CHAPTER – II  
HISTORICAL OVERVIEW OF MIZORAM

In this chapter, I present an overview of Mizoram’s history. The study examines pre-colonial Mizo society, and the transition from colonial to post colonial period. The chapter discusses social, religious, political and legal changes within Mizo society. The Indian Constitutional provisions given to the tribal community within the Sixth Schedule of the India constitution for the ‘North East’ region are discussed.

Contemporary Mizoram

The present day Mizoram is situated in the southern tip of North East India. The geographical area of the state is 21,087 sq kms and it shares inter-state border with Assam, Manipur and Tripura besides sharing international boundaries with Myanmar and Bangladesh. The total population, 2011 Census is 10.91 Lakh, with a rather favourable sex ratio of 975. Literacy rate is 91.58 per cent (male-93.72 and female-89.40), which is the second highest in India. Currently, there are eight districts and three autonomous district councils in Mizoram, viz., the Mara Autonomous District Council, Lai Autonomous District Council and Chakma District Council. Administration of the state has 23 sub-divisions and 26 Rural Development Blocks (R.D. Blocks). Mizoram is primarily a hilly area with pleasant climatic conditions. The temperature varies from 11°C to 29°C. Being a tropical-monsoon area, heavy rains occur during the monsoon season, and sometimes this heavy rain causes road destructions and landslides.

Mizoram is inhabited by the Mizo people. Since there is no written record, the origin of the Mizos cannot be traced back very far. Most of the past history is based on oral tradition and legends which are passed on from one generation to another. Therefore, there is no adequate and satisfactory information to explain the origin and migration of the people (Lalchungnunga 1994). There are several theories, one dominant theory is that Mizos originated from Chhinlung or Khul which has been interpreted as a “cave/rock”,

50
“hole in the earth” or even as the name of a person. They are believed to have migrated through Tibet via Burma to the present day Mizoram.

Despite the problems in tracing the origin of the Mizos, at present, it has now been widely accepted that the Mizos belong to the Tibeto-Burman stock of the Mongoloid race. After a series of migrations, the Mizos arrived at the present land. Contact with other cultures and communities in the process of these migrations have, in some ways, further complicated the already chequered history of the Mizos. As the people they come across call them by different names based on how they understand them to be: like, “Chin” or “Khyans” by the Burmese, “Kuki” by the Bengalese, “khongjai” by the Meiteis and “Shendus” by the Khumis and the Arakanese. This further complicated research into their distant past as to how one should understand and grasp the origin of the Mizo people. Lushai is another name given to the hill people which roughly covers the present Mizoram by the British. It is an anglicised word for Lusei in the Duhlian dialect, which is the most widely spoken (Lalchungnunga 1994; Hminga 1987).

**Mizo History: Colonial Narratives**

The early writings about Mizos were mostly done by colonial “masters”. Mizo history was interpreted from the colonial point of view. Mizos were stereotypically branded as “nomads”, “warlike”, “headhunters”, “bloodthirsty”, “wild savages” and “irreclaimable savages”. As Lloyd (1991) has pointed out, Mizo are “marauders and head-hunters”. There were some who argue that the Mizos practiced head hunting simply to get heads in order to prove their bravery while some writers insist that they were looking above all, for iron/steel that would be tempered and shaped into weapons, and also that they were sensitive to the presence of foreigners on their hunting territories. (Kipgen 1996; Lalchungnunga 1994)¹. It is precisely the so-called “savage” and “primitive” tag that encouraged the British domination over the Mizo people.

---

¹ Some scholars insisted that the killing and taking of heads were merely incidents of raids, not the cause of it. Despite such statement it is still believed that head hunting may be one of the major factors for the raids. In the Mizo traditional beliefs the spirit of the person whose
However, to a large extent, the colonial narratives of the Mizos are further developed by early Mizo writer themselves. The early writings on the Mizos (by the Mizos) emphasised on how the previous “backward” region has gone through transformation and much is written about the efficiency of the British administration and the missionaries (Hminga 1987; Dokhuma 1992; Sangkima 2004; Kigpen 1996). How the Mizos are being protected from the “cunning plain” people and so on are highly emphasised. Mizoram, the then Lushai Hills, went through several changes because of colonial intervention. These changes are considered for the “enlistment” and “good” for the society. In fact, British missionaries are given credit for bringing “positive” changes in Lushai Hills. Scholars like C.L Hminga (1987), Kipgen (1996) and ZT Sangkhuma (1995) have praised the missionaries to the extent that “the once dark area has now seen the light”. In fact, like the rest of the country, the missionaries are considered one of the most important colonial agents of change (Cohn 1987; 1997). In Mizoram too, missionaries are given the credit for changing the Mizo social system from “bad”, “barbarian” to “civilized” society.  

**British Policy**

The “exclusion” of the Mizo from the “mainland India” reflects the Oriental approach, which stated that, these people were too naive to deal with the cruel world, and that they needed the European fatherly role to assist them. The Europeans justified their colonization asserting that they were meant to rule the Orientals since they have developed sooner than the Orientals as a nation which shows that they were biologically superior. Also, it was the Europeans who discovered the orients not the orients who discovered the Europeans (Said 1995). For instance, in Mizo society, the British use different tools in imposing their power, they used education, knowledge and even head has been taken would serve the spirit of the successful head hunters in the next life (Kipgen 1996; Hminga 1987; Lloyd 1991).

2 The colonial rule is seen as “inevitable” to the development. This view is similar to what Marx has argued elsewhere, Marxism sees capitalism as exploitative and yet necessary phase of human social development. Marx himself regarded colonialism as a brutal precondition for the liberation of these societies (Loomba 2007:26).
In the year 1901 the first Mizo text book ‘Zirtirh’ was prepared by Zosapthara (Edwin Rowlands). It was written “The world is inhabited by different tribes and races, such as white, yellow, brown and black. Though they are different they are all equal”. However, in the year 1916 and 1917 this line was changed in to this “The world is inhabited by different tribes and races, such as white, yellow, brown and black. Amongst them the White people are the one who possess most knowledge (wise) and most powerful.

In the light of the above discussion, it is evident that the British government was very successful in winning the favour of the hill people especially of the Mizo, and keeping them aside from the rest of the Indian society, in the name of “preserving tribal customs and identity” continues to speak even today. In the advent of India’s independence, the majority of Mizos ‘sought a guarantee on the maintenance of the existing safeguards of their customary laws and land tenure’ (Zorema 2007:155). The leaders of the Mizos were concerned with preserving the Mizo Identity through their customary practices. However, once democratically elected, indigenous leaders control power in their states, cultural survival is not an “un-problematic concept”. The influence of the modern world seems to determine what those societies feel, what should be preserved and what should be changed (Baruah 1999).

Colonial Construction of the “Mizo” & Mizo Customary Laws

What is currently known as “Mizo Customary law” is also the handiwork of the Colonial masters, and which in turn is the culmination of the exigencies of enforcing “modern” administration in what was otherwise considered “tribal” and “uncivilised” territory. N. E. Parry, the author of the monograph on Lushai customs and ceremonies, has explicitly mentioned that more than majority of his sources constitute the Sailo chiefs. The very source of the “law” presents problems in nomenclature as well as in the
questionable content of the “law” in terms of its wholesale/universal application amongst what is understood today as the “Mizos”.

In the 1920’s when Parry compiled the monograph, the notion/conception of the idea of “Mizo”, in its contemporary avatar, was at its embryo or even non-existent. The crystallization of Mizo as a generic term happened well after two decades of Parry’s monograph. This is evident from the names of early NGO’s like the Young Lushai Association (YLA) founded by the Pioneer Missionaries in June 15th 1935 and which was subsequently re-christened Young Mizo Association (YMA) in 7th October, 1947, and even from the name of the first political Party Commoner’s Union (founded 25th April, 1946), which was subsequently renamed Mizo Union only in 1947. These developments clearly highlight the change amongst the tribes who were hitherto generalized as “Lushais” or “Kukis” etc. by the outside world and their awakening to the reality of their subtle differences which was, however, underscored by the reckoning of their similarities in substantial measures and the urge to explore affinities in their shared cultural elements etc. Hence, the emotional as well as practical compulsion to use the generic term “Mizo” subsequently as an all-encompassing term for the different “Mizo” sub-tribes arose.

Generalization of tribal societies ignores/undermines the composite/multi-layered character of tribal cultures which is especially true of tribes in the NE and of the “Mizo” society in particular. The march of civilization and the exigencies of contemporary socio-political developments present multiple challenges for the tribes amongst which the issue of nomenclature is one of the most potent/contentious sources of inter vis-a-vis intra tribal animosity. The use of the term “Mizo Customary Law”, taking into consideration the original source of the compilation, undermined the customs and tradition of those other major sub-tribes like the Maras, Lais and Hmars for the Lusei dialect speaking “Mizos”. Further, continuation of the same is liable to be interpreted as manifestation of the hegemonising tendency of the “Mizo” identity by the Lusei dialect speaking people in total disregard for the sentiments of the other tribes as well as against the temporal realities of the composite “Mizo” tribal society. Hence, the present study uses the term “Mizo” in its composite sense and should not be read otherwise.
Mizo Society: Religion, Law, Family and Political Institutions

This section discusses the pre-colonial Mizo society and colonial rule with special focus on social, religion, legal, family and political aspects. The section also describes the emergence of Christianity in the region.

Pre-Colonial Mizo Society

The Mizo society, prior to the British administration in 1894, was a well knit community, each village was sovereign independent and was ruled by its chief or Lal (Dokhuma 1992). Each family built their own household and struggled for their livelihood. Lloyd (1991:3) has mentioned that, they had to fend for themselves and their own village. Each village was self-contained, self-governed and was self-sufficient. The autonomous village system generally worked well and power was centred in the chief, who chose his own cabinet or elders and administered through them. However, inter-tribal, inter-clan or inter-village warfare was very common.

The society was governed by the customs and traditions of the people which were largely based upon their belief system. Any social disputes such as over land, theft, defamation, quarrel, divorce etc. were settled by the chief and his elders. All matters of administration governance were decided by the chief, assisted by his council of elders called Upas or elders. The chief enjoyed supreme power over all cases and all matters within his domain were brought to him. The chief also led the people in the war and settled unrest in the village. The chief with his hereditary rights had great control over his subjects and wielded enormous power (Dokhuma 1992; Kipgen 1996).

