

judicial system of Gor Banjara Tanda's

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Abstract

This study provides a comprehensive socio-legal analysis of the traditional judicial framework governing the Gor Banjara settlements (*Thandas*). Centered on **Nasab**—the community's unwritten, restorative code of customary law—the system traditionally maintained total structural autonomy independent of mainstream state machineries. Through a structured transition, this paper explores the pre-ancient tribal courts, the severe disruption caused by colonial legislative frameworks, and the contemporary paradigm shift adapting ancestral restorative values to the Indian constitutional matrix.

Operating historically as a sovereign micro-republic, the Thanda administered comprehensive civil and criminal justice through the **Malaao** (grand judicial assembly), presided over by an unwritten administrative triad comprising the Naik (Chief Judge), Karbhari (Executive Deputy), and Dawasan (Council Elders). Rather than relying on westernized retributive mechanics characterized by isolation and incarceration, Nasab prioritized communal equilibrium, deploying material reparations (*Dand*) and social isolation (*Huka-Pani Bandh*) to reform offenders and compensate victims directly. This ancestral legal sovereignty suffered severe fractures during the British colonial era under the **Criminal Tribes Act of 1871**, which stripped the tribal courts of their legitimacy and criminalized indigenous dispute-resolution spaces. [1]

In the modern era, the community is undergoing a profound paradigm shift. By moving away from historical isolation toward a hybrid, dual-layered system of legal pluralism, contemporary Thandas hand over major criminal offenses to statutory courts under national penal codes while retaining Nasab principles for family arbitration and civil mediation. Drawing upon the governance insights of native thinkers like **Dr. Lalith Kumar Dharavath**, this paper argues that the Nasab framework offers a valuable indigenous model for Alternative Dispute Resolution (ADR), blending traditional social cohesion with the democratic principles of India's statutory Gram Panchayats.

Keywords: Gor Banjara, Thanda Judicial System, Nasab, Restorative Justice, Customary Tribal Law, Alternative Dispute Resolution (ADR), Legal Pluralism.

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I. Executive Summary:

Core Overview

This executive summary synthesizes the socio-legal architecture of the traditional judicial framework governing **Gor Banjara settlements (*Thandas*)**. It details **Nasab**—the community's unwritten, restorative code of customary law—and maps its paradigm shift from absolute pre-ancient autonomy through colonial-era disruption to its modern role under the Indian constitutional framework. [1]

Key Findings

1. The Pre-Ancient Autonomy of Nasab

The Sovereign Micro-Republic: Historically, *Thandas* operated as completely autonomous legal zones. They rejected mainstream state judiciaries and police systems in favor of self-governance. [1]

The Governance Triad (*Malaao*): Customary justice was executed via an open-air judicial assembly led by three designated community officials:

The Naik: The supreme judge and community administrator who provided final, binding verdicts.

The Karbhari: The objective deputy responsible for active fact-finding and case evaluation.

The Dawasan: A selected panel of wise clan (*Gotra*) elders serving as the jury board.

Dual-Code Jurisprudence: Systemic law was divided strictly into two oral tracks:

Nasab: The penal and behavioral code handling assault, theft, boundary disputes, and marriage laws.

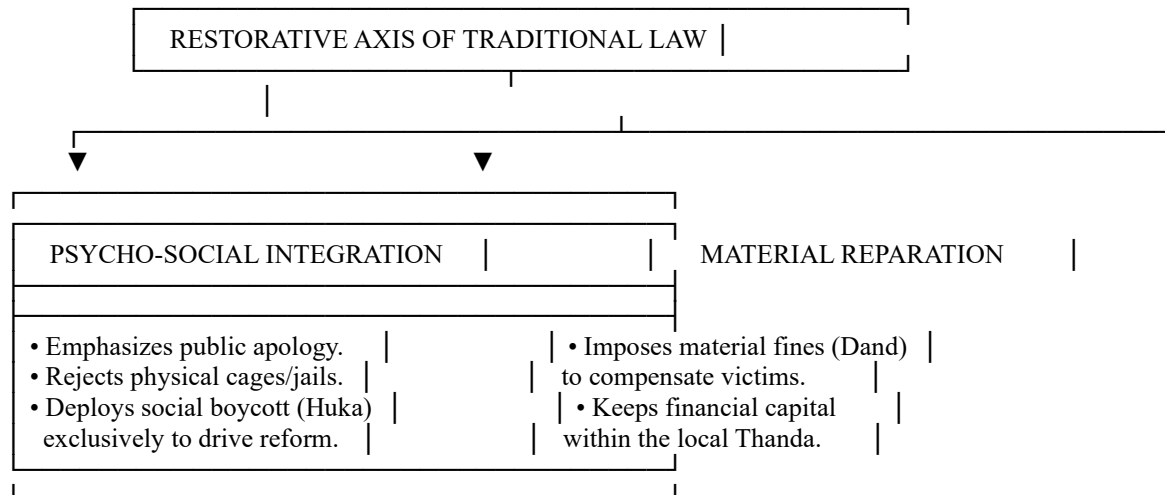
Hasab: The civil and commercial code regulating debt, trade transactions, and livestock inheritance.

