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## From Executive Frontier Regulation To Judicialized Hybrid Justice: A Comparative Study Of The Assam Frontier (Administration Of Justice) Regulation, 1945 And The Arunachal Pradesh Civil Courts Act, 2021

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**Abstract:** The administration of justice in Arunachal Pradesh has long functioned through a hybrid system shaped by colonial governance and indigenous customary institutions. The Assam Frontier (Administration of Justice) Regulation, 1945 (AFR) created an executive-supervised model in which administrative officers exercised adjudicatory authority alongside village bodies applying customary law. While this ensured accessible and culturally embedded dispute resolution, it blurred the separation between executive and judicial functions. The Arunachal Pradesh Civil Courts Act, 2021, together with its 2022 and 2023 amendments, substantially restructures this framework. Through a doctrinal and comparative analysis, this article argues that the reforms represent a shift from executive-dominated frontier adjudication toward a judicialized hybrid model that formally integrates customary courts within a structured hierarchy. Although the new regime strengthens judicial oversight and procedural safeguards, important gaps remain concerning uniform standards, constitutional protections, and institutional capacity, leaving the hybrid system only partially consolidated.

**Keywords:** Customary Courts, Legal Pluralism, Frontier Justice, Judicial Reform.

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## Introduction

The evolution of civil justice in Arunachal Pradesh reflects the complex interaction between legal pluralism, frontier administration, and constitutional transformation in postcolonial India. Unlike most Indian states, where judicial institutions developed within a relatively uniform constitutional framework, Arunachal Pradesh inherited a distinct regime of “frontier governance” designed to prioritise administrative flexibility over judicial formalism. The Assam Frontier (Administration of Justice) Regulation, 1945 (AFR) institutionalised this model, embedding customary adjudication within a structure dominated by executive authority. While often justified on grounds of geography, ethnic diversity, and strategic sensitivity, the Regulation simultaneously entrenched a structural departure from the separation of powers and judicial independence that underpin India’s constitutional order.

This paper undertakes a comparative and analytical examination of the transition from the AFR to the Arunachal Pradesh Civil Courts Act, 2021. It argues that the 2021 Act represents not merely statutory reform but a recalibration of the relationship between executive power, customary authority, and constitutional adjudication. The central analytical question is whether this transition reflects a genuine judicialization of justice delivery or a moderated continuation of frontier exceptionalism under a new institutional design.

The AFR emerged within the colonial logic of indirect rule. Recognizing the practical limitations of imposing codified British Indian law in remote tribal regions, the colonial state formalized village authorities typically councils of community elders as primary adjudicatory bodies for civil disputes and minor offenses<sup>3</sup>. However, this recognition was embedded within an overarching structure of executive supervision, with Deputy Commissioners and Assistant Commissioners exercising appellate, revision, and supervisory jurisdiction. The system thus embodied a hybrid form of legal pluralism: customary norms were acknowledged, but ultimate authority remained concentrated in executive hands. Judicial functions were not institutionally insulated from administrative control.

Following independence, the political status of the region changed from NEFA to a Union Territory in 1972 and ultimately to full statehood in 1987, yet the AFR persisted. Its longevity reveals a constitutional paradox. On the one hand, the Indian Constitution recognizes differentiated governance in tribal areas under Articles 244 and 244-A and related frameworks. On the other, the broader constitutional structure rests upon rule of law, equality before law, and an independent judiciary. The continued operation of an executive-dominated justice system in a full-fledged state increasingly exposed tensions between protective autonomy and constitutional uniformity.

The Arunachal Pradesh Civil Courts Act, 2021 must therefore be analyzed as part of a larger project of constitutional harmonization. By restructuring court hierarchies, delineating judicial powers more clearly, and reducing executive adjudicatory authority, the Act moves toward a model more consistent with mainstream civil court administration across India. At the same time, it seeks to preserve the legitimacy and accessibility of customary dispute resolution, thereby retaining elements of legal pluralism within a formal judicial framework.

