

## JUSTICE DELIVERY SYSTEM OF HIMALYAN TRIBES: WITH SPECIAL REFERENCE TO JAUN SAR BAWAR

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### **Introduction:**

Jaunsar Bawar is a mountainous region located in the northwestern part of the Dehradun district. This area was previously part of the Tehri princely state or the Sirmaur princely state before colonial rule. To the east, the Yamuna River and to the west, the Tons River form its boundaries. However, some villages, as exceptions, are located to the west of the Tons River, adjacent to Himachal Pradesh. Since the Treaty of Sugauli in 1815 between the Gurkhas and the British, direct British colonial rule has been established in the Jaunsar-Bawar region. The British government studied the local laws and retained those laws that were found appropriate due to local culture, religion, customs, beliefs, and geographical conditions, while modifying those with shortcomings. Laws that were deemed defective according to colonial concepts were abolished. Thus, a revised act was passed, named "Wajib-ul-Arz, Dastoor-e-Amal," in which the local Syanchari and Khumli systems played a crucial role.

The Khumli system is a traditional legislative and judicial framework in Jaunsar-Bawar that establishes rules for society, assesses adherence to those rules, and acts as a court in cases of violations. The Khumli operates at the village level, Khat level, Khaag level, and Chaintar level, with higher appeals going to the Raj Sabha. The following chapters will elaborate on who constitutes the Khumli, how its members are elected, how the system functions, and the jurisdiction of its penal code.

### **Key Words:**

Syanachari. Jaunsar-Bawar, Chauntru, Vishtad, Nalas, Khumli

### **Area of Study :-**

This region, located in the valley of the Tons and Yamuna rivers in the Dehradun district of Uttarakhand state, is almost entirely mountainous. The Jaunsari community resides here. Due to the unique dialect, customs, dress, beliefs, and traditions, this society differs significantly from other communities. In the distinct local social and administrative structure of this area, the local "Syans" (community leaders) play a crucial role. These Syans are present at every level – village,

clan, and family. They hold not only social but also administrative and judicial powers, which have been passed down through tradition. This research paper provides a detailed description of the Syana system and its working style, as observed by the researcher.

### Objective :-

Through this research paper, we aim to inform people about the traditional Syana system of Jaunsar-Bawar, its working style, rights, and responsibilities. Additionally, the paper will highlight the changes and innovations that occurred in this system over time, particularly with the advent of colonial rule. The goal is to provide students, researchers, and readers studying this region with more comprehensive and accurate information.

### Research Methodology :-

To complete this research paper, we have studied primary sources such as correspondence of contemporary officials, certificates, and books. Additionally, we conducted field visits and interviewed several Syana individuals and experienced members of the community. In secondary sources, we have reviewed various books and research papers by other scholars, and have provided an analytical interpretation of these materials.

### Literary Review:-

- **H.G. Walton's** *Dehradun Gazetteer*, Prakash Thapliyal compares the Syana system of Jaunsar with that of Kumaon on page 128.
- **Tikarama Shah**, in his book *Jaunsar Bawar: Historical Context* on page 239, mentions that this system existed even before the reign of King Virat, and later it was reinstated by the Sirmaur kings and the British government.
- In the book *Jaunsar Bawar: A Cultural, Economic, and Social Study* written by **Ratan Singh Jaunsari**, the Syana system is compared to the modern-day village headmen (Pradhans).
- In *The History of Dehradun* (translated by Prakash Thapliyal from English to Hindi), **G.R.C. Williams** refers to the Syana system as a valuable institution.

From the study of the above books, we have found that there is no mention of the changes made to this system by the British government over time. Consequently, the reforms and innovations in the system have not been highlighted. It is with this curiosity that we aim to bring these details to light in this research paper.

### Syana System :-

By the medieval period, the Sirmaur kings had established their authority over this region. They divided the local administration into "khats" and created a total of 35 khats, with the principal khat being called *Syana* or *Sadar* (the term *Sadar* reflects Islamic influence in the region). Although the number of villages in each khat was not fixed, it typically consisted of a minimum of 4-5 and a maximum of 20-25 villages. Above these khats, four *Chaintaru* positions were created, which were directly accountable to the king's vizier. All these positions were associated with divinity.