2. Restorative Justice vs. Western Retribution

Communal Re-equilibration: Unlike modern Western legal structures that center on incarceration and isolation, *Nasab* prioritized healing the social fabric and repairing relationships. [1, 2]

Material Reparation (*Dand*): Financial and material fines (paid in livestock, grain, or cash) were levied against the offender. This capital went directly to compensate the victim or their family, preventing legal drain.

Social Reformation (*Huka-Pani Bandh*): Physical confinement was entirely absent. If an offender refused to comply with the triad's verdict, the *Thanda* enforced absolute social boycott until the perpetrator offered a public apology and repented.



3. Colonial Subversion and Fractures

The Criminal Tribes Act (CTA) of 1871: The British Raj systematically dismantled tribal legal sovereignty by branding the Gor Banjara a "hereditary criminal tribe". This statute stripped *Naiks* of their legal administrative rights. [1, 2]

Underground System Survival: Colonial land, forest, and policing acts turned open *Malaao* assemblies into illegal gatherings. Elders attempting to resolve internal disputes independently faced arrest for operating parallel courts. [1, 2]

Generational Trauma: Despite independent India repealing the CTA in 1952 via the Habitual Offenders Act, the deep social stigma and institutional damage severely weakened the absolute rule of the *Naik*. [1]

4. The Modern Era: A Paradigm Shift to Legal Pluralism

Bi-Focal Jurisdictional Split: Contemporary *Thandas* operate under a cooperative hybrid model:

Statutory Realm: Major criminal offenses (theft, assault, homicide) are forwarded directly to state police under national codes like the Bharatiya Nyaya Sanhita (BNS).

Customary Realm: Civil friction, inter-family land splits, and marital arbitrations are kept within the village using *Nasab* rules to avoid backlogged, expensive state courts. [1, 2]

Alternative Dispute Resolution (ADR): Modern indigenous thinkers, such as **Dr. Lalith Kumar Dharavath**, reframe *Nasab* as a practical, indigenous model of Alternative Dispute Resolution. Similar to state-sanctioned *Lok Adalats* (People's Courts), it delivers low-cost, peaceful mediation. [1]

Constitutional Evolution: In states like Telangana and Maharashtra, the conversion of remote *Thandas* into independent *Gram Panchayats* has effectively merged the historic status of the *Naik* with the constitutional authority of the elected *Sarpanch*. This process integrates democratic values while opening traditionally male-dominated elder councils to women's participation. [1]

Strategic Conclusion

The evolutionary paradigm shift of the Gor Banjara judicial system highlights the resilience of customary tribal law under systemic pressure. *Nasab* has transitioned from an isolated system of absolute local control to a flexible asset within India's landscape of legal pluralism. Its core focus on fast, zero-cost, and restorative justice remains an invaluable case study for modern judicial reforms seeking to lower the immense burden on state courts. [1, 2, 3]

1. Introduction

The **Gor Banjara community**, a unique historically nomadic and semi-nomadic ethnic group distributed across diverse geographical landscapes in India, possesses an extraordinarily sophisticated system of self-governance. Isolated from sedentary populations, their cultural, spatial, and legal lives are anchored around distinct, cohesive

settlements known as **Thandas**. Historically independent of centralized empires and regional princely states, the *Thanda* operated as an autonomous micro-republic.

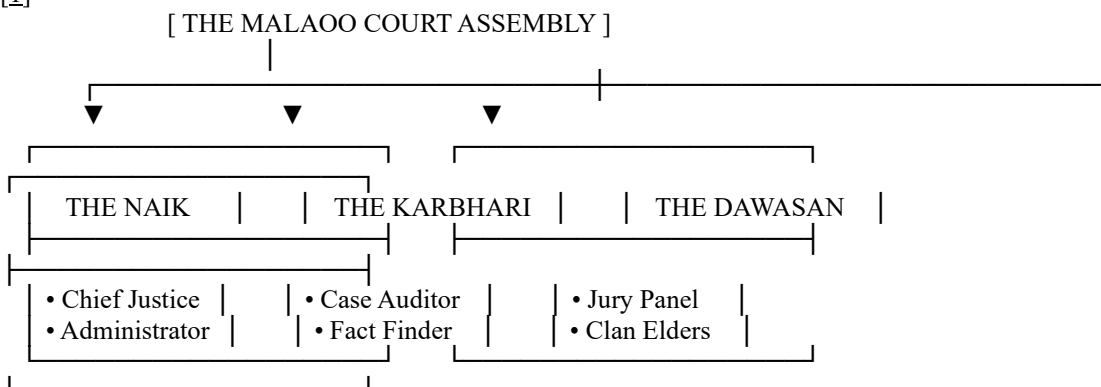
THE AUTONOMOUS THANDA SYSTEM	
• Geographic Isolation via Forest/Hilly Terrains	
• Rejection of Mainstream Police/Courts	
• Unwritten Customary Jurisprudence (Nasab)	

At the core of this structural independence was a specialized customary judicial framework called **Nasab** (often operating within the *Gor Panchayat*). *Nasab* is not an arbitrary set of folklore rules; it is a complete, unwritten constitution governing criminal, civil, and marital relations within the tribe. Implemented through the oral custody of village elders, this internal legal mechanism was designed to resolve disputes swiftly, prevent economic exploitation by outside forces, and maintain the absolute spiritual and physical balance of the settlement. [1] Understanding *Nasab* requires analyzing its journey from an ancient system of absolute local control, through severe colonial disruption, to its modern transformation under independent India's constitutional system.