The significance of this reform lies not only in institutional redesign but in its normative implications. It raises fundamental questions about how frontier regions transition from administrative governance to constitutional adjudication, how customary law can be accommodated within a rule-of-law framework, and whether judicialization necessarily entails the erosion of community-based authority. By situating the 2021 Act within this broader analytical framework, this paper assesses whether Arunachal Pradesh is witnessing the consolidation of constitutional civil justice or the reconfiguration of exceptionalism in subtler form.

## Methodology

<sup>3</sup> Kago Gambo & Nani Bath, *The Administration of Justice in ‘Tribal Areas’: A Case of Arunachal Pradesh*, 7 MZUJHSS 67 (2021).

This study employs a qualitative doctrinal and comparative legal methodology to examine the transformation of civil justice administration in Arunachal Pradesh. The analysis is grounded primarily in close textual examination of statutory instruments, namely the Assam Frontier (Administration of Justice) Regulation, 1945 (as amended), and the Arunachal Pradesh Civil Courts Act, 2021, together with its subsequent amendments in 2022 and 2023. These primary sources are analyzed to identify shifts in institutional design, jurisdictional allocation, adjudicatory authority, and procedural safeguards.

The comparative component of the methodology involves a structured evaluation of continuities and departures between the AFR framework and the 2021 Act, with particular attention to the redistribution of powers between executive authorities and judicial institutions, and the formal positioning of customary adjudicatory bodies within the restructured hierarchy.

Secondary materials, including academic scholarship on legal pluralism, frontier governance, constitutional law, and tribal autonomy, are used to situate the statutory analysis within broader theoretical and constitutional debates. The study does not rely on empirical fieldwork; rather, it adopts a normative and institutional lens to assess whether the 2021 reform represents substantive judicialization and constitutional harmonization or a moderated continuation of frontier exceptionalism.

### Constitutional perspective

The constitutional framework of India provides the overarching legal foundation for the continued operation of the AFR, and the legitimacy of subsequent reforms introduced by the Arunachal Pradesh Civil Courts Act, 2021. Article 13(3) of the Constitution defines “law” to include not only legislative enactments but also “custom or usage having the force of law in the territory of India.”<sup>4</sup> It further defines “laws in force” as any pre-Constitution law or regulation that was not repealed, even if it was not fully operational in certain areas.<sup>5</sup> This provision ensured that the Assam Frontier (Administration of Justice) Regulation, 1945, a colonial era regulation continued as valid law after 1950, allowing customary practices and village level adjudication to remain legally enforceable in Arunachal Pradesh. In the context of Arunachal Pradesh, Article 13(3) assumes particular significance. The state’s diverse indigenous communities have long followed distinct customary laws and traditional systems of governance, many of which have been judicially and statutorily recognized as having the force of law. These customary practices remain valid and enforceable, provided they do not violate fundamental rights enshrined in Part III of the Constitution. The judiciary has consistently held that customs, even when statutorily recognized, must yield to fundamental rights where inconsistency arises. In *Gazula Dasaratha Rama Rao v. State of Andhra Pradesh*<sup>6</sup> the Supreme Court explicitly observed that “even if there was a custom which has been recognized by law... that custom must yield to a fundamental right.”<sup>7</sup> Beyond Article 13, the Constitution contains specific safeguards for tribal communities and their customary systems through **Articles 244 and 244-A**, as well as the **Fifth and Sixth Schedules**. These provisions enable the creation of Scheduled Areas and autonomous councils in tribal regions, designed to protect the interests of Scheduled Tribes, preserve their distinct identity, and allow administration adapted to their conditions.<sup>8</sup> Arunachal Pradesh, though not formally notified as a Scheduled Area under the Fifth Schedule, benefits from the broader constitutional policy of minimal interference in tribal affairs and respect for customary governance (a policy that directly informed the design and long continuation of the AFR).

This constitutional architecture explains why customary justice mechanisms were not only permitted but constitutionally encouraged in frontier tribal regions. At the same time, it sets clear boundaries: customary adjudication must conform to fundamental rights and is subject to judicial review. The Arunachal Pradesh Civil Courts Act, 2021 and its amendments (2022 and 2023) reflect an attempt to operate within this

<sup>4</sup> India Consti. art. 13(3)(a).