These positions were entirely hereditary, but if any Syana was found guilty of wrongdoing, they had to resign from their post. In such cases, another Syana would be chosen in front of the deity, linking the Syana position with religion. This connection ensured that people accepted the decisions made by the Syana, as opposing these decisions was considered opposing the deity.

The smallest administrative unit in Jaunsar-Bawar was the *village* (gram), and several villages were grouped into a *khat* (a collective group of villages), with the head of each khat being the *Syana*. Above the *Syana*, the *Chaintaru Syana* held an important position, with only five such positions across the entire region. These *Chaintaru Syanas* had both administrative and judicial responsibilities.

Jaunsari society is a fragmented one, where power is distributed at every level. The village *Syana* holds all administrative and judicial rights over the villages in their charge, and similarly, the *Khat Syana* holds all rights over the respective khat. These positions at every level are independent and capable of making decisions, and Jaunsar society is divided into smaller segments.

This structure is similar to what anthropologist Aiden W. Southall studied in 1953 in his book *Alur Society: A Study in Processes and Types of Domination* about the Alur tribe in Africa, and what American historian Burton Stein described in his 1957 book *South India* about the Chola Empire in South India. In 1989, Stein wrote *Vijayanagara: The New Camarists of India*, in which he detailed the administration of the Vijayanagara Empire, presenting the concept of a *portfolio* structure. Similarly, Neel Kanth Shastri described the Chola administration in his book *History of South India* and divided the central empire into six *mandalas* (regions), which were further divided into *kottams* (sub-regions), *nadu* (districts), and *gramam* (villages). Similarly, in Jaunsari society, the region is divided into five *Chaintaru* groups, *Chaintara Khats*, *Khat Khogs*, and *Khags* villages. Like the Chola society, where the executive council (Aduhana) was elected from among the people, in Jaunsari society, the *Khundi* (executive council) members were elected through popular vote or by senior and experienced members of the community. These positions were unpaid, and the institutions were independent, with even the king refraining from intervening in their functioning.

The *Syana* system also played a significant role in the judicial domain. Any dispute at the village level (excluding criminal cases) was resolved through *Khundi* (local court), for which a registration fee of one rupee (*Nalas*) was charged. This fee ensured that the case was registered with the *Syana*. The *Syana* organized the *Khundi* and decided who would serve as the judges (the *panch*). The *Khundi* was a complete institution, and even today, the people of Jaunsar-Bawar have unwavering faith in it. The *Syana* and the *Panch* together played a crucial role in making decisions. Any decision made by the *Khundi* was considered democratic, and each family in the village had a senior member who participated in the *Khundi*.

If a case was not resolved in a single day and continued into the second or third day, the two parties involved were responsible for providing food and lodging for the *panchs*. This was called *Baro-Bakra*, and an additional fee, called *Puth*, was charged. If the dispute remained unresolved, it was referred from the village-level *Khundi* to the *Khat-level Khundi*. In such cases, the decision made by the *Panch* was returned to both parties, called *Ushtara*, and this was considered a final settlement.

The decision of the *Khundi* was universally accepted, and the village *Syana* and *Khat Syana* had the authority to impose *Tyada* (ostracism). The *Chaintaru Syana* had the ultimate authority, including the power to impose the death penalty. Generally, disputes between villages were settled at the village level, and disputes between khats were settled at the khat level. Cases involving more than one khat were referred to the *Chaintaru Syana*, and those involving more than two *Chaintarus*

went to the king. Before the hearing of a case, both parties were required to pay *Vishtara* (judicial fees), which were shared among the *Panchs*. This amount was usually very small. If the accused did not admit to the crime, the matter was left to the deity, and the accused was required to swear an oath in the temple, a practice known as *Devghadna*. If they refused to swear, the village would ostracize them and cut off their access to water and food. If the accused was found guilty, they would be penalized. If the *Panchs* were unable to pass a verdict, they would return the *Vishtara* (judicial fee) to both parties. If the dispute remained unresolved, the local deity would be consulted through the *Lota-Noon* system, where both parties were asked to stand before the deity holding a pot of water in one hand and salt in the other. They had to swear, saying, "Oh Lord, if I am lying, may I and my family be destroyed, just as this salt dissolves in the water." After taking this oath, the person was allowed to drop the salt and water. This practice was so feared that even in the Meerut Commission, when a case remained unresolved, the local deity was consulted for a decision using this method.

