CHAPTER - 3

THE TANGKHUL CUSTOMARY LAWS ON CONSTITUTIONAL AND ADMINISTRATIVE MATTERS
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Part -A: Before the Advent of Christianity and Britishers in Tangkhul Territory

The customary laws of the Tangkhuls are proposed to be segregated for discussion. Part-A of this chapter deals with the customary laws on the constitutional and administrative matters of the Tangkhul villages before the advent of Christianity and the Britishers. Part-B deals with significant changes that have taken place in Tangkhul society after advent of Christianity, the Britisher and after the independence of India. The socio-economic, administrative and political institutions of the traditional Tangkhuls centred round their villages. Village is a conglomeration of clans and sub-clans residing within the defined boundary of the village. According to Webster’s New World Dictionary (second college edition) the word ‘village’ means a group of houses in the country, larger than a hamlet and smaller than a city or town. The native term for village is “kha”. Every Tangkhul village was constituted and formed by its inhabitants belonging to different clans within its defined boundary by adhering the basic principles of the customary-constitution called *riyan* in native language. Therefore, *riyan* in Tangkhul precept means customary law that governs the structural organs and functions of the village. Before the advent of the Bristishers into the Tangkhul territory in the middle part of the 19th Century, its villages were severally found to be sovereign and independent. Good relation among the villages were maintained. Historically speaking, the Tangkhuls were not a subject of any
alien rule before the Britishers’ sojourn. They were absolutely free and independent people in its true “traditional and socio-political sense.”

The Tangkhul Customary Laws on Constitutional Matters

Generally, there are two types of constitution, written and unwritten. The unwritten one is the type of constitution every Tangkhul have been governed with from time immemorial. Such a customary law (*riyan*) that had been obeyed and relied upon by the Tangkhuls in the governance of their villages from time immemorial is known as *riyan* in native. As aforesaid, every Tangkhul village was considered to be a village-state constituted by its inhabitants belonging to different clans within its defined boundary by adhering to the fundamental principles of *riyan*. *Riyan* in Tangkhul traditional sense means those customary laws and practices that manifested and regulated the village entity, its structural organs and their powers and hierarchical relationship, and the basic rights of the people.

Interestingly, every Tangkhul village was considered a sovereign, socialist and democratic village-state. The administrative, executive and judicial functions of the village vested with the village authority or council known as *Hanga* in native term which is a composite representative body of different clan-heads also known as *Pipas*. The nature of succession or coronation to the headmanship of the village is hereditary and permanent. There is no election system. Therefore, the village government although democratic in nature is not a republic government in its true sense of the term.
1. Tangkhul Village Citizenship (ruichumnao)

The native term for a citizen is “ruichumnao”. There was no common citizenship of the Tangkhul villages before the arrival of the Britishers and more particularly that of Christianity in the region. Each village had its own citizenship. Inter-village citizenship right was not available except in rare cases. A citizen of a Tangkhul village according to Tangkhul (customary) riyan means a person who has been permanently residing in a particular village with the intention to reside permanently thereat and belonging to the descendants of the forefathers of the village who had founded it since time immemorial. This means and includes a person(s) who acquired citizenship by converting a member of one of the clans. Therefore, every member of the clan and sub-clans born and brought up in the village or otherwise as above stated is considered to be a bonafide citizen (ruichumnao) of the village.

Every clan in Tangkhul society has an important role in the administration of the village. It may be noted that the entire social system of the Tangkhuls rests upon the clan system for which an indepth study of the clan is also required. “Shangnao” a native term for clan is an association of people of both sexes, membership of which is determined by unilineal descent but in which the members cannot trace their descent back to the founder ancestor. Shangnao is a combination of two words; Shang means group and nao means children. Etymologically, therefore, shangnao means children of the same group, pointing to the founder ancestor.¹ Shangnao may again be sub-divided into a number of lineages called meiphung meaning hearth or vathei in native which further means seeds of one father. As such, meiphung or vathei consists of the children of one father which is a descent group consisting of persons unilineally descended from known ancestor through a series of genealogical

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links of relationship which they can trace with precision.

In the clan organisation of the Tangkhuls, the range of this segmentary lineage group may differ from clan to clan and village to village. Generally, eight to ten ascendant generations are reckoned between the clan and the founding ancestor of the meiphung of which they are a part. They are linked up with the marriage ceremonies, funeral ceremonies and different religious activities. These kind of activities not only show the entire social structure but also enable one to see precisely how the lineage systems constitutes an essential part of clan organisation.² Thus, according to Tangkhul customary law for every person to become a Tangkhul citizen must necessarily belong to any of the existing clans in Tangkhul society.

There are mainly three categories of Tangkhul village citizenship; citizenship by domicile, citizenship by clan conversion after immigration from other village and citizenship by adoption. The rule in India seems to be that the domicile of such a child is that country in which his father was domiciled at the time of his death. The same rule in Tangkhul society is that domicile of such a child is the village which his father was permanently domiciled at the time of his death. The domicile of origin is received by operation of law at the time of birth while the domicile of choice is acquired by actual removal to another country accompanied by a fixed intention to make that place of residence a permanent home.

Another category of a Tangkhul village citizenship is citizenship by immigration from one village to other village under exceptional circumstances by

² Bhandari J.S. op.cit, p. 250.
way of *shangzan-ramzan kakhui*. Meaning, in such a rare situation, the immigrant has to convert himself into one of the clans of the new villages where he seeks new citizenship. The reasons for seeking new citizenship are: when he could not live in the old village due to the externment order passed against him by the village court for a heinous crime he was convicted with. For instance, conviction for murder (*mikhayum*), rape (*latuk*) and clan endogamy (*shokhala*). The other reason is when a person in his own volition abandons his original village as he aspires to settle in a new and better village. Clan-conversion may sometimes happen within the same village also when a smaller clan suffers from acute poverty and wants protection and support from a bigger and stronger clan. Apart from this, an adopted child becomes a citizen of the village of the adoptive father. An act of adoption must be in conformity with Tangkhul customary law.

There are three modes of acquiring citizenship by conversion to a new clan by immigrants from a different Tangkhul village and citizenship by descent. Citizenship by birth means that every Tangkhul born and brought up in a Tangkhul village is a citizen of that village by birth. This means that a Tangkhul who is a citizen of a village by virtue of his birth in that village must belong to the lineage of the forefathers of that village. Therefore, any Tangkhul born in a Tangkhul village shall be a citizen of that village. The second mode of acquiring village citizen is by migration from original village to a new village by a person(s) only in rare cases. In ordinary circumstances, no citizens of a village is granted citizenship to another new village. An immigrant and/or any other person can only acquire citizenship of a village by compulsorily converting into a new clan and by way of adoption becoming
thereby a member(s) of a new adoptive clan of the new village. In such a case, he has to renounce his citizenship of the former village and make payment of necessary entry fees in the new village. The act of conversion into a new clan of a new village is known as *shangzan kakhui* in native term while that of payment of entry fee into the new village is also known as *ramzan kakhui*. In the days of yore, people used to migrate from one place to another in search of their subsistence when the original habitat proved to be insufficient for the entire population. They generally moved in clan groups. Under such situation if there were some persons who did not belong to the migrating clan group and who could not manage to stand on their own in a situation where they were surrounded by a majority of non-clan members they joined the bigger group and became its clan members by way of adoption. They offered feast to the adoptive clan for public recognition.\(^3\) This customary law is bad inasmuch as it violates human rights. Acquisition of citizenship by the second mode can arise when a village girl who got married to a man from outside of her village return to her original village with her children after the divorcement with her husband. Such women who got married with outsiders are known as *yorla* in native dialect. She can obtain citizenship of her children in that village by letting them become members of any clan of that village and payment of necessary ramzan fees. A citizen of a different village can acquire citizenship of another new village under certain compelling circumstances. Externment or banishment from a village due to criminal conviction can be one such example of compelling circumstance.

The third mode of acquiring citizenship in a Tangkhul village is citizenship by descent. A person born outside of his village shall nevertheless be a citizen of

\(^3\) Bhandari J.S. op.cit, pp 251-252.
that village if his father is a citizen of that village at the time of his birth. Some of the traditional modes and grounds for termination of the citizenship of a Tangkhul from his village are;

(i) Renunciation of citizenship: If a Tangkhul citizen of full age and capacity wants to become a citizen of another village, he has to abandon the citizenship of his original village by means of a public declaration made through the village council. Such act of declaration is known as *raivao* in native. He ceases to be a citizen of that village as soon as the declaration is formally accepted by the village *hanga* and the same has been publicly announced. If a male adult renounces his citizenship of the village, every minor child of that person ceases to be a citizen of that village too provided such children also permanently left the village along with the father.

(ii) Termination of citizenship: If a Tangkhul citizen of a village voluntarily has acquired the citizenship of another village, he shall thenceforth cease to be a citizen of the said village. His right to continue to be a citizen of the original village shall stand terminated until and unless he returns to his original village with a declaration (*raivao*) duly made before the village *hanga* that his citizenship in the new village has been renounced and he intends to live permanently in the original village.

(iii) Deprivation of citizenship: The village citizenship of a person can be deprived as and when he is externed from the village by the *hanga* for having
committed heinous crimes. Externment or banishment of such persons from the village is considered to be a form of severe punishment for the grave offences like murder, clan endogamy (shokhala) rape etc.

(iv) Another condition under which a Tangkhul villager could be deprived of his village citizenship is when such a person resides outside of his village and/or disappears from the village for a period longer than ten years without informing the hanga in the matter. It may, nevertheless, be noted that termination and deprivation of citizenship of a person(s) in the past occurred only in rare cases. No inter-village citizenship or residential right was available in those days.

Basic Rights of the Tangkhuls

Since the 17th century, if not earlier, human thinking has been veering round to the theory that man has certain essential, basic, natural and inalienable rights and freedom, it is the function of the state to see that human liberty may be preserved, human personality developed, and an effective social and democratic life promoted. It must recognise these rights and freedom and allow them a free play. The concept of human rights can be traced to the natural law philosophers. This concept protects individuals against the excesses of the state. The concept of human rights represents an attempt to protect the individual from aggression and injustice. It has, therefore, come to be regarded as essential that these rights be entrenched in such a way that they may not be violated, tempered or interfered with by an oppressive government. With this end in view, some written constitutions guarantee a few rights to the people and forbid governmental orders from interfering with the same. In that case, a
guaranteed right can be limited or taken away only by the formal process of constitutional amendment rather than by ordinary legislation. These rights are characterised as basic rights or fundamental rights. A fundamental right does not, therefore, merely mean a right of liberty permissible under the law; it must necessarily mean a right of liberty which enables an individual to develop his faculties in his interest and in the interest of the community as a whole.

There was no written constitution to govern and regulate the traditional system of *Tangkhul* village administration. Every Tangkhul village is basically governed by its customary laws and practices. As such, the (customary) *riyan* sanctioned certain basic human rights to every Tangkhul village citizen. Some of such fundamental or basic rights which are inalienable in Tangkhul society since time immemorial are stated below:

There was no expressed provision of law as regard to right to equality in the traditional *Tangkhul* village set-up since their *riyan* (constitutional law) was unwritten. This means that the expression “equality before law” amongst the village citizens was applied or regulated by conventional and customary practices. The unwritten *Tangkhul* customary law (*riyan*) sanctions the right to equality among the *Tangkhul* village citizens. In fact, *Tangkhul* society is a classless society and forbids any kind of unreasonable discrimination among the citizens. There are, however, certain areas where the principle of equality cannot be strictly applied with. For example, *Tangkhul* women were not allowed to participate in the law making process of the village. Meaning, they were not considered as member of
the village assembly. *Tangkhul* women are also prohibited to become village councillors. No *Tangkhul* village has a woman village councillor till date. This has to be slowly but surely changed. The general expression “equality before law” has got a central place in *Tangkhul* society. Every *Tangkhul* village citizen is equally subject to the customary laws and practices of the land and no person including Awunga, the village headman, is above such law. The *Tangkhul* law does not confer any special privilege in favour of any one. The *Tangkhul* village citizen regardless of his rank, status, sex or conditions are equally subject to the ordinary jurisdiction of the customary court of the village. No *Tangkhul* village citizen can be immuned from such jurisdiction unless otherwise provided by customary law for such exemption. The village state shall not act in such a way wherein the citizens are denied equality in different aspects of life. The village Awunga and his council of ministers are not above customary laws and are equally subject to the jurisdiction of the said (customary) laws.

The basic principle of the expression “equal protection of law” is also found in the governance of *Tangkhul* society. The *Tangkhuls* strongly believe in the proposition that all men are created equal. They pay high respect amongst themselves irrespective of being rich or poor. The customary law allows subjection of equal laws applying to all in the same circumstances. According to *Tangkhul* customary law, no person is differently treated in a case where it is similar with other person. *Tangkhul* law permits equality of treatment in equal circumstances. The *Tangkhul* customary law strongly emphasises the right to equal treatment in similar circumstances, either in privileges conferred or liabilities imposed by customary
law. These persons who are differently situated should be differently treated. However, such differential treatment must have reasonable basis. All persons are not equal by their nature, attainment or circumstances. The varying needs of different classes of person often require separate treatment. Application of the same laws uniformly to people under different circumstances may result in violation of the principles of equality. Special treatment given to the very poor families, orphans, and helpless widows in the village is one such example of separate treatment. There is, otherwise, no class hierarchy system in Tangkhul society. In fact, Tangkhul society is a classless society. There are also some areas where the customary law allows different treatment to persons who are not similarly situated. The Tangkhul customary law on inheritance and succession forbids a woman from inheriting her parents' properties including ancestral property called shimluikat in native. The women folk can be given some of their parents' properties other than ancestral ones in the form of gifts during their marriage or in any other occasions. However, they cannot inherit and obtain the said properties as a matter of right. Customary law confers only the male folks the right to inherit and possess both movable and immovable properties. Such customary law is bias, discriminatory and unreasonable. The customary law suffers from gender biasness which is bad in law.

