

**INDIGENOUS PRACTICES OF DISPUTE MANAGEMENT:  
AN ANTHROPOLOGICAL STUDY OF THE KISANS OF  
EASTERN NEPAL**

**A Dissertation**

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**By**

**SHAMBHU PRASAD KATTEL**

**Ph. D. Regd. No: 2060-26**

**TU Regd. No: 5722 - 83**

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## LETTER OF RECOMMENDATION

We certify that this dissertation, “**Indigenous Practices of Dispute Management: An Anthropological Study of the Kisans of Eastern Nepal**” was prepared by Shambhu Prasad Kattel under our guidance. We hereby recommend this dissertation for external evaluation by the Research Committee of the Faculty of Humanities and Social Sciences, Tribhuvan University, in fulfillment of the requirements for the Degree of Doctor of Philosophy in Anthropology.

Dissertation Committee

---

Prof. Dr. Ram Bahadur Chhetri  
Supervisor

---

Prof. Dr. Om Gurung  
Expert

Date:

## **APPROVAL LETTER**

This dissertation entitled “**Indigenous Practices of Dispute Management: An Anthropological Study of the Kisans of Eastern Nepal**” was submitted by Mr. Shambhu Prasad Kattel for final examination by the Research Committee of the Faculty of Humanities and Social Sciences, Tribuvan University, in fulfillment of the requirements for the Degree of Doctor of Philosophy in Anthropology. I hereby certify that the Research Committee of the Faculty has found this dissertation satisfactory in scope and quality and has therefore accepted it for the degree.

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Prof. Nav Raj Kanel, Ph.D.  
Dean and Chairman  
Research Committee  
Faculty of Humanities and Social  
Sciences  
Tribhuvan University, Nepal

Date :

## **DECLARATION**

I hereby declare that this Ph. D. dissertation entitled "Indigenous Practices of Dispute Management: An Anthropological Study of the Kisans in Eastern Nepal" submitted to the Office of the Dean, Faculty of Humanities and Social Sciences, Tribhuvan University, is an entirely original work prepared under the supervision of my supervisor. I have made due acknowledgement to all ideas and information borrowed from different sources in the course of writing this dissertation. The results presented in this dissertation have not been presented or submitted anywhere else for the award of any degree or for any other reasons. No part of the content of this dissertation has ever been published in any form before. I shall be solely responsible if any evidence is found against my declaration.

Date:

Shambhu Prasad Kattel

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The names mentioned in the following text are artificial; any names that seem to match an actual informant's are coincidence. All such mistakes, errors and shortcomings in this thesis are entirely my own.

Shambhu Prasad Kattel

## ABSTRACT

This is an ethnographic study of political organization and practices of justice delivery system among Kisan community from a political anthropological perspective. The study analyses “indigenous practices of dispute management” particularly structure and functions of community court, access of common people to the court, strength and weakness of dispute management body, interrelationship between informal and formal forums and changes realized in the political organization of the community. The Kisan is a minority ethnic group of Tarai and have been living in Jhapa district for more than 7 generations. The total population of the Kisans is 773 with 380 male and 393 female.

As a closed community, Kisans live in clustered settlements closer to the forest and a river and are generally involved in agricultural farming for subsistence. The study explored distinct socio-cultural and political practices of this community. They are organized under an indigenous political organization which is known as **Baiga System**. The *Baiga system* is well structured and it appears similar to the government machinery of a state. The indigenous organization of the community runs an effective and well-functioning **community court** which is locally known as *Kachchheri*. The community government and the *Kachchheri* are run by specialized authorities such as the *Mahato*, *Wakil* and *Sipahi*. The *Kachchheri* has two layered structure such as **Community Court** and **Village Court**. The *Mahato* is the Chief Judge, *Wakils* are the Judges and the *Sipahis* are the assistants of the **community court**. The *Sipahi* is the village head as well as Chief Judge of the Village Court who also appoints volunteers for enhancing village justice (there are nine villages and *Sipahi* in the study area). Due to the availability of the services of **Community Court** and its specialized authorities, almost all community disputes are resolved immediately in the community. The Kisans do not go to formal forums to resolve any kind of intra-community problems.