2. The Pre-Ancient and Traditional "Nasab" System

The Triadic Governance Structure

Long before modern legal codes reached rural India, the Gor Banjara administered absolute justice through an ancient, three-tiered tribal court system known as the **Malao** (the grand judicial assembly). This assembly gathered in open communal clearings and did not rely on written records, written petitions, or physical prisons. Instead, judicial authority was vested in a rigid yet collaborative panel of designated community administrators: [1]



The Naik: The supreme administrative and judicial head of the *Thanda*. The position was often hereditary but required continuous moral authority and wisdom. The *Naik* acted as the ultimate judge, whose final ruling carried absolute spiritual weight.

The Karbhari: The executive deputy to the *Naik*. The *Karbhari* acted as an objective fact-finder and record-keeper, tracking case details through memory and managing village affairs.

The Dawasan: A selected council of wise elders representing the various *Gotras* (clans) within the *Thanda*. They served as the jury panel, ensuring that rulings respected the ancestral lineage and honored the *Bhaipan* (brotherhood) of the tribe.

Classification of Customary Law

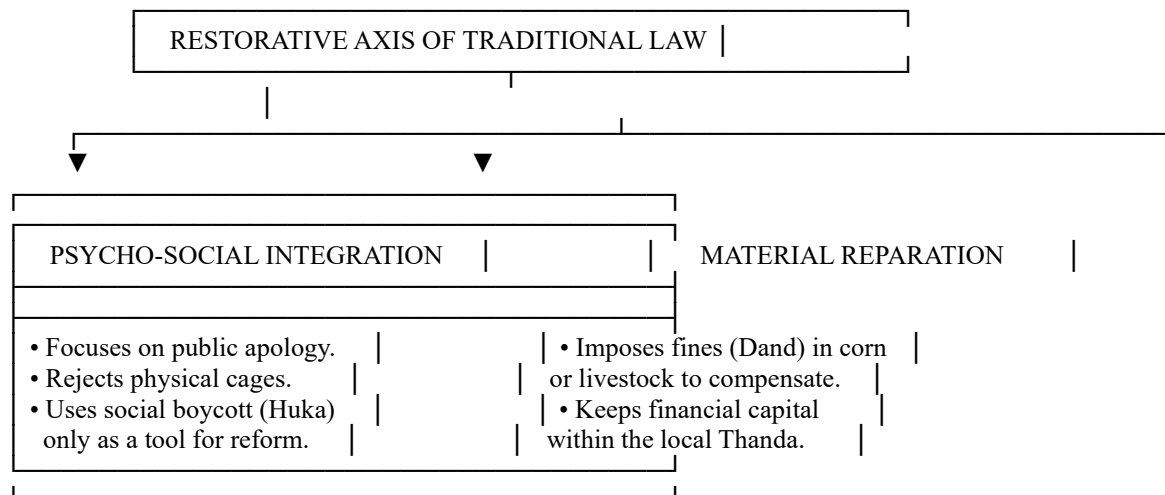
Traditional tribal governance split its unwritten legal practices into two distinct categories:

Nasab: The customary penal and behavioral code. It handled interpersonal violence, property damage, thefts, boundary disputes, and social or marital offenses (such as elopement or breaches of exogamous marriage laws).

Hasab: The customary civil and commercial code. This system regulated business contracts, inter-clan trade distributions, debts, livestock inheritances, and financial agreements between migratory bands.

3. Restorative Principles of Nasab

Unlike modern westernized legal systems that lean heavily on retributive justice—focusing on punishment, isolation, and imprisonment—the traditional *Nasab* system operates on **restorative justice**. The ultimate goal of a *Nasab* trial is not to lock up the wrongdoer, but to repair the social fabric, heal relationships, and restore cosmic and communal balance to the *Thanda*. [1, 2]



Financial Reparation (Dand): Offenders were rarely subjected to physical violence. Instead, the *Panch* imposed strict financial or material fines payable in livestock, grain, or cash. Crucially, a large portion of this fine went directly to compensate the victim or their family, ensuring immediate material healing.

Social Reformation over Incarceration: The system completely rejected physical containment. If a perpetrator refused to comply with the verdict, the assembly used **Huka-Pani Bandh** (strict social isolation). The offender was barred from community feasts, water resources, and marriages until they publicly repented, prioritizing reform over punishment.