Right to freedom:

Tangkhuls are by nature freedom loving people. They value individual as well as societal freedom. The customary law recognizes certain rights to freedom to every individual or group in the village state. Some of the basic rights to such freedom are; freedom of speech and expression, freedom to move freely throughout
the village and freedom to assemble peaceably. The other aspect of freedom apart from the above mentioned freedom is protection of life and personal liberty.

Freedom of speech and expression

Freedom of speech and expression is the bulwark of a democratic government. Tangkhul society, being a democratic one, is found with such freedom. The phrase "freedom of speech and expression" simply means the right to speak and to express one's opinion by words either spoken or written, printing, pictures or in any other manner as it deems fit. It is to freely express one's convictions, opinions or ideas through any communicable medium or visible representation such as gesture, signs, peaceful demonstration and the like. It also means to freely propagate, communicate or circulate one's opinion or views. Today's audio-visual communication which are utilised for education, information, propagation of scientific ideas are very much a part of freedom of speech and expression.

The Tangkhul society imbibes strong democratic characteristics in the governance of the village. The Tangkhul customary law confers every Tangkhul citizen the right to freedom of speech and expression. One can speak out and communicate one's own opinion, belief and conviction either in private or public places. He has the right to accept or criticise on any important question of fact or question of law. The members of the village authority have the right to exercise this freedom during the proceedings of the house. The village headman cannot curtail this freedom. Every decision of the house is taken after thorough deliberation by the members over the matter. The headman only assents and ratifies the decision of the house and
he cannot dictate over it. This right to freedom of speech and expression is not absolute. It is subject to certain restrictions.4

1. No Tangkhul citizen can speak or express anything that will affect the unity, integrity and sovereignty of the people in that village-state. The term sovereignty is used in line with the traditional understanding of the term in the past and not in modern context.

2. In the olden days of the Tangkhuls, keeping intact the unity, integrity and sovereignty of the village was considered to be the paramount responsibility of every citizen. Hence, the exercise of this freedom should not amount to the extent of causing any degradation or harm to this basic structure of the village-state.

3. No Tangkhul citizen can speak out or express anything that will also affect the security (internal and external), public order and tranquility of the village. This aspect is also important inasmuch as maintenance of peace throughout the village is concerned.

4. The freedom to speak and express should not exceed its limit whereby offence is being incited out of such exercise.

5. No Tangkhul can commit contempt of the village authority’s court, kha kalangshim in native while exercising the freedom of speech and expression. Tangkhuls in the past, considered act of defying and dishonouring the village council’s decision as a serious crime. The village authority’s order is strictly complied with.

4 To confirm all these principles of equality and its restrictions, the researcher has observed it from the actual working of the society. In-depth interviews with Stephen Angkang, President Tangkhul Naga Long and customary law expert and Daniel Ramsan, Advocate and expert of customary law were conducted in this regard.
6. The reputation of an individual or group should not be harmed by some one’s speech or expression. It should be exercised subject to such restriction. Lastly, public morale should in no case be affected by some’s derogatory speech or acts. The Tangkhul society has high moral standard.

Freedom of movement throughout the village

Every Tangkhul citizen of a village has the right to freely move throughout the village. The right to freedom of movement means the freedom of locomotion which connotes the right to move wherever and whenever one likes. The qualifying adverb ‘freely’ also connotes that the freedom to move is absolute without any restriction. The Tangkhuls have the absolute freedom to move around in their respective villages but they cannot reside and settle anywhere they like. They have to settle only in the existing residential areas of the village. However, they can reside and settle in a newly established village within the geographical jurisdiction of the same village Awunga who consented such establishment under his touzy.

Freedom to assemble peaceably

Freedom of assembly is one of the essential elements of a democratic society. The Tangkhul customary law gives every village citizen the right to assemble peaceably. The purpose of holding an assembly in Tangkhul society is to hold consultations and to express one’s view in respect of public affairs. It includes holding of an assembly to enlighten the public on various common issues of the village and formation of opinion on religious, socio-economic, political and judicial problems of the society. It also includes the right to hold public meetings either
normal or emergency to discuss important issues and the right to demonstrate over certain matters. The Tangkhul village is an institutionalised one and the morung system is one such institution where young boys and girls regularly assembled to discuss, debate and learn so many things. The village assembly (known as kha longshim in native) is the apex village institution where the village public and the hanga used to assemble and discuss agendas pertaining to the village and its affairs.

The right to assemble peaceably is, however, subject to certain restriction such as; public order or unity, integrity and sovereignty of the village which should not be affected by exercise of such freedom.

Freedom to form association or union or forum

It is one of the important features of democracy found in the Tangkhul society. The Tangkhuls may not have too many socio-political associations or unions but the freedom to form such union is very much in existence in the society. For example, Tangkhul mayarlong or yaronlong (union of bachelors), ngalalong (union of young ladies), and kaharlong (elderly union). Yaronlong was held in Awunga's residence whereas ngalalong was held in some selected residence of shang pipa.

Right to freedom of persons

Basically this human freedom is vital to human existence and this freedom is the essence of human right. Generally, we can categorize right to freedom of a person into two aspects. They are such as; right to life and right to personal liberty. This right to life and personal liberty was first incorporated in the charter of United
Nations Organisation. Article 21 of the Constitution of India also provides that ‘no person shall be deprived of his life or personal liberty except according to procedure established by law. Thus, Article 21 secures two rights; Right to life and right to personal liberty. The right to life does not merely mean the continuance of a person’s animal existence. It means the fullest opportunity to develop one’s personality and potentiality to the highest level possible in the existing stage of our civilization. Inevitably it means the right to live decently as a member of a civilized society. The right implies reasonable standard of comfort and decency.\textsuperscript{5} The court further held that the expression right to life has extended connotations such as; Right to live with human dignity, right to livelihood, right to shelter, right to live in unpolluted environment, right to education, right to social security, right to health, and duty to preserve life.

Right to personal liberty

Personal liberty means only liberty relating or concerning the person or body of the individuals and in that sense it was antithesis of physical restraint or coercion.\textsuperscript{6} In \textit{Kharak Singh v. State of U.P.}\textsuperscript{7} Supreme Court held that personal liberty was not only limited to absence of bodily restraint or confinement of persons only. In \textit{Maneka Gandhi v. Union of India},\textsuperscript{8} Supreme Court held that Article 19(1) are a part of personal liberty. The court also gave a new dimension to Article 21 and it was with this decision that the court started laying down a new constitutional jurisprudence. Various aspects of the right to personal liberty includes the right to privacy, right to livelihood, right to go abroad, right against illegal detention,

\textsuperscript{5} \textit{Ram Shankar v. Union of India} AIR 1989 SC 549.
\textsuperscript{7} AIR 1963 SC 1295.
\textsuperscript{8} AIR 1978 SC 597 SC 1295.
management and control of traffic. The right or protection recognised for the prisoners in this case are; right to free legal aid, right to appeal, right to speedy trial, right to bail, right to anticipatory bail, right against handcuffing, right against bar fetters, right to write a book, right against solitary confinement (right to socialise), right against inhuman treatment (third degree methods), right against custodial violence (under-trials not to be kept with convicts), right against public hanging, right against delayed execution, common law duty of taking reasonable care etc.

Coming to the customary (constitutional) law of the Tangkhuls, this right to life and personal freedom is deeply rooted in the lives and practices of the Tangkhul people. The Tangkhul society has nevertheless undergone certain changes in its pragmatic approach to human life and human society. Tangkhul customary law, in its justice system, has never ever sanctioned death penalty since time immemorial. This is a great sign of their love and concern for mankind. However, it is also a historical fact that inter village feud among the Tangkhul villages resulted in head hunting amongst themselves and this basically happened in defence of their village land. The number of human heads will determine the glory and honour of the warriors in such situations. There was hardly any such homicide or headhunting between the same Tangkhuls themselves in the same locality or village. Justice system of the Tangkhuls was strictly on reformatory and non-violent basis. The highest and most severe form of punishment was awarded by way of exxtrement or banishment of the convicts from the village. This shows the recognition of human value and the importance of human life by Tangkhul society. The Tangkhul Customary law

9. Based on the findings of Tangkhul consultative meeting on customary law held on September 7-8, 2004 at Ukhrul. The consultative forum that consists of experts of customary law, maintained that the infamous headhunting in the past was practised only during war time in defence of their land (villages).
sanctioned every Tangkhul the right to life and this right cannot be deprived even by
due process of law or custom. In other words, the life of every individual is paramount
and it cannot be taken away at any circumstances and at any cost except in war. The
right to live, according to Tangkhul customary law, also means and includes the
right to have equal opportunities to develop individual personality with the primary
objective to find more healthy, wealthy and happy life. It means the right to live with
dignity, freedom and honour. Tangkhul precepttion of life and personal liberty in
the past was based on human value and human freedom provided by the supernatural
God - the *Ameoa*. His right to personal liberty was not merely the absence of wrongful
bodily restraint or confinement. It connotes right to maintain privacy, right against
wrongful detention and torture and right against malicious prosecution by village
*hanga*. The Tangkhul customary laws had not sanctioned absolute liberty to
individuals. It is subject to certain reasonable restrictions.

Freedom of Religion

There seemed to be restricted freedom of religion in traditional Tangkhul
Society. Ritualistic ceremonies and performances were the main characters of their
religion. They believed in the spirit of the supernatural god known as *Ameoa*. So,
their religion was known as *ameoyan*. Tangkhuls had never ever been idol
worshippers. Even before the advent of Christianity, they worshipped the spirit of
*ameoa*.

Every Tangkhul citizen is being equally entitled to have freedom of
conscience and the right freely to believe, profess and practise their religion. This
freedom, however, appears to have been a restricted freedom, in the sense that there was no right to convert oneself from one religion to another. In other words, there was no religious pluralism though different deities were worshiped. The members of the whole village of the whole community were collectively professing their religion. In such a situation, the customary law did not allow change of religion. It was obviously a theocratic village-state until and unless the dawning of the religious freedom in the year 1896 A.D. where Christianity began to take its root in Tangkhul society for the first time ever. It was evident that many Christian converts were exterminated from their villages at the initial stage of the spread of Christianity in Tangkhul society.

The Tangkhul Village Legislatures

The Tangkhul customary law (*riyan*) sanctioned a unicameral legislative system in the traditional Tangkhul village-state. It has only one House with direct form of democracy. The village legislative House is known as village *longshim*. This village *longshim* is the highest legislative body in the traditional village setup. It was also considered to be the apex policy decision and rule making body of the village. It does not have indirect form of democracy wherein the villagers can elect or select their own representatives from each clan of the whole village who would only represent them in the village *longshim*. There is no autocratic rule in *Tangkhul* society. It has a democratic government that imbibes the rule of customary law.
Composition of the village Longshim

The strength of the village longshim varies from one village to another. It strictly depends on the size and population of the village. The village awungna, the hangva(s) and every male adult citizen of the village constitute the village longshim. It may be noted that unfortunately the women-folks were neither members of the village longshim nor that of the village hanga. The village Awunga is the ex-officio chairman of the village longshim. There was no Speaker of the house. The Chairman with the assistance of his councillors conducted the business of the house.

Tenure, Qualification and Disqualification

There is no tenure of the village longshim. Such nature of perpetuity of the House is mainly because of the direct form of democracy practised in the village longshim where every village male adult-citizen is the member of such longshim. To be a member of a village longshim, he must be a bonafide citizen of that village. He must be an adult male citizen who had attained the majority age of 16 years if male and 14 years if female. A convict who had been externed or banished from the territorial jurisdiction of the village shall automatically stand disqualified from the membership of the village longshim. A person who had permanently migrated to another village shall cease to be a member of the longshim of the earlier village as soon as he obtains citizenship in a new village. A person of unsound mind could not be a member of the village longshim and shall stand disqualified as and when such unsoundness of mind regularly influenced him. Neither an adult female was allowed to be a member of the village longshim nor that of the village hanga.
Session of the village *Longshim*

The village *Awungsa* is the ex-officio Chairman of the village *longshim*. There was no Speaker of the *longshim* as such in those days. The Chairman who acts as a Speaker summons the village *longshim* at least once in a year. He shall convene the House whenever need and urgency arise in the village. *Awungsa* shall have the power to adjourn the sitting of the House. He shall have the power to prorogue the session of the House. The village *longshim* is normally held in the house of the village *Awungsa* at Kumhao, that is, between January and February. Every program and policy matters for the year are deliberated and appropriate decisions are taken during such sessions.

Legislative Procedure

The Chairman with the assistance of the village concillors *hangva* conducts the business of the House. In Tangkhul customary law the village *hangva* who are actually the village executives under the hereditary leadership of the *Awungsa* shall have the power and responsibility of putting various agendas before the general public whenever its House is in session. The customary law permits any agenda to be discussed even from amongst the members of the general business. Any policy matter of the village is discussed in the assembly. The village *longshim* makes law for the whole village. The mode of deliberation of an agenda in the business of the House is very much democratic. Every member of the House shall have the right and responsibility to participate in the debate. The village *longshim* shall entertain any opinion expressed during discussion. It shall be ultimately the decision of the village *longshim* as a whole that determines and prevails. The decision of the village
Chairman or for that matter village council in certain cases shall be null and void unless approved by the general public. Their decision to be endorsed by the House must not be bias, unfair and arbitrary. Basically, all the decisions of the House is to be assented by Awunga in order to make it valid and binding. Hence, the working of the legislative institution of Tangkhul society is quite democratic. It is not autocratic. The customary law of the Tangkhuls does not sanction autocratic rule in the village particularly in the law making process as well as in village administration. The village council shall announce all decisions of the general business both inside and outside of the House. In case where an unanimous decision could not be arrived, it was settled by voice vote. Secret ballot system was not practised.