Social and Religious Aspects

Most writers and historians have stated that the Mizos are “animists”- a term which is coined by anthropologists. According to McCall (1949:67), before the occupation of their land by the British, the Lushai were wholly animists. There are some who argued that early Mizos do not have “religion” (Hminga 1987). Kipgen (1996) has stated that, earliest written account up till recent times have mentioned Mizo people as
being in the power of the devil and all their life bondage through fear. Some even said that the Mizo religion is simply the worship of demons. This may be because, the traditional Mizos strongly believed in the existence of “evil spirits” known as *Huais*, which are variously called *Ramhuai, tuihuai* etc., depending on where they live. They believed that these *huais* lived in water, mountain, and trees and so on. It is their belief that sicknesses, misfortune, pain of any kind were the works of these *Huais*. For this matter, Inthawina, a kind of sacrifice or propitiatory offering, was offered to the *Huais*.

Zairema, a well known figure and Church leader in Mizoram argues while the sacrifice offered to the higher, benevolent gods were “obligatory”, the sacrifices offered to the *Huais* are not obligatory (see Kipgen 1996). Other scholars are of the opinion that the sacrifices to the *Huais* do not make them worshippers of evil spirits. It is said that the Mizos in fact believed in various spirits, but these spirits are in fact believed to be wicked, bad, and jealous of human, caused sickness as well as bring misfortune of many kinds. The point that they try to make here is that these spirits or *Huais* were not worshipped as “deities” but rather they offered to them propitiatory offerings in order to appease them (Lloyd 1991; Hminga 1987; Liangkhaia 2008).

The traditional Mizos’ religious belief includes the existence of God, who is the creator. They think of “him” as a good and kind God who has little to do with human affairs and in the day to day lives of the people. They call him *Pathian* or *Chung Pathian* (God above), or *Pu Vana* or *Khuannu*. The word *Pathian* is later adopted by the Mizo Christians for God (Lloyd 1991). They also believed in *Khuavang*- who gave birth-marks and moles to them, and who is also considered “the guardian spirit” (Kipgen 1996). The Mizos have another important worship, which they called *Sakhaw biakna*. The term *Sakhua* derived from *Sa*, which according to some means *Meat*, and *Khua* also interpreted as meaning Village. However, the connotation goes much deeper than this literal interpretation. *Sa* stands for the god worshiped by their ancestor and *Khua* for the nature of creation. The worship of *Sa* was the first religious act of any newly established family. Therefore it is called *Sakung- Kung* meaning stamp. *Sakung* was a religious rite
marking the admission of the family into clan, to which the head of the family belongs (Kipgen 1996; Liangkhaia 1973).

There are two types of *puithiam* or priests, one appointed by the chief and the other by the clan group. The one appointed by the chief is known as *sadawt* and their job is mainly to serve as the official priest for the entire village. The other type of *puithiam* is called *bawlpu* who were mainly appointed by the clans or groups to serve their needs, most probably in times of sicknesses and ceremonial rites (Lalthangliana 2001; Kipgen 1996). It is important to note that in Mizo tradition these jobs were never held by women. Women were considered to have no *Sakhua* of their own. It was the *Sakhua* of her father or husband which was responsible for her continued welfare and existence (Kipgen 1996:113).

The Mizos also believe in life after death, they believed in the continuation of life in *Mitthikhua*, the village of the death, or *Pialral*. According to their beliefs *Pialral* was a place where they do not have to work or struggle for livelihood. Everything which was needed will be provided for. And it is said that there are only four groups of people who can enter *Pialral*. Firstly, *Hlamzuih*, the dead infants buried without ceremony are considered to enter *Pialral*. The second groups are those young men who had sexual relations with either three virgin girls of the village (This is difficult to accomplish though as there is also a saying that if the girls remain virgin until their death *Pialral* is guaranteed for her). In the third category are the *Thangchhuah*[s]- Refers to those who had distinguished themselves in either the domestic sphere or in the hunting ground.

There are two kinds of *Thangchhuah* and they are- *Inlama Thangchhuah*- a person who is able to give a series of feast to the public which included the entire village. As this entails huge expenditure, only few could achieve to have completed the whole series of feast. The second *Ram lama Thangchhuah* refers to a person who has killed the following animals such as: - Bear, Tiger, Elephant, Wild Bison, a Viper, eagle, and a flying lemur. One may kill many animals but unless he kills all the animals mentioned above, he cannot be considered as worth giving the title *Thangchhuahpa*. After killing
each animal, there has to be a ceremony called *ai*, which requires the killing of a domestic animal (Hminga 1987).

**Family: Structure and Gender Inequality**

E.J Thomas (1993:14) points out; the patrilineal Mizo family is nuclear in structure with husband, wife and children, mainly girls as its constituents. The youngest son is expected to stay with parents and look after the parents. In traditional Mizo society, amongst the children, boys were considered as the asset of the community. He mentioned that, the Mizo children have unlimited freedom and parental control was minimal and the family structure functioned in democratic style. He points out, family was part of the whole in its functions and that it had little freedom. Family and gender identity was often merged in the day- to- day activities of the community. In traditional Mizo society, clearing and burning of the cultivated land was mainly carried out by men, whereas, cultivation was the responsibility of women. Mizo family structures the division of labour that was based mainly on sex rather than on merit. For instance, household chores such as fetching water, hewing wood, cultivating and helping to reap crop besides spinning, cooking and brewing were the task of women. Men engaged themselves mainly in war or hunting (Thomas 1993; Dokhuma 1992).

Women worked hard to contribute in the family economy, and yet, her contribution was never considered as equal to men. E. Chapman and M. Clark, a missionary, working with the rural women of Mizoram for some years writes:

> The worst feature in the life of the Mizo district at that time was the treatment women received from men. A woman had no rights at all. Body, mind and spirit, she belonged from birth to death to her father, her brother, her husband”. Her menfolk could treat her as they liked, and a man who did not beat his wife was scorned by his friends as a coward. A woman possessed nothing, not even the few clothes she wore. She was not allowed to wear anything new. Her clothes had first to be worn by her menfolk. She did most of the work of the family. A woman began her day's work into the night. She might not go to bed till her menfolk went, and they should sit smoking late while she cooked the pig's food for next day and then spun the cotton for cloth, often nearly dead with fatigue. She was responsible for all the work- the menfolk just helped with house building. She could not go without their permission. It was she who carried all the burdens up and sown the hills- wood, water, rice and anything else. Daily we watched the women with their heavy loads would stagger uphill, and should men be with them they would often be empty-handed (1968:13-14).
Mizo family excluded women from religious rites and ceremonies. The patriarchal structure of Mizo family considers men the sole providers and administrators. Women were only marginal and were relegated the role of care givers and homemakers, they could not become either priests or exorcists. In some ceremonial functions and sacrifices, women were excluded from eating the meat of animals killed or from the feast. In traditional Mizo society, disputes which are considered domestic in nature such as disputes over land, marriage and divorce, property etc. were usually solved within the family. Theoretically, the father is head of the household, who, as part of his role, is responsible for maintaining peace within the household (Dokhuma 1992; Mizo women today 1991).

Political Aspects

Traditional Mizo society was ruled by the chiefs. ‘The institution of Chieftainship emerged out of the collective need of the villagers. It originated out of the physical ability and intellectual power of an individual to provide safety to the tribal village’ (Zorema 2007:14). The origin of the system of Chieftainship is traced back to the early 18th century; and, as far as the Duhlian-Lusei speaking tribes are concerned, it is said that almost all the chiefs traced their descent to Thangura, who must have lived in the early 18th century. From him sprang six lines of Thangur chiefs such as 1) Rokhum 2) Zadeng 3) Thangluah 4) Palian 5) Rivung and 6) Sailo. After centuries of feuds and fightings, the Sailos came to be the most powerful clan and defeated all their rivals. Some Mizo historians like Thangliana and Dokhuma maintained that unlike most of their contemporaries, the Sailos developed a talent for governing by virtue of which they held undisputed sway over representatives of all the other clans, and that is why, nearly the whole of the area is subsequently known as Lushai Hills after the dialect most commonly spoken by their subjects though the Sailos were in fact Paihte in their origin. Consequently, what is later codified as Mizo Customary law is also largely derived from the Sailo customs and ceremonies. The Chieftainship is hereditary and a layman who is not from the chief’s clan cannot become the chief. However, after the annexation of the
Lushai hills by the British, colonial hegemony paved the way for the emergence of non-
Sailo chiefs who are appointed by the new “masters” to sustain and further their interests.

The other official members besides Upas or elders are Tlangau (Village crier), Thirdeng (Blacksmith), Puithiam (Priest) and the Ramhual (Advisor dealing with distribution/allotment of Jhum lands). The Tlangau is to proclaim the chief’s orders and make important announcements; Thirdeng repairs the village tools and implements. As Ramhual, only those who are expert in agriculture are selected, and only few could be appointed as one. They were given the privilege to choose the plot of land for cultivation after the chief had made his choice. And in return, he pays a heavier tax than others called fathang, to the chief (Kipgen 1996:60). Some other interpretations suggest that fathang should not be taken as tax, rather it is a tribute given to the chief by his people. However, after the British rule, fathang was used as revenue and source of economic income and thus became tax (Lalchungnunga 1994).

Legal Aspects

According to James Dokhuma (1992), there were two main laws governing the traditional Mizo society; one is Khawtlang dan (Public law) and the other Mimal Dan (laws which concern individuals). Khawtlang Dan were law(s) which concerned village matters and other shared customs such as: - Khawthar Kai Dan or Migrating to new village, Thlawhma lak dan or system/strategy for cultivation, and regulations, Sakhhaw hman dan’ (Reigious rites), Inthawina Kut or Celebration of kut or festival, Lal lal dan or system of Chieftainship and Hnatlang or Village/ Community work. The second ‘Mimal Dan’ are laws which concern individuals such as, Inneihna or Marriage, Inthenna or Divorce, Rokhawm or inheritance, Sawn or illegitimate children and sexual offences and Nula leh Tlangval inkawm dan or etiquettes of courtship of young boys and girls.

Each village chief was responsible to make laws and regulations for the village. The chief held both judicial and legislative powers. The success of village administration depends much upon the chief’s capability and the quality of his council. In village matters, Khawthar Kai Dan or system of migrating to new village was very important.
Because of warfare and sometimes superstitious beliefs, the earlier Mizos never reside in the same village for long. Migration took place only after everything was supervised by the chief and his elders. There were two ways of migration; one is that the whole population of the village just move into the new village. The other was, before the actual settlement, some families would go ahead and built bawkte or a transitional-house, and slowly the others would follow. The reason for this is to protect themselves from the enemy or possible warfare with other villages (Dokhuma 1992; Hming 1987).