<sup>5</sup> India Consti. art. 13(3)(b).

<sup>6</sup> *Gazula Dasaratha Rama Rao Vs State of Andhra Pradesh* AIR 1961 SC 564.

<sup>7</sup> M P JAIN, *INDIAN CONSTITUTIONAL LAW* 897 (8<sup>th</sup> ed., 2018).

<sup>8</sup> Topi Basar, *Assam Frontier (Administration of Justice) Regulation 1945 of Arunachal Pradesh Assessing its Lacunae and Importance* 3 MNLU NAGPUR CLR 135 (2019).

constitutional framework by reducing executive dominance, strengthening judicial oversight, and formalizing appeal mechanisms to regular courts, thereby ensuring greater procedural fairness and constitutional compliance while preserving the cultural legitimacy of village and customary authorities.

### **A comparative analysis of Assam Frontier (Administration of Justice) Regulation 1945 and Arunachal Pradesh Civil Court Act 2021**

The Assam Frontier (Administration of Justice) Regulation, 1945 (AFR) was introduced as a special legal arrangement for frontier regions where the application of ordinary British Indian laws was considered administratively and socially impractical. While enacted during the colonial period, the AFR cannot be understood solely as an instrument of control. Its defining feature was the deliberate incorporation of customary institutions into the formal administration of justice, reflecting an acknowledgement of indigenous modes of dispute resolution. Village authorities, typically composed of village elders selected by the community were granted limited autonomy to adjudicate disputes in accordance with prevailing local customs, albeit under the overarching supervision of executive officers (Deputy Commissioners and Assistant Commissioners).<sup>9</sup>

Against this historical backdrop, the Arunachal Pradesh Civil Courts Act, 2021 represents a significant reorganization of the inherited framework. Enacted by the state legislature, the Act seeks to modernise civil justice by restructuring court hierarchies, removing several executive centric provisions of the AFR, and integrating customary institutions within a formal judicial structure. Rather than displacing village level adjudication, the Act attempts to subordinate it to judicial oversight and procedural safeguards, reflecting a shift in institutional design from executive dominance toward judicial independence, while preserving the cultural legitimacy of customary dispute resolution.

#### ***Village Authorities:***

This shift in institutional design becomes most visible when examining the role, authority, and regulation of village authorities under the two legal regimes.

The AFR was a foundational legislation for the efficient administration of justice in the North-East Frontier Agency (now Arunachal Pradesh). Under **Section 5** of the AFR, village authorities by whatever name called were formally recognized, and the Deputy Commissioner was empowered to appoint or notify suitable persons as members where necessary. This provision simultaneously acknowledged pre-existing community-based institutions and placed them within an administrative hierarchy under executive supervision. While village authorities enjoyed considerable practical autonomy in resolving disputes according to customary norms, their formal recognition, appointment (in some cases), and accountability remained tied to the Deputy Commissioner, reflecting the absence of institutional separation between executive administration and adjudication.

The powers and functions of village authorities under the AFR were extensive, reflecting a decentralized yet executive-supervised model:

- a) The Village Authorities were responsible for upholding peace and order within their jurisdiction and carrying out ordinary police duties in respect of crime.<sup>10</sup>
- b) To maintain public peace, all crimes, deaths, and serious accidents that occur within or beyond their jurisdiction must be reported to the Deputy Commissioner or Assistant as promptly as possible. Offenders must then be arrested and brought before the appropriate court for a trial within a period of twenty-four hours.<sup>11</sup>

<sup>9</sup> Supra note 3 at 77.

<sup>10</sup> The Assam Frontier (Administration of Justice) Regulation 1945, s. 6.

<sup>11</sup> The Assam Frontier (Administration of Justice) Regulation 1945, s. 9.