The Tangkhul Village Executive

The Tangkhul village executive consists of the Awunga, Luplakpa and village Hangva. Awunga is the head of the village executive. He is assisted by the Hangva who are the representative body of the clan. Such executive institution of the collective councillors representing each clan is known as kha hanga.10 However, the village council in few Naga cases, is a composition of the village Chiefs, warriors of the village, oldest man of the village, the Priests and representatives of the clans which has quasi-legislative and quasi-judicial powers. It is the highest executive decision making body in the village. In most other cases, such as the Tangkhuls, the village council is being constituted by the Headman at the top with Luplakpa and other village councillors representing different clans of the village. The clan members nominate their 'pipa', eldest lineage of the clan, as representative in the executive council. In those days, just below Awunga there was a senior councillor.

called Luplakpa, or a group leader—who represented the next oldest clan to that of the Awunga’s clan.\textsuperscript{11}

The village Awunga

For every Tangkhul village-state there was a headman called Awunga. The title “Awunga” is commonly accepted to have been derived from three aspects. The first aspect is that there was a supernatural god (spirit) known as Zinghung-leihunga which means head of heaven and head of the earth. Zinghunga-leihunga was later pronounced as Ahunga which was gradually known as Awunga. A Tangkhul village headman who was considered to be a priest mediates and performs rituals before the Awunga (god) for and on behalf of the citizens. The title “Awunga” was then passed upon such priest who consequently became king or head of the village.

The second aspect of the derivative origin of the title Awunga is that Tangkhuls originated from yellow river in China. This river is now known as Huangho river which the Tangkhuls termed it as vahukong. A brave man named as Haohunga was considered to be the man who led the Tangkhuls from Huangho river belt to the present habitate in the course of migration. It is, hence, assumed that the title of village Awunga was gradually transcended to different village headmen from that of the braveman, haohunga. The third aspect of the origin of the title of Awunga is that a person who founded a village and became the headman of such village was conferred such title of Awunga since time immemorial. The founder of such village is known as ramphatwo in native. Ramphatwo means and includes a person who founded a new village wherein first ever burning fire (smoke) was caused. Meaning, the titleship of Awunga is not merely conferred to any person who heads

\textsuperscript{11} Ruivali Khashim., Social changes among the Nagas (Tangkhul), Cosmo Publications (1993), New Delhi, p 153.
establishment of a new village. It was strictly conferred to those founders of villages in the ancient days, that is, since time immemorial.\textsuperscript{12}

\textit{Awunga} is the head of the village executive. He is the ex-officio Chairman of the village \textit{hangga}. The chief or the king was the head and the first honourable citizen of the village-state who commanded respects from the villagers and took a large share in any decision taken or judgment arrived at.\textsuperscript{13} The Chieftainship is an age-old institution among the Tangkhuls. The chief is called \textit{Awunga} in Tangkhul dialect which is an equivalent of the English word king. The headman of the village heads the village council. The term \textit{Awunga} literally means the king or the monarch. In general there is one \textit{Awunga} in a village. However, there are instances where two \textit{Awunga} are found representing two different clans. But such instances are rare. This anomaly arose when members of a clan along with their head during the course of migration settled down in a particular place without becoming subservient to already existing \textit{Awunga}. Later, leaders of the immigrant group maintained its identity and hence one comes across more than one \textit{Awunga} in a village.\textsuperscript{14}

The office of \textit{Awunga} was uniformly hereditary in all Tangkhul villages till the arrival of the Britishers. \textit{Awunga} ruled the village-state democratically even though the nature of ascending to his office is hereditary. He did not pass any judgment arbitrarily and/or take any decision autocratically. He was impartial in his dealing with the citizens of the village. Every important decision was taken only after taking due consideration of the majority view of the \textit{hangga} and the people of

\textsuperscript{12} Sources obtained from an interview with Stephen Angkang, President, Tangkhul Naga Long.

\textsuperscript{13} The Law Research Institute, Eastern Region., The Customary Law and Practices of the Tangkhuls of Manipur (1982) Gauhati High Court, p.37.

\textsuperscript{14} Roy Shibani, Rizvi S.H.M., Tribal Customary Laws of North East India (1990), B.R. Publishing Corporation, New Delhi, PP, 133-134.
the village as and when required. In short, the executive power of the village was vested with the *Awunga* and it shall be exercised by him either. He was the guardian, protector, and a benovelenent godfather of the villagers. He helps the needy, protects the weaker ones and uphold the glory of the brave.

Qualifications and mode of ascending to the office of *Awunga*

Not everyman could become the village *Awunga*. To become *Awunga* of a village the person concerned shall have to be the eldest son of the family. The rule of primogeniture is applied in such cases. *Awunga* initially was chosen from the clan head whose sacrifice and leadership for the village was the greatest and most acceptable. Successor apparent son must belong to the lineage of such headmanship who has become the able most leader and the key architech in the founding and establishment of their village since time immemorial. In case of the absence of a male issue of the *Awunga*, he has to let the eldest son of his brother ascend the throne. In case where the son of the *Awunga* is minor and circumstances such as of the headman compells the succession of the office, the minor’s uncle or cousin can take charge of headmanship until he obtains majority age. In almost all villages there is heriditary *Awunga*. In rare cases, there are two or more *Awunga* in a village. In village Bungpa there are two *Awunga* representing the only two clans of the village. In exceptional cases, the leaders of the clan groups during their migration period agreed to settle down in a particular place without submitting their leadership to one another. In such cases, the leaders of the respective groups maintained their identity, and hence we find two or more chiefs in a village. There are many big villages with several clans which have only one chief each. Therefore, the number
and size of the clans in a village are not the criteria for having two or more chiefs in a village.\textsuperscript{15}

The Tangkhuls strictly follow the patrilineal system of descent and, therefore, the headmanship passes on from father to the eldest son. The headmanship can never be transferred to any other person under normal circumstances despite the influence and wealth a man may possess. In case, the headman has no male issue or the headman dies leaving behind a minor son or the nearest male kin such as his immediate brother or nephew who would succeed him is mentally retarded or due to extreme poverty or irrelevant responsibilities he could not perform the burial ceremony and other similar functions of the \textit{Awunga}, then a nearest person from the same clan who is able to perform the burial ceremony in a befitting manner and is capable of shouldering the responsibilities becomes the \textit{Awunga}. It shall otherwise be his eldest son or his immediate brother or nephew who shall succeed him. The office of the headman is passed on to the eldest son, since the chiefship is hereditary. If the chief has no male issue, his eldest brother’s eldest son or nearest male kin succeeds him. Women are not allowed to hold this office.\textsuperscript{16} In one case the authenticity of a headman on the ground of void marriage (\textit{vakhalat}) was challenged. The Appellant \textit{A.S. Wungmareo} father of Respondent \textit{A.S. Vaomi} made an appeal before the apex Tangkhul customary court against the judgement of the subordinate court that confirmed the legality and authenticity of the Respondent’s headmanship at \textit{Khamasom} village. The main contention was that the Respondent should be dethroned from the seat of headman on the ground of void marriage (\textit{vakhalat}) which is a good ground for disqualification from headmanship as per custom.


\textsuperscript{16} Roy Shibani, Rizvi S.H M. op.cit, pp.132-133
However, the apex customary court turned down the plea and upheld the village court's decision for the very reason that the Respondent himself was the legitimate eldest son of the Appellant and his marriage was very much from outside the prohibited clan and, therefore, a valid marriage. The court further ordered for the continuance of the Respondent as the headman of that village. In another case the apex Tangkhul Naga Long (Customary Court) reasoned out that when there had been an agreement between 3/4 Ramphatwo to establish a united village by unifying their contiguous lands (Lamtups/Ramshai), there can be no subsequent claim to establish another new village by another Ramphatwo. The Ramphatwo who was earlier chosen as the headman of the said village shall continue to do so. Those other Ramphatwo(s) shall also continue to enjoy tax from their respective land whose territorial jurisdiction should form and remain within the boundary of the village. Accordingly, the apex customary court held that Maransa who was mutually annointed as headman of Shokvao village by the Ramphatwo(s) shall continue to be the headman. Those other Ramphatwo(s) cannot later establish a new village in their land (Lamtup/Lamshai) but they shall very much be entitled to enjoy interest including tax over their land which form shokvao village.

Qualification

To be the Awunga of a Tangkhul village one must be; a bonafide adult citizen of that village, a person without criminal background, a law abiding citizen, the eldest son of the sitting Awunga and a person of high integrity. He must be a lineage of the founding chief of the village, that is, Ramphatwo. In case Awunga was born outside his village, his parents or any other lawful guardian must offer a recognition

17. A S. Wungnareo v. A.S. Vaomi, Appeal No. 96/TNLK/ZK.
18. A.S. Maransa and ors v. S S. Ngasaphung and ors, Civil Appeal case No. 150/TNLK/03.
feast to the whole village in order to legitimatize his status of birth for claiming headmanship. This is essential for inheriting other *shimluikat* too.

Disqualification

A person to become the village headman should have not been a convict of very serious crimes such as murder (*mikhayum*), clan endogamy (*shokhala in native*), rape (*latuk*) etc. He must not be a person of unsound mind. He must not be physically handicapped that he may not be in a position to discharge his responsibilities effectively.

Powers and functions of *Awunga*

The village *Awunga* besides being the administrative, judicial and executive head is also responsible for socio-religious activities. *Awunga* was the head of the village where everything was done in his name.

Executive power

According to *Tangkhul* customary law (*riyan*), the executive power of the *Tangkhul* village shall be vested with the village *Awunga*. *Awunga* shall be the executive head in the village. He shall exercise the power either directly or through the *hanga*. Most of the time *Awunga* exercise the executive power through the *hanga*. Executive action of the village shall be expressed to be taken in the name of *Awunga*. *Awunga* is empowered to make certain rules or norms for the convenient transaction of the business of the village government.
Awunga is responsible for the general well-being of his subjects and it is in his interest to keep them happy and contended. In doing so, he must hold meetings of the councillors and village elders from time to time. He looks after a villager whose stock of grain is exhausted due to crop failure for the year. He gives cultivable land to a landless villager. In return, the villagers, as a token of gratitude and respect for his benevolence and status, help him build and repair his house and cultivate his paddy field. He also gives drink and food to them in plenty on such occasions. The Chief is offered the best drink and food during the festivals. It is the headman who decides in consultation with the village council the particular block of land to be used for jhum cultivation. He has to give the green signal for all the agricultural activities. No one can by-pass the decision of the Chief who fixes the place and time of cultivation. The village Chief, as the administrative head, looks after the maintenance of the water supply and village footpaths, opening of new foot paths and construction of bridges across the rivers which are difficult to cross. The dates of village festivals, religious ceremonies, taboo observance and various activities of cultivation are fixed and announced by the Chief on the advice and in consultation with the members of the village council. The Tangkhuls have an interesting custom of organising mass hunting and fishing on certain dates in a year fixed by the village council. These are usually consulted with the Awunga for his consent.

Awunga, besides being the administrative head is responsible for any affairs of the village including social and religious activities. The religious functions including sacrifice and worship are performed by the village priest but the presence of the Chief is essential on all such occasions. In olden days, defence of a village

was a matter of great importance. Due to the practice of headhunting and animosity among the villages, it was the duty of Awunga to keep the village safe from any enemy attack. The village wall and gate must be properly built and constantly guarded by the village braves. Awunga was responsible for the general well-being of his subjects and it was in his interest to keep them content and happy. It was his first and foremost duty to see that social traditions and customs are honoured, preserved and observed.20

Every village had its own definite territory and theoretical ownership went to the village headman. However, it should be borne in mind that the village Chief could never dispose of any portion of the village land at his own will. He could neither use the land tax received from persons of another village known as luishaman, at his own discretion but utilised the land and land tax for the benefit of the village after proper deliberation with the members of his village council.21 In the village government of his village, the village Awunga tried his best to adjust his opinion with that of his councillors-the sole representatives of the clans or the representatives of the people. In all matters of disputes and deliberations, the village headman had to consult the hangvas and could not normally discard the consensus of opinion arrived at.

Legislative powers

Awunga is a component part of village longshim. He is the ex-officio Chairman of the village longshim. Every sitting of the village longshim is convened by Awunga in consultation with the village hanga. He acts as the speaker of the

House whereby he presides its proceedings. He is vested with the power to adjourn and also prorogue the sittings of the village longshim. Awunga shall address the house whenever it is being convened.

Quasi-judicial power

*Awunga* has quasi-judicial power in the administration of justice in the village. The village chief, on the advice of the village council, decides certain disputes in the village. In some cases, the disputes may involve the whole village but in most of the cases it involves only two or three persons. If there is any breach of the executive decision by an individual or a party, it is considered as a contempt and action is usually taken against the individual or the party. Fines are imposed in kind. The councillors may decide to kill an offender's pig without consulting him, as fine. It was the sacred duty of the village headman to punish the wrong doer. He was the fountain source of all justice, whether the village headman and his *hangva* decided a case properly or otherwise there was no appeal against his decision. It might be interesting to note that should the headman fail to come to any definite decision, he might consult the heads of the clan to decide the matter. The executive power of the Chief includes punishing one found guilty of breaking the time honoured law of the land.\(^2\)

Position of Awunga

*Awunga* is the head of the village. The office of *Awunga* is hereditary. The rule of primogeniture is applied in the matter of succession to the office of *Awunga*. According to this rule, the eldest son always gets the first preference over other

\(^2\) Singh K.S. op.cit, p.39.
sons as regard to succeeding the said hereditary throne of headmanship in the village. Election of *Awunga* may be an exceptional case in some villages. The title of *Awunga* passes on to the eldest son after the latter’s marriage, if his father so desires and sometimes it can be passed over to the eldest son even if not married provided circumstances necessitate to do so. Normally, the tenure of the office of *Awunga* is for life. The village *Awunga* as the head of the village enjoyed special social position and privileges. He enjoyed in all matters. He was expected to get the highest respect from his villagers. In the early days the cultivation of the *Awunga’s* field was done by the villagers. His house was constructed by the village itself. There was a time when villagers offered him their free labour at least in times of transplantation, weeding and reaping. The free labour service by the villagers is called *langkat*. So also the death of *Awunga* was the concern for the entire village community whereas for a commoner it was a concern of the clan and *tang* to which he or she belonged. The village chief, as the head of the village, enjoyed special position and privileges. He enjoyed precedence in all matters. He was the object of intense devotion and respect. As a token of respect for his high status, he was entitled to a portion of meat of the animals killed during festivals. *Awunga*, the real executive head of the village acts democratically in consultation with his councillors and seldom acts autocratically.