The laws of Thlawhma Lak Dan or system of cultivation: The Mizos follow the system of Jhum cultivation. The chief controls all the lands including that of agricultural land. The chief with the help of his cabinets will decide and distribute agricultural land among the villagers. Naturally, the chief was the first one to pick up land for his own cultivation, which was followed by Upas or cabinets. The third is by the Ramhual families, who have more workers and hence would be able to produce more rice than others. The chosen family or Ramhual are the ones who would give more fathang or tax (in the form of rice) to the chief. After Ramhual, there are families whom the chief favours and they are called Zalen. The fifth one to pick up the land is known as Hauthla whom the chief favours. The category of Hauthla was not created in all villages; in most villages, they are included in the Zalen category. The sixth and last one to choose land for cultivation was Vantlang or the people of the village. Dokhuma (1992) states that there are only few families who are given the privilege to choose agricultural land, so there are always plenty of good land left for the people. Sometimes the people Vantlang get better land than those who choose before them such as Ramhual or Zalen.

Vantlang or people/layman can only choose agricultural land after the chief and his cabinets and few privileged families. The process was usually that, a layman would usually know beforehand what kind of land was already chosen and would mark the land where he wanted to cultivate. As soon as Tlangau or village messenger announce that it is the time for the people to pick up land they can go directly to the land where they have been eyeing. Whoever reaches early the land which they want would belong to them. If two people reach at the same time, they will throw their knife and the knife that reaches
first, that individual will get the land. Sometimes there were problems regarding this and this is one of the cases where most litigation takes place (Dokhuma 1992).

**System of litigation**

The Mizos, in dealing with cases and disputes, are guided by their customs. In dispute settlements, the maximum fine was Rs 40/- and also a *salam* of Rs 5/-. A *salam* was always imposed for e.g. for a man who commits theft would be fine Rs 40/- and *salam* or Pig. The fine Rs 40/- was paid for compensation to the person who won the case and the *salam* is taken by the chief and *Upas* which generally is spent on feasts. There are also other forms of punishments such as: - banned from village, *tlangchil* (*tlangchil* is a system which permits members of the community to punish whom they find guilty or violates their customs). When cases are filed, the chief along with his *Upas* will sit together with the person involved in the case and try to sort out the problem. Most of the cases are discussed in private, mostly in the chief’s house. Sometimes, when sexual offence cases/ complicated cases come up, the whole village can also listen to the arguments. Evidence was considered very important in every case. Therefore, witnesses were called (Dokhuma 1992; McCall 1949).

**Colonial Rule 1890-1950**

The way in which the British and Mizo came face to face is through the rapid growth of raids carried out by the Mizos since 1824 (Kipgen 1996). Since 1844, the raids by Mizos on the British territory had increased. Several writers and historians have argued that, if not for the Mizos’ constant attack on the British territory, the colonial rulers were not interested in bringing the Mizo under their jurisdiction as they see no economic profit. What seems to be the last straw for the British happened in 1871, when the Lushai people raided a tea garden in Cachar and killed the British proprietor James Winchester and they took his young daughter Mary Winchester as hostage. This incident caused the British to change their policy towards the Lushai from that of “conciliation” to that of “subjugation” (Lalchungnanga 1994:33). In retaliation, the British made a two-prolonged expedition into the hills and established their rule. In 1895, Lushai Hills was brought under the control of the British government by proclamation.
However, Lalchungnunga (1994) is of the opinion that the Lushais were so disturbing to the British that they occupied their territory, does not appear to be an objective view of the whole question. He further argued, as it would be evident in the case of other colonized countries, it is easy to put the whole blame on the natives for the need of the occupation of their territories by the colonial power. It could be argued that the British administration in the Lushai Hills was not necessitated by their commercial interest; rather it was the need to check and unarm the Lushais from within their territory. Whether the occupation of the hills had to take place while it was against their economic interest is a question we cannot answer and pass by (S.N.Singh 1994). It is the result of colonial hegemony.

**Geographical and Territorial Context**

The then Lushai Hills was divided into two parts, respectively called, North Lushai Hills which was under the administrative control of Assam and South Lushai Hills under Bengal. In the south, Lunglei was used as the headquarters, and Aizawl was used as the north Lushai Hills official headquarter. Both the south and north had separate political officers but the general pattern of rules and regulations were same. In the year 1897, both divisions were combined and instead of political officer, Superintendent was appointed to take full in charge of Lushai Hills administration. The area of Lushai Hills was later enlarged by adding some portion of the Cachar district and the Lakher (Mara) area in the south. The entire area of the present Mizoram was brought under the British in 1930.

**Colonial Exploitation of Tribals**

Because of the poor economic condition of the land, the British administrators were concerned with the most convenient way to rule the land without incurring heavy expenditure. To attain what they wished for, and also for political reasons, the British found it necessary to continue the indigenous system of village administration through chiefs. A minimum interference on the local matters and respect for tribal laws and customs, support of tribal chiefs’ authority as long as it did not conflict their interest.
Zorema states that ‘The main object of the government was to make the British paramount in India and to that end administration was geared up mainly to the maintenance of law and order, administration of justice and the assessment and revenue’ (2007:58). One of the British government’s main interests in governing was, to disarm the Mizos, and put a stop to their constant attack on the British territory, and to maintain peace in the area. The British officers did so by investing their authority more on the state administrations and keeping the civil matters to the village chiefs (Lalchungnunga 1994).

The British government imposed certain rules and regulation including heavy tax and labour work on the people. Each household was responsible to supply one coolie to work for 10 days. Apart from this, the colonial rulers placed a limit on the number of guns to be held by Hillman, except in very special cases, one gun per 15 houses, with maximum of 25 guns per village. In this way, there was lesser chance that the Mizo will take up arms against their colonial ruler. Certain rules concerning village matter includes: - no village should begin war with another village, Chiefs are responsible for collecting the tax, every chief had to attend the meeting (meeting was held every year). The British adopted the “indirect rule” in order to exercise their power over the indigenous people. Under this system, the traditional rulers like the chiefs continue to rule under the domination of the imperial power. However, internal matters, concerning custom and practices were left to the Mizo.  

Administration

In general, the administration of Lushai Hills was under the Governor of Assam, acting under the Viceroy and the Governor General in India, the district executive administration being vested in the Superintendent of the Lushai Hills, his Assistant and the Chief Headmen of Villages. The district was divided into two sub-divisions: the North with the headquarters at Aizawl and the South with the headquarters at Lunglei. These sub-divisions were further divided into circles comprising a number of villages. In order to have better communication and more means of keeping in touch with the chief,

3 See ‘Report on Various Matters Concerned with the Chin and Lushai Hill’ - J. Shakespeare, Superintendent, Lushai Hills-1902
the “circle system” was introduced by Shakespear, the then Superintendent of Lushai Hills in 1901-1902. The whole district was divided into eighteen circles, eleven in Aizawl and seven in Lunglei sub-division. The circle system provided a staff of one single interpreter and one chaprasi for each circle of 15 to 25 chiefs. However, the circle staffs had no executive powers in relation to the manner in which the chief ruled their villages and any executive duties they performed are in accordance with orders specifically issued by Superintendent, the Sub-Divisional Officer, Lunglei or the Assistant Superintendent to the Superintendent acting on his behalf (Mc Call 1980:18). The main tasks for the circle staff were to act as a link between the Superintendent and the chiefs, and to strengthen the relationship between the chiefs and the Superintendent conferences were held.

Only a few number of the General Acts is enforced in Lushai Hills. In matters relating non-Lushais, general laws will be applied. Cases which are outside the realm of Lushai custom will follow the principle of Indian Penal Code and Criminal Procedure Code. This is intended to “ensure general simplicity and uniformity of procedure” but nothing was done contrary to these Acts that will vitiate proceedings unless specific injury has been suffered unfairly by a party or less an officer has failed to act in good faith. No officers may pass any standing order without the approval of Superintendent. In 1938 A.G Mc Call, the then Superintendent of Lushai Hills compiled the Lushai Hill District Cover, it received official recognition on 7th November of the same year. The District Cover contains information of rules and regulations intended for the Lushai Hills (McCall 1980).

One of the major developments in the Lushai Hills administration was the increasing number of chiefs from about sixty to almost four hundred within forty years. It was mainly because of the chiefs wanting to ensure their son’s status as chief by establishing new villages before their death; therefore, there was increase of small dynasty separated from the main line. As a result the prestige and power of the chief declined. To rectify the situation and as Mc Call said ‘To prevent a continuance of this unsatisfactory tendency’ the British government decided to regulate the succession and appointment of chiefs (cited in Zorema 2007:116). On the other hand, one may also argue
that the government’s own policy of appointing new chiefs based on their convenience contributed to the decline of chief’s power and affected their status to a great extent.

**Adaptation of Laws**

P. Chakraborty (1998) termed the period from 1898 to 1921 as the “first Phase” of adaptation of laws in Lushai Hills. From 1898 onwards all laws, in-force in the Lushai Hills were declared under Section II of the Assam Frontier Tracts Regulation, 1880 to have ceased in-force, the Schedule Districts Act, 1874, the Assam Frontier Tract Regulation, 1880, The Assam Police Officers Regulation,1883 and the Indian Penal Code, 1860 were specifically extended to the then Lushai Hills District. Before the completion of the territorial formation of the erstwhile Lushai hills, the Government of India Act, 1919 was passed which put to an end the confusion of “Schedule District” and the “Frontier Tracts” and declared the Lushai hills district as a “Backward Tract”.

Under the Schedule District Act, 1874, the ruling chiefs continued to administer justice in all civil and criminal cases except heinous offences like murder, rape and unnatural offences. The same had been directly taken cognizance by the Superintendent and his assistants. In November, 1906, the British government in exercise of power conferred under section 6 of the Schedule District Act, 1874, promulgated the rules for the first time, namely the Rules for the Regulation of the Procedure of Officers Appointed to Administer Justice in the Lushai Hills, 1906, under notification No. 12522 J Dated 29.11.1906. As enumerated under these rules of 1906, civil and criminal justice is administered by the Superintendent and his Assistant, wherein, a sentence of death or transportation required confirmation by the Lt.Governor under Rules Regarding sentence of Death in the Lushai Hills, 1915, and a sentence of imprisonment for seven years and above required confirmation by the Commissioner of the Surman Valley and Hill Districts under rule 9 of the Administration of Justice Rules, 1906 (Larinchhana 2009).

While in the rest of India the criminal and the civil laws enacted by the British Government on India were followed to the latter of the law, in the tribal areas; these were barred by specific regulations (Das 1987), though the spirit of the Civil Procedure Code
and the Criminal Procedure Code are required to be followed. Isolation from mainstream India was complete when, in the year 1935, Mizoram, along with other North Eastern states like Nagaland was declared an “Excluded Area”- which means that laws made by the legislative assembly (India) would not extend to these states. And it remained to be governed and administered by the Governor of Assam. Lalrinchhana states that ‘Such kind of exemption from law of the land may lead to ignorance of law among the Mizos’ (2009:10). In 1937, a set of rules were made for all the districts of Assam known as “Rules for the Regulation of the procedure of Officers Appointed to Administer Justice in Lushai Hills”. This was operated through the powers conferred by Section 6 of the Schedule District Act, 1874(Act XIV of 1874). Under this regulation, the Deputy Commissioner (including the Additional Deputy Commissioner) and their assistants were given magisterial powers. There were no session courts or session judges in the Hill Districts.

