sup>

### c) Procedure to deliver Judgment

The justice administration system of the Tiwa tribe is similar to other dispute resolving mechanisms. They mostly follow Reformatory theory of punishment prevailing in modern justice system. Their attitude is more considerate to the offenders who confess their crime or wrong before the elders. But their punishment becomes stronger against those offenders who belittle the elders or refuse to attend traditional court ignoring their Customary laws. Their punishment is not physical or imposition of any penalty. They just want the offender to accept his guilt publicly and to make an apology to the victim. The tribe considers that self-esteem is more valuable than physical punishment or monetary penalty.<sup>25</sup>

In earlier days, in the judicial system of Tiwa tribe, they rarely punish the criminals by death penalty. Although the courts give verdict, but the judgments were pronounced in consultation with royal officers. The death sentence was given only on two cases- conspiracy

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<sup>21</sup> *Supra* note 1 at 120-121

<sup>22</sup> *Ibid.*

<sup>23</sup> *Jela* and *Parikha* are the respected and elderly persons who decide a dispute and ensure justice (*Supra* note 1 at 122)

<sup>24</sup> *Supra* note 1 at 122

<sup>25</sup> *Id.* at 125

against the *Raja* and crime against nation.<sup>26</sup>

In case of marriage, they strictly follow the rules and customs. Marriages are prohibited within same clan and if anyone do so, he must give a feast to the villagers with pigs and wine and in some cases the offender must have to pay the fine.<sup>27</sup>

## 6. Role of Sixth Schedule in Customary law of hill Tiwa tribe

The Tiwa people living in the hills of Karbi Anglong and Ri-bhoi district of Meghalaya came under the jurisdiction of Sixth schedule in the post-colonial period. Karbi Anglong Autonomous Council (KAAC) includes Amri Constituency, Duwar Amla Constituency, Rongkhang Constituency, No-mati Constituency, Langpher Constituency and Langhin Constituency. Under the provisions of the Sixth schedule of the Constitution of India, District Council and Regional Councils are formed. The Councils have judicial powers for the trial of offences committed by members of scheduled tribe. There are two tier justice system prevailing in their respective areas of jurisdiction- Village level and District level. In Village level deals with the disputes where both parties are scheduled tribe and District level deals with appeals.<sup>28</sup>

The sole objective of bringing the Sixth schedule into existence is to protect the tradition, custom, culture, civilization of the tribes of Assam, Meghalaya, Tripura and Mizoram. There are various tribes living in those states following their own Customary laws.

Under the Sixth schedule, the Regional Councils are empowered to constitute a forum comprises of certain members of the society which is led by the Village headmen.<sup>29</sup> In hill Tiwa tribe society, the villagers settle their disputes within the boundary of the village so that peace of the society cannot be harmed. The only motive of their system is to make the offender to realize his guilt and to prevent other like-minded offenders to commit offences. The traditional justice system is governed by their Customary laws. Those unwritten laws are still prevailing in their society and playing a significant role in the hill Tiwa society. Their Customary laws vary from offence to offence.

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<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> *Supra* note 8 at 45-46

<sup>29</sup> *Ibid.*

## 7. Punishment forms in Hill Tiwa society

The Hill Tiwa tribe follows a system of restorative justice where the emphasis is not merely on punishing the wrongdoer, but on bringing harmony back to the community. Some distinctive features include:

a) Feast to the Community

Offenders are often compelled to host a community feast. This has a twofold purpose:

- i) It becomes a public acknowledgment of guilt, as the entire village participates.
- ii) It reaffirms the offender's bond with the community, reminding them that their wrongdoing has disturbed collective harmony.<sup>30</sup>

b) Apology to the Victim

The wrongdoer must directly apologize, sometimes in front of elders and the community. This practice is not only meant to console the victim but also to make the offender realize the personal impact of their act.<sup>31</sup>

c) Compensation to the Victim

In cases of theft, injury, or property damage, compensation is required. This ensures that the victim is not left to suffer and justice is felt as immediate and tangible.<sup>32</sup>

d) Public Identification and Shame

Wrongdoers are identified openly before the community. The underlying philosophy is that social shame is more powerful than legal fear, making offenders rethink their actions.

e) Answerability to God

Beyond human authority, offenders are reminded that they are answerable to God or higher spiritual forces. This moral-religious dimension deepens the sense of responsibility and

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<sup>30</sup> *Supra* note 1 at 120-122

<sup>31</sup> *Ibid.*

<sup>32</sup> *Id.* at 124

prevents repeated offences.<sup>33</sup>

The entire structure is designed to reform the offender, restore balance, and uphold community solidarity rather than isolate the wrongdoer through harsh punishment.