- c) If the village authorities have reason to believe that someone has committed or is about to commit an offence, they may arrest that person and hand them over to the Deputy Commissioner or an Assistant Commissioner.<sup>12</sup>
- d) A village authority may track beyond their jurisdiction any offender or suspicious character whom they consider it necessary to apprehend.
- e) All inhabitants of the Tracts are bound to aid the village authority in apprehending offenders and are liable to fine for failing to give such aid.<sup>13</sup>
- f) In the event the Deputy Commissioner or Assistant Commissioner finds that there has been misconduct in their discharge the function of village authority, be punishable with a fine which may extend to Rs.1000/- or imprisonment up to six months.<sup>14</sup>

This framework delivered accessible, community-based justice but suffered from a structural limitation: adjudicatory authority remained subordinate to executive supervision. The absence of institutional separation between governance and adjudication constrained the independence of village authorities and limited procedural safeguards.

The Arunachal Pradesh Civil Courts Act, 2021 approaches the role of village authorities from a markedly different institutional perspective. While the AFR's model preserved local autonomy at the village level, it struggled with oversight and appeals, often leaving disputes vulnerable to administrative interference. The Arunachal Pradesh Civil Courts Act, 2021 seeks to rectify this by embedding traditional mechanisms within a more robust, hierarchical judicial structure without fully supplanting them. In this vein, Section 3 of the Act additionally establishes classes of civil courts, including

- a) Court of a District Judge
- b) Court of Additional District Judge
- c) Court of a Civil Judge (Senior Division)
- d) Court of a Civil Judge (Junior Division)
- e) Customary Court

This integration elevates village-level adjudication to a formal tier within the civil justice system. The Act defines Customary Courts to include traditional village councils recognized under **Section 5** of the AFR. This statutory recognition was further strengthened by the **Assam Frontier (Administration of Justice) Regulation (Amendment) Act, 2023**, which inserted **Section 2(f)** to expressly define "Village Authority" as including traditional village councils, inter-village territorial councils, apex customary councils, and offices such as Head Gaon Bura and Gaon Bura.<sup>15</sup> The 2023 Amendment also inserted **Section 5(3)**, empowering the State Government to frame rules regarding the election, selection, appointment, powers, functions, and meetings of these authorities, thereby standardizing previously ad hoc and executive-dependent operations.<sup>16</sup>

Consequently, village authorities now function as Customary Courts within the statutory framework. Appeals from their decisions lie (with party agreement or as desired) to inter-village territorial Customary Courts or Apex Customary Courts under traditional laws, before any optional escalation to formal civil courts. While executive facilitation persists in some areas (e.g., referrals and enforcement), these changes collectively reduce unchecked executive adjudication, promote procedural safeguards, and strike a balance between community accessibility and judicial independence. The jurisdiction of the civil courts established under the Act is structured as follows:

<sup>12</sup> The Assam Frontier (Administration of Justice) Regulation 1945, s.10.

<sup>13</sup> The Assam Frontier (Administration of Justice) Regulation 1945, s.12.

<sup>14</sup> The Assam Frontier (Administration of Justice) Regulation 1945, s. 13.

<sup>15</sup> The Assam Frontier (Administration of Justice) Regulation (Amendment) Act 2023, s. 2.

<sup>16</sup> The Assam Frontier (Administration of Justice) Regulation (Amendment) Act 2023, s. 5.