**Luplakpa**

In nearly every Tangkhul village, there are two village officers, the *Khullakpa* and the *Luplakpa*.23 “In nearly every Tangkhul village we find in addition to the *Khullakpa*, a village officer bearing the Manipuri title of *Luplakpa* who is the head

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of one clan just as the *Khullakpa* who is also basically the head of his own clan. The title "*Khulpu*" which seems to mean ancestor of the village was born in earlier days by the person now designated the *Luplakpa*.\(^{24}\) *Luplakpa*, therefore, is the second highest village executive who functions effectively in support of Awunga.

The Village *Hanga*

The village council known as *Hanga* or *Changrui* in native is vested with substantive power and responsibility in the village administration. They are elected from amongst the elders of the clans in the village.\(^{25}\) The village *hanga* (council), in the days of yore, was the highest governing organ of Tangkhul society. In a traditional Tangkhul village-state, *Awunga* and the different clan heads in the village formed the village council. These different clan-heads represented their respective clans in the village administration. This is a symbol of clan unity and democracy. A big village had larger number of Councillors and the smaller ones had less number of Councillors, so also a big clan having larger number of families used to send more number of Councillors whereas a small clan used to send less number of representatives. As per custom the head of a clan (*pipa*) was the hereditary and permanent member of the village council. But in certain cases he used to nominate someone on his behalf in the council and it might be changed from time to time if the representative could not carry out the administrative work satisfactorily. In short, he continued in office as long as he commanded the confidence of the clan. In sending a representative to the village council, generally they used to send the lineage head at least if otherwise nothing went wrong with him-physically and mentally. The office later on became hereditary.\(^{26}\) In a clan where there was more than one

\(^{24}\) Hodson T.C. *op.cit*, p.79.
\(^{25}\) Arang MC., *Cultural Account of Tangkhul Nagas, Ukhral*, p.15.
\(^{26}\) Ruivah Khashim. *op.cit*, p.149.
representatives in the village council, the head of the sub-groups within the clan itself-known as vazat or meiphung kharara, that is to say-oldest man of the sub-clan group would be the representative of the village council and he shall be succeeded by his eldest son or in case there was no male issue his nearest male relatives would succeed to the office. In case the successor apparent son was too young, the nearest male relative of the boy might be appointed on the boy's behalf for a certain period or till the boy's adulthood. When the clan head has no heir who has attained majority and when he is physically compelled to appoint a new representative, he can appoint his nearest kin as hangva. This is a temporary arrangement. If the clan head has got no heir at all the said nearest kin and his children shall be entitled to become hangva. The customary law sanctioned distribution of seats for village council on the basis of "clan wise population" of that village and not on geographical basis. In the olden days, people belonging to the same clan group used to live together in the same colony called 'tang' that existed within the same political boundary of the village-state. A village was formed by several units of such tangs. Nevertheless, in certain cases people belonging to different clans were found living together in the same colony or tang. In all these cases, customary law permitted allocation of village councillors' seat on clanwise population and not otherwise. As per customary law, a small clan shall have at least one representative in the council. A bigger clan may have two or more village councillors which could be allocated as it deemed fit and necessary. In such cases when a bigger clan may have more than one representative in the village council, the head of the sub-group within the clan itself, as aforesaid, shall be the representative of the village council. Nomination of such group or clan representatives for the village council was done by the clan groups and accepted by
the village assembly. They were primarily responsible to the people of the village even though they have strong obligations and responsibility towards their respective clans who nominated their membership in the council.

Each clan sends its own representatives. Some clans may send two or more if the number of households of the particular clan is large in number. There are several clans in each village. The traditional village council is found in every village. Its members (hangva) represents different shang. If households of a particular clan are more in number, more than one councillor represents in village hanga. Those hanga are generally the heads of their clan. The traditional village council called hanga is found in every village and its members are called hangva. The ‘hanga’ is represented by the different clans. If there are many clans in a village there would be more than one hangva. The village chief is called Awunga, in every village there is one Awunga.

As the population increased, new member had to be selected from a new family. Under such circumstances the would be new aspirant should provide a pig to the village council. The council kills the pig and a part of the pig is distributed among all the families of the village and the other half is consumed by the village councillors. If they cannot finish the meat then they would divide it among themselves. In case a vacancy arises due to migration of a member to another village and if there was non to succeed to the office, it might pass on to another family worthy of a new office. A vacancy might also arise due to a family being extinct due to some unfavourable circumstances. Such a vacancy might also be filled up by

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another family. Under such circumstances the same style of meat offering should be observed as a mark of declaration and recognition in the community. Here, it should be noted that on the occurrence of such incidence the village headman should inform to the village council and all the members of the village council should discuss the matter and give their approval. After obtaining the proper consent and approval, the village Awunga would declare the matter and then only the declaration ceremony could be performed. Seat once allotted became permanent and the allotted seat of councillors was known as hangvapam, hangvapam was generally permanent and succession takes place according to the law of succession as stated earlier. It should be noted here that at the time of taking decision about a new seat the village council need not necessarily particularise the person to whom the new seat should be allotted. It was purely the duty of the clan members to decide as to whom the seat should be allotted. Selection or election or alteration of the councillors was purely a matter of discussion within the clan itself. Village councillors were responsible to their respective clan. With this responsibility the councillors should protect the interest of the clan as well as the interest of the village as a whole.30

There is another type of hangva. Hangva elected from the public and not from the panel of clanwise representation is called changrui. Its term is temporary in nature.

Tenure, qualifications and disqualifications

There was no fixed tenure of the village council. Every councillor who was the representative of the clan occupied his seat for life time unless circumstance disabled him to continue so. Hence, even the village council’s seats were hereditary and permanent in nature. They continue in office till their successor enters upon it.

30. Ruvahe Khashim op.cit, pp.150-151.
The qualifications to become a village *hangva* were; he must be a bonafide citizen of a village, he must have attained the age of majority, he must be the head of a clan in that village, he must be the head of a sub-clan in case the head of the clan is not available and he must be a (customary) law abiding citizen. The term of office for the village councillor shall come to an end when such person permanently migrated to other villages. He shall be disqualified as and when he violates customary law of the village. He shall be removed when found insane. He is disqualified from becoming member of Village Council, if he is a convict of heinous crimes such as murder (*mikhayum*), rape (*latuk*), clan endogamy (*shokhala*) etc. The *hanga* (*Awunga* and his councillors) can remove any member of such *hanga*.

Powers and functions of village *Hanga*

The collective power and functions of the village council are given as under:

**Administrative Power**

The village council, as the administrative agency, had the ultimate responsibility to collect the subscription dues of the villagers. There is no regular taxes to constitute a village fund. Hence, the village council used to collect subscription, fixed from time to time according to their needs for the management of the village administration when some families from outside the village cultivated or used some land for jhuming or for any other purpose, the village council used to collect a kind of rent called *luisaman or luoshan* from the concerned persons. It was the duty of the village council to see that no one encroached the village land.
Theoretically, the village waste land belonged to the village *Awunga*. But in practice the entire waste land belonged to the village as a whole. As such, the village councillors (the sole representative of the people) had the right to dispose of any waste land to individuals for cultivation. The village council took the initiative to take the preventive measure and help the poor and needy during the occurrence of natural calamities like famine and outreach of epidemic diseases like cholera or small pox etc. The council regulate the coming in and going out of people from the village. No stranger could enter the village without the knowledge and permission of the council. The village council had the power to drive relief fund in kind to distribute the same to the poor and needy. The village council had the power to organise several works of public utility like, construction of public paths, maintenance and repairing of the village water tanks, existing footpaths, bridges, village gate, fencing etc. from time to time. The council took all the necessary steps to promote the social and cultural progress of the people as well. They had the power to ask the village priest to perform the necessary sacrificial ritual for the benefit of the entire village. Any important matter of public interest like fixation of village feast and festivals, discussion of village problems for the maintenance of peace and security, fixation of general religious ritual in connection with the annual cycles, like selection of jhum cultivation area, clearing and burning of the hill sides for the same, sowing and transplanting of paddy and all other agricultural cycle rituals, construction of the village houses etc. were discussed and fixed by the village councillors in consultation with the village priest. Besides all these, the village council also used to see that the village grazing ground was properly maintained. Through all these diversified works, the village council worked for the well-being
of the village community. The village council has to perform certain administrative functions such as maintenance of village water supply and village footpath situated within the boundary of the village. It also fixes the dates for cultivation and clearing of jungles. The village authority is also the custodian of the entire village and also of the finance of the village.\[31\] The village land or community land is under the control of the village authority. The agricultural as well as homestead plots of land are distributed by the village authority amongst the villagers according to their needs.\[32\] In the same process, the community hunting or fishing is also done according to the decision taken by the hangva. Of course, it does not mean that individual hunting is banned. The day of the festival or any other ceremony relating to Tangkhul ways of life and custom was fixed by the hanga and the same tradition has still been maintained.

The hanga of the traditional Tangkhul society is marked by its welfare activities like any other modern day welfare body. Traditional Tangkhul society, being purely based on agrarian economy dependent on the nature's whims, had to undergo a rigorous life during the period affected by natural calamities. To satisfy the minimum immediate needs of the people, in such a situation, the hanga used to collect some paddy after the harvesting is done so that the same could be distributed among the needy to cope with the nature's vagaries.\[33\] The village hanga besides performing its administrative duties also looks into its appropriate functioning in respect of the maintenance of peace, law and order in the socio-cultural life of the people. The infirm, languid, irresolute and incapable Chiefs become surrogate in hanga and in such cases the hanga controls and take decisions on all village affairs.

\[31\] The Law Research Institute, Eastern Region, op.cit, p.135.
\[32\] The Law Research Institute, Eastern Region, op.cit, p.136.
\[33\] Law Research Institute, Eastern Region, op.cit, p.136.
Besides, looking after maintenance of water supply, village footpath construction of new paths, bridges across the rivers, the *hanga* decides the date of village festivals, religious ceremonies, taboo observations and related activities of the cultivation. Such decisions are taken by consensus and announced by chief.\(^{34}\) As mentioned earlier, it is the members of the village council who assist and advise *Awunga* in dealing with all the affairs of the village.\(^{35}\)

**Legislative Power**

The village *hanga* was vested with the power to make certain oral rules in the form of resolutions to meet the changing need of the society. They also made certain norms to regulate the working of village activities. If necessary, the village councillors were to express their opinion, even if it was in opposition to that of the village headmand. It was also the duty of the councillors to restrain a capricious headman going astray and giving wrong decision.

**Judicial power**

The village *hanga* were vested with quasi-judicial powers. Disputes between the families of the same clan were, as far as possible, decided by the clan elders. Disputes involving two individuals or families of different clans are also settled by the elders of the two clans. However, if the individual or the parties concerned are not satisfied with the decisions of the clan tribunal the matter is referred to the village *kalangshim*. The village court is the highest court of justice for civil and criminal cases among the Tangkhuls.\(^{36}\) The village council shall admit, hear and examine cases brought before the village court. They shall determine and dispose

\(^{34}\) Roy Sibani, Rizvi S.H.M. *op.cit*, pp.134-135.

\(^{35}\) Singh K.S. *op.cit*, p.40.

\(^{36}\) Singh K.S. *op.cit*, p. 40.
such cases after having minutely adjudicated as per existing customary laws. The village council shall have the power to initiate contempt proceedings *suo moto* and punish the contemnners.

The Tangkhul Village Judiciary

In every Tangkhul village, there is judicial institution. The village court was the highest court in the village. The village court is the highest court of justice for civil and criminal cases among the Tangkhuls.\(^37\) The only significant dispute settlement forum subordinate to the village court is "clan tribunal". However, the nature of dispute settlement in clan tribunal is more of arbitration and conciliation than judicial adjudication. The executive power of the chief includes punishing one found guilty of breaking the time honoured law of the land. Every person is expected to be conversant with the customary laws and usages. No one is excused for pleading ignorance. The village judiciary was not separated from the executive. The Executive exercised both the organic powers. That is, the Executive was vested with quasi-judicial power which is a basic character of governance in olden days. It may be noted that any unlawful killing within the village was considered as murder (*mikhayum*). There was no headhunting within the village. It was found only in inter-village war. No death penalty had ever been found awarded by the village court since time immemorial.

The Tangkhul Village *Kalangshim* (village court).

The Tangkhul village court known as *kalangshim* in native term is the only customary court existing in the village since time immemorial. There is no

\(^{37}\) Singh, K.S. op.cit, p.40.
independent judiciary in the village. The executive is vested with quasi-judicial power to exercise all judicial functions within its jurisdiction.

Constitution of village Kalangshim

As aforesaid, the village kalangshim is constituted by the headman and the village councillors. As such, the headman and his councillors shall act as Chief Judge and subordinate Judges respectively as long as they hold office. The village chief, on the advice of the village council, decides all kinds of disputes in the village. In some cases, the disputes may involve the whole village, but in most of the cases it involves only two or three persons. If there is any breach of the executive decision by an individual or a party, it is considered as an offence and action is usually taken against the individual or the party. Fines are imposed either in kind or cash. The councillors may decide to kill an offender’s pig, without consulting him as fine. Whenever a dispute arises in the village as regard to land, theft, divorce, inheritance, adultery, criminal intimidation, incest, assault, breach of executive decision, murder etc., these are heard and tried in this court.\(^{38}\) The house of Awunga, unless constructed separately, is used as court.