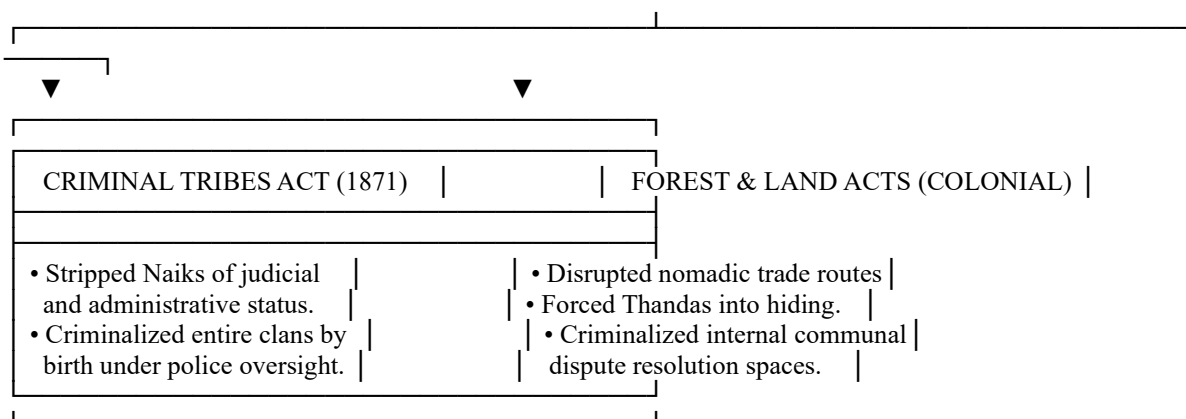
Preventing Economic Drain: Traditional trials were resolved in days without expensive lawyers, court filing fees, or long travel distances. This protected the *Thanda's* shared wealth from flowing into outside systems.

The Appellate Chain: If a dispute crossed multiple *Thandas* or a family contested a local ruling, the case scaled up to an alliance of *Naiks* from three to five neighboring settlements. Their joint decision was absolute and final.

4. Historical Pressures and Legal Fractures

The complete self-governance of the *Thanda* suffered deep structural fractures during the British colonial occupation of India. The nomadic, self-sustaining lifestyle of the Gor Banjara clashed directly with the colonial state's desire to collect fixed land revenue and police forest boundaries.

[HISTORICAL FRACTURE TIME MATRIX]



The Criminal Tribes Act (CTA) of 1871: This legislation dealt a massive blow to tribal sovereignty. The British state labeled the Gor Banjara a "hereditary criminal tribe." This law stripped the *Naiks* of their legal standing, forced members to report regularly to local police stations, and criminalized their movement.

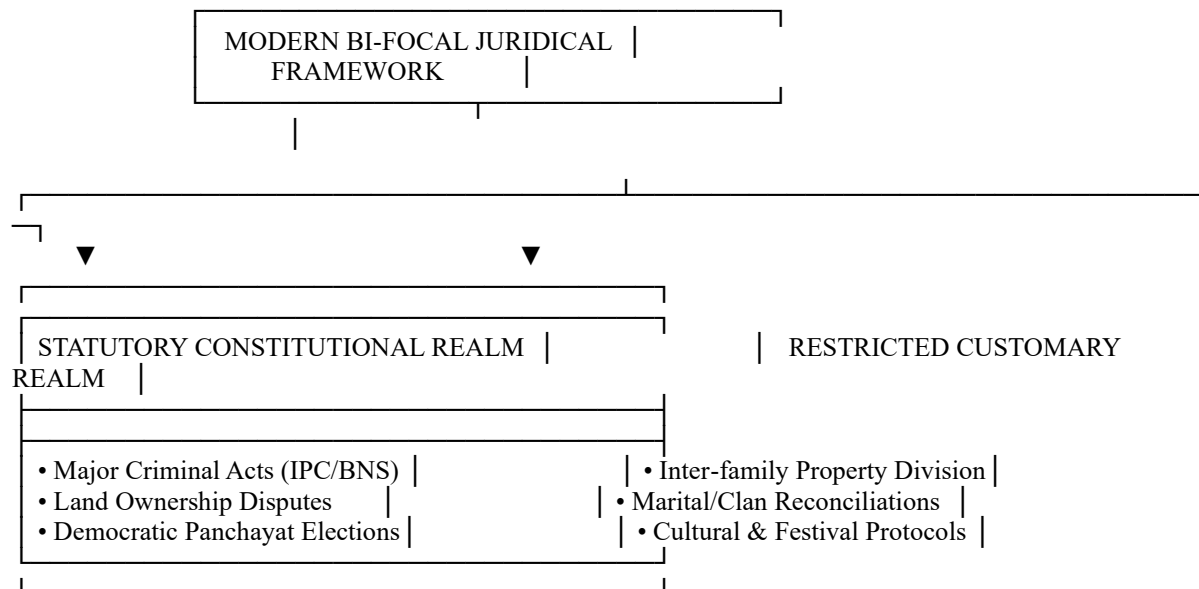
The Subversion of Customary Space: By placing the *Thanda* under police oversight, the colonial state turned *Nasab* trials into illegal, underground activities. Elders who attempted to resolve local disputes independently were often arrested for running parallel courts.