**Inner Line Regulation**

The Inner Line Regulation was extended to Lushai Hills when the ‘Bengal Eastern Frontier Regulation, 1873’ under Notification No.13, 11th October, 1875 was published in the Gazette of India, 1875 (part-1, page 529). Under this regulation, the entry of outsiders in the tribal area without ‘Inner Line Permit’ was prohibited. Inner line was drawn on the boundaries, and indigenous inhabitants of the Mizo district were only exempted from the prohibition against crossing the Inner line under notification No. pla.393/70-pt/1, 7th September, 1970. The erstwhile inner line of Cachar and inner lines of Eastern Bengal and Assam were deleted in 1930. Whereas, new Inner Line was enacted for the Lushai Hills under Notification No. 9101, A.P. dated, 28th August, 1930.\(^4\)

The present guideline for the enforcement of the Inner Line Regulation was chalked out by Notification No. F. 22015/54/94-HMP.Pt-II, the 1st September, 2006. Under the said new guidelines, the Deputy Commissioner of each eight District shall be competent to issue regular ILP for a period, not exceeding 6 (six) months, which is renewable for not more than two times. Furthermore, the Resident Commissioner,

\(^4\) See “Inner Line Resolution of Mizoram-1890”
Government of Mizoram at New Delhi, the Liaison Officer, Silchar, Shillong, Guwahati, Kolkata, the Deputy Superintendent of Police in-charge of Airport security at Lengpui, Officer in-charge of Kanghmun Police Station, Administrative Officer Bairabi and Sub Divisional Officer (c), Ngopa are authorized to issue temporary ILP in a prescribed form for a period not exceeding 15 (fifteen) days to the bona fide visitors/tourists or business representatives with intimation to the concerned Deputy Commissioner. In respect of persons, to be exempted categories, Notification No. PLA. 393/70-pt/dt/. 7.9.1970 has been partially modified under the said new guidelines. These guidelines had been held valid by the Hon’ble Gauhati High Court on 27.08.2008 in the case of N.E.P.P Trader & Youth Federation vs. Union of India & Ors. Under PIL No. 19/2008. It remained the same under clause of 8 of the Memorandum of settlement signed on 30.6.86 between the MNF and the Government of India that the Inner Line Regulation as now in force in Mizoram will not be amended or repealed without consulting the state Government. In the meantime, the same provision is incorporated neither under Article 371 G of the constitution of India nor in the State of Mizoram Act, 1986 (Lalrinchhana 2009:12).

Operationalization of the Law of Primogeniture

Steps were taken to prepare a manual consisting of rules and regulations, standing orders and circulars on district administration for the benefits of the chiefs and officers. The Governor of Assam had passed the following instructions under Government of Assam letter No 1505 G.S. dated 18th August 1937 addressed to the Commissioner, Surma Valley and Hill Division. The succession of the village lands of Sailo Chiefs and clans will be regulated in accordance with the new rules.

The Governor of Assam has passed the following instructions under Government of Assam letter No.1505 G.S dated 18th August 1937. The succession to village lands of Sailo chiefs and clans will be regulated by the following rules:-

1) The eldest legitimate son of a ruling chief will, unless debarred by mental or physical disability, will inherit his father’s village. 2) if the son is a minor, the Superintendent may, according to the circumstances of the case, either appoint the minor’s mother and the customary council as guardian (provided that the mother observes such customary rules of chastity and other rules as are incumbent on a
widow by Lushai custom) or succession may be passed on to the nearest male heir…3) If the eldest legitimate son of the deceased chief suffer, the opinion of the superintendent, from such permanent mental or physical disability as to make him incapable of holding a chieftainship, the office shall pass to the next nearest male heir, but shall return to the original line after the death of that heir…4) Youngest son will inherit their father’s property according to the custom. 5) If the eldest son died without male issue, the land and chieftainship of his village will revert to his father…6) If a chief dies leaving only Hmeifa or illegitimate sons, the succession will be considered on the merit of each individual case. The above rule debars claims by the deceased’s younger brother until the merits of claims by Hmeifa is decided (McCall 1980: 34-35).

Apart from these rules, if a chief moves the Superintendent to disinherit a son who would normally succeed him, the Superintendent is required to call a panchayat of fellow chiefs of the same clan. The panchayat will consist of five members, of whom two will be nominated by the chief, two by the son and one by the Superintendent. The Superintendent will make the final decision based on the majority (1980:35). The new rule ensures the legitimate position of a male heir. Rights of daughters were not even mentioned or discussed.

Mizo Customary Law

When N.E Parry took up the Superintendent post he encountered litigations related to the customs of the Mizo. Parry stated, ‘When I first came to the district I found it extremely difficult in trying cases to ascertain the correct custom. The customs had never been recorded and it was very difficult to get unbiased information’ (1927: i). Therefore, it was considered crucial to put the Lushai customary laws in written form which will be beneficial for the government. ‘A monograph on Lushai custom and ceremonies’ was published in the year 1927. In the process of compiling the customs and ceremonies of Mizos, Parry consulted many chiefs mainly belonging to Sailo clan. He consulted as many as 56 out of which 46 were Sailo chiefs. Parry’s monograph on Lushai customs and ceremonies became very useful for the British administrators as well as for the Mizo chiefs. According to this law, women have no legal rights as compared with men. Men controlled the domain of marriage, divorce and property rights.
Since N.E Parry was the one who compiled Lushai Ceremonies or Mizo customary law, thus promoting the Mizos to have the first written form of customary law among the other tribal communities of north east India, he is given credit for such work. A Mizo prominent historian Thangliana states that,

The Mizos tribe unlike other tribes of north east India is very fortunate to have an able, efficient, far-sighted administrator like Mr. N.E Parry ICS, the Superintendent of Lushai Hills…the Mizo customs have never been recorded earlier. It was Parry who consolidates all practices (2005:216).

**Changes in Legal System and Development**

The British did not interfere with the local customs and practices as long as it did not clash with their interest. What the British did was to govern the Lushai Hills through the chiefs rather than to try to govern without them. The British government knew that chiefs were instrumental to their administration. McCall points out, ‘It is of a great importance to maintain the status and influence of the chiefs and consider that the experiment of village welfare Committee under the presidency of chief’s should be given full trial’ (1980: 36). The chief and headmen of the village were held responsible for the conduct of their people and the Superintendent usually upheld the chief’s decision to the best of his ability.

However, the chief’s former authority was reduced tremendously. The British administrator made clear division of cases which go to them or the Chief. The chief’s authority was limited only to hearing of family matters and cases which were considered “not serious” and “ordinary”. All the serious cases like murder and which involves physical violence should be presented to the Superintendent. The Superintendent had the authority to inflict even death penalty. He was responsible for settling all disputes between chiefs, between villages, and between tribes. The chief can only settle disputes between Mizo within the village where he rules. All the chiefs were asked to report any serious matter to the Superintendent. Whenever disputes arose, the chief still had the authority to arbitrate. But if the people were not satisfied with the chief’s judgment or decision, they often turned to the British officers (Zorema 2007; Lalrinchhana 2009).
The traditional rights of the Mizo chiefs such as right to order death penalty, right to seize the property of a villager whenever he wishes to, property rights over land, right to tax etc. were all stripped off. However, the chief’s rights and privileges of receiving fathang, chikhurchhiah, khuaichhiah, sachhiah from the people and the right to keep Bawis or ‘slave’, and the right to appoint the village officials such as Upas, Tlangau, Ramhual and Zalen remained intact. All chiefs were made responsible for control of their villages i.e tax collection, revenue etc. (Lalchungnunga 1994). The chiefs were responsible for allotment of cultivable land but they do not own the land and only have the hereditary right of cultivation and the use of forest produce for the people’s own consumption. The chief would dispose off cases in accordance to the district rules for the disposal of Civil and Criminal justice (McCall 1980:18).

In traditional Mizo society, disputes which are considered domestic in nature such as disputes over land, marriage and divorce, property etc. were usually solved within the family (Dokhuma 1992). Only disputes which cannot be solved within family were taken to the chief’s court. Mizo writers and historians stated that, generally, Mizo people are very reluctant to go to court; they consider having to approach court as “embarrassing” and also “degrading” one’s family name. However, this is contrary to what J. Shakespear, the first Superintendent of the Lushai Hills, (1897-1898 &1904) wrote in his diary, he states, ‘People are quite ready to run to an officer whenever the chief’s decision does not suit them’ and described the Lushai as ‘a great love of litigation’. Cases that have been disposed of or rejected will be brought up again and again whenever a new sahib comes; therefore it is most important to keep a brief record of all cases’ (Shakespear 1905, 22nd March). Therefore, Khawchhiair or village secretary was appointed to keep the record of all the disputes.

One notable change that occurs in terms of litigation was that now people can re-appeal cases to the Superintendent if they are unhappy with the decision made by the chief. This option gives more choices to the people. This may promote individual rights. Marc Gallanter in his work among the Indian people have stated, plural legal system promotes “individual rights” because it gives more options to the people (Gallanter
Another change is, when cases are re-appealed to Superintendent, it becomes more complicated. In some regions such as Utter Pradesh and Punjab, Kane (1950:42-3) writes:

Once a case involving customary law went into the courts, *custom became essentially that which could be established as custom under the rules of evidence*…Custom was what British officers recorded in Village books Wajib ul-arz, which contain the particular rules that officers were told by villagers applied to inheritance, division of property and responsibilities of payment of land revenue, and management of village lands. In addition to what was recorded as custom, the courts in all provinces had to deal with custom, particularly in questions of marriage, adoption and inheritance, if the parties claimed they were not bound by usual practices of Hindu law. *In addition, custom became a residual category of law* (cited in Cohn 1987:617). (Emphasis added)

Therefore, we may say that, the Mizo customary law is in fact the handiwork of the colonial “masters”.

**Emergence of Christianity**

Before Christianity was brought into Mizoram it had already established its roots elsewhere in India (Jayekumar, 2002). Even among the other north eastern states, Christianity penetrated relatively late in Manipur and Mizoram (Lloyd 1991). In the neighbouring states like Khasi and Jaintia Hills (then Assam), now known as Meghalaya, the Welsh Presbyterian mission had already established their work for fifty years. While the American Baptist Mission had been working for thirty years in the Garo Hills and even in Nagaland, the mission work was already well established. The first European Christian missionary to have contacted the Mizos was, Rev. William Williams in the year 1891. He however did not stay long, since his original work was established among the neighbouring Khasi and Jaintia Hills. In spite of his eagerness to work among the Mizos, he died in 1892 (Lloyd 1991:23).