The Kisans claim that their origin and history is linked with the *Nagbanshi Raja* (Nagbanshi or Nagasia King) of Chhotanagpur of Madhyapradesh in India. Chhotanagpur was under the rule of Nagasia tribe from ancient to medieval period (500 to 1600AD) which was invaded by the Muslim rulers (Vidyarthi and Rai 1985). A group of the Nagasia tribe arrived in Jhapa district with their followers during 18<sup>th</sup>

century and settled there as farmers. The descendents of Nagasia settlers are known as Kisan today in Nepal while the original group is still known as Nagasia in India. The study has shown that there are close socio-cultural and political ties between the Kisan of Nepal and Nagasia of India. The group is known as Kisan in Nepal because of their farming profession.

The **Community Court** is found influential and accessible to all members of the community. It does not follow any formal procedures. The Kisan court resolves community disputes along with the formal forums set up by the state. It has recently established a relationship with local police offices in order to seek their services in resolving criminal cases from within the community. The study also found out the processes of dispute management in the Kisan court, especially participation / accessibility of gender and common people and its effectiveness or strength in the community. It has also explored the contributions of the Kisan Court in dispute resolution in comparison to the formal forums of dispute resolution in Nepal (District Court, VDC, Police Office, and so on).

The Kisans are organised under the *Mahato*, the chief of *Baiga System*. The *Mahato* is not only considered the chief of the *Baiga system* and the community but is also recognised as a living representative of the god and goddess, the ancestors, controller of the earthly resources and representative of super natural power. Such a powerful leader of the community and his lieutenants are elected by the Kisan Community Assembly. The community organises community assembly periodically to elect their authorities (*Mahato*, *Wakil*, *Sipahi*), to pass laws and to settle community issues. The *Mahato* is hereditary even though the assembly decides on his successor by considering his leading capacity, soberness, and sense of responsibility in preserving and protecting their culture. Such a powerful leader, the *Mahato*, has no rights to declare his successor. The Community Assembly deserves the rights to terminate the working chief and elect a new chief. Due to effective services of the Kisan **community court** none of the community members has gone to formal forums for resolving their dispute until this study.

The study found that the community court is easily accessible to all community members. There is no undue delay in giving verdict, its services are not very expensive for the clients and its procedures are simple and non-formal. It resolves a case immediately and implements the decision. It follows simple but systematic



procedures of dispute resolutions; brings the disputants together at the end of the session and reintegrates them. Moreover, it assigns the responsibility to the concerned village *Sipahi* for implementation of the agreement. Therefore, chances of repetition / appellation of a case are very less in the Kisan court. The Kisan Court has registered 429 disputes and resolved 347 (81%) disputes whereas the Police Office received 682 disputes and settled 417 (61%), District Administration office received 589 disputes and settled 479 (81%), District Court, Jhapa received 1198 disputes and resolved 658 (55%), and VDC and Municipality received 1293 disputes and resolved 893 (69%) disputes in 2008. Out of the total settled cases in different formal forums in 2008, the Kisan Court itself has settled 12% cases.

The community has been influenced by non-Kisan migrants, development activities and modern market forces in recent years. In the interface with new situation, most of the Kisans have lost their productive land and resources and changed into daily wage labourers. The multiparty politics has also attracted community members to different political parties. Some of the young and educated Kisans have established an NGO (club) for dealing with the processes of socio-cultural change and community development. However, the *Baiga system* is effectively functioning in the community though it has some impacts of the present change and modernization.

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## ACCRONYMS

CBS	:	Central Bureau of Statistics
CPNUML	:	Nepal Communist Party United Marxist and Leninist
DAO	:	District Administration Office
DDC	:	District Development Committee
DFO	:	District Forest Office
DLRO	:	District Land Revenue Office
IGNOU	:	Indira Gandhi National Open University
INGO	:	International Non-governmental Organization
INSEC	:	Informal Sector Service Centre
MA	:	Master of Art
NCDC	:	Nepal Community Development Centre
NCP	:	Nepali Congress Party
NEFIN	:	Nepal Federation of Indigenous Nationalities
NFDIN	:	National Foundation for Development of Indigenous Nationalities
NGO	:	Non-Governmental Organization
NPP	:	National Prajatantra Party
NTFPs	:	Non-Tiber Forest Products
PRI	:	Penal Reform International
Rs	:	Rupees
SLC	:	School Leaving Certificate
TU	:	Tribhuvan University
UCPN, M	:	United Community Party of Nepal, Maoists
UGC	:	User Group Committee / University Grant Commission
VDC	:	Village Development Committee
YCL	:	Young Communist League