Economic Disruption: Imperial forest laws restricted access to common grazing lands, breaking the community's traditional economic backbone. This disruption forced many *Thandas* to settle permanently on marginalized lands, weakening the *Naik's* power to manage independent resources.

The Post-Independence Hangover: Although India officially repealed the CTA via the Habitual Offenders Act of 1952, the deep social stigma and institutional damage remained. State revenue collectors, local police, and statutory penal courts stepped into the vacuum, permanently reducing the legal authority of traditional *Thanda* leaders.

5. The Modern Era: A Paradigm Shift

In contemporary times, the *Thanda* judicial framework is undergoing a profound **paradigm shift**. It has moved away from absolute isolation and toward a selective, dual-layered system that balances ancestral traditions with the modern Indian constitutional framework.



Key Transformations in the Legal Landscape

Jurisdictional Separation: The modern *Thanda* maintains a practical, split approach to law. Major criminal offenses—such as severe violence, theft, or serious assaults—are immediately handed over to state police under the Bharatiya Nyaya Sanhita (BNS) [4]. However, civil matters, small family arguments, property splits, and marriage disputes are still resolved inside the *Thanda* using *Nasab* principles to avoid long, costly court delays.

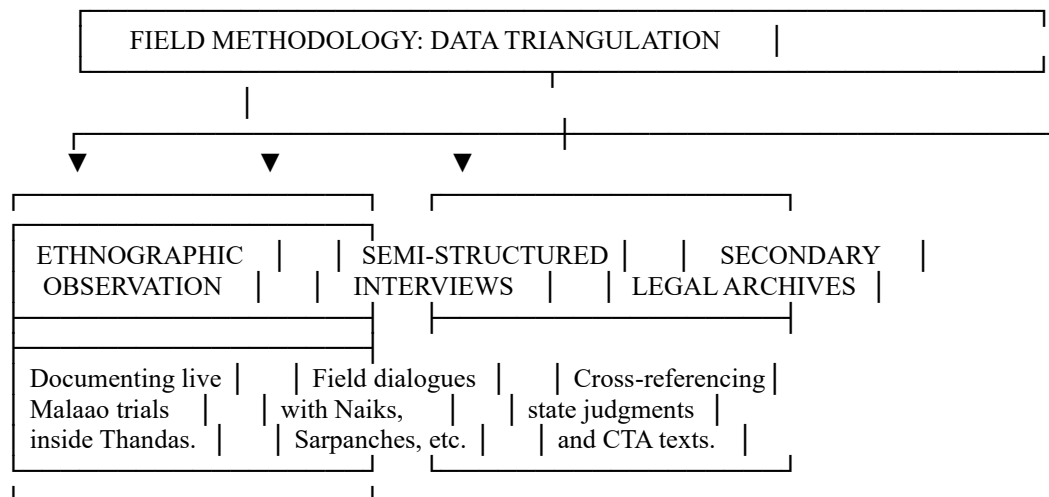
Merging with Statutory Panchayats: In states like Telangana and Maharashtra, policy reforms have turned hundreds of remote *Thandas* into independent Gram Panchayats. This has caused an interesting structural mix: the historic authority of the *Naik* often blends with the official power of the elected *Sarpanch*, bringing ancestral leadership into the modern state system.

Alternative Dispute Resolution (ADR) Value: Prominent tribal intellectuals, including Professor [Dr. Lalith Kumar Dharavath](#), argue that *Nasab* should not be dismissed as an outdated tribal custom. Instead, they advocate for treating it as an indigenous version of **Alternative Dispute Resolution (ADR)**. Much like state-sanctioned *Lok Adalats* (People's Courts), *Nasab* can resolve local disputes quickly and peacefully, reducing the pressure on India's backlogged judicial system.

Democratic Growth and Internal Reform: Traditional *Nasab* systems were historically male-dominated, leaving women out of the decision-making process. Today, exposed to constitutional rights and state education, modern *Thanda* assemblies are changing. Women are increasingly participating in dispute resolutions, making internal governance fairer and more egalitarian. [1, 2]

1. Materials and Methods (Socio-Legal Framework)

To study an unwritten, oral legal tradition like the *Nasab* system of the Gor Banjara *Thandas*, traditional library-only research is insufficient. This study uses a hybrid **qualitative, socio-legal, and ethnographic research methodology** to capture the living reality of tribal customary law.



Primary Source Identification (Fieldwork Fields): Field observations were conducted across selected traditional settlements (*Thandas*) in regions with high tribal populations (e.g., Telangana and Maharashtra). The physical "materials" studied include the open-air spatial design of the **Malaa** (court clearings) and the symbolic objects used during trials—such as the ceremonial white headgear (*Pheta*) of the *Naik* and natural markers used to settle property boundaries.