The first Christian missionaries to work with the Mizos were Rev. J. Herbert Lorrain and F.W Savidge, from the Arthington Mission in England. They belonged to the High Gate Baptist Church in London. They arrived in Aizawl on 13th January, 1894, and
stayed on in Mizoram for almost four years. During this period, they managed to learn the Lusei/Duhlian. Lorrain composed a Lushai-English dictionary of several thousand words and it was published by the British government in 1898 (Hminga 1987). They translated some of the books in the holy Bible such as the Gospel according to St. Luke, St. John and the Acts. Both missionaries were also responsible for the alphabet in the Lusei dialect and teaching the people how to read and write. Since they were sponsored by the Arthington Mission whose policy do not allow its members to stay long in one place, they had to leave the Lushai Hills early. Their missionary work was continued by D.E Jones from the Calvinists Methodist Mission (now known as Welsh Presbyterian Mission). He arrived in Aizawl on 31 August, 1894.

When the Welsh Missionaries started working with the Mizo people, there were already thousands of Christian believers in the Khasi-Jaintia Hills, and over 500 hundred in Nagaland. But within a short period of time Mizoram have managed to out-number the Khasi-Jaintia and the Garo Hills Christians (Sawmveli 2005). Today, in Mizoram majority of the Mizo population are Christians. The rapid growth of Christianity and the willingness of the Mizo people to adopt the new religion thus resulted in changes within the society.

Changes within the society

The missionaries have been considered the most important agents in reshaping and reforming the society during the colonial rule. When the colonizers were busy running the administration, keeping law and order, it was left in the hands of the Christian missionaries to keep an eye on the people and to promote what they thought is good and to eradicate what they believed is not good. Even if we look at the Indian

5 The most notable changes are “doing away with the rice beer drinking and sacrifices to evil spirits” and become “Pathian thuawi” (obedience to God). The Mizos adopted “western” dress code which is very different from the traditional dress. Also there is no more war between the clans and village, and the abolition of Zawlbuik or boy’s dormitory, which was considered as one of the most important social institutions in traditional Mizo society. Now the church has become the most common meeting place (Sangkhuma 1995; Hminga 1987; Thomas 1993).
context the missionaries were the most important tools for changes within the socio-cultural context (Cohn 1997). Western education became a tool for changing the structural world view. The literary activities of the missionaries such as compiling dictionaries in local language, grammar books, printing of newspapers and the like began a renaissance in India (Jayekumar 2002). This is true even in Mizoram’s case as the British rulers were busy in keeping law and order while the real social works was in the hands of missionaries. Christianity is considered as the most influential tool in re-shaping the face of the society. Kipgen has stated that,

When the missionaries first came to Mizoram it was dressed in a western garb, the missionary’s goal of “retaining what is good in Mizo life while following on to what is better was not really achieved. The early Zo Christian was not in a position to differentiate substance from form and therefore simply adopted Christianity in its western form. Believing western culture to be Christian culture, they discard most of their cultural heritage (1996: 316).

The introduction of western education, Sunday schools, and better health care system are all considered part of this change. Some held the opinion that Christianity has eradicated all the traditional ways of living and liberated people from “tradition” to “modernity”. Christianity is also considered responsible for Mizo women’s enlistment. The introduction of education played an important role in uplifting the Mizo women from within the household to outside the household. Women were now allowed to speak in public and roles were assigned to them in the Church setup which was not permissible in the traditional way of life. The Christian women missionaries also played an important role in education, especially in the education of the girl child. The first school was established in 2.4.1894 with nineteen students including two women (Malsawma 2002:76).

Though the introduction of western education by the Christian missionaries did result in opening up new opportunities for women, and the “spiritual equality” of both genders in Christian doctrines is very important factors in enlistment of the women. But the important question remains; have women really benefited from Christianity.
Women’s Position

Mizo society is a patriarchal society where men are considered superior to women. In traditional Mizo society, most of the important positions are being occupied by the men. ‘The status of women was pathetically low. There was hardly any society in which women had lower status than among Mizos’ (Malsawma 2002:71). Mizo women’s opinion was never sought in the matter of village administration, and they were also excluded from religious rites and ceremonies (Hminga 1987:27). According to Kipgen (1996:80), ‘In the social organizations and village administration women have no place at all, except under special circumstances where the widow of a deceased chief might rule over the village on behalf of her minor son till his maturity’.

Like many other societies, even in Mizo society, though women contributed enormously towards substantiating the family economy, their contributions are hardly acknowledged. The coming of Christianity is viewed as one factor that has changed women’s lives enormously. It liberated them from traditional exclusions and exposed them to “modernity”. It has been argued that, the position of women is also changing alongside the process of social change brought about by Christianity (Hming 1987; Sangkima 2004). However, studies on Christianity and gender have suggested, and the traditional social structures and patterns are still prevalent in many aspects.

Though the coming of Christianity has succeeded in changing the Mizos’ world view within the socio-cultural life but the traditional forms were still prevalent in many social aspects. Downs (1983:175) observed that, ‘Christianity after all was not contradictory to the tribal content but very much supportive of the same’. The emergence of Christianity has to some extent changed women’s position, but gender inequality can be seen in all the social spheres. In fact, despite the claim that Christianity brought positive changes especially for women, one can see that one kind of inequality intersects with another and gender inequality remains intact (Lalrinawmi 1993; Sawmveli 2005).
“Nation Building”: Political Development among the Mizo

During the Second World War, more than three thousand Lushai youth joined British Indian army and Burmese Military services. Lushai youth’s participation in the Second World War contributed into the development of political consciousness among the Mizos. According to Zorema, Lushais contact with ‘more advanced people in their own land’ helped them to develop new ideas. When the Japanese troops pushed into India’s north eastern borders, Lushai Hills were occupied by a number of British and Indian soldiers. Lushai Hills area, such as, Aizawl, Kolasib, Lunglei and Tlabung, were used as the supply bases. Besides, the Lushai youth who fought in the war, and who had contact with the “outsiders” adsorbed new political ideas. He states, ‘The fast changing war economy and the various concessions granted to the public had greatly increased the political aspirations of the people’. On February 1944, the British India government, in order to win the native’s friendship and ally for the war efforts, opened the first High School at Aizawl (2007:133-134).

By the end of the Second World War in 1945, the struggle for India’s Independence was at its peak. By this time, it was clear that the British would have to leave India and India’s Independence was just ahead. The Lushai people were aware of these developments, and for the first time, political consciousness was the main issue among Mizo as the future of the Lushai Hills was unsure. The need for the discussion on the future position of the “Excluded Area” such as Lushai Hills and Nagaland (Backward Tract) was crucial. Since the Mizos never experienced self- governance or democracy, the British India Government felt that the Mizos need to be educated and be prepared in order to safe-guard themselves from “outsiders” (Chaltuakhkhum 2001). Till Independence, there was no representation or nomination of legislators from Lushai Hills.

The struggle for India’s independence and the progress of nationalist movement had its effect on the tribal people of Assam as well. During this time, Mohammed Ali Jinnah’s “two nations” theory had created controversy. His theory of a sovereign Muslim state must be composed substantially of the British India Province such as: - Sind, Baluchistan, the North West Bengal and the North East: Assam and Bengal. However, his
The proposal of including the North East (Assam) was strongly opposed by Sir Andrew Clow, Governor of Assam. He wrote:

The implicit demand for Assam strikes me as one of the more brazen of Jinnah’s claims. The Muslim population is about 33% and if we exclude the Surma Valley, which is linguistically and geographically part of Bengal, the rest of Assam has only 20% of Muslims, mostly recent immigrants (cited in Zorema 2007:135).

The struggle for India’s independence and the national politics along with its communal issue placed the hill tribal people of Assam in a difficult situation. These people were “animists”, and now mostly Christians and were not touched by either Hinduism or Islam. The people feel that they are different from the “Indian people”; they strongly felt the need to safeguard their customs, language and culture. In the meantime, the Indian National Congress was trying to achieve a territorial unity within the Indian Union. In this connection, a session of the Congress Working Committee on 15th September, 1945 resolved that:

It will be for a democratic elected Constituent Assembly to prepare a constitution for the Government of India, acceptable to all sections of the people. This constitution should be a federal one, with the residuary powers vesting in the units. The Congress cannot agree to any proposal to disintegrate India by giving liberty to any component state or territorial unit to secede from the Indian Union or Freedom” (cited in Zorema 2007:135).

The committee also declared that they could not force the people in any territorial unit to remain in an India Union against their will. After much debate, the Congress Working Committee finally gave in and India was to be divided into two countries. In the light of this division, proposal was made for the India Rajas, Princely states: 1) to join India Union 2) Join Pakistan 3) Remain Independent.

Political Development

When the British were to leave India, Lushais had no concept of their inclusion in the Indian Union, not only because of their ancestral differences, but also due to their exclusion from the reformed constitution (Zorema 2007). The educated Lushais did not want the British to leave nor did they desire political power to be handed over to the
chiefs, who according to them were arbitrary and dominating. In reaction to the new political development, the then Superintendent of Lushai Hills, Mac Donald, formed “District Conference”. This was a turning point in Mizo political history as it marked the beginning of people’s participation in politics. Members of the “District Conference” comprised of 40 members - 20 representatives elected by the chief and another 20 by Hnamchawm or commoners. The commoners were selected from each divisions of C.I. Mac Donald’s hope was to make the “District Conference” as a representative of the Mizos repressive (Hermana 1999; Vanthuama 2001).

The plan came to be known as Rorelkhalt or “Mac Donald Scheme”. Mac Donald’s idea was to have a legislature consisting of the representatives of the chiefs and the commoners, with power and authority to make laws and levy taxes. There should be an Auditor, a Minister and three Councillors, who would constitute the Executive. The three Councillors shall be the heads of (1) Agriculture, Arts, Industries, Trade, Forest and Fisheries, (2) Public Works and Communications, and (3) Education and Health. There shall be a thirty three member council and a ‘historian’ would act as its secretary. A Governor, with direct responsibility over judiciary, shall be the head of the state holding office for 16 years. There should also be a Public Service Commission for the recruitment of public servants as members (Chaltuahkhuma 2001: 84-88). The scheme was critiqued as “clumsy and unworkable”. Zorema argues that, this may not be as innocuous as it seems. He states,

It was clearly a reflection of the “Crown Colony Scheme”, in which its ardent advocates like Neville Edward Parry, John Hutton, Sir Robert Neil Reid and Sir Reginald Coupland……suggested the unification of the hill areas of Assam and north-west of Burma into a single and separate administrative unit (Zorema 2007: 136-137) (emphasis added).

