2.1. Introduction

Fieldwork constitutes an integral part of the methodology of any anthropological study. The tradition of conducting fieldwork and the theoretical perspectives that stem from it, would probably count as one of the major methodological contributions of social anthropology to the social sciences. It is rarely feasible in social science to set up experimental situations on the natural science model. It is even less feasible to arrange that such situations are repeated under conditions which are for all practical purposes identical, as natural scientists do. Every human situation is unique in a sense, or at least to a degree, which is not applicable to the chemist’s experimental set-up in the laboratory. So, for the most part, social anthropologists must test their hypotheses about social and cultural institutions and their inter-connections in the course of fieldwork in societies and situations which they have no power to control (Beattie, 1964). Thus, according to Herskovits (1952), the field is ‘the ethnographer’s laboratory’.

The present research is the result of fieldwork conducted primarily between April 2005 and November 2009, and also the study of secondary data. At the very outset of the research work, a pilot survey was conducted in the month of July 2005 to examine the feasibility, and delimit the universe of study. This was followed by fieldwork in phases, rather than in one go. The researcher would like to argue here that every field situation has its unique attributes. The distinctiveness of any field situation can be understood at two levels. Firstly, it poses certain exceptional challenges to the concerned domain of anthropological knowledge, thereby, necessitating certain changes in the existing
knowledge. Secondly, every field situation is marked with its individual physical, social, cultural and psychological milieu providing a novel situation to the fieldworker to interact with the informants. It is needless to mention here that the rules of techniques, methods and methodology are not applicable *per se* but requires to be adapted with a great deal of flexibility to the field scenario.

**2.2. Selection of Research Topic**

The complete study of the nature and activities of a society is beyond the scope of a single researcher; as such one has to select a specific topic of research on the basis of one's interests and inclinations. As a student of anthropology, with also a bachelor's degree in law, anthropology of law or legal anthropology has always fascinated the researcher as an area, where one could use one's learnings in both the disciplines. Interest in customary law as a field of research was further created by the researcher's involvement as project researcher and coordinator for the research project on 'Protection of Indigenous Knowledge of Biodiversity' under Gene Campaign, a research and advocacy organisation based in New Delhi and funded by the International Development Research Centre, Canada. An important focus of this research was the analysis of customary laws and practices of indigenous communities and examining their role in protecting biodiversity and the associated indigenous knowledge and their relevance in a legally pluralist regime. Considerable encouragement to pursue this line of research was offered by the research supervisor, Prof. Birinchi K. Medhi, who also brought to the researcher's knowledge that very little work in this regard has been done among the Tiwas, though the customary laws of neighbouring tribes like the Karbis have been extensively documented in many projects, such as the documentation of customary laws done by the Law Research Institute of the Gauhati High Court. Pilot surveys among the Hill Tiwas and the Tiwas of the plains, as well as review of literature on the topic further helped the researcher in choosing customary laws among the Tiwas as the topic for Ph.D. research.
2.3. Delimiting the Universe of the Study: Selection of Base Villages

As already mentioned earlier, a pilot study of ten days duration was conducted in July 2005, following provisional registration of the Ph.D. research topic in April, 2005. This pilot study was conducted in Morigaon district covering the four Tiwa revenue villages of Manipur I, Manipur II, Bar Manipur and Noagaon, which are situated contiguous to each other. This area was delimited as the universe of the research, considering the fact that the area is easily accessible, connected by bus service; the people, despite being in close contact with other populations have maintained a distinct cultural identity and customary laws and also the fact that no known social or political tensions exist in the area. For the sake of convenience, it was decided that the single largest village among these, Manipur I would be taken as the base village for the study.

During the pilot survey here in Morigaon district among the Plains Tiwas, informants repeatedly spoke of the pristine nature of customary laws among the Hill Tiwas living in Karbi Anglong district. This provided the impetus to conduct a pilot study among the Hill Tiwas of Pumakuchi village in neighbouring Karbi Anglong district, following which it was decided that Pumakuchi would also serve as a base village for the research. It is expected that a comparative study of the Hill Tiwas and Plain Tiwas, residing in the villages of Pumakuchi and Manipur I respectively would help to arrive at a holistic, yet nuanced picture of the customary laws among the Tiwas of Assam.