## 8. Core Principles of Hill Tiwa Customary Justice

The justice system of the Hill Tiwa tribe is a community-based customary mechanism grounded in restorative justice, moral accountability, and social harmony. Unlike the formal Indian legal system, which is adversarial and procedure-oriented, the Hill Tiwa justice system focuses on reconciliation, reformation, and the restoration of balance within the community rather than on punitive sanctions.<sup>34</sup>

Justice is administered through the traditional village council under the leadership of the Loro and Doloi, assisted by elders and respected members of the community. Disputes are resolved in public gatherings where both parties are given an opportunity to present their grievances. The process is informal, oral, and consensus-driven, ensuring transparency and collective participation. There are no rigid procedural requirements, legal representation, or written records; instead, decisions are guided by customary precedents and communal wisdom.<sup>35</sup>

A distinctive feature of the Hill Tiwa justice system is its emphasis on restorative practices. Offenders are encouraged to acknowledge their wrongdoing and seek forgiveness from the victim and the community. Common forms of sanctions include public apology, compensation to the victim, and hosting a community feast, which symbolizes repentance and reintegration. These measures aim to heal relationships, reaffirm social bonds, and prevent repeat offences.<sup>36</sup>

Another important aspect is the use of social accountability and moral pressure as deterrents. Wrongdoers are publicly identified, and the fear of social shame and loss of reputation acts as a strong preventive mechanism. In cases where offenders show defiance or disrespect towards

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<sup>33</sup> *Ibid.*

<sup>34</sup> *Supra* note 10 at 27

<sup>35</sup> *Supra* note 1 at 102

<sup>36</sup> Dr. Ranga Rajan Das, *The Tiwas of Assam, Ethnography, Culture and Customary Law* 110 (Law Research Institute, Eastern Region, Gauhati High Court, Guwahati, 2023)

traditional authority, stricter sanctions or temporary social exclusion may be imposed.<sup>37</sup>

The Hill Tiwa justice system also incorporates a spiritual dimension, where offenders are reminded of their accountability not only to society but also to God or higher moral forces. This belief reinforces ethical conduct and strengthens internal restraint against wrongdoing.<sup>38</sup>

Overall, the justice system of the Hill Tiwa tribe is designed to be swift, accessible, and culturally rooted. It effectively resolves minor disputes relating to land, family, theft, and social conduct while maintaining community cohesion. Despite the growing influence of formal legal institutions, the Hill Tiwa justice system continues to function as a vital and respected mechanism for administering justice within the tribe.

## **9. Suggestion for the Preservation of Customary Law of the Hill Tiwa Tribe of Assam**

The Hill Tiwa tribe of Assam has a rich and unique customary law system that governs various aspects of their social, economic, and cultural life. However, due to modernization, legal codification, and external influences, these traditional laws face the threat of erosion. To ensure their preservation while balancing them with codified legal systems, the following recommendations can be considered:

### **a) Legal Recognition of Customary Laws**

The Indian legal system must formally recognize the customary laws of the Hill Tiwa tribe as legally valid within a defined framework. Amendments in state or national laws should allow the integration of customary practices in matters such as marriage, inheritance, land rights, and dispute resolution. The Sixth Schedule of the Indian Constitution, which provides autonomy to certain tribal regions, can be expanded or better implemented to safeguard Tiwa customs.<sup>39</sup>

### **b) Harmonization with Codified Law**

A hybrid legal system should be developed, where customary laws are acknowledged and co-exist with codified state laws without contradictions. Traditional Tiwa laws regarding

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<sup>37</sup> *Ibid.*

<sup>38</sup> *Supra* note 1 at 120-123

<sup>39</sup> *Supra* note 36 at 110

land ownership, property rights, and dispute resolution should be formally documented and incorporated into regional governance structures. Codification of customary laws should be done cautiously to retain flexibility, avoiding rigid legal definitions that may restrict their natural evolution.