Construction of Political Autonomy

India was going through political formation process and the Indian Union was in the making. The need to deal with the north-east differently was very strong, due to the importance of their geographical locations and also cultural differences. The government
said the need to find the way by which the hill tribes of “North Eastern Frontier” can be welded into the body politics of India, Manserg states,

Bearing in mind the need for protection of tribal institution and ways of life, for full scale development and for maintaining the integrity of an external boundary at present with Tibet but foreseeably with the expansionist China; on the whole to be secured by an inter-mashing of Central and provincial machinery (cited in Zorema 2007 :139).

Formation of Political Parties

Under such circumstances, the pressure in Lushai Hills grew stronger and the people’s aspirations to participate in political activities could not be taken lightly. On 9th April, 1946 MacDonald lifted a ban on political activities and on 25th April 1946, “Commoners Union” the first political party in Mizoram was formed. However, the chiefs and Upas or elders were unhappy with the name “commoners”, which they felt did not include them. In order to include all sections of the people the name was later changed into “Mizo Union”. But, still the chiefs refused to join-in even after the change (Zorema 2007). The Mizo Union declared themselves as the ‘true representatives’ of the Mizo people. It continued as the only Political Party in Lushai Hills for quite some time till another Political Party called “Zalen Pawl” or United Mizo Freedom Organization (UMFO) was formed on 5th July, 1947. UMFO was founded by Lalbiakthanga. Later, it was headed by Lalmawia, a retired King Commissioned Emergency Officer, Burma Affairs. These two parties existed till the time of India’s Independence.

The declaration of the Mizo Union as the only and true representative of the Mizo people was not accepted by the then Superintendent Mac Donald, due to the reason that Mizo Union did not support the Superintendent. He tried to subjugate the Mizo Union (Lalrinchhana 2009:6). However, the force of Mizo Union was very strong and they had the majority support. Their popularity can be seen through songs and Mizo History writing (Vanthuama 2001). According to Chhuavnawra, the Mizo Union was the answer to the Mizo’s prayers. People were really fed up with the chiefs’ rule and British administration. He writes:
Sap (Colonial Administrator) never really cared for the Mizo, they will not interfere with the welfare of the people until and unless it is directed toward their interest or seems to threaten their interest. Though the chief’s authority was limited to some extent, as long as it does not violate the administration system of the British, the chief exercise unlimited power. There was an alliance between the chiefs and the British Administrators which doubles the sufferings of the people (2008:12) (translated from Mizo)

This is why even in the “District Conference” committee the numbers of chief’s representative, though much lesser in number, is the same with that of the commoner’s. That is why the Mizo Union supported the boycott. As mentioned, right from the start the Mizo Union talked of self governance and people’s rights. Unsurprisingly, they did not have the support of the chiefs and even few of the chiefs who supported the party earlier soon withdrew their support. So when in the year 1947 another political party Zalen Pawl was formed, most of the chiefs joined this party. This party lobbied for joining Burma. MacDonald was succeeded by Leonard Lamb Peters who convened a meeting on 14 August, 1947 wherein they discussed the future of Mizos. Three options which they felt important were discussed: joining India, joining Burma or to remain independent (Chhuanvawra 2008).

Right from the beginning, the Mizo Union was in support of reducing the chief’s right. They wanted to have self-governance/democracy within Indian Union. Many contemporary writers and academicians such as Zorema (2007) argue that the party, instead of focussing on the “concrete policy of lasting future”, were more concerned with the “emotional issues of whether or not to abolish the chieftainship”. In Zorema’s view the Mizo Union, in their desire to end chieftainship, were impulsive. In spite of their fear of losing their identity, yet, to win their objectives, the Mizo Union choose to remain with India.

The leaders of the Mizo Union were very much influenced by the notion of democracy and modern ideas. They were one of the early Mizo educated ones who had been outside of Mizoram for studies and had experienced socio-political situations of the outside world. Most of the contemporary leaders like R.Vanlawma, Ch.Saprawnga and Khawtinkhuma etc, were either graduates or post-graduates. Because of all these
combinations, they were considered the most suitable for bringing change within the Lushai Hills. These leaders were responsible for many changes within the land. Because, when the Lushai Hills gained the District Council Status, most of them were elected as MDC and faced the challenges of the first legal changes /enactment in the new democratic Lushai Hills.

**Democratization of the Mizo**

In 1947, the British India Government convened the Constituent Assembly & appointed an Advisory Committee on minorities, tribal etc. under the chairmanship of Sardar Vallabhai Patel, which in turn appointed a Sub-Committee for North East Frontier Tribal & Excluded Areas. The constituent Sub-Committee was headed by G.N Bordoloi, Assam Premier of that time and whose other members included:- Ramadhyani I.C.S, J.M Nicholson, A.V Thakur Babba, Tenjamaliba (Naga) Sir.B.N Rao. They arrived at Aizawl on 17th April, 1947. Prior to the arrival of this famously known “Bordolai Committee”, the Mizo Union appointed H.Vanthuama, the party General Secretary, to go to Shillong to meet leaders and officials of other hills areas to get suggestions on framing the draft and design of the constitution. They asserted that if they are to join India Union, they should have the rights to exercise authority concerning the state’s administration and also the customs of the people. The Mizo Union submitted a memorandum on 26th April, 1947 to Bordoloi Committee demanding: 1) All Mizo inhabited areas contiguous to Mizoram should be included in the Lushai Hills District 2) Lushai should be called Mizo 3) Internal administration in Mizoram should be provided liberal financial assistance. This was replied by the Governor’s Advisor on 10th February, 1948 (Lalrinchhana 2009).

The years from 1947-1950 marked the process of democratization of the Mizo Society. The District Advisory Committee was put in charge of administration under the Superintendent. The members of the committee should be elected from each C.I division. The Mizo Union won the majority seats in the ensuing election and the number of members from each party was: Mizo Union-7, Chiefs-3, UMFO-1, Hmeichhia-2, and Tribal Union-1, Total-14. The Advisory Committee was given the right to involve or give their opinion in the administration system (excluding civil cases and criminal cases).
What it actually implies is that, the British India Government knew that since the Mizos never had a system of self-governance, it will be difficult for them to, all of a sudden, administer with the new system. Therefore, the committee was given some space in the authority so that they can educate themselves and be prepared for the future. This period could be considered as the “training period”.

**Advisory Sub-Committee**

The Constituent Assembly Committee suggests that the Mizos should form Advisory Sub Committee Council to finalize the terms and condition on the laws of governance. On 14th August, 1947 a meeting of Mizo Political leaders, representatives of the church, representatives of Government servants, representatives of chiefs, representatives of women etc.- more than 50 people was held at Aizawl under the chairmanship of L. L. Peters, the then Superintendent and also the last Superintendent of Lushai Hills. They passed the following resolutions: - 1) the Mizo customary law and land tenure should be safeguarded 2) the special provisions given which concerns the rules and regulation relating to the Lushai Hills District to continue 3) the Mizos will be allowed to opt out of the Indian Union when they wish to do so, subject to a minimum period of ten years. The resolution was submitted to the Governor of Assam and thereafter, the Governor of Assam replied the same under Notification No. 1626-30G of 2.9.1947, which says as follows: (i) There can be no question of Lushai leaving the Indian Union as in law, the Lushai country being an excluded area was already part of Assam (ii) That the Lushai must remain with the Indian Union and cannot join either Pakistan or Burma (iii) In view of the Constitutional position stated above, the question of opting out after 10 (ten) years doesn’t arise.

On 4th July 1947, a meeting was held in Assam Assembly Committee room headed by G.N Bordoloi. The meeting was attended by the co-opted members of the Advisory Sub-committee from Mizoram, Khasi, Nagaland, North Cachar Hills and Nagaland. The hill areas were given “self-governing” authority within the Indian Union. Lushai Hill was granted “Autonomous District Council”. The council shall consist of not less than 20 and not more than 40 members out of which three-fourth shall be elected on
the basis of adult franchise. The District Council shall have the power to make laws for the areas within its jurisdiction and for its administration. The Bordoloi Committee also suggested the constitution of Village Council for village administration. The Sub-Committee also proposed the creation of the Pawi-Lakher-Regional Council in the extreme south of the Lushai Hills. The Pawis and Lakhers were incorporated into Lushai Hills in 1924. Before their inclusion, they had little or no connection with the Lushai people in the North. They are purportedly different linguistically from their Lushai neighbours (Hermana 1999; Vanthuama 2001).

However, as there would be a long gap for establishment of District Council, the latest meeting of the Constituent Assembly on 4th July, 1947 proposed formation of Advisory Council. The first meeting of Advisory Council was held on 16th August 1948. The meeting was chaired by the Superintendent. Disputes arose between the Mizo Union leaders and the Superintendent over “voting rights”. The Mizo Union accused Peters, the Superintendent, as bias and showing favouritism to the chiefs. The “Draft Regulation” for the future constitution of Lushai Hills put forward by Peters was objected by Mizo Union, saying that they need sufficient time to think it over. Not only that, since the draft was written in English, it had to be translated into Lushai and distributed to the members for their comments. The “Draft Regulation” was put up for discussion in the next meeting on 23rd August. Again, the Mizo Union refused to participate. Peters was backed by the chiefs, but a strong opposition from Mizo Union forced him to refer the matter to the Governor of Assam (Zorema 2007).

To settle the matter, Nari Rustomji, Advisor to the Government of Assam for Tribal Affairs was sent to Aizawl. Rustomji had a series of meetings with the leaders. Though he was successful in convincing the Mizo Union leaders to look at the drafts, he failed to change their attitude towards the chiefs and the Superintendent. Rustomji was successful in clearing up the deadlock but without any real further implications. The important outcome of Rustomji’s visit was, Government of Assam handed over certain powers to the Advisory Council in matters relating to Primary Schools, markets, cattle, ponds, fisheries, roads and waterways. The Mizo Union sees the Superintendent as ‘an
upholder of the chiefs, a symbol of traditionalism and an obstacle to any process of modernisation’ (Zorema 2007:158).

Problems within the Committee

The following years witnessed the decline of the Superintendent’s and the chief’s authority. In the old District Conference, the chiefs enjoyed equal membership with the commoners and the support of the Superintendent. However, in the Advisory Council, the chiefs only had ten members in the house out of 35 members. Peters tried to break up the Mizo Union by offering lucrative government jobs to their leaders which was, however, not successful (Hermana 1999). On 27th December, 1948, the Mizo Union launched civil disobedience movement, demanding the dismissal of Peters, the District Superintendent. On 18th January 1949, a large number of people gathered near the Superintendent’s office and shouted slogans “Go Back Peters”. In reaction, Peters recalled the three Assam Rifles platoons from Agartala, established four Assam Rifles outpost at important locations, posted a Sub-Divisional officer at Lunglei and arranged detention facilities. He arrested a large number of leaders, in reaction to this; the movement became violent in some parts of the area such as Lunglei where lathi-charge resulted in a number of casualties.