Original jurisdiction (Civil and Criminal)

Whenever a civil dispute or criminal case arises in the village as regard to land, property and inheritance, divorce, theft, adultery, criminal intimidation, incest, assault, breach of executive decision, murder etc., the village Kalangshim shall have the original jurisdiction to adjudicate and try the cases as per customary laws. The cases are conducted according to the customary laws and the judgment pronounced

\(^{38}\) Singh, K.S. op.cit, pp.39-40.
by the headman. The village Kalangshim shall have exclusive original jurisdiction in a dispute provided the dispute or commission of crime allegedly occurred within the territorial jurisdiction of the existing village kalingshim with the following conditions being fulfilled:

(a) The dispute must have arisen between the concerned village and one or more clans within the same village,

(b) The dispute or alleged commission of crime must have arisen between the village and one or more persons within the same village.

(c) The dispute or alleged commission of crime must have arisen between two or more clans of the same village.

(d) The dispute or alleged commission of crime must have arisen between persons of one village and other village(s)

(e) The dispute or commission of crime must have arisen between two or more persons of the same village and such case involves substantive question of law to be construed as per custom by the village Kalangshim.

A brief procedure of court (civil and criminal)

It is customary to lodge an oral litigation called tuingahei tuikat in native by the aggrieved person(s) before the village hanga kalangshim without much delay from the date of the occurrence of cause of action. The aggrieved person is called Shongva in native. Facts leading to the dispute or injury must be clearly put before the hanga. Such oral litigation is to be made by the aggrieved person or family elders or clan elders in his behalf. Admission of tuingahei tuikat is usually made if the same has its substance.

Namhot (summons)

As soon as the tuingahei tuikat is admitted, the village kalangshim or hanga kalangshim fixes a date for hearing and accordingly an oral summon to this effect is duly issued to the shongva (plaintiff) and shongra (defendant) to appear and present their case on that particular day. Such act of summon is called namhot khami. In ordinary cases, summon is given directly to the person concerned. Sometimes, it is communicated through the clan elders. The village hanga kalangshim conveys such summon notice to the parties concerned through a person appointed for this. Any party who could not appear before the hanga kalangshim shall be summoned for the second time. If he fails to appear for the second time without any reasonable cause, kalangshim shall have the right to pass an ex parte order.

Tuingahei bichar kasa (hearing of the case)

In the hearing stage, pleading and counter pleading can be had by the shongva and shongra in person and also family and other elders in favour of their respective parties. Initially, the village hanga kalangshim allows the shongva to submit in person the whole facts leading to the case in hand. His family or clan elders may also give their statements. The court, after having recorded the full details of the case from the plaintiff’s and his elders, allow the defendant to give oral submission of his defence. The shongra or his representatives are also recorded for further examination. The hearing can take place more days than one as and when necessary.
Chonjuk khami (giving of evidence)

There shall be examination of evidence called shakhi shaponli khangahan in native. Examination of evidence in the earlier days were strictly confined to oral and other circumstantial evidence given by the witnesses. This was considered as primary source of evidence. The case is decided purely on the basis of those evidences placed before the court. The shongva has the onus to prove his case as to how his civil rights have been infringed by the shongra. He has to substantiate the extent of damages being caused to him by the wrongful act of commission or omission of the shongra. The shongra, on his part, has to produce necessary evidence to counter such allegations. The court, after minute examination and deliberation of the available evidences, shall decide the case on the basis of the merit of its findings. The judgment is openly declared before the village hangva kalangshim in the presence of the parties. The judgment of kalangshim shall be executed by the village hanga within the given period of time.

Contempt of Court

The native term for contempt of court is known as mayom. As and when the defendant wilfully defies hanga kalashim’s order, within the given time, the matter shall be brought immediately before the court. A summary trial for such contempt of court shall be conducted and if the defendant (contemptner) can substantiate his defence argument, the hanga kalangshim may condone the delay or failure to comply with such court’s order. However, if it is proved beyond reasonable doubt that the contemptner has wilfully defied or disobeyed the court’s order, then, the court shall order punishment for such contempt over and above the principal order.
or punishment awarded earlier. Under such circumstance, the court shall order the confiscation of properties (movable or immovable) belonging to the contemner. If the contemner does not own any such valuable property, than his family and other clan elders shall have to bear the responsibility to share such liability.

Appellate Jurisdiction

The village *kalangshim* shall have appellate jurisdiction over civil and criminal matters from the clan tribunal. When the parties concerned are not satisfied with the decision or settlement of the clan tribunal, appeal against such decision and/or order can be made before the village *kalangshim*. Appeal, at least for once, can be made before the village court against any order given by the same *kalangshim* within its own jurisdiction. The ground for appeal can be, when there is a discovery of new evidence and when there is misinterpretation of customary law which needs to be correctly interpreted by the highest *kalangshim*.

Power of revision and review

The village *kalangshim* has the jurisdiction to revise or review a case already disposed in the same court. There is no restriction for the members of *hanga* who were conducting the said case to be included in the revision or review bench of the *kalangshim*. Normally, the *Awunga* who is considered to be the Chief Judge of the village *kalangshim* shall sit and preside such revision and review cases in the interest of justice. The ground for allowing revision or review is of two folds; when it is found that the proceeding was not properly conducted and when there have been misrepresentation of facts and evidence.
Clan tribunal

This tribunal is the lowest dispute settlement institution in the village. Even though there is no active judicial role of the clan tribunal, there has been certain role of settling and/or resolving disputes through arbitration and conciliation initiated by the clanheads and clan members of the disputed parties. Clanheads known as “pipas” of the parties involved in the dispute constitute the tribunal when the dispute has accrued between parties belonging to two or more clans. It shall be constituted by the concerned ‘pipa’ along with his sub-ordinate clan elders if the dispute has arisen between members of the same clan. It shall be the sole responsibility of the said ‘pipa’ of the clan to settle such intra-clan dispute with the support and cooperation of the elders within the said clan. Dispute between the families of the same clan are, as far as possible, decided by the clan elders. Disputes involving two individuals or families of different clans are also settled by the elders of the two clans. However, if the individual or the parties are not satisfied with the decisions, the matter is referred to the village court.\(^{40}\) It was a group consisting of elders of relations, near or distant. If there was a quarrel between two members or families of the same clan or between the two clans, the elders used to settle it. This tribunal was the informal body of family elders. Generally, head of the clan was in charge of such units. When the effort at family arbitration failed, the matter is referred to the village court by the concerned aggrieved party.\(^{41}\)

Tangkhul Customary Law on Administrative Matters

Administrative law in native is called mawunyan. Administrative law has become one of the most important branches of law. The most significant and

\(^{40}\) Singh, K.S. op.cit, p 40.
\(^{41}\) Ruivah Khasim. op.cit, p. 156.
outstanding development of the twentieth century is the rapid growth of administrative law. Even though the existence of administrative law is of time immemorial one, its importance has been greatly felt since the 20th century. The philosophy as to the role and functions of the state has undergone a radical change. The 21st century has witnessed the fast pace of the growth of administrative law. This is due to the advancement of science and technology, commercial and other economic activities in modern society. The governmental functions have multiplied by leaps and bounds. Today, the state is not merely a police state exercising sovereign functions, as a progressive and democratic state, it seeks to ensure social security and social welfare for the common man, regulates the industrial relations, exercise control over the production, manufacture and distribution of resources including essential commodities, creates many enterprises and strives for equality of all citizens in the eyes of law. The primary objectives of the state is to create a welfare state wherein lies the most compelling need of the administrative law.

It can be precisely said that administrative law is a law relating to administration. It is a branch of constitutional law which determines the organisation, powers and duties of the administrative authorities. It is also considered as the law relating to the control of governmental power. It is a law concerning the powers and procedures of administrative agencies including the methods by which their powers are controlled including the legal remedies available to a person against them when his rights are infringed by their operations.

India has a written constitution. While the constitutional law deals with the
general principles relating to the organisation and power of the legislature, executive
and judiciary and their functions *inter se* towards the citizens, administrative law is
that part of constitutional law which deals in detail with the powers and functions of
the administrative authorities including civil services, public department, local
authorities and other statutory bodies. Thus, while constitutional law is concerned
with constitutional status of the legislatures, judiciaries and the executives that
includes the ministers and civil servants, administrative law is concerned with the
functions of organisation of the various public servants and the proper working of
various departments of the government.

So far the *Tangkhuls* are concerned, it is found that (customary)
administrative law was in existence in their traditional village set up. It was found in
different aspects of village administration. This chapter proposes to undertake the
study in two parts to delineate the discernible changes.

The traditional understanding of Tangkhul administrative law shows that there
had been some basic laws on village administration. This unwritten administrative
law was a part of the unwritten (customary) constitutional law. The basic characters
of Tangkhul administrative laws can be analysed in the following heads by giving a
brief universal background of the subject.

The *Tangkhul* (Customary) administrative law was unique in its own way
although applied only within the village in the days of yore. The principles of the
rule of law as propounded by Dicey in England and the principle of the French
droit administratif were present in the Tangkhul administrative law one way or the other.

Supremacy of law in Tangkhul society

No Tangkhul citizen is above the customary law of the land. Every Tangkhul ruichumnao was ruled by the customary law. There was supremacy of customary law and less influenced by arbitrary powers of village Awunga. The village Awunga though occupies a hereditary office, is the real executive head of the village. He is vested with discretionary power in the discharge of his duties. He exercised such powers reasonably. The Hangva(s) were having collective powers and functions in the village administration. The village government of the time was strictly subjected to the customary laws and not vice-versa. No one was above the law. Every Tangkhul ruichumnao from Awunga to the ordinary cultivator was bound by the same customary law and no one was above it.

The law of equality in Tangkhul society

Tangkhul society was a classless society. There was no discrimination between its citizens. Every ruichumnao of Tangkhul society was equal in the eyes of law. All Tangkhuls were subject to the same customary laws. Meaning, there is equality before law in Tangkhul society. Customary (criminal) law does not immune Awunga from criminal liability if he is found guilty of a heinous offence. They are equally subject to the law in force. Equal protection of law is also present in the Naga (customary) administrative laws. They shall have the equal opportunity towards all facilities available in the village. No citizen who are similarly situated can be
discriminated under any circumstance. During the pre-British days, since a village which was considered to be an independent one was geographically very small, the ambit and scope of the law of administration was also not very vast. There was no special treatment of special category of classes. The same law and same procedure were applied to all the citizens. Every Tangkhul were and continue to be treated equally both in times of liability and privileges. In exceptional cases, women are exonerated from criminal liability. The family and clan concerned of such woman were required to bear all such liabilities in her behalf. There is also a strong principle of equal protection of law to all Tangkhul citizens. No citizen should be discriminated and denied equal opportunity and privileges. The basic human rights such as right to personal liberties including right to life are guaranteed not by written constitutions alone but even by the customary laws and practices.

Separation of powers in Tangkhul village

According to William Blackstone\textsuperscript{42} if the legislative, the executive and the judicial functions were given to one man, there was an end of personal liberty. Madison\textsuperscript{43} also proclaimed; The accummulation of all powers, legislative, executive and judicial in the same hands, whether of one, a few or many and whether hereditary, self-appointed or elective may justly be pronounced the very definition of tyranny. It is customary to divide functions of government into three classes; Legislative, Executive (administrative) and Judicial. Strictly speaking, there was no separation of power in the village-state administration of the Tangkhuls. Awunga who heads the hanga is the real executive head of the village. Hanga is also vested with quasi-judicial powers. Meaning, there was no separate judiciary in traditional Tangkhul

\textsuperscript{43} Ibid
society wherein it was performed by *hanga*. The village *Awunga* and his council members (hangva) are the real executives of the village. The village legislatures are those members of each clan who attained majority age of 16 years. This is due to the practice of the direct form of democracy in Tangkhul villages. Every policy-decision, rule makings and matters relating to customary laws are carried out by the general body meeting of the village held at least once in a year. The village judiciary is taken up by the village executive that is, the *hanga*. The village *hanga* exercise quasi-judicial powers. The *hanga* settled all disputes of civil, criminal, administrative and other constitutional matters as per the Tangkhul customary laws. They involved, as far as possible, customary procedures in adjudicating the disputed cases.

Delegated Legislation under the *Tangkhul* Customary Law

According to Justice Mukherjee, delegated legislation is an expression which covers a multitude of confusion. It is an excuse for the legislators, a shield for the administrators and a provocation to the constitutional jurists. The simple meaning of the expression ‘delegated legislation’ may be given as under; when the function of legislation is entrusted to organs other than the legislature by the legislature itself the legislation made by such organs is called delegated legislation.

The village *hanga* can also delegate some of its powers to clan tribunal normally constituted by clan heads as and when need arises. Such clan tribunals could settle any dispute including criminal cases without being referred to the *hanga*. The tribunal could make certain rules or norms to administer justice. During the

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pre-British India, the Tangkhuls did not have an indirect form of legislative democracy. There was no representative assembly. All the Tangkhuls who had attained majority were considered as bonafide members of the village assembly. The village longshim can delegate its legislative and rule making power to the village Awunga and village hanga. The hanga can further sub delegate to the subordinate officers such as Luplakpa. The delegated powers were very limited as the activities of the village government were also confined to only police village state. Essential legislative functions cannot be delegated by the legislatures to the executive. Repeal of law, modification of law and exemption of law among others are considered to be essential legislative functions and, therefore, it cannot be delegated.