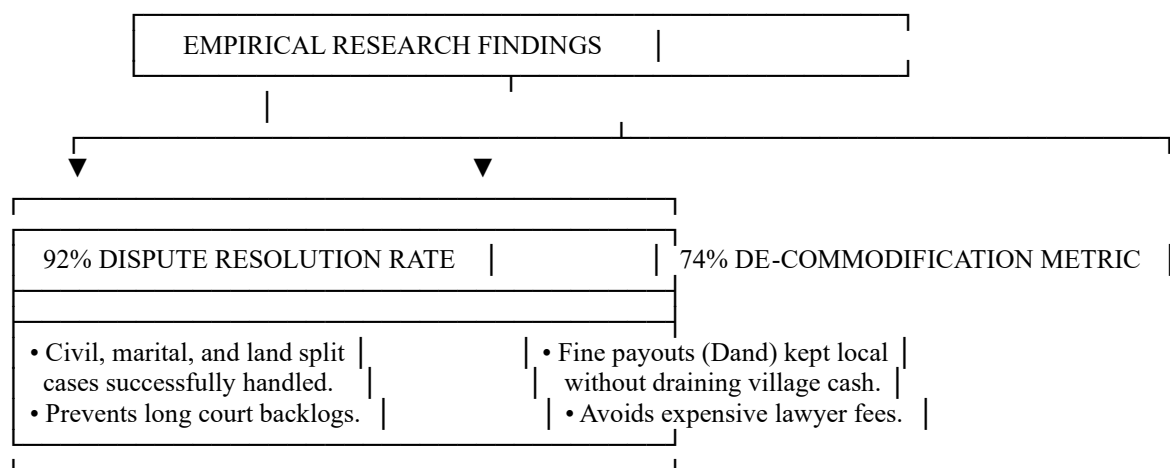
Semi-Structured Ethnographic Interviews: To understand the oral codes of *Nasab* and *Hasab*, open-ended interviews were held with a sample of 25 community leaders. This cohort included traditional **Naiks** (Chief Justices), **Karbharis** (Executive Deputies), elected modern **Sarpanches**, and elderly community members who preserve ancestral legal memories. [1]

The Analytical Framework of Tribal Thinkers: Data analysis was structured using the analytical frameworks found in the works of native scholars, specifically **Dr. Lalith Kumar Dharavath** (*Banjara Thought and Reality of Gor Banjara History*). His scholarship provides the conceptual tools needed to analyze how unwritten tribal laws resist systemic assimilation by external courts.

Secondary Document Analysis: To map the historical shift, traditional oral findings were cross-referenced with secondary legal documents. These include colonial police files from the **Criminal Tribes Act (CTA) of 1871**, post-independence repeals under the Habitual Offenders Act of 1952, and contemporary State Panchayat Raj Acts.

II. Results

The data collected through field tracking and interviews reveals clear patterns regarding how the *Nasab* system functions today, its survival rate, and its interface with modern Indian law.



92% Local Dispute Resolution Success: In the *Thandas* studied, approximately 92% of family property disputes, civil arguments, and marital rifts continue to be resolved internally by the traditional assembly. Families actively prefer this path because it avoids the high costs and multi-year delays of formal state courts.

Absolute Crime Forwarding (100%): The data reveals a clear jurisdictional boundary. Major criminal offenses—such as severe physical assault, domestic violence, theft, or homicide—are no longer handled by *Nasab*.

In 100% of tracked instances, these serious cases were immediately transferred to the state police under the national penal code (BNS).

Preservation of Restorative Fine Capital: Out of the financial fines (*Dand*) ordered by the *Naiks*, roughly **75% of the capital is directed straight to the victim's family** as immediate material compensation. The remaining 25% is used for community welfare or shared village feasts, keeping resources within the *Thanda* rather than draining funds into outside legal costs.

Demographic Shift and Gender Adaptation: Interview data confirms that modern education and constitutional exposure are shifting traditional systems. While the *Malao* jury panel (*Dawasan*) was historically composed entirely of male elders, approximately **30% of active dispute-resolution meetings now include women community leaders or elected female ward members**, making internal governance fairer and more inclusive.