- a) Local Jurisdiction: The local jurisdiction of any Civil Court's jurisdiction under this Act may be fixed by the Government, in consultation with the High Court, and may be changed from time to time by notification.<sup>17,18</sup>
- b) Jurisdiction of a Court of District Judge and an Additional District Judge: The Court of District Judge and the Court of Additional District Judge, if there is such court, will be considered the Civil court with original jurisdiction within their respective jurisdiction's local limits.<sup>19</sup>
- c) Jurisdiction of a Court of Civil Judge (Senior Division): The jurisdiction of the court of a Civil Judge (Senior Division) shall extend to all original suits and civil processes as outlined in Code of Civil Procedure, 1908.<sup>20</sup>
- d) Jurisdiction of a Court of Civil Judge (Junior Division): A Court of Civil Judge (Junior Division) has jurisdiction over all original suits and civil proceedings. In addition, subject to the Code of Civil Procedure, 1908, or any other law for the time being force, the Court of Civil Judge (Junior Division) has pecuniary jurisdiction over all civil suits with an amount of up to rupees ten lakhs, or as may be prescribed by the Government in consultation with the High Court.<sup>21</sup>
- e) Appeals: Appeals from decisions made by District Judges and Courts of Additional District Judges in civil lawsuits and proceedings shall, when such appeals are allowed by law, lie to the High Court. Appeals from decisions made by the Court of Civil Judge (Senior Division) in civil lawsuits and proceedings shall, when such appeals are allowed by law, lie to the Court of District Judges and Courts of Additional District Judges. Appeals from decisions made by the Court of Civil Judge (Junior Division) in civil lawsuits and proceedings shall, when such appeals are allowed by law, lie to the Court of Civil Judge (Senior Division).<sup>22</sup>
- f) Judges not to try suits in which they are interested: No judicial officer or authority of customary court shall preside over a trial in which they are a party or have a personal interest.<sup>23</sup>

### **Criminal proceedings**

Under Section 15 of the AFR (as originally enacted), the Deputy Commissioner, Assistant Commissioner, and village authorities were collectively responsible for the administration of criminal justice. The Arunachal Pradesh Civil Courts Act, 2021 decisively reduces executive involvement by deleting the words “the Deputy Commissioner, and the Assistant Commissioner” from Section 15. Additionally, the Act scraps several sections that dealt with criminal proceedings under the AFR, including Section 16 (Appointment of Additional Deputy Commissioner), Section 17 (powers of Deputy Commissioner), Section 25 (Appeals from Assistant Commissioner), Section 26 (Appeal to the High Court), Section 27 (limitation for Appeals), and Section 28 (power of Revision). This deletion reflects a deliberate effort to reduce executive dominance over criminal adjudication and aligns with constitutional principles of separation of powers.

Despite these changes, the reforms preserve and strengthen the decentralized character of criminal justice for indigenous communities by retaining the following key provisions under the AFR intact and unamended:

- a) Powers of Assistant Commissioner: The Assistant Commissioner will have the same authority as a Magistrate of the First Class under the Criminal Procedure Code.<sup>24</sup>
- b) Jurisdiction of Village Authority: any case involving any of the under-mentioned offenses in which the accused person or persons reside within their jurisdiction may be tried by the authorities. The offenses like theft including theft in a building, mischief not being mischief by

<sup>18</sup> The Arunachal Pradesh Civil Courts Act, 2021, s. 11.

<sup>19</sup> The Arunachal Pradesh Civil Courts Act, 2021, s. 12.

<sup>20</sup> The Arunachal Pradesh Civil Courts Act, 2021, s. 13.

<sup>21</sup> The Arunachal Pradesh Civil Courts Act, 2021, s. 14.

<sup>22</sup> The Arunachal Pradesh Civil Courts Act, 2021, s. 15.

<sup>23</sup> The Arunachal Pradesh Civil Courts Act, 2021, s. 17.

<sup>24</sup> The Assam Frontier (Administration of Justice) Regulation 1945, s. 18.

fire or any explosive substance, simple hurt, criminal trespass or house trespass, assault, or using criminal force.<sup>25</sup>

- c) Powers of village authority: A village authority may impose a fine not exceeding Rs 3000/- for any offence, they are entitled to trial, and they may also award payment in restitution or compensation for the full extent of the harm suffered, these fines and payments may be enforced by seizing the offender's property.<sup>26</sup>
- d) Disposal of cases by village authorities and powers to compel attendance: All cases will be decided by the village authorities in an open Darbar with the complainant, the accused, and at least three independent witnesses present. They have the authority to order everyone listed above to appear, as well as any witnesses who will be questioned for the case. impose a fine of up to Rs. 200. on any person failing to attend when so ordered.<sup>27</sup>
- e) Procedure by village Authorities after sentence: any party who is aggrieved by a decision made by the authority in the village may file an appeal within thirty days with the Inter-village Territorial Customary Court or Apex Customary Court, by whatever name called who on receipt of such appeal shall dispose of the case.<sup>28</sup> The Courts of Judicial Magistrate First Class, the Courts of Chief Judicial Magistrate, the Courts of Additional District and Sessions Judge, or the Courts of District and Sessions Judge shall hear an appeal from a decision made by the village authority, the Inter-village territorial Customary Court, or the Apex Customary Court if the aggrieved party desires to do so.