### Colonial Innovations in the Syana System:

The Syana system was highly influential in the region and was also imbued with religious significance. Understanding the importance of this system, the British made minimal modifications to it and continued its practice, officially recognizing it by documenting it in the *Wajib-ul-Arz* (the legal document of the British government for Jaunsar-Bawar). While many traditional laws of other communities were abolished, the Syana system of Jaunsar-Bawar is still recognized by the people and has been acknowledged by the government. G.R.C. Williams wrote that the administration in Jaunsar-Bawar operated through a distinct method. The entire region was divided into subdivisions or *khats*, totaling 35 (now 39). Each *khat* had an administrator, the *Khat/Sadar Syana*. Above them were five major *Chaintaru Syanas*, who formed the Senate of the region and held complete control over it. While the position of *Chaintaru Syana* has mostly been abolished today, the positions of *Khat Syana* and *Gram Syana* have become less significant, the Syana system continues to hold importance in the society.

On October 22, 2021, a conference of all the Syanas of the Jaunsar-Bawar region was held in the village of Samalta, where discussions were held on re-establishing the Syana system, and a seven-point resolution was passed, which includes the following:

1. We respect and take pride in the ancient traditions of Jaunsar-Bawar, and every aspect of our society, including our judicial system, is rooted in these traditions. We will attempt to preserve it, with some modifications.
2. Jaunsar-Bawar is one united family, and we will not tolerate any form of enmity or division. We will not accept caste discrimination, class divisions, or political disputes that cause divisions in our villages.
3. We respect and participate in democratic processes as outlined in the Constitution. To avoid wasting time and resources in courts for small disputes, we aim to maintain the local traditional justice system in Jaunsar-Bawar to promote mutual harmony and ensure swift, fair justice.
4. Jaunsar-Bawar is progressing along with the rest of the world, and all castes and communities should establish new benchmarks in education. We expect that no individual, especially from the maternal side, will be deprived of education, and that all will contribute to the traditions of Jaunsar-Bawar. Women of Jaunsar-Bawar will also be part of the judicial process, and we are committed to this.

5. There is an increase in anti-social activities in the neighboring regions of Jaunsar-Bawar, which harms our identity. Drug addiction is ruining the lives of our youth, and we will make efforts to curb these activities at the village level.

6. Jaunsar-Bawar continues to believe in the tradition of *Atithi Devo Bhava* (the guest is God). However, to protect the honor of our mothers and our land, the people of Jaunsar-Bawar will not allow anti-social elements to enter our region.

7. We will promote pilgrimage and tourism in Jaunsar-Bawar, which will also highlight our religious places and festivals. We are fully committed to the overall development of the region and will ensure that targeted programs for village development are utilized effectively.

This clearly indicates that there is still strong reverence for the traditional Syana system in the region, and the people wish to reinstate it. However, there are certain shortcomings that have not been addressed, despite three revisions, such as:

1. The position of Syana is entirely hereditary, which is in contrast to modern democratic systems.

2. This system is dominated by the upper castes (Brahmins and Rajputs), and no person from the lower castes can become a Syana.

3. Women have been neglected in the Syana system; no woman can become a Syana in any village, nor can she serve as a *Panch* in a *Khundi*.

4. The Syana position is linked to religion, making any action against it considered as religious interference, potentially leading to authoritarianism.

This Syana system has been accepted by all the kings and royal families who governed the region, granting Syanas considerable powers, which are still socially acknowledged today.

### Conclusion:

The Syana system functions as a highly influential institution in society, though timely changes are necessary. This system underwent revisions after Mr. A. Ross (1851) and Mr. J.C. Robertson (1871), and the most recent update is the third revision of *Wajib-ul-Arz-Dastur-e-Amal* on October 22, 2021.

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