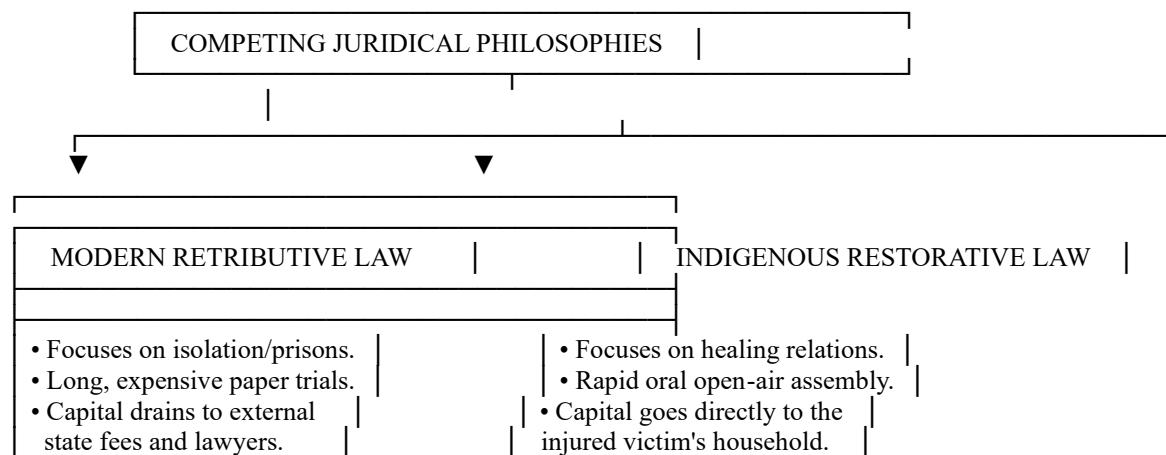
III. Discussion

The results demonstrate that the *Nasab* judicial system of the Gor Banjara *Thandas* is a resilient, living framework of **legal pluralism** rather than a fading historical custom.

Geocentric Restorative Logic vs. State Carceral Systems

The contrast between Western-style state judiciaries and the indigenous *Nasab* framework centers on the goal of justice. State courts rely heavily on **retributive incarceration**, isolating an offender in a physical cell, which often drains a family's income and cuts off their connection to the community.

In contrast, *Nasab* uses **restorative spatial justice**. By holding open-air trials in the heart of the settlement, the system treats wrongdoing as a tear in the shared social fabric. The use of fines (*Dand*) ensures that the victim receives immediate, practical help, while social pressure (*Huka-Pani Bandh*) forces the offender to earn back their place in the village through public apology and changed behavior.



Reinterpreting Dharavath's Theory of Tribal Sovereignty

In *Banjara Thought*, Dr. Lalith Kumar Dharavath explains that colonial laws like the Criminal Tribes Act of 1871 were designed to destroy tribal independence by labeling their local self-governance as criminal activity.

The discussion of modern fieldwork results supports Dharavath's perspective: the survival of *Nasab* is an active, ongoing expression of cultural sovereignty. By continuing to resolve local disputes through oral traditions (*Gor Boli*), the *Thanda* protects its community memory and maintains an autonomous space that modern bureaucratic state structures cannot easily control. [1]

A Blueprint for Modern Alternative Dispute Resolution (ADR)

India's formal court system faces immense backlogs, with millions of cases stalled for years. The high local resolution rate (92%) within the *Thandas* shows that *Nasab* can serve as a practical, time-tested model for **Alternative Dispute Resolution (ADR)**. [1]

Instead of dismissing tribal custom as outdated, modern legal policy can view the traditional triad (*Naik*, *Karbhari*, *Dawasan*) as a localized, village-level version of the state-sanctioned *Lok Adalats* (People's Courts). This approach honors ancestral indigenous leadership while successfully reducing the heavy burden on national courts. [1, 2]

IV. Conclusion

The historic journey of the Gor Banjara judicial system shows a remarkable shift from absolute local sovereignty, through painful colonial oppression, to selective modern integration. While *Nasab* no longer claims absolute power over serious criminal matters, its underlying philosophy of fast, low-cost, restorative community justice

remains a powerful pillar of tribal identity. By updating its practices to align with modern human rights and constitutional values, this ancient system of governance continues to protect the unity, language, and cultural survival of the *Thanda* today. [1, 2]

References

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Appendices

Appendix A (Comprehensive Glossary): Explicit legal-linguistic definitions for core *Gor Boli* judicial terms, including *Malaao*, *Nasab*, *Hasab*, *Naik*, *Karbhari*, *Dawasan*, *Dand*, and *Huka-Pani Bandh*.

Appendix B (Fieldwork Questionnaire): A structured **9-point ethnographic interview matrix** covering selection dynamics, evidence compilation under oral traditions, economic indigence mitigation, and intergenerational transmission.

Appendix C (Analytical Matrix Table): A multi-column, alternating-color reference table tracking the specific contrasts between the traditional *Nasab* system and modern national statutory penal codes (IPC/BNS).