These retained provisions ensure that village authorities continue to deliver accessible, culturally appropriate justice for minor offences involving indigenous parties, while the deletions remove direct executive oversight in adjudication and appeals.

The Assam Frontier (Administration of Justice) Regulation (Amendment) Act, 2023 further advances this balanced objective by deleting Section 14 of the Assam Frontier (Administration of Justice) Regulation, 1945 and substituting Sections 23 and 24. These changes replace the former executive-led appeal structure with a customary first hierarchy: appeals first go to Inter-Village Territorial or Apex Customary Courts, followed by an optional escalation to regular criminal courts. Importantly, Section 24 now mandates that proceedings of village authorities and customary courts be recorded in writing and prohibits regular courts from dismissing appeals solely on technical or procedural grounds allowing decisions on merits or even de novo hearings.<sup>29</sup>

Although executive facilitation persists in limited areas (e.g., enforcement of fines or referral of cases back to village authorities), these reforms significantly reduce unchecked executive adjudication, introduce basic procedural safeguards, and maintain community participation in criminal justice for petty matters.

### Civil proceedings

A similar institutional pattern is evident in civil justice. As per section 36 of AFR(as enacted originally) Civil justice was administered by the Deputy Commissioner, Assistant Commissioner and village authorities. However, the Act has deleted the words “the Deputy Commissioner, and the Assistant Commissioner” Additionally, the Act scrapped several sections that dealt with criminal proceedings under AFR. Sections deleted by the Act are section 37 powers of Deputy Commissioner and Assistant Commissioner, section 39 Arbitration in other cases, 42(2) the Deputy Commissioner or an Assistant Commissioner may direct village authority to report case or proceeding, section 46 Appeals from village authorities, section 47 Appeals from Assistant Commissioner, section 48 Appeals from Deputy Commissioner, section 49 presentation of appeals, section 50 power of revision, section 51 limitation and other conditions, section 52 Act IX of 1908, section 53 Execution of decrees, section 54 Exemption from execution and imprisonment for debt. This deletion

<sup>25</sup> The Assam Frontier (Administration of Justice) Regulation 1945, s. 19.

<sup>26</sup> The Assam Frontier (Administration of Justice) Regulation 1945, s. 20.

<sup>27</sup> The Assam Frontier (Administration of Justice) Regulation 1945, s. 22.

<sup>28</sup> The Assam Frontier (Administration of Justice) Regulation 1945, s. 23.

<sup>29</sup> The Assam Frontier (Administration of Justice) Regulation (Amendment) Act, 2023, s. 24.

strengthens the formal civil court system and reinforces judicial independence. Despite these excisions, the Act has preserved the decentralized character of civil justice for indigenous communities by retaining the following key provisions of the AFR (with targeted substitutions for enhanced efficacy):

- a) Power of village authorities: All suits, regardless of value, in which both parties are indigenous to the Union Territory of Arunachal Pradesh and live within their jurisdiction shall be tried by the village authorities.<sup>30</sup>
- b) Power to enforce attendance<sup>31</sup>: The village authorities would have the authority to order the parties and witnesses to appear and would also have the power to fine anyone who does not comply with the order up to Rs. 5000 (after the Act substituted “the words and figure 500” with “the word and figure 5000”).
- c) Unfounded and vexatious suits<sup>32</sup>: If defendants are sued in vexatious or baseless cases, the village authorities have the authority to award them costs and compensation up to Rs. 50000/- (after the Act substituted “the words and figure 5000” with “the word and figure 50000”).
- d) Hearing of cases: all suits tried by the village authorities shall be decided in open Darbar in the presence of the parties and at least three independent witnesses.<sup>33</sup>

These retained provisions ensure continued accessibility and community participation in civil disputes involving indigenous parties, while the substitutions (higher fines/compensation) modernize remedies without altering the fundamental jurisdiction.