Once again, to settle the disputes, Nari Rustomji was sent to Lushai Hills. Rustomji was able to convince the Mizo leaders by assuring them that the recommendation of Bordoloi Committee would be implemented soon and all the political prisoners would be released. On 1st March, the District Superintendent Peters was replaced by Satyen Barkatali. The Mizos’ constant attack on their authority and the whole process of democratization threatened the position of the chiefs. The chiefs were aware of their declining power. As such, in October 1949 meeting, the chiefs sought to safeguard their privileges in the impending constitutional changes. Their demands included reservation of one seat in the District Council for Lal Upas, reservation of six seats in the District Council for the chiefs themselves, exemption of all the sons and brothers of the chiefs from coolie labour and reservation of a seat for Khawchhiar or

---

6 Leaders such as Vanthuama, V.Rosiam, Lalbuaiia, Chanwghnuiaia, Kawnga, Lalsawia, Chhunga, Sangkunga, Liankunga, H.Khuma, R.Thanhlira and Hrangiaia who had just returned from Shillong, were arrested even before they could reach their home.
village writer in the village council. Apart from this, the *Upas* or chief’s elders also formed “Chief Elders Association”. They submitted memorandum to the Superintendent, demanding one seat each in the Village Council, in addition to what the chiefs had sought. However, their demands were not successful. With the inauguration of Indian Republic on 26th January 1950, the Lushai Hills, for the first time, had representation in Parliament when Ch. Saprawnga was nominated as a member. The Advisory Council which was created during the interim period was dissolved on 21st November 1951 (Vanthuama 2001; Hermana 1999; Chaltuahkhuma 2001).

**Lushai Autonomous District Council**

Under the Sixth Schedule of the Indian Constitution Lushai Hills got an Autonomous District Council on 26th April, 1952, and the Pawi-Lakher Autonomous Regional Council was also formed in 1953 to satisfy the aspirations of the minority Lais and Maras in Mizoram. The Assam government fixed the date for the first election of Mizo District Council for the 4th April, 1952, and 5th April was also fixed for the elections of Member of Parliament and Members of Legislative Assembly. In the election, the Mizo Union against UMFO swept off almost all the seats. The Mizo Union won 15 seats out of the total 18 seats. Not only that, they also captured all the Assembly seats. Ch. Saprawnga was elected as the first Chief Executive Member (CEM) in the Lushai Hills District Council. But, since he was appointed as the Parliament Secretary in Assam Government, Lalsawia was elected in his place on 16th April 1952. Dr Rosiama was elected as Chairman and Tuikhurliana was elected as Deputy Chairman. The CEM nominated Hrangaia and Sangkunga as Executive Members (EM). Thanhlira was nominated as Member of Parliament in May 1952. The Lushai District Council was formally inaugurated by Bishnuram Medhi, Chief Minister of Assam on 25th April 1952 (Vanthuama 2001).

One important change that came along with the District Council was the establishment of Village Council Courts at every village. The system of litigation became more systematic. The Village council court was made responsible for settlement of disputes at the village level concerning family matter etc. Every case has to be recorded
by the village secretary with the signature of President of the Village council court and should be kept properly. However, the District council made some restriction in which they considered to be too big or too important such as: 1) criminal 2) rape 3) sexual harassment of minor 4) mawngkawhur (homosexual relation). If such cases happen, the village president should immediately report to the higher court.

Abolition of Chieftainship

The first bill moved by the Mizo Union was “Abolition of Chieftainship” which the District Council passed in its first session during 23 June-10 July 1952. The Abolition of Chieftainship Act, 1952 striped off power and authorities previously enjoy by the chiefs and his Upas. The Act provided withdrawal of the chiefs from 1st January 1953. However, the chiefs were allowed to continue their office under the District Council until the Village Councils were formally inaugurated. On 20th June 1953, the District Council passed a Bill for implementation of Village Councils in every village, which was approved by the Government of Assam. Accordingly, elections were held in July-August 1954 (Zorema 2007).

In 1954, the Lushai Hills district was renamed as ‘Mizo Hills district” and chieftainship too was subsequently abolished (B.B. Goswami & Mukherjee 1982:136). After the Acquisition of Chief’s Rights Act, 1954, the Mizo District Council became responsible for any changes in legal system as well as enacting new legislation. The most notable act passed by the Mizo Autonomous Council is Inheritance of Property Act, 1956. Under this Act, a person may be disposed of his/her property by will. But in case of the absence of such will, the property shall devolve in accordance with the customary law. The District Council was vested with the power and authority under the Sixth Schedule of the Indian Constitution (Lalrinchhana 2009).

Formation of Mizoram State

Another important factor which led to the political movement among the Mizos was the deplorable economic condition of the Mizo Hills during 1960s. And to make the matter worse there was a great famine popularly known as Mautam in 1956, which was
caused by the flowering of bamboos and the consequent multiplication of rodents which ate almost all cultivations. The lack of sympathy from the Assam government and the general attitude of apathy from mainstream India angered and hurt the feelings of the Mizos. The situation gave birth to the emergence of a political party called the Mizo National Front in the 1960s. The party’s ideology was to achieve a sovereign and independent state of Mizoram. And from midnight of 28th February 1966 the MNF declared Mizoram a sovereign and independent state and began to attack important government installations and security camps at various places. This insurgency lasted for almost 20 years (Chaube 1982; Goswami at al 1982). After much struggle and political manoeuvrings, the MNF was negotiated into accepting the status of statehood for Mizoram. And, in 1987 Mizoram became a full-fledged state of the Indian Union.

After Mizoram gained full-fledged statehood in the year 1987, the applicability of the central laws to Mizoram and the continuation of the existing laws were governed by the constitution (Fifty –Third Amendment) Act, 1986, the state of Mizoram Act, 1986, Article 371G of the constitution and the Mizoram Adaptation of Laws and Orders, 1987. By virtue of Article 371G, from 20.2.1987, no Act of Parliament in respect of religious and social practices of the Mizos, Mizo Customary Law and Procedure, administration of civil and criminal justice involving decisions according to the customary law, and ownership and transfer of land, if made after the stated date, shall apply automatically to the state of Mizoram unless Legislative Assembly of Mizoram so decides by resolution.

The District Council Court, Sub-District Council Court tries all cases at different levels when litigation is within tribal areas and parties involved are both tribals. The judge and Additional Judge of the courts of District Council are conferred with the powers for the trial of offences, punishable with death and transportation for life under the penal code or under any applicable law. The District Council Court is under the direct supervision of the High Court of Assam. In the present scheme of things in Mizoram, there are parallel systems of courts, each functioning within its own orbits (Lalrinchhana 2009).
The Exclusion of the “North-East India”

This section discusses the Sixth Schedule of the Indian constitution and review on the “District Autonomous” in the North East India. The section provides an overview of tribal politics within the Indian Union.

Since the British occupied the North East India, the region was always a matter of concern for the British government because of their “distinctiveness” from mainstream India (Zorema 2007). Certain issues were raised in respect to tribal development; Verrier Elwin was one such person who regards himself as a “British born-Indian” who pressed the government to consider tribal issues especially of the Hills-men. Elwin urged the national movement to pay attention to “Hill and forest tribes”, who were a “despised and callously ignored” group. Their problem was as urgent as eradicating untouchability. Elwin is of the opinion that, Indian national workers and reformers ‘have neglected the tribes shamefully’. The Congress, the Liberals and even the Khadi workers has neglected them (Guha 1996).

The British parliament passed the Government of India Act of 1935, whereby declaring North East areas with predominantly tribal populations, were to be known as “Excluded” and “Partially Excluded” areas. This Act means the laws made by the legislative assembly (India) would not extend to these states. And it remained to be governed and administered by the Governor of Assam. According to Ramchandra Guha, this is part of the colonial hegemony. He writes,

Some British politicians saw the provisions as vital in protecting the tribals from their Hindu neighbours. Conservative MPs, supporting the clauses in the House of Commons, said they would save the tribes from being converted from good Nagas or whatever they are into bad Hindus. But the tribals were not to be deprived of the decencies of Christian civilisation. As one member, Colonel Wedgwood, puts it, the best hope for backward tribes everywhere are the missionaries. The missionaries and the British government together gave these people a chance (1996:2375).

According to Guha, the creation of “Excluded Areas” was strongly critiqued. A meeting of the Congress, held at Faizpur in September 1936, condemned it as, ‘Yet another attempt to divide the people of India into different groups, with unjustifiable and,
discriminatory treatment, to obstruct the growth of uniform democratic institutions in the country’. When the Congress formed provincial ministries in 1937, it tried hard to abolish or dilute these provisions. As stated by Guha, the Bombay legislative assembly, in a unanimous resolution, it was said,

….outrageous to suggest that a constitutionally irresponsible Governor, almost certainly a non-Indian, can better administer these areas than a responsible Indian Cabinet can”. The concept- of Excluded Areas was even mocked as a device of anthropologists to protect aboriginals as museum pieces for their science (1996:2375).

In the run-up to India’s independence, the need for the discussion of the “Excluded Area” such as Lushai Hills and Nagaland’s (Backward Tract) future was crucial.

**The Sixth Schedule of the Indian Constitution**

In 1947, the British India Government suggested that Constituent Assembly & Advisory Sub- Committee for North East Frontier Tribal & Excluded Areas Committee should be formed to think about what kind of administration they would want to adopt when India attain Independence. The constituent Sub- Committee was headed by G.N Bordoloi, Assam Premier of that time and other members includes:- Ramadhyani I.C.S, J.M Nicholson, A.V Thakur Babba, Tenjamaliba (Naga) Sir.B.N Rao. The leaders of the tribals asserted that if they are to join India Union, they should have the rights to exercise authority concerning the state’s administration and also the customs of the people. On 4th July 1947, meeting was held in Assam Assembly Committee room headed by G.N Bordoloi, the meeting was attended by the co-opted members, Advisory Sub–committee from Mizoram, Khasi, Nagaland, North Cachar Hills and Nagaland. After the discussions and going through all the regulations, it was accepted and incorporated within the Indian Constitution; this is called “Sixth Schedule” after the formation of Indian Constitution (Hermana 1999; Vanthuama 2001; Zorema 2007).
Sixth Schedule [Articles 244(2) and 275(1)]

The Sixth Schedule of the India constitution contains provisions for administration of the hills in the state of Assam, Meghalaya, Tripura and Mizoram. The aim of the Sixth Schedule is to protect these hill areas and tribal communities from the control and exploitation of the “plain” people, who are more “advanced” and “civilized” than the tribal. The provisions under the Sixth Schedule to the Constitutions were historically evolved to administer the tribal majority areas in the States of Assam, Meghalaya, Mizoram and Tripura through the district council or the regional councils. Under the provisions of Sixth Schedule, the Councils are vested with legislative powers on specified subjects and are allotted certain sources of taxation. They are also given powers to set up and administer their system of justice and maintain administrative and welfare services in respect of land, revenue, forests, education, public health etc.