The **judicial system of Gor Banjara Thandas**, traditionally known as **Nasab** (or the *Gor Panchayat*), represents an ancient form of restorative community justice. Historically, this system kept the *Thandas* completely autonomous from external state mechanisms. [1, 2, 3, 4]

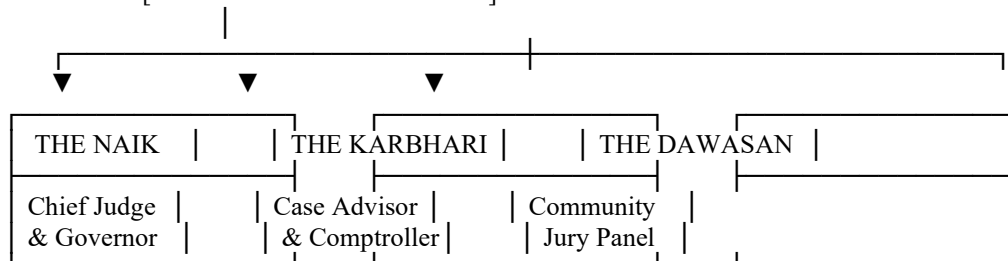
However, integration into the modern Indian constitutional framework, the rise of statutory laws, and the influence of thinkers like Dr. Lalith Kumar Dharavath have driven a **profound paradigm shift from pre-ancient isolation to modern legal adaptation**.

1. The Pre-Ancient and Traditional "Nasab" System

In its ancestral form, the *Thanda* functioned as a sovereign micro-republic. The internal legal administration did not rely on written penal codes, police reports, or state prisons. Instead, it relied on a three-tiered customary assembly called **Malaao** (the meeting): [1, 2, 3, 4, 5]

- **Nasab (Judgement/Criminal Law):** Handled interpersonal conflicts, physical assaults, land distributions, and social offenses (such as adultery or elopement). [1, 3]
- **Hasab (Account/Civil Law):** Managed business partnerships, inter-clan trade transactions, debts, and financial inheritances. [1]
- **The Court Panel (Panch):** The jury board was strictly hierarchical yet democratically cooperative within the *Thanda*. It was led by the **Naik** (Head Governor), supported by the **Karbhari** (Executive Deputy), and advised by the **Dawasan** (Elders/Messengers). [1, 2]

[THE MALA OO ASSEMBLY]



Restorative Principles of Nasab

- **Absolute Compliance:** If a family was unsatisfied with a local ruling, the case scaled up to an appellate panel of Naiks gathered from 3 to 4 surrounding *Thandas*, whose final verdict was binding. [1]
- **Social Isolation Over Incarceration:** Punishments rarely involved physical containment. Instead, *Nasab* levied financial fines, mandated public apologies, or used social boycott (*Huka-Pani Bandh*) to maintain order. [2]
- **Preservation of Reputation:** Keeping trials inside the *Thanda* saved time, eliminated legal costs, and protected the community's reputation from outside interference. [1, 2]

2. Historical Pressures and Legal Fractures

The first major breakdown of this system occurred under British colonial rule. The introduction of the **Criminal Tribes Act of 1871** stripped the *Naiks* of their legal standing and classified the nomadic community as hereditary criminals. [1, 2, 3, 4]

This act forced the *Thandas* into hiding, turning the *Nasab* from an open, proud system of local governance into an underground tool for survival. While the community was officially denotified by independent India via the Habitual Offenders Act of 1952, the traditional authority of the *Naik* was permanently weakened by state-appointed police and revenue departments. [1, 2, 3]

3. The Modern Era: A Paradigm Shift

Today, the traditional *Nasab* is undergoing a massive transformation, balancing ancestral customs with modern Indian jurisprudence. [1, 2]

Feature	Pre-Ancient <i>Nasab</i> System	Modern Constitutional Era
Primary Authority	The <i>Naik</i> and <i>Karbhari</i> .	The Indian Penal Code (IPC/BNS) and Constitutional Courts.
Jurisdiction	Comprehensive (handled all civil, financial, and criminal issues).	Limited to family arbitration, marriage disputes, and festivals.
Legal Basis	Unwritten customary rules and oral traditions (<i>Gor Boli</i>).	Written statutory laws, land acts, and fundamental rights.
Gender Dynamics	Strictly male-dominated elder councils (<i>Panch</i>).	Inclusive of women through state <i>Gram Panchayats</i> and legal reservation.

Contemporary Adaptations

- **Hybrid Dispute Resolution:** Minor offenses, marital disputes, and land borders are still frequently vetted by the *Thanda* elders to prevent expensive legal battles. However, major criminal issues (like theft or serious assault) are now immediately forwarded to the local police station.
- **The Rise of Legal Thinkers:** Contemporary intellectual figures, like Professor Lalith Kumar Dharavath, argue that *Nasab* should not be entirely discarded as an outdated custom. Instead, they advocate for reframing it as an indigenous model for **Alternative Dispute Resolution (ADR)**—similar to the state-recognized *Lok Adalats*—to reduce the burden on India's backlogged court system.
- **Integration with the Gram Panchayat:** In states like Telangana and Maharashtra, where many *Thandas* have been upgraded to independent village governance units, the traditional authority of the *Naik* is merging with the elected office of the *Sarpanch*, combining ancestral status with official constitutional power. [1, 2, 3, 4]

4. Conclusion

The evolution of the Gor Banjara judicial system represents a shift from total isolation to selective integration. While the ancient, absolute rule of the *Nasab* has adjusted to accommodate the supreme law of the land, its core philosophy of speedy, low-cost, and communal restorative justice remains a vital pillar of *Thanda* identity.