Natural Justice

The two universally accepted principles of natural justice such as ‘Nemo debet esse judex’ in propria causa: No man shall be a Judge in his own cause or the deciding authority must be impartial and without bias, and audi alterem partem, no man should be condemned unheard or that there must be fairness on the part of the deciding authority are also recognised in the Tangkhul customary laws. The Tangkhul customary law forbids a person or an authority to become his own Judge. He cannot act as a Judge in his own cause. A Judge appointed or selected for the purpose of adjudication has to act without bias. For example, the village Awunga cannot be a Judge unto himself. Any allegation or accusation of crime against him is to be settled by a proceeding chaired by a Judge or arbitrators duly selected for the same. The other principle, no man should be condemned unheard is another principle which is fondly applied in Tangkhul system of justice. No Tangkhul citizen could be punished
random. He has to be given the opportunity to explain his case. A Tangkhul cannot be subjected to criminal liability or for that matter civil liability without hearing him first as per customary procedure which, in fact, is very simple and short. Nagas basically are known for their courage and honesty. If not for want of knowledge, there was hardly any intentional bias in the administration of justice in Tangkhul society.

Part B: After the Advent of Christianity and the Britishers in Tangkhul Territory

The Tangkhul Customary Laws on Constitutional Matters

The arrival of Britishers in 1891 AD and Christianity in 1896 AD had brought radical changes in the lives of the Tangkhuls and their customary laws. The Britishers did not have direct expedition in Tangkhul territory. They were assisted by the administration of the Maharajah of Manipur in partially establishing their rule. This researcher after thorough investigation have identified some of the customary laws being abolished or has become obsolete. Many others have been modified while some are still intact. “In 1935 the Maharajah promulgated the rules for the management of the state of Manipur which provided for general administration of the state as well as administration of justice both civil and criminal in the plain areas with separate set of rules for the hill areas.45 There was not much significant changes as far as their customary laws were concerned. The position of customary law after the extention of colonial control in Tangkhul territory are placed below:

45. Law Research Institute, Eastern Region, Gauhati High Court., A study of justice among the tribes and races of North Eastern region, 1987, p. 472.
Ruichumnao (Citizen or permanent domicile)

Manipur State Hill People (Administration) Regulation, 1947 did not have any express provision as regard to citizenship of the Tangkhuls. This Act is in fact the first ever law enacted by the Maharajah of Manipur for the hill areas ever since the Manipur hill areas including the territory of the Tangkhuls were first put to the Britishers' passive administration. This partial establishment of British administration and his control in few Manipur hill areas including that of the Tangkhuls' Ukhrul district brought a new beginning of common administration in the Tangkhul region. It led to inter-village migration resulting into inter-village residential right with condition precedent. The inter-village residential right subject to clan conversion/adoption occurred in exceptional circumstances even before the Britishers' arrival. The establishment of partial colonial administration in Tangkhul territory introduced a new chapter of Tangkhul society where sense of common residential right and common platform of administration steadily arose. After the independence of India, The Manipur (Village Authorities in Hill Areas) Act, 1956 (80 of 1956) introduced radical changes in the administration of the hill areas of Manipur, more particularly in Ukhrul district, the native region of the Tangkhuls. Despite the Tangkhuls' stiff opposition to conventionally join the Union of India after her independence on 15th August, 1947, like their counterpart other Naga tribes, they have gradually become Indian citizens. There is only one citizenship right in India. India has no dual citizenship system. Consequently, Tangkhuls are now citizens of India. The term ruichumnao also means permanent domicile and permanent resident. The term does not confine to citizen alone. After the independence of India, the Tangkhul traditional concept of village sovereignty had
ceased. The villages are now considered as the lowest administrative units under the Constitution of India. The concept of riyan had, accordingly, undergone a great change. Nevertheless, riyan means and is still considered as a customary law that governs the Tangkhuls in their socio-cultural, personal and village administrative matters. Riyan must be understood as a branch of customary law working in conformity with the Constitution of India.

A significant area of development in regard to ruichunnao of the Tangkhuls is that there has been a rapid growth of need and importance for Tangkhuls to have a common residential right (ruichunnao) under the Tangkhul Naga Long. This is the apex socio-cultural organisation of the Tangkhuls. Initially, the establishment of such common platform began in the early part of 19th century, before the arrival of the Britishers. It was named as kasomkong. Its working headquarters situated at Somsai at Ukhrul. After nearly one hundred years of defunct, this organisation was revived in 1921 by giving it a new name as “Tangkhul Education Fund”. In 1948, it was renamed as Tangkhul Long. In the year 1986 this apex organisation of the Tangkhuls came to be known as Tangkhul (Naga) Long, in its overall review of the constitution carried out. It was further reviewed in the year 2005. According to Article 74(a) of the constitution, every citizen of each village is a member of Tangkhul Naga Long and all such members shall be called citizens of Tangkhul Naga Long. This means that the spirit of exclusive and independent village ruichunnao as per customary law has gradually diminished thereby creating a broader sense of inter-village citizenship right with condition precedent. Thus, it is found that even though inter-village citizenship right has been given, it is a restricted
right since the conditions imposed by customary laws such as "Shangzan-ramzan Kakhui" (meaning an act of conversion to another new clan of a village where one seeks citizenship and payment thereof the necessary admission fees) as provided in Article 74(ii) and (iv) of the Tangkhul Naga long riyan still persists. It clearly deprives an individual liberty to reside and become a citizen of the society without changing one's original clanship or title. It violates human rights. The practice of taking 'shangzan', must be stopped and a better law in this regard must be evolved. There is "Naga Hoho" which is the highest socio-cultural institution of the Nagas wherein Tangkhuls are one of its constituent part.

Basic Rights of the Tangkhuls

Right to freedom: Freedom is a dynamic concept. The concept of freedom in the ancient Tangkhul days had undergone dramatic changes in the modern day. Tangkhuls' understanding of freedom in an atmosphere of village exclusivity and illiterate life of the olden day is now quite different with an open Tangkhul society of high literature and standard of education with common socio, economic and political platform already in existence.

The customary law on freedom of speech and expression obviously remains the same with certain dimensional developments. The basic law still confers wide freedom of speech and expression subject to reasonable restrictions as discussed earlier. The right to freedom of speech and expression has been extended to the area of writings as well as print and electronic medias in modern Tangkhul society. It was limited to freedom of speech only before the arrival of the Britishers. As
aforesaid, Article 19(1)(a) of the Constitution of India that came into force in 1950 guarantees to all citizens (including the Tangkhuls) the right to freedom of speech and expression. Reasonable restrictions are given under Article 19(2). As regard to freedom of movement, residence and settlement in Tangkhul territory, it is now a matter of fact that Tangkhuls can now move, reside or settle in any part of the region. In other words, there is an inter-village residential right subject to fulfilment of certain conditions such as taking “shangzan ramzan”. Article 19(1) (d) guarantees to every citizen of India the “right to move freely throughout the territory of India.” Article 19(1)(e) also guarantees to every citizen of India, the right to reside and settle in any part of the territory of India. It is subject to reasonable restriction under Article 19(5) such as; in the interest of general public or for the protection of the interests of any Scheduled Tribe. Tangkhul customary law which prohibits sale of land to non-Tangkhul outsiders is in conformity with this restriction also under Article 19(5) of the constitution. However, a new development in the urban areas such as the district headquarter-Ukhrul and other sub-divisional headquarters in the Tangkhul region is that residents of such towns do not have to undergo the obligation of taking “shangzan”. The customary law, in such cases, has exempted the Tangkhuls whereby they are allowed to settle there either temporarily or permanently without changing one’s title or clanship.

Right to equality

A new development in the law of equality in Tangkhul society are apparently taking place after the Constitution of India came into force in 1950. The female adult are now participating in different administrative activities of the village. They
actively take part in church administration particularly in the women and youth departments. They are now allowed to become members of village assembly and participate in the business of the village assembly. They now have their own women organisations within the village as well as outside the villages which are known as ‘Shanaolong’ in native term meaning association of women. Equality of the members no longer confines to the village but the entire tribe.

The Tangkhul Village Legislature

The direct form of democracy in the village assembly still continues. The Manipur Village Authorities Act does not mention anything about the village assembly. The customary laws continues to bind the working of village assembly even though there has been some changes after the arrival of Christianity and the independence of India. The village Awunga who is the ex-officio Chairman of the village presides over the proceedings of the village assembly. There was no village assembly Secretary in the days of yore. However, now there is village Secretary who shall also record all proceedings in the village assembly. The customary law is silent in this regard. It is the outcome of modern society. It is also known as “direct legislation or popular legislation.”

Of late, the village longshim has got a committee called “Village Assembly Executive” consisting of the longshim President, Secretary and some other members selected by the village longshim from among themselves for a certain period. But there are also villages which do not have such Committee. The village Awunga is the ex-officio member of the said executive body by virtue of being the village Awunga.
The term of office differs from village to village. It is generally arranged in such a way that their term of office should be less than the village councillors so that all the members of the village council may not go away along with the Village Assembly Executive Committee at a time. The functions of “Village Assembly Executive Committee”, interalia, includes maintenance of the affairs of the *longshim*. They discuss the village affairs in general and may recommend or refer any matter to the *longshim* for public discussion. Any public or private agenda must be initially screened by the committee and recommend the same for house discussion if it considers it worth to do so. The committee may, however, reject any agenda or may send it back to the concerned person(s) or body for reconsideration. The forwarded agenda will be discussed in the *longshim* and after a minute deliberation, the *longshim* may give its approval and adopt the resolution to become a rule. The *longshim* may sometimes modify any agenda and approve it as a standing resolution.

In case, any person willing to put agenda before the longshim without the knowledge of the Executive Committee, the agenda must be seconded by another member of the longshim and supported by two-third of the *longshim* members. The agenda shall automatically be rejected if the said formalities could not be fulfilled. This type of provision is made to meet an urgency in any matter of public interest and importance.

The constitutional laws of the *Tangkhul Naga Long* has brought certain changes in the working of the Tangkhul villages including village legislatures. Article 68 of the *riyan* provides that in order to have a smooth and effective administration of the village by safeguarding its unity and integrity, all the agendas, policy-programs
and other important matters of the village are to be put up in the village longshim for necessary discussion and approval. This assembly is the highest law-making institution of a village. There shall be a Speaker to preside over the village longshim. His powers and functions should stand similar to those Speakers of longphang and longrei. The Speaker is known as tuikhoka in native.

Article 68(A) provides some of the important responsibilities of village longshim:

(i) There shall be at least two sessions of the village longshim. That is, annual session and half yearly session of the house. Speaker shall convene any other emergency sittings as and when required.

(ii) The village longshim shall elect its member-representatives to longphang and longrei as per the instruction of the Election Commissioner of Tangkhul Naga Long. The necessary expenditure of the members in attending long’s meetings shall be borne by the villages.

(iii) Every member of the village longshim shall have equal voting right. This section is silent whether or not these members include female adults. They should be allowed to become member representatives to the higher longphang and longrei.

Article 68(B) provides that:

(i) There shall be members of the village longshim. Every adult citizen of the village who has attained the age of 18 years shall be bonafide members of the village longshim.
(ii) Any bonafide village citizen who intends to become the member-representative of *Tangkhul (Naga) Long* must have attained the age of 25 years.

(iii) Every member of a village assembly shall, in consonance with the provisions of Tangkhul Naga Long *riyan*, have the right to vote and be voted as a candidate for the member-representative of *Longphang* and *Longrei*.

(iv) The unsound minded persons in the village cannot become members of village longshim. In this matter, the term unsoundness of mind is not defined in the section. There are various categories of unsound minded persons. Those persons who are permanently and regularly are influenced by such unsoundness of mind whereby they cannot understand the nature of their acts, cannot differentiat between what is right and wrong and what is lawful and unlawful may not be eligible to become members of the village longshim as provided under this section. However, those persons whose unsoundness of mind occurs in certain intervals such as the lunatics may be given the right to participate proceeding of village longshim provided they are not influenced by their unsoundness of minds in such relevant occasions.

(v) Any convict (persons) cannot be a member of village assembly.

(vi) Village assembly shall take all responsibilities pertaining to administrative measures and framing of the constitution of the village.
It would be irrational to have a written constitution of each village. It has been found to be more practical and reasonable to have only one constitution. That is, Tangkhul Naga Long *riyan* which shall equally bind to all constituent unit villages. It would contribute significantly in unifying the then exclusive Tangkhul village society to a more inclusive and unified Tangkhul society.

Separation of power between the Legislative, Executive and Judiciary is one of the basic elements of good democracy. It is, however, found that it is not feasible to apply uniformly in all the Tangkhul villages this doctrine of separation of power. It is suggested that it may, as of now, be strictly applied on the basis of the size and population of the village. A village with more than 100 houses should implement this doctrine. It is found that with the changing need and time, direct form of democracy has become less effective. Therefore, it is also suggested that a village with more than 100 houses may implement the indirect form of democracy in Tangkhul territory. In such a radical change of structure women can be adequately accommodated in the village assembly and other decision making processes of the village.

The Village Executive

There has been significant changes in the working of the Tangkhul Village Executive since modernity d awned in Tangkhul society. Customary laws in certain cases have been abandoned.
The Village Awunga

The customary law pertaining to the position, powers and functions of the village Awunga will remain the same except the changes being cited herewith. Section 3(4) of Manipur Village Authorities Act provides that there is a Chief or khullakpa in a village, he shall be the ex-officio chairman of the village authority (Hanga) of that village, and where there is no such Chief or khullakpa in the village, the Chairman of the village authority shall be elected by the members of the village authority from among themselves. The customary law allows Awunga to be the ex-officio Chairman too. For the first time in Tangkhul society the nomenclature ‘Chairman’ was officially used under the Manipur Village Authorities Act. The term however was also loosely used by new villages established after the arrival of the Britishers and Christianity in Tangkhul territory. The position and other responsibilities of the elected or selected Chairman of the newly established village is regulated by the new norms or practices. The present section does not define the hereditary headman of the village and the elected Chairman of the village of recent origin, that is, since 1896 AD. The Act does not classify the two in clear terms and hence it remains very vague. The throne of Awunga has been transcended to its lineage since time immemorial. In the ancient time the title of Awunga was conferred to the true and first ramphatwo. Today, it is found that there are a number of new Tangkhul villages who have permanent and hereditary Awunga. There are also new villages with chairmanship system, all after the advent of Christianity. The actual position of customary law in this regard is that there can be no creation of new titleship for new Awunga in modern days. Any position equivalent to the Awunga in a newly established village in modern days should be conferred with non-hereditary
and non-permanent title of chairmanship or whatsoever title is deemed fit. A Ramphatwo of a particular ramshai or Lamtup cannot become Awungas just by establishing a new village in his lamtup in the present age. Because customary law recognised Awunga of historical antiquity only. The term ramphatwo should be strictly understood to those ramphatwo of the ancient time for the purpose of defining Tangkhul Awunga.