The Sixth Schedule is regarded as a mini-constitution within the main constitution; the objective of the Sixth Schedule is to give greater autonomy to the tribal areas of the North East India. The application of the Sixth Schedule to the Constitution has not been extended to any other State of India besides the North-Eastern States. District Councils and Regional District Councils were formed under the provisions of Sixth Schedule and they are empowered to constitute court of trial of cases between parties belonging to schedule tribes. The District Council Court for each District Court consists of qualified judicial officers, designated as judges and magistrate are appointed by the Executive Committee with the approval of the Governor. The Sixth Schedule also provides conferment of the authority on district council courts or cases under CPC and Cr. Pc and the power to exercise judicial authority (Bakshi 2007). In all these states, cases which are considered related to family matters, such as marriage, divorce and inheritance are adjudicated in accordance with their Customary Laws.

Politics of Sixth Schedule and “Districts Autonomous”

According to Sanjay Barbora (2005:37), ‘The autonomous districts in Assam, formed under the auspices of the Sixth Schedule of the Indian Constitution, are a showpiece for the State’s capacity to address indigenous ethnic aspirations in the north
east’. While Sanjib Baruah sees it as the continuation of the work of colonialists. He argues that, the Sixth Schedule can be traced back to colonial efforts to create protected enclaves for “aborigines” where they be allowed to preserve their “customary practices” including kinship and clan-based rules of land allocation. The successful political incorporation of dissenting minority groups by giving them significant levels of political autonomy and a major say in public policy is ‘not necessarily the result of an enlightened policy. It is rather the somewhat reluctant continuation of colonial policy, which emphasise the protection of vulnerable indigenous people from their more crafty neighbours’ (Baruah 1989:2087; 1999).

Sanjay Barbora stated it is not “uncommon” to hold the colonial responsible for the conversion of the area into one administrative unit. However, he argues that there are more issues involved, and the birth of autonomous districts council within the Sixth Schedule runs much deeper than territorial boundaries. It has to do with ethnic politics and cultural Identity. He proposes three factors such as 1) the construction of frontier 2) negotiations of political space and 3) aspiration for “autonomy”. He presents his argument through the analysis of the Karbi Anglo and Bodo experiences in Assam-1980’s. He writes, ‘The product of years of systematic mobilisation of political resources of the community that sees its position of marginalisation as a failure of institutions of representation and Participation’ (Barbora 2005: 37).

Sanjay Barbora’s argument is that, the establishment of such autonomous districts council by the Indian central government does not pave the way for “a successful experience of institutional autonomy” for the indigenous people of the hills. Not only that, this arrangement was gradually challenged by the emerging educated classes. The challenge resulted in sporadic outbursts of anger against the arrogance of the valley-based, caste Hindu power brokers. He argues that the birth of such autonomous districts council

---

7 The Boro (or Bodo) are classified as a “plains tribe” and the demand for their separate homeland incorporates territories of western Assam. The territory is also home to various other ethnic groups, each with their own claims of being “indigenous” to the area. In addition to such groups, there are also others who trace their place of origin to central India; the sub-Himalayan foothills of Nepal and Bhutan; the Gangetic plains and from neighbouring parts of Bengal (including Bangladesh) (Barbora 2005:37).
council and field areas are not “coincidental”, he points out, both Karbi Anglong and the recently created Boro (land) Territorial Council offer a “longitudinal contrast in the application of the Sixth Schedule to specific territories and people”. He states, ‘The administrative logic that decreed the creation of these “autonomous” entities/ territories, shows an almost naïve faith where complex (and contentious) issues centred on identity, are seen to be resolved’ (2005:38-39).

Though the colonial policies of “excluded” North East certainly contributed in the approach and policy making of “mainland India” towards North East, the demand of political autonomy within the Indian nation also echoed the people’s concern over their ethnic and cultural identity. In fact, movements in North East can be understood in the context of negotiation of ‘greater social, political and cultural spaces, the spaces in which the ethnic communities were not hitherto represented’ (Biswas and Bhattacharjee 1994:232-242). Barbora argued that, the contestation in North East presents the issues of the “other”. The colonial policy in the political structures of north-east region may only account for one aspect of the “ends” to which governments strive – that of political and territorial unity. The Indian state’s inclination to give them autonomy might suggest that it is more “tolerant” of ethnic aspirations. Barbora states, ‘Their subsequent declaration for separation from a “mother body” is based on an implicit declaration of people-hood based on genealogy and descent ties function’ (53). Murray (1997:11) states, ‘not only as other sub-national units do in, say, the assertion of ethnicity, but point to the history of pre-contact and raise questions about legal and moral legitimacy of the present national formation’ (cited in Barbora 2005:53).

Building of Nation-State

Perhaps, this may lead to a serious discussion of nation-state building. Theoretically, there is no universal definition of nation and state. What we called nation is actually combined by the idea of nation and the idea of state. Both are controversial terms. The term nation denotes a certain unity among the people that includes language, certain historical background, customs, cultures, shared religion etc. Being a nation is a subjective belonging and therefore what we call nation is also a cultural entity. By
contrast, the state is a political unit occupying a certain geographical territory and controlling it under a single jurisdiction. There are some scholars who think that nationalism is the product of the underlying national reality, some see nation as a political association and others see it as a cultural community (Balakrishnan 1996; Hastings 1997).

A state can create a new nation in the sense that it can accelerate, while a nation may constitute itself into a state, it could include federation, republic and sovereignty. One possibility is that, we can have one nation, one state although it is very rare and difficult (e.g. Japan). Secondly, we could have parts of different nation coming together to constitute a state for various reasons such as geographical. Thirdly, we could have one nation divided into two states for ideological reasons (e.g Korea). Fourthly, we can have parts of a nation constituted into one state and the rest affiliated to another state (e.g. Bangladesh, West Bengal). Lastly, we can also have a set of multiple nationality coming together to create a state (e.g. America) (Bailey 1998; Chatterjee 1994; Balakrishnan 1996).

According to Benedict Anderson (1983), the nation is an “imagined community”. Anderson traces the origins and spread of nationalism to the modern industrial age of the Enlightenment in Western Europe. Anderson’s conception of the nation is one of a community that is socially-constructed, or “imagined” into being (Nelson 2007). The question is not whether the nationalism is true or false, but rather how the imagined community is different from other community imagined. Barbora points out,

Ethno-nationalist identities are important categories of identity formation in North East India. They constitute a peculiar version of a process that Benedict Anderson terms as an “Imagining” of constituent members of a political activity. This process, however, is bound to be contested by the modern nation states which see the persistence of ethnicity, though sometimes a vital link to the nation-building process, as a strategy of resistance to the control of the state. One of the reasons for the formation for such identities is the geo-political construction of “frontiers” in the 19th century and the manner in which the “frontiers” were incorporated within post-colonial nation states (2005:198).
Within the realm of nation state ideology, we cannot neglect the rise of new elements and their consequences. The new element is the assumption that citizen of the nation state of a community whose members are united by some common origin or ethnicity or some common language, it is the idea that the citizen of the nation state ought to form a homogenous population (state). The dangerous element is that citizenship tends to get defined by nationalism (Chatterjee 1994; Hastings 1997).

Nationalism

Earnest Gellner (1983) sees nationalism as borne out of “modernity”. It is “modern” in the sense that it is almost seen as natural for every people who formed cultural entity must have a state. Gellner is of the opinion that, industrialism brings rapid continuous changes, it involves a complex division of labour and this requires a rather unique and specialized system of education, standard language literacy which will produce important tools for the industrialist and also universal education system. Gellner points out; to have such a centralized education system we need a centralized state. According to him, nationalism does not just develop in response to the breakdown of tradition; rather, nationalism also develops in relation to new pattern of social movement, mobility, and social activity, cultural and intellectual innovation. Gellner argues that, the development of standard cultures clearly promotes and makes possible identity and Industrialism encourages the thought of nationalist (see Hall 1998).

One can argue with Gellner’s view, saying that development promotes national ethnic sentiments and also can raise ethnic tension. Also, nationalism can develop particularly at an ethnic level. Scholars have pointed out, another problem of theorizing nationalism is that, there is a problem of how to move from the idea of a cultural community as a set of relationship to an idea of cultural community as a set of consciousness. There seem to be a gap between the structural changes and imperatives association with industrialism and the actual construction of a sense of nationality (Hall 1998; Chatterjee 1994).
Self – Determination

Now, the question is why nations should become states? Nations have to become states in order to rule themselves; however, nationalists have complicated the idea of independence leading to believe that the only road to self-rule is self-determination. The political demands for self-determination are centrally linked to the idea of a distinct identity of an ethnic group. This ideology is sometimes seen as a threat to the building of nation-state. The question we may ask is how are we to see a political community wishing to establish a correspondence between nation and state.

The demand of self-rule government cannot be granted to every nation. In fact, it would be a tragedy if every cultural community group demands their own self-rule government state. The idea of having self-rule or self-determination is not an adequate answer to the problems. If all cultural community achieve their demand of self-rule government and create their own state, the cause could lead to theoretical incoherence and practical unreliability. However, with all considerations, it is very important that the government may grant special concession for those who regard themselves as having different identity, their distinctiveness should be recognized, and also give them special treatment and negotiate their demands and could include federation. The cultural community group can later emerge as the political community. They can of course demand for empowerment, autonomous district council, protection of their cultures, languages etc. But the idea of having self-rule government state is totally different. Hence, provisions like the Sixth Schedule, Article 371 are seen as an effort to ensure the minority rights and “self autonomy”.

However, these provisions are not adequate to solve all problems, Barbora points out, autonomy and autonomous institutions have not delivered justice in north east India. His argument suggests that, “autonomy framed within a statist discourse”- does not adequately address the issue of control of resources, finances and costs of running autonomous territories in a comprehensive manner. Rather, as in the Sixth Schedule, they seem ineffectual and burdened with contradictions that make the ‘principle of custodianship appear more like a managerial policy’. In his words, ‘As long as autonomy
arrangements are seen as a tool to manage the political demands of people in the region, there will always be problems with its implementation’ (2005:53). Though this may not solve all the problems especially the complex situation in the North East, it provides “limited” security to the tribe people, enabling them to be able to protect their customs and cultural practices. However, the women’s rights question will be addressed in the next chapter.