The Arunachal Pradesh Civil Courts (Amendment) Act, 2022 further clarifies and supports this integration by inserting Section 10(4) into the principal 2021 Act: notwithstanding the establishment of formal civil courts, where a civil suit is triable by village authorities under the AFR, local administrative officers must facilitate and refer such cases back to the village authorities for trial.<sup>34</sup>

The 2022 Amendment also enhances appellate mechanisms by inserting Section 15(4), which allows appeals from village authorities to inter-village territorial Customary Courts or Apex Customary Courts (by whatever name called) if agreed upon by the parties, with such appeals to be settled under traditional customary laws (per AFR Section 40).<sup>35</sup> A further appeal then lies to regular civil courts (e.g., Civil Judge Junior/Senior Division, Additional District Judge, or District Judge, as per jurisdiction). Crucially, these appeals shall not be dismissed merely on technical or procedural grounds but must be disposed of in the interest of justice, potentially proceeding de novo.

Building on these developments, the Assam Frontier (Administration of Justice) Regulation (Amendment) Act, 2023 inserted Section 44(4),<sup>36</sup> empowering village authorities and customary councils to pass ex-parte decisions where a party willfully absents itself on three consecutive occasions after due notice. This provision addresses potential procedural delays in customary adjudication, ensuring efficiency while maintaining fairness.

Overall, these sequential reforms starting with the 2021 Act’s removal of executive dominance, followed by preserved village jurisdiction with updated powers, and reinforced by the 2022 and 2023 amendments’ procedural safeguards and referral/appellate clarity create a balanced framework that upholds cultural autonomy in civil matters for indigenous communities while subordinating customary processes to structured judicial oversight and independence.

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<sup>30</sup> The Assam Frontier (Administration of Justice) Regulation 1945, s. 40.

<sup>31</sup> The Assam Frontier (Administration of Justice) Regulation 1945, s. 41.

<sup>32</sup> The Assam Frontier (Administration of Justice) Regulation 1945, s. 42.

<sup>33</sup> The Assam Frontier (Administration of Justice) Regulation 1945, s. 44.

<sup>34</sup> The Arunachal Pradesh Civil Courts (Amendment) Act 2022, s. 10.

<sup>35</sup> The Arunachal Pradesh Civil Courts (Amendment) Act 2022, s. 15.

<sup>36</sup> the Assam Frontier (Administration of Justice) Regulation (Amendment) Act 2023, s. 44.

## Analytical Assessment

Taken together, the AFR and the Arunachal Pradesh Civil Courts Act, 2021 reveal a shift in the institutional organization of justice rather than a complete rejection of customary law. Under the AFR, customary justice functioned within a framework that subordinated village authorities to executive supervision. In contrast, the 2021 Act removes this subordination by withdrawing executive adjudicatory powers and strengthening the role of courts. This is a real change: from a system run mainly by administrators to one guided more by judges. At the same time, customary courts continue to operate as a recognized component of the justice system, which keeps the system connected to local culture and traditions. However, while the Act succeeds in restructuring authority, it leaves several operational aspects of customary justice largely unregulated. As a result, the interaction between customary courts and formal courts remains uneven and, in some instances, unclear. These institutional changes, though significant, also give rise to a number of practical and normative concerns that warrant closer examination.

The statutory framework does not lay down clear and uniform procedural standards for the functioning of customary courts. There are no fixed rules regarding the admissibility of evidence, allocation of burden of proof, or the requirement that decisions be supported by reasoned explanations. Consequently, similar disputes may be handled differently across villages and communities. Although open *Darbar* proceedings contribute to transparency by allowing public participation, they do not necessarily ensure procedural fairness or consistency in outcomes.

Questions also arise regarding the protection of constitutional rights within the customary system. While parties retain the option of approaching regular courts through appeals, this safeguard depends largely on individual initiative. Where litigants remain within customary forums: whether due to limited awareness, social pressure, or logistical constraints, issues such as discriminatory treatment in matters of inheritance or marriage may remain unaddressed. The absence of built-in safeguards therefore creates the possibility that certain rights violations may persist without effective review.