c) Establishing Customary Courts

Local customary courts should be established or strengthened to handle community-level disputes using Tiwa traditional principles. These courts should work alongside the formal judiciary, ensuring that their decisions are recognized and respected within the broader legal system. Training programs should be conducted to educate traditional Tiwa leaders (*Loro, Doloi* etc.) about national and international legal standards while preserving their customary dispute resolution mechanisms.<sup>40</sup>

d) Enhancing Tribal Representation in Legislative Processes

More representation should be provided to the Hill Tiwa tribe in legislative bodies such as the Assam Legislative Assembly and local governance councils. Special quotas or reserved seats for Tiwa representatives in decision-making bodies would ensure their interests are protected. Tiwa representatives should be involved in discussions on land reforms, forest rights, and tribal welfare policies to prevent laws that may threaten their traditional systems.

e) Consultative Mechanisms for Policy Making

Regular consultations between the government and the Tiwa tribal elders should be institutionalized to ensure that state policies do not override or contradict customary practices. A dedicated advisory board comprising legal experts, anthropologists, and Tiwa tribal leaders should be established to review and suggest modifications to policies affecting tribal laws. More research and documentation of Tiwa customary law should be encouraged to create reference materials that policymakers can use while framing laws.<sup>41</sup>

f) Promoting awareness

A systematic effort should be made to record and archive Tiwa customary laws, ensuring

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<sup>40</sup> *Supra* note 1 at 120

<sup>41</sup> *Ibid.*

they are preserved for future generations. Collaborations with academic institutions, tribal organizations, and local communities can help in creating written records without altering the spirit of these traditions. Oral traditions should be preserved using digital technology such as audio recordings, videos, and online repositories. School and college curriculums in Tiwa-majority areas should include lessons on Tiwa tribal customs, history, and governance systems.

g) Encouraging Tribal Leadership and Youth Participation

Tribal elders should be encouraged to mentor young Tiwa leaders in customary law practices. Special scholarships and fellowships should be provided to Tiwa students who wish to study law and governance, ensuring future leadership with a strong foundation in both tribal and constitutional legal systems. Platforms should be created for Tiwa youth to participate in governance and legal reform discussions at the regional and national levels.<sup>42</sup>

Preserving the customary law of the Hill Tiwa tribe requires a multi-pronged approach that balances tradition with modern governance. By integrating customary and codified legal systems, ensuring greater representation in legislative processes, and actively documenting and promoting awareness, the Tiwa tribe can safeguard its unique legal traditions for future generations. A collaborative effort between the government, tribal leaders, and local communities will be crucial in maintaining the legal heritage of the Hill Tiwa people while ensuring their rights and identity remain protected in an evolving legal landscape.

## 10. Conclusion

The customary justice system of the Hill Tiwa tribe represents a living example of indigenous governance rooted in collective responsibility, moral authority, and restorative principles. Unlike the adversarial and punishment-oriented nature of the formal legal system, Hill Tiwa customary law emphasizes reconciliation, public acknowledgment of wrongdoing, and reintegration of the offender into the community. Institutions such as Shamadi and traditional courts like Raj Pishar, Lorone Pishar, Kraikhel Pishar, and Barokhel Pishar play a crucial role in maintaining peace, discipline, and social order within the village framework.

The study reveals that the strength of Hill Tiwa customary law lies in its legitimacy among the people, its flexibility, and its preventive approach to conflict and crime. The involvement of

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<sup>42</sup> *Ibid.*

elders, collective participation of villagers, and emphasis on dignity and self-respect ensure that justice is not merely imposed but socially internalized. At the same time, the recognition provided under the Sixth Schedule of the Constitution has enabled these customary institutions to coexist with the formal legal system, thereby reinforcing India's commitment to protecting tribal culture, tradition, and autonomy.

However, in the face of modernization, external legal influences, and changing social values, the preservation of Hill Tiwa customary law requires careful balancing. While safeguarding its core spirit and cultural essence, there is also a need to ensure compatibility with constitutional principles, particularly those relating to equality and human rights. Overall, the Hill Tiwa customary justice system stands as a valuable component of India's plural legal order, offering important insights into community-based, humane, and restorative approaches to justice that remain relevant even in the modern legal discourse.

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