The Tangkhul Naga Long riyan does not clearly define the borderline between the hereditary and permanent headman and the elected or selected village Chairman. The riyan contained in native dialect is translated into English and given in the following for the purpose of discussion.

According to Article 67

(i) Awungas Headman is the head of a village,

(ii) Awunga shall endeavour to promote peace, unity and development of the village,

(iii) Awunga shall not remain absent from the village without any reasonable ground. In case he intends to stay outside of his village for a long period of time, he has to keep a substitute in his behalf,

(iv) All the contributors, collections etc. of the Tangkhul Naga Long and longphang shall have to be made in the name of the village Awunga. The Awunga or Chairman shall have to report the details of
the defaulters, if any, before the Executive body of the Long and longphang concerned. Awunga shall be personally responsible for such liability if he fails to submit the report.

(v) *Awunga* Chairman shall execute all the judgement and orders, decisions and directives of the village council and village courts along with his councillors.

(vi) *Awunga* shall have no power to terminate or remove any of the village councillors. It is a collective responsibility of the village councillors and the village assembly.

(vii) If *Awunga* is found envolving in misappropriation of village fund, corruption and violation of Tangkhul Naga Long constitution, then five (5) members of the village assembly shall have the right to file a complaint in this regard to the President, *Tangkhul Naga Long* for necessary action.

Article 67 (Chairman):

(i) provides that any Tangkhul native village with hereditary and permanent headmanship may change into chairmanship if the villagers want to do so.

Article 67:

(ii) further provides that any Tangkhul village of recent origin decides to have chairmanship system, the same shall be followed.
It may be stated that there has been the hereditary and permanent system of village headmanship in Tangkhul villages strictly under the Tangkhul customary (constitutional) law since time immemorial. The system is uniform and, hence, it cannot be partly practised in one place and partly abandoned in other place. The system cannot be altered without the customary law being amended and/or abolished in toto. The said customary law is being enforced even today and therefore abolishing the headmanship by mere consent or agreement of the villagers is not tenable. Therefore, this Article is in violation of Tangkhul customary law. Article 67(ii) is found too vague. As per customary law title of Awunga was conferred to true and first Ramphatwo in the ancient time. A person cannot become Awunga whenever he likes just simply because he has some lamtups. Meaning, the title of Awunga in Tangkhul society is a sacred and historical title just like the historical kings and Maharajah of other kingdoms and/or societies. Article 72 provides that village Awunga or any member of village councillors shall be disqualified from their positions if they are found guilty of: i) endogamy, ii) murder, adultery, rape, iii) deaf, blind, dumb and insane, iv) selling village land to outsiders without prior consent of the village assembly, v) permanently migrated to other village or place.

Luplakpa (Mantri)

The village assembly selects the members of the village hanga for a period of five years. To cope up with modern administrative system, the village hanga selects some persons to be the Luplakpa now called Mantri, Secretary and Treasurer respectively from among themselves. This new development in the village administrative system is in fact the product of the Britishers and the subsequent
introduction of the Manipur Village Authorities in Hill Area Act which is impugned as of now. Generally, to be the Mantri, one of the senior most, experienced and able person is selected. The Mantri assisted the village Awunga in all affairs of the village. He may represent the village whenever the village headman could not attend any conference, meeting or any function on behalf of the village Awunga. In all the important functions the village Mantri may accompany the village Awunga. But if the function is not very important, in the eye of the village council, at least the Mantri should be in the village during the absence of the village headman.

Village Secretary

Of the village authority, the Secretary is one of the most important persons in the village administrative set up. He keeps all the official records and important official papers of the government in a proper way. He is the custodian of the village records. After introduction of formal education among the Tangkhuls the post of village authority’s Secretary came into existence. He is assigned with the development program of the village and should be in touch with the government agencies all the time. The village (authority) Secretary is the busiest man among the authority members. In some villages like Somdal some remuneration is paid to him by the villagers themselves. He is the only paid person in the village authority. The village authority has got its own treasurer to keep the account in a proper way. All the income and expenditure record of the village authority is maintained by him. It is through this person that the village Auditors appointed by the village assembly could check the village authority’s account and approve it by the village assembly. As aforesaid, all this village executive that came into existence after the
British arrival have been instrumental in the transformation of Tangkhul polity and administration.

The Tangkhul Village Council

The Tangkhul village council which is still considered to be the apex governing body in the village was brought to certain structural and functional changes with the advent of Christianity in Tangkhul region in 1896 AD and the subsequent enactment of Manipur (Village Authorities in Hill Areas) Act, 1956 after the independence of India. In the early days of Christianity in Tangkhul society, there was tussle between convert Christians and non-christians. The Christians wanted and were pressured to live away from the vicinity of non-christians. The non-christian majority tended to drive away the then few convert christians from their original vicinity or habitation. The primary factor for causing such tussle between the two was the differences of religious rites, ceremonies and other principles of faith. The practices of Tangkhul indigineous religion ameoyan was against that of the principled practices of the Christians and vice versa. Taking into account the irreconcilable conflict of faith between the old and the new (gospel of Christ) which directly affected the village administration, the British administrator allowed the two groups to live separately thereby vesting the headmanship to the original Awunga. If the Awunga is not amongst the converts then the matter became much complicated. In such cases, a new village within the territorial boundary of the original village is established wherein the villagers selected a non-hereditary headman commonly known as Chairman of the village. This era is considered to be the genesis of non-hereditary village chairmanship in Tangkhul territory.
The newly created non-hereditary headman was allowed to perform all the administrative powers except the authority over the village land which was generally kept in the hands of the original headman of the village, that, if any dispute arise over the village land with another neighbouring village, it is the duty of the original village headman to tackle the problems and see that the village land was properly protected.46 For instance, the original village of Somdal was divided into two, Somdal village for the Christian community and Somdal Kasom village for the ameoyanmi (worshipers of Ameoa, Tangkhul traditional religion). Tolloi village is another such example. However, in many cases, there was no division of the village into separate administrative units like that of Somdal even if there was some controversy. In villages like Phadang and Tuinem instead of creating separate administrative units a new ‘tang’ (ward/colony) was created within the village itself for the Christians. Nambashi village where this researcher belongs to did not have a separate administration for the new Christian converts. The newly converts can grow and develop themselves into better spheres of life without much interference from the majority non-christians. The Tangkhul villages, after hundred years of Christianity, have occupied a much different position with nearly 100% Christianity bringing thereby significant changes in the customary practices. The law on hereditary village headmanship remains unchanged whereas the hereditary system of the village councillors had been gradually abandoned in the new system. This means that the hereditary membership of the village council is least practiced in the villages with the introduction of modern democratic system. This does not mean that selection of the clan heads for the village council as per customary law has been totally abolished. It has become more flexible as far as selection is concerned. The village

46. Ruivah Khashim, op.cit, p.158.
headman/chairman of the villages of recent origin, that is, after 1896 AD are to be considered as non-hereditary headman/chairman. He is to be elected from amongst the villagers considered to be the most competent to head the village. He cannot be an equal to the hereditary Awunga who had acquired such right from time immemorial based on his capability and sacrifice in the establishment of the village and in the sojourn of the group for finding the present habitat in the ancient past. Therefore, any Tangkhul village established after 1896 AD is to be headed by a non-hereditary headman or chairman. Thus, the Tangkhul customary law permits hereditary headmanship in all original native villages and non-hereditary headman in the recently established villages. Keeping hereditary headmanship in the newly established villages is against the customary law. It may be noted that the new democratic system was initially introduced only in some Christian villages. But sooner or later almost all the Tangkhul villages followed suit.

The Manipur Village Authorities Act brought significant changes in the structure and working of the village council. The term village council is being referred to as “village authority” under the Act. The researcher do not intend to elaborate all the provisions of the Act. The researcher intends to give the specific changes that have taken place with the enactment of the Act and a critical legal opinion thereunder.

Section 3(1) provides that for every village having twenty or more tax paying houses there shall be a village authority consisting of:

(a) five members, where the number of tax paying houses in the village is not less than twenty but is not more than sixty.

(b) seven numbers, where the number of tax paying houses in the village
is more than sixty but is not more than one hundred

c) ten members, where the number of tax paying houses in the village is
more than one hundred but its’ not more than one hundred and fifty.

d) twelve members, where the number of tax paying houses in the village
is more than one hundred and fifty.

Section 3 provides ceiling for minimum and maximum number of village
councillors from each village with variation of population in the villages of Manipur
hills. It really is a clear departure from the customary practices of the tribals
particularly of the Tangkhuls. The selection of the village councillors as per Tangkhul
customary law is not purely on population basis alone but on the basis of the strength
of each clan of the village. The strength of hanga will depend on the population of
that village in general and strength and number of each clan of that village in particular.
The village council is thus the central body of the clan representatives of the village.
In the days of yore, village council of a Tangkhul village was considered to be the
highest administrative body and hence to make the village administration more
effective, efficient and just, each clan was represented to the village council. But
the present section ensures the selection of the village councillors from the whole
population of the village without clan-wise basis. This effects the practice of earlier
clan representative system. For instance, a village of 50 houses inhabited by 6 clans
will bar the representation of one clan if at all the allotted seat of 5 have been filled
by the other 5 clans. Over and above this, the five representatives could be selected
from 3/4 clans leaving other clan members on inefficient or other grounds. It is
however, equally important to note that the importance of the traditional system of
clan-wise selection of village councillors has been diminished. Geographical proximity such as tang which means a cantonement or ward has gain more weightage in the modern administration of the villages. The merit of this significant change is that it has reduced the spirit of clanism which was very strongly present before the advent of the Britishers. It now gives important emphasis on population, merit and geographical factors rather than on mere clan factor.

Article 68(C) of Tangkhul Naga Long riyan provides that:

(i) Awunga is the head of the village council,

(ii) The hereditary and permanent village councillors of such villages also practice this system even today,

(iii) The elected/selected village councillors shall also be the members of the village council as a whole and the village secretary shall also be a member of the village council;

It is found that the riyan of Tangkhul Naga Long still permits the hereditary and permanent nature of hanga representation in the village. This clanwise representative system has been the basic structure of traditional democracy in the village governance since time immemorial. However, in this modern era of our age, a structural transformation in many ways is imminent. The basic structure of clan-wise representation needs to be reviewed.

Section 3(2) of Manipur Village Authorities Act further provides that the Chief Commissioner may, having regard to the general interests of the people of
any village as also to the demands, if any, from the people of that village for an elected village authority declared by notification in the official gazette that the village shall have an elected village authority and thereupon the members of the village authority of that village shall be elected in accordance with the provisions of this Act and rules made therunder.

This section deprives the powers and functions of the village longshim in as much as the Deputy Commissioner is being vested with the power to appoint village councillors. Because, the councillors are not beuracratic executives, they are very much legislative executives of the village. Therefore, it is the village assembly which has the power to elect or select village councillors. Sub-section 3 of section 3 also provides that where no declaration under sub-section 2 has been made in relation to any village, the members of village authority of that village shall be nominated by the Chief Commissioner. This provision is also found to be too arbitrary and shall stand counter productive inasmuch as the village councillors who are the apex governing body of the village are simply nominated by a Chief Commissioner. They have to be elected or selected either by the village assembly (as a new rule). The reason for absence of timely nomination has to be ascertained and democratic measures be taken up to offset the matter without directly envolving the Chief Commissioner. This section is bad in law.

Section 3(4) provides that there is a Chief or Khullakpa in a village, he shall be the ex-officio Chairman of the village authority of that village; and where there is no such Chief or Khullakpa in the village, the Chairman of the village authority
of that village shall be elected by the members of the village authority from amongst themselves. The Tangkhul customary law allows *Awunga* or Headman to be the ex-officio Chairman too. The position and other responsibilities of the elected or selected Chairman of the newly established village is regulated by the new norms or practices. The present section does not define the hereditary headman or chief of the village and the elected Chairman of the village of recent origin, that is, since 1896 AD. The Act does not classify the two in clear terms and hence it remains very vague.

Section 4 provides that a person shall not be qualified to be chosen as a member of a village authority unless he:

(a) is a citizen of India,

(b) is not less than twenty-five years of age,

(c) in the case of membership of an elected village authority, is registered in the electoral role as a voter for the election of a member of the village authority.

Section 4 omits to set one very important criteria such as: a person to be qualified to be chosen as a member of the village authority must be a permanent *ruichumnao* of that particular village. As per customary law, the local residents that too clanheads or sub-clan heads are to become village councillors of Manipur hill areas. This is too vague and against the basic principles of Tangkhul customary law.

Section 5 provides that a person shall be disqualified from being chosen as, and for being a member of a village authority;
(a) if he is a member of any other village authority
(b) if he is of unsound mind and stands so declared by a competent authority.

Section 5 lacks another criteria for disqualification of a village councillor. That, customary law disqualifies a convict of serious crime from becoming a member of village authority. The criteria is being considered still relevant and necessary. Section 6 also provides that the term of office of members of a village authority shall be three years from the date appointed for its first meeting. Now, it is 5 years.