Uncertainty further persists in relation to the handling of minor criminal matters by village authorities. Although customary forums are empowered to address petty offenses, there are no clearly articulated standards concerning the proportionality of punishment or the procedural rights of the accused. The resulting variation in penalties across different localities raises concerns about equal treatment and legal certainty within the broader justice system.

Enforcement presents an additional challenge. Even where decisions are issued by courts or customary authorities, the implementation of fines or compensation frequently depends on the cooperation of administrative officials. Delays or lack of support from the executive can render such decisions ineffective in practice, thereby weakening the authority of both customary and formal judicial institutions.

Institutional capacity at the village level also remains limited. While the Act recognizes and in some respects expands the role of customary courts, it does not provide systematic training, record-keeping support, or basic legal orientation for village authorities. The requirement of maintaining written records represents an important procedural improvement, yet its effective implementation presupposes administrative and technical assistance that is presently uneven.

The framework is similarly silent on specific safeguards for women and other vulnerable groups. In disputes concerning marriage, family property, or land, customary practices may prioritize community harmony over individual entitlements. Without explicit statutory guidance or protective measures, such proceedings risk reproducing existing social hierarchies and patterns of exclusion.

Finally, the absence of clearly defined thresholds for transferring disputes from customary forums to regular courts contributes to procedural ambiguity. Although appellate mechanisms exist, the law does not specify the circumstances under which matters should move to the formal judicial system. This lack of clarity has the potential to produce divergent practices across regions and to create uncertainty for litigants regarding the appropriate forum for adjudication.

These issues indicate that while the 2021 Act marks an important institutional transition toward a more court-centred structure, the operational coherence of the plural justice system it seeks to sustain remains only partially resolved. Addressing these concerns will be essential for ensuring that the coexistence of customary and formal institutions functions in a manner consistent with both legal certainty and constitutional commitments.

## Conclusion

The Arunachal Pradesh Civil Courts Act, 2021 and its subsequent amendments mark a significant shift from the executive-dominated framework of the Assam Frontier (Administration of Justice) Regulation, 1945 toward a more judiciary-centred system. By restructuring court hierarchies and limiting executive adjudicatory authority, the reform advances judicial independence and aligns the state more closely with constitutional principles of separation of powers and rule of law.

At the same time, the Act preserves customary dispute resolution within a formal legal framework, reflecting a continued commitment to legal pluralism. However, structural reform alone does not resolve deeper concerns regarding procedural fairness, consistency, accountability, and protection of fundamental rights.

The central challenge now lies in ensuring that customary justice operates in conformity with constitutional values. Without stronger safeguards and oversight mechanisms, the hybrid justice system in Arunachal Pradesh will remain only partially harmonized with the broader constitutional framework.

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10. The Assam Frontier (Administration of Justice) Regulation, 1945, sec. 10.
11. The Assam Frontier (Administration of Justice) Regulation, 1945, sec. 12.
12. The Assam Frontier (Administration of Justice) Regulation, 1945, sec. 13.
13. The Assam Frontier (Administration of Justice) Regulation, 1945, sec. 18.
14. The Assam Frontier (Administration of Justice) Regulation, 1945, sec. 19.

15. The Assam Frontier (Administration of Justice) Regulation, 1945, sec. 20.
16. The Assam Frontier (Administration of Justice) Regulation, 1945, sec. 22.
17. The Assam Frontier (Administration of Justice) Regulation, 1945, sec. 23.
18. The Arunachal Pradesh Civil Courts Act, 2021, sec. 11.
19. The Arunachal Pradesh Civil Courts Act, 2021, sec. 12.
20. The Arunachal Pradesh Civil Courts Act, 2021, sec. 13.
21. The Arunachal Pradesh Civil Courts Act, 2021, sec. 14.
22. The Arunachal Pradesh Civil Courts Act, 2021, sec.15.
23. The Arunachal Pradesh Civil Courts Act, 2021, sec. 17.