It was felt that a complete picture about the customary laws could not be arrived at, without taking into consideration the workings of the Tiwa Autonomous Council, and also the functioning of the Tiwa institution of kingship. For this purpose, it would be necessary to visit other villages and towns, where research regarding these aspects could be carried out. It was decided that though Manipur I and Pumakuchi would constitute the base villages for the purpose of the research, its scope would not remain confined to these two, but would also cover other villages and towns for the purpose of comparative analysis.
2.4. Review of Literature

Prior to embarking upon fieldwork, a researcher is expected to equip oneself with all the existing literature available. Thus, since provisional registration of the Ph.D. research topic in April, 2005, the researcher has done extensive review of literature covering chronological developments in the anthropological study of customary law, studies on customary laws across the world, particularly Africa, Asia, and Australia, relationship between customary law, and the formal legal framework in India, those dealing with customary laws and practices in the context of North-East India, books and research papers on the Tiwas as well as a few standard works dealing with methodology.

At the very outset, the researcher had consulted Hoebel's *The Law of Primitive Man: A Study in Comparative Legal Dynamics* (1954) which gives a comparative analysis of the laws of the Eskimos, Comanches, Ifugaos, Cheyenne Indians, and the Ashantis, on the basis of which it is concluded that law everywhere performs three basic functions. First, it defines relationships among the members of society, determining proper behaviour under specified circumstances. Second, law allocates the authority to employ coercion in the enforcement of sanctions. Third, law functions to redefine social relations and to ensure social flexibility. Pospisil's *Anthropology of Law: A Comparative Theory* (1971) convinced the researcher that there is no basic qualitative difference between customary or tribal law versus modern law with the important attributes, functions and processes of law being universally present and that law manifests itself in the form of a decision passed by a legal authority. The central theme of Moore's *Law as Process* (1978) is that social processes that prevent the total regulation of society also reshape and transform efforts at partial regulation. In particular, the making of rules and social or symbolic order is as often matched by situational pressures to manipulate, circumvent, remake or replace the same rules. Frequently, these pressures are as great as pressures to uphold rules.

Haviland's *Anthropology* (1989) makes one appreciate the difficulties involved in arriving at a definition of law and that in considering law, it is best to examine each society within its unique cultural context. The article entitled 'Law and Dispute
Processes' by Roberts in Ingold, ed., *Companion Encyclopedia of Anthropology* (1994) as well as Vincent's article 'Law' in Barnard and Spencer, ed., *Encyclopedia of Social and Cultural Anthropology* (1996) facilitates the understanding of the critical and subtle nuances of the topic. Benda-Beckmann's article 'Folk, Indigenous and Customary Law' in the *International Encyclopedia of the Social and Behavioral Sciences* (2001) proved enlightening as to the chronological developments in this field. Besides these seminal works, a large number of books and research papers were consulted to have an understanding of the different stages of the developments in anthropology of law, which have already been reviewed in great detail in chapter I.

Studies on customary laws and practices across the world were consulted in order to understand their nature and relevance in contemporary times for indigenous societies brought under the modern legal regime. In *A Study of Customary Law in Contemporary Southern Sudan* (2004), Jok et al. has pointed out that during two decades of civil war, customary law has been the principal source of social order and stability within the region and it remains the predominant source of law in contemporary southern Sudan. Over 90% of day-to-day criminal and civil cases are executed under customary law. However, customary law is challenged from many quarters such as statutory law, international law etc. and there is recognition of the fact that these will have to change in response. However, the argument is that the change has to come from within Sudanese society and at a pace which society can adjust. Similar issues have been raised by Chirayath et al. in their paper 'Customary Law and Policy Reform: Engaging with the Plurality of Justice Systems' (2005) in the context of South Africa. The state, through the National Traditional Leadership and Governance Framework Act, has worked towards bringing traditional institutions and customary laws into the state framework, which while being laudable, raises several concerns such as not being in line with current legal arrangements and formal legal principles. The paper suggests the need for creation of new mediating institutions wherein actors from both realms can meet-following simple, transparent, mutually-agreed upon, and accountable rules-to craft new arrangements that both sides can own and enforce. Kane *et al.* in the paper 'Reassessing Customary Law Systems as a Vehicle for Providing Equitable Access to Justice for the Poor' (2005) make the case that without customary justice systems, civil-war torn countries like Uganda and Sierra Leone
would not have had any justice system at all. However, customary laws have several limitations which need to be addressed in order for them to become vehicles for providing equitable access to justice for poor and vulnerable people. In their view, they are often inconsistent and discriminatory and can be subject to capture by powerful groups.

In the context of the aborigines of Australia, the Northern Territory Law Reform Committee of Australia (2003) in a background paper 'The Legal Recognition of Aboriginal Customary Law' proposes recommendations for legal recognition of their customary laws. In Australia, although Aboriginal customary laws and traditions have been recognized in some cases and for some purposes by courts and in legislation, this recognition has been, on the whole, uncoordinated and incomplete. The arguments offered in favour of recognition have been that it will advance the process of reconciliation between Aboriginal and non-Aboriginal Territory residents, non-recognition could lead to injustice in specific situations where traditional law governs a person's conduct and the fact that traditional authority may be more efficient in maintaining order with Aboriginal communities and thus, may be more cost-efficient. Finnane's paper 'The Tides of Customary Law' (2006) talks about the contradictions which customary laws poses in Australia; with Aboriginal customary laws often providing a shield for violent crimes and atrocities against women and children. The author argues that for positive change to take place there has to be more aboriginal people involved in the debate, who seek a personal transformation that involves both retention of Aboriginal identity and recognition of the particular conditions of life in the twenty-first century. Using case studies from Greenland, Hawaii, and Northern Norway, Orebeck et al. in their book The Role of Customary Law in Sustainable Development (2005), examines whether 'bottom-up' systems such as customary law can play a critical role in achieving viable systems for managing natural resources. While the use of customary law does not always produce sustainability, the book argues that the study of customary methods of resource management can give valuable insights into methods of managing resources in a sustainable way.

Forsyth's paper 'How to do Legal Pluralism' (2007) based on her doctoral work in Vanuatu, a small island state in the South Pacific, outlines a method of using the theory
of legal pluralism to achieve practical reforms. According to her, the keys to the successful implementation of this method are a refusal to privilege the state over non-state systems without a good reason, creative thinking about possible relationships for the systems and mutual adaptation possibilities, the need for continual empirical research using a participatory method, the adoption of an incremental approach, and the desirability of robust public debates and participation through the implementation process. Hertogh, in his paper ‘What is Non-State Law? Mapping the Other Hemisphere of the Legal World’ (2007), attempts a review of the socio-legal literature on customary laws and other forms of non-state law and discusses what he calls the ‘three waves for attention’ of non-state law: ‘colonialism’, ‘legal pluralism at home’ and ‘globalisation’. Using this literature, he attempts to draw a conceptual map of non-state law, distinguishing between ‘non-state law within and without the nation state’ and non-state law as ‘code of conduct’ vs. ‘norms for decision’.

Closer to home, Roy’s work *Traditional Customary Laws and Indigenous People in Asia* (2005) attempts to fill a gap in the collective knowledge on the traditional customary laws of indigenous people living in Asia. Based on case studies in India (Jharkhand, Nagaland), Bangladesh, Malaysia, Phillipines, he looks into the relationship between formal recognition of customary laws by the state and the strength of existing customary systems. He also looks into the efficacy of what he calls ‘hybrid state-indigenous legal and justice systems’, an example being the Autonomous Councils of Northeast India, which serves as an interface between customary laws and modern legal systems. He identifies the main modern challenges faced by customary legal systems to be occasional conflicts between customary law and the rights of indigenous women with regard to familial and inheritance rights, difficulties faced by indigenous courts in enforcing their decisions, on account of the absence of adequate support from executive agencies of the state, differing opinions on whether and how to record or codify customary laws, the erosion of customary land and resource rights etc.

The researcher had looked into literature available on the relationship between customary law and the formal legal framework in India. Kaul’s paper on ‘Common Property Resources, Customary Law and Self-Governing Institutions in Colonial North India’ (1991) provides a very succinct description of the ‘village republics’ of rural
North India of the nineteenth century and how the Colonial masters made efforts to integrate their customary usages into modern law by codifying them, impressed by their ability to maintain social and economic order in situations of environmental uncertainty which threatened survival and when the state control was weak at the grassroots.

Bandyopadhyay’s paper ‘Importance of Customary Law’ (1994) deals with the significance of customary law in society, particularly in traditional societies, owing to the fact that customary law is ‘a spontaneous expression of the genius of people and arises from people’s juristic consciousness, rather than imposed from the top’ (ibid.: 92). In the context of natural resources management, Gadgil and Guha’s This Fissured Land: An Ecological History of India (1997) has shown how Indian’s legislation on forests, which has its roots in the colonial period, established a virtual state monopoly over the forests in a legal sense and attempted to establish that the customary use of forests by the villagers was not a 'right' but a 'privilege' that could be withdrawn at will.

Krishnan’s ‘Customary Law’ (2000) makes an impassioned plea for revival of community customary laws and practices in the field of natural resource management which in his view, are rooted in a worldview which treats man as a strand in the web of life and hence, naturally conducive for nature conservation and sustainable development. Pant’s Customs and Conservation: Cases of Traditional and Modern Law in India and Nepal (2002) speaks of the deep wisdom of indigenous systems and customary laws with respect to natural resources management as reflected in certain decisions taken by traditional political bodies. She cites a case from Arunachal Pradesh, where, in a case of over-extraction of cane from a community forest, the Nyel, the village council of the Nishi community, adjudicated that an individual can extract cane from the community only for personal use and not for commercial purposes.

Srivastava in her briefing paper on ‘Customary Law and the Protection of Indigenous Knowledge in India’ (2004) argues for a realistic and practical approach towards handling the interface between the so-called formal and informal laws. In her view, a balance has to be struck where customary laws are not relegated to a position beneath judicial law and that they have to be accepted as law per se and not merely a source of law. Mundu’s Ph.D. thesis On the Future of Indigenous Traditions: The Case of Adivasis of Jharkhand, India (2006) presents detailed case studies to illustrate the role
and relevance of customary laws of the Adivasis and their traditional institutions, in their social and cultural administration. According to him, the customary socio-cultural institutions of the Adivasi people, symbiotically linked to the cycles of nature reflected in their cultural practices, evolves a politics which needs to be studied in the discourse of the modern nation-state. Kurup’s paper ‘Tribal Law in India: How Decentralized Administration is Extinguishing Tribal Rights and Why Autonomous Tribal Governments are Better’ (2008) critiques the process of decentralisation in the Fifth Schedule areas and argues that tribal autonomy as provided for in the Sixth Schedule is a better model. He introduces the concept of legislative autonomy for local governments at each hierarchical level and proposes a fourth constitutional list with a diverse range of subjects that would be exclusively legislated by tribal local governments.

The researcher had consulted considerable literature dealing with customary laws and practices in the context of North-East India. One of the most seminal of these works is *A Study of the Administration of Justice among the Tribes and Races of North Eastern Region* (1990) brought out by the Law Research Institute, Gauhati High Court. The book provides a very detailed analysis of the history of administration of justice among different tribes of North-East India and the role of customary practices and traditional institutions from the British period, post independence period upto the modern day, in Sixth Schedule Areas. Nandi et al.’s article ‘Tribal Customary Law in North-East India’ in K.S. Singh, ed., *Tribal Ethnography: Customary Law and Change* (1993) has drawn attention to the issue of transition of the customary laws of many tribes of North-East India owing to Hindu and Christian influences, spread of education and extension of communication network. The National Commission to Review the Working of the Constitution (2001) in its paper on ‘Empowering and Strengthening of Panchayati Raj Institutions/ Autonomous District Councils/ Traditional Tribal Governing Institutions in North East India’ has stressed that careful steps should be taken to devolve political powers through the intermediate and local-level traditional political organisations, provided their traditional practices carried out in a modern world do not deny legitimate democratic rights to/of any section in their contemporary society. It recommends that traditional forms of governance must be associated with self-governance because of the political failure of local elites. However, positive democratic elements like gender justice
and adult franchise should be built into these institutions to make them broader based and capable of dealing with a changing world where globalisation is critical, at both the national and international levels.

Pant’s paper entitled ‘Exploring the Role of Community and Customary Law in Natural Resources Management in the Legal Pluralist Societies of North East India’ (2001) has dealt with the issue of legal pluralism in the North-Eastern states, especially in Sixth Schedule Areas. In the context of the legally pluralist societies of North-East India where traditional and modern governance coexist, Barua’s working paper ‘Tribal Traditions and Crisis of Governance in North-East India, With Special Reference to Meghalaya’ (2003) makes an impassioned plea for a closer and detailed look at the traditional customary institutions of communities in North-East India and understand their relationship with the institutions of modern governance. Such an understanding, according to him, is indispensable to resolve the conflict of values that otherwise may create a major crisis of governance. Pathak in her book *Tribal Customs, Law and Justice: A Teleological Study of Adis* (2005) provides a very detailed picture of the Adi system of administration and justice, as per their distinctive customary practices and laws, and the changes which have come in the wake of the imposition of the modern legal regime. In her view, the tribal institutions have lost much of their essence in recent times which is but inevitable. According to her, this is due to the preponderance of individual interests in recent times owing to the forces of liberalization and globalisation, while the traditional institutions have always been community-based and concept of individual rights was limited.

Rohman (2005) in his book *Historical Development of Legal Literature on Customary Laws in India: A Critical Study* provides an informative analysis of the literature existing in Assam which serves as the sources of legal information on customary laws of the tribal and non-tribal groups in Assam. Fernandes and Bharali (2008) in their paper ‘Customary Law-Formal Law Interface: Impact on Tribal Culture’ have tried to understand the dynamics of the interface of customary laws of the tribes of North-East India with the modern legal system. In their view, the random imposition of modern inputs on tribal customary laws, while neglecting the value system guiding the
old system, has led to class formation, strengthened patriarchy and unsustainable natural resource use among traditional societies.

In the context of gender and customary laws in North-East India, Chatterji’s *Customary Laws and Women in Manipur* (1996) gives a gendered perspective of the customary laws of Manipur institutionalised by the village council under the leadership of the chieftain with his council of ministers (popularly called the *Haosa* system), which is biased against women. A Report on *Customary Laws in North-East India: Status of Women* (2005) by the North Eastern Social Research Centre for the National Commission for Women has come to the finding that modernity-tradition interface in the tribal societies of North-East India has mostly resulted in the reinterpretation of customary laws from a male perspective and imposition of patriarchal values on a society which more or less assigned a relatively higher status to women without making them equal to men.

Next, the researcher had looked into available literature on the Tiwas. Goswami’s paper ‘The Role of *Samadi* in a Changing Lalung Society’ (1972) has enlightened the investigator regarding the functions of social control performed by the bachelors’ dormitory known as the *samadi* among the Tiwas. Sarma Thakur’s monograph *The Lalungs* (1985) and Bordoloi et al.’s *Tribes of Assam*, Part-I (1987) gives a holistic picture of the tribe, regarding its history, land and the people, material culture, individual life cycle, social institutions, religious beliefs and practices, festivals, political life, etc. Baruah’s monograph *The Lalungs (Tiwas)* (1987) has been particular informative in understanding the ‘rural tribal judiciary’ of the Tiwas. Syamchaudhuri’s paper ‘Ethno-Political History of the Lalungs’ (1990) gives an overview of the system of political organisation of the Tiwas from a historical perspective, dealing in detail with the Tiwa chiefdoms. Gohain’s *The Hill Lalungs* (1993) has been helpful in helping form a comparative idea regarding the political systems of the Plain Tiwas, the Hill Tiwas, the Jaintias and the Karbis. An Assamese publication of the Tiwa Mathonlai Tokra (Tiwa Sahitya Sabha) entitled *Tiwa Sanskritir Jilingani* (2004) offers contemporary glimpses of various facets of Tiwa culture, from the perspective of Tiwa authors. *Tiwa Samaj Aru Sanskritir Acherenga* (2007) is another publication by a Tiwa author which has provided valuable insights into Tiwa society and culture. A souvenir brought out by the Tiwa

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Autonomous Council (undated) has provided valuable information about the history of the Council.

This was some of the literature consulted prior to embarking upon fieldwork, which helped develop the research concept and strategy. As the work progressed in the field, a lot of other books, articles etc. were consulted, which have been listed in the references.

2.5. Formulation of Hypothesis

After the pilot study, the necessity was felt to formulate a number of working hypotheses, without which it would be very difficult, laborious, and time-consuming to make adequate discriminations in the complex interplay of factors in the field. The function of the hypothesis is to state a precise relationship between phenomena in such a way that this correlation can be empirically tested. That is, the hypothesis must be empirically confirmed as either plausible or not plausible. The basic method of this demonstration is to plan the research so that logic will require the acceptance or dismissal of the hypothesis, on the basis of the resulting data. The hypothesis guides in the selection of relevant facts needed to explain the problem at hand.

The following are some of the hypotheses considered by the researcher:

(i) Customary laws and practices of the tribe, handed down from generation to generation, continue to play an important role in the life of the community, with the people identifying more closely with these laws than the modern laws;

(ii) The modern legal regime has imposed some restrictions on the powers and functions of the traditional institutions and its functionaries, some of which may be in a defunct state;

(iii) The Tiwa Autonomous District Council exercises an important role in the socio-political life of the Tiwas and it gives weightage to the customary laws of the community;
(iv) Customary laws of the Tiwas, like most other customary laws, have a gender-bias, with laws sanctioning discriminatory treatment against women;

(v) As tribal communities like the Tiwas have a deep feeling of oneness with the natural world; their customary laws play a very important role in natural resource management and environment protection. Regulation of natural resources is governed by religious taboos and prescriptions.

2.6. Identifying the Key informants and Rapport Establishment

Identification of key informants plays a vital role in anthropological fieldwork. The household census schedules were filled up by selecting any adult member, male or female as informant. It may be pointed out here that it is easier to collect the required data easily from the males in comparison to females. The nature of the research topic made the researcher select as key informants village functionaries and officials (both secular and religious) such as the *gaonburha* (village headman), religious specialists and elderly male members who form the council dispensing justice through the *mel*. The researcher also tried to enlist the cooperation of some educated young men of the villages studied. For instance, the researcher had been greatly benefited due to the active interest taken by Tushar Raja, one of the key informants, living in Basnaghat near Manipur I village in Morigaon district. He understood in quite good detail the purpose of the research and tried to introduce the researcher to people whom he believed could give further information on specific topics. His hunches proved right most of the times. In Pumakuchi village, one of the key informants was the *gaonburha* Phul Singh Mithi who used to point out to the investigator important points in the investigation which she had overlooked or missed and he used to suggest to her other people from whom such information could be obtained and even escorted her to meetings with these informants.

It is very essential for a fieldworker to secure the goodwill and trust of the local people so as to carve a niche for oneself in the community and procure time and intimate information which the people will generally not reveal to strangers. In order to cultivate a rapport with the simple village folk, the researcher approached them with a smiling face, polite demeanour and an honest approach: an attempt was made to merge oneself into the
village environment and identify with the local people. At the very beginning, the researcher took care to learn a few words of greeting in the Tiwa language (in Pumakuchi village; the people of Manipur I speak Assamese and not the Tiwa language). It was observed that every villager responded with a smile when greeted in their own language. The villagers were also addressed through Assamese kinship terms like dada, baideu, mama, mami, khura, khuri etc. to strike a bond of intimacy with them. Sweets offered to the children created an instant rapport with them which in turn helped to break the ice with their parents. It was no problem for the researcher to strike up an instant friendship with the young boys and girls, most of who were educated and thus, took an active interest in the research. Closeness with them allayed most of the fears and suspicions harboured by the older folk. It was ultimately not the researcher’s gesture of friendship as much as the villagers’ unconscious show of love and hospitality which proved to be the key factor in the establishment of a warm relationship. Through the experiences in the field, it was realized that ‘honesty, sensitivity and humour’ (Herskovits, 1952) can be the most potent and effective tools in the rapport establishment with an unknown people.

2.7. Conducting the Fieldwork

Following the pilot study conducted in the month of July, 2005 in Manipur I and Pumakuchi villages, the fieldwork commenced in all earnestness. Fieldwork of twenty days was first conducted in the Hill Tiwa village of Pumakuchi in August, 2005. Apart from general information with respect to the village and demography, data was collected in Pumakuchi on customary practices and laws, with respect to sacred and non-spaces so that their relevance to protection of the environment and natural resource management could be assessed. On the basis of the investigations in this village, a paper was written for the Seminar on Intangible Cultural Heritage of Assam held at Guwahati from 28<sup>th</sup> to 30<sup>th</sup> September, 2005 entitled ‘