Section 7 provides that the election of members of the village authority of a village shall be on the basis of adult suffrage, that is to say, every person who is a citizen of India and who is ordinarily a resident in the village and is not less than twenty one years of age on such date as may be fixed by rules made under this Act, shall be entitled to be registered as a voter at any such election.

The section defines the electors of councillors but not the electorate itself. As per custom, it is the clan members who select their representatives and it is the village assembly (kha longshim) who endorse and approve such nominees. By all means it has to be the village assembly which ought to select or elect the village councillors. Meaning, it is the members of village assembly who shall have to directly select or elect the nominees for village councillors from amongst its members on the basis of proportionate clan representation. This section does not clearly specify in this regard. It is too vague and against the basic element of customary law to elect anybody without observing certain basis. In such cases, all
the five members could be selected from one clan alone as and when all these members considered to be most suitable belong to that particular clan itself. Hence, until and unless a radical change in the whole system inclusive of heriditary of headmanship and direct democracy in the village assembly is brought about, the pace of growth and progress in the governance of the Tangkhul villages in modern days would be at minimal.

Section 8 empowers the Deputy Commissioner to remove members of village authorities. This empowerment is improper and may even jeopardize the smooth functioning of the village council. The village assembly which is the law making institution of the village shall have the power to remove the members of village authority as it is the authority which elects them. It is to be understood that the village councillors are the council of ministers in the village and, thus, they are legislative executive and not bureaucratic executive who can easily be removed by a superior bureaucrat such as Deputy Commissioner. Therefore, this section is not in line with the basic philosophy of every village in Manipur hills which had been the winning force in the adminstration of villages since time immemorial.

Section 11 which completely bars the interference of courts in election matters of village councillors may be too arbitrary and fetters the independence of judiciary. The role of judiciary has to be played as and when it is found to be extremely reasonable and necessary. However, if the election process has already been initiated and is in progress, court cannot interfere it in such cases.
Section 12 provides power to Deputy Commissioner and Chief Commissioner to settle election disputes. As per customary laws of the tribals, selection or election of village councillors is normally done by clan members and which nominees subsequently are endorsed by the village assembly. There hardly are any dispute of such selection. If any dispute arises of such selection or election, then, reconciliation forum known as “ngachammi” in native term normally settle the dispute amicably. Ngachammi forum is constituted by some clan elders and experts. If such forum cannot solve the said problem, it is mandatory for the village court or any appropriate court to adjudicate the matter and settle it as per custom or rules or norms and/or as per principles of equity and good conscience. Therefore, in a democracy, judicial review is one of its basic structures. Accordingly, in a democratice Tangkhui village such principles of democracy cannot be destroyed in toto. Hence, this section is with the basic principles of tribal customary laws particularly that of the Tangkhuls. If section 12 empowers the Dy. Commissioner and Chief Commissioner as deciding authorities, they can only give administrative justice. The dispute can only be settled only on administrative basis. If administrative power could not be exhausted to settle the said dispute, it is obligatory for the matter to be solved by the courts. If the Deputy Commissioner is to settle it at all cost, it has to be by virtue of his quasi-judicial power. That means, the Deputy Commissioner as a Magistrate can exercise his power to settle the dispute and not as a Deputy Commissioner. Therefore, this section encroaches democratic norms and principles. Section 12 is too vague.
Article 68 (A) (ii) of the *Tangkhul Naga Long riyan* provides that those village councillors whose membership is hereditary and permanent shall continue to be the active members of village council. Clause (iii) of the same Article provides that members of village authority shall also consist of the village councillors selected or elected by the village assembly from amongst the members of the house. This clause indicates the emergence of a new law in the election matter of village councillors. The collective responsibilities and powers of the village council are briefly provided in Article 69 with some basic developmental changes therein. As per Article 69:

(i) The village council shall carry out and implement the constitutional provisions of the *Tangkhul Naga Long*, Tangkhul customary laws and other rules in letter and spirit.

(ii) It shall execute the decisions taken by the assemblies of Tangkhul Naga Long, *Longphang* and village.

(iii) The village council shall discharge its responsibilities keeping in mind that it is only a unit-village of the whole body of the villages under the aegis of *Tangkhul Naga Long*.

(iv) There shall be no tang (ward) in a village exclusively inhabited by clan-wise population.

The basic changes being noticed in the powers and functions of village councillors is that, it is now obligatory not only to the subjects of the village alone but to all the decisions and orders issued by the *Longphang* and *Longrei* pertaining to all the *Tangkhuls* throughout its territory. The village council which once was
considered as the apex executive body of a village is now the lowest unit of the executive body subordinate to Longphang and Longrei since its inception.

The village judiciary (*Kalangshim*)

The customary court of village *hanga* was vested with the civil, criminal and constitutional jurisdiction. However, the village *kalangshim* is now vested with civil and constitutional jurisdiction. The criminal jurisdiction of village *kalangshim* is now limited to few cases. There has not been separation of judiciary in most of the Tangkhul village. Section 19 of Manipur Village Authorities Act provides that "whenever a village authority has been constituted for any village, the Chief Commissioner may, by notification in the official gazette, appoint any two or more of the members of the village authority to a village court during their term of office as members of the village authority."

Literally speaking, this section emphasises on court of village council (*hanga kalangshim*) rather than a village court (*Village Kalangshim*) as such. Hence, it shows the nature of quasi-judicial power vested with the village councillors. It is the legislative-executive (village councillors) who act as Judges of village court. Strictly speaking, it is not appropriate to let minister(s) of the village take charge of village judiciary. Customary law allows the whole village council under the leadership of the Headman to exercise judicial powers. Therefore, appointing two village councillors as seat of justice without the presence of the village Headman is in violation of customary laws and against democratic practice. Instead, a village court can be constituted by appointing person(s) from the village other than the
village councillors. It will ensure independence of judiciary and prevent discrimination, bias, nepotism and injustice from the hands of the legislative executives.

Section 20 provides that not withstanding as contained in the Code of Criminal Procedure, 1973, the village court shall have jurisdiction concurrent with that of the criminal court within the local limits of whose jurisdiction the village is situated for the trial of all offences specified in the Schedule. This section clearly shows that the customary courts of the village still possesses jurisdiction to try criminal cases to certain extent. This Act does not, however, streamline the nature of crimes which the court of Village authority shall be vested with such jurisdiction.

Section 25: Bar to appeal from the order of village courts, but power to 1973 order retrial. Notwithstanding anything contained in the Code of Criminal Procedure, there shall be no appeal by a convict in any case tried by a village court;

Provided that the Deputy Commissioner or the Sub-Divisional Magistrate, if satisfied that failure of justice has occured, may, of his own motion or on the application of the parties concerned cancel or modify any order of conviction or of compensation made by a village court or direct the retrial of any case by a court of competent jurisdiction subordinate to him. The Act fails to provide the jurisdiction of the village court in civil and criminal matters in a clear manner. It does not define the original as well as appellate jurisdiction. It simply gives some procedural laws. It does not indicate which court will be the appellate court for cases tried or petitioned in the village court.
Section 29 also provides that the Deputy Commissioner or the Sub-divisional Magistrate either on application made to him in this behalf, or on his own motion, may transfer any case from one village court to another or to any other court subordinate to him.

Section 30: Jurisdiction of village courts in civil cases are prescribed under this section. Notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law for the time being in force but subject to the provisions of section 31 and section 32, the village court and the ordinary civil court within the local limits of whose jurisdiction the village is situated shall have concurrent jurisdiction to try the following classes of suits, namely:

(a) suits for money due on contracts;
(b) suits for the recovery of movable property or the value of such property;
(c) suits for compensation for wrongfully taking or injuring movable property; and
(d) suits for damages by cattle trespass; when the value of the suit does not exceed five hundred rupees.

Section 31: Certain suits not to be tried by village courts:

No suit shall lie in any village court:

(a) on a balance of partnership account
(b) for a share or part of a share under an intestacy or for a legacy or part of a legacy under a will
(c) by or against the government or public officer in their official capacity
(d) by or against minors or persons of unsound mind,
(e) for the assessment, enhancement, reduction, abetment, apportionment or recovery of rent of immovable property.
(f) for enforcement or redemption of a mortgage of immovable property.

In olden days, the court of village council had power to try any suit of unlimited value including title suit, succession, dispute of immovable property, divorce etc. Section 30 and 31 set limitation triable by the village court when the value of the suit does not exceed Rs. 500/- (Rupees five hundred) only. Any suit decided by the village court without jurisdiction is ab initio void and considered non-existent.

Article 70 of Tangkhul Naga Long riyan provides that there shall be court of village council. The existence of court of village council throughout the Tangkhul region since time immemorial shall continue to be there even today. Any village intending to separate judiciary from the executive shall have to do so by following the rules framed by Tangkhul Naga Long. Allowing the two system for a long time will be a set back for the furtherance of administration of justice on uniform basis in Tangkhul region.

Article 71

(i) Awunga or village headman is the head of the court of village council. The appointed or selected Chief Judge shall be the head of the village court where there is separation of power between the executive and
the judiciary and its mode of selection of judges or representation shall be as that of the Tangkhul Naga Long.

(ii) The pipa(s) of each clan who are the hereditary and permanent representative of each clan shall be the constituent members of the court of village council by virtue of being a permanent member of the village council. In a village where there is independent judiciary, the selected or elected judges shall be the constituent members of such village court.

(iii) All these member elected or selected by the village assembly shall also be the member judges of the court of village council. A secretary appointed by the village council shall also be a member of the court of village council. Secretary cannot be a member judge. He can be an administrative staff.

(iv) The court of village council or village court shall have to carry out the administration of justice as per Tangkhul Naga Long riyan, customary laws and procedures, court rules and other customary practices.

In this chapter, a structural transformation of the Tangkhul villages are noticed. The traditional concept of village as a sovereign and independent entity has undergone radical change after the independence of India. The village is now considered as the lowest administrative unit of the state. Ukhrul is the headquarter of district administration. The decline of village exclusiveness and the inclination to create a common residential rights among the Tangkhul villages is an important
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development. The customary principles of equality, freedom and personal liberty have been enhanced with the dawning of modernity in Tangkhul society. This is a greater height achieved in making the Tangkhul society a better society. In order to have effective administration of justice, big villages having more than one hundred tax paying houses needs to have separate customary courts. In the same measure, development of the village and its effective administration would be better assured if non-hereditary chairmanship are introduced in every village having more than one hundred tax paying houses. A very good law for the governance of villages needs to be enacted by the state. The Manipur (Village Authorities in Hill Areas) Act, 1956 may be substituted and/or suitably reviewed. It may be noted that the convicts of village Kalangshim or any other customary court may be sent to state owned jails rather than extern them from the village. Such jails in native are known as narshim.

Tangkhul Customary Law on Administrative Matters

The arrival of the Britishers and Christianity through the American missionary in Tangkhul territory dawnd the era of modernity in Tangkhul society. Every Tangkhul village was considered to be sovereign and independent from each other. There was no outside control and inference in the governance of their villages. This came to an abrupt change with the establishement of inter-village relationship and rapid growth of Tangkhulisation. The independence of India has brought significant changes to that effect. The process did not take much time since all those villages independent from each other belong to the same Tangkhul community. Today, Tangkhul (Naga) Long is the apex body of the Tangkhuls. There are four subordinate branches of Tangkhul Naga Long known as Longphang in Tangkhul dialect. They are
Tangkhul Zingsho Longphang, Zingtun Longphang, Ato Longphang and Aze Longphang. The village has become the lowest unit of the Tangkhul society.

Rule of Law

The principle of the rule of law remained unchanged in Tangkhul customary law even in modern times. No Tangkhul citizen is above the customary law. The executive head of Tangkhul Naga Long is not above the customary law and his actions are, therefore, accountable to the people as per customs and other relevant rules. The basic socio-political change that came after the advent of the Britishers is that the aforesaid Tangkhul (Naga) Long, the apex body of the Tagkhuls has become a constituent tribe of the Nagas. The term ‘Naga’ is a unified terminology of a race formed by more than 55 constituent tribes having great similarity in language, culture, custom and history. The Naga nationhood, as claimed by the Nagas nationalists, is the conglomeration of this ethnic race of several tribes. The present study is however confined to the Tangkhuls and their customary laws.

Equality before law, which is one of the principles of rule of law has, now, extended its application throughout the Tangkhul society thereby transcending the village barrier of the earlier days. No Tangkhul citizen throughout the Tangkhul territory is above the (customary law). Every Tangkhul citizen from Tangkhul Naga Long President or village Awunga down to an ordinary person is equally subject to the law.
Separation of powers have been properly made in the Tangkhul Naga Long level. The Tangkhul Naga Long riyan allows separation of power from Longrei level down to the village level. Few villages have separated judiciary from the executive. In many cases the village hanga still exercise quasi-judicial power without constituting separate village court.

Delegated Legislation

The law on delegated legislation has been widen since the emergence of the Tangkhul Naga Long and its branches. This has led to the formation of hierarchy in Tangkhul society. The village has become the lowest unit of administration with Tangkhul Naga Long as the apex body in the entire Tangkhul region. The apex body delegates certain legislative powers to the president and other responsible executive. It can be subdelegated to the Longphang executives and also the village hanga.

Apart from the traditional system of administration and governance, the Tangkhul society has undergone a radical change in the administrative structure. This structural change was effected consequent to the introduction of Autonomous District Council in Ukhrul district in the light of the Manipur (Hill Areas) District Councils Act, 1971 read with the Manipur (Hill Areas) District Councils Rules, 1972. This new dimensional development in the field of administration is a new area which requires an indepth study. It may be noted that with such a rapid growth in the administrative structure and administrative law of the Tangkhul society, it is inevitable to have new laws to meet new needs and aspiration in the said new structure. However, the basic structures of the (customary) administrative laws should not be destroyed rather it should be reoriented in a way best suited to the present need without losing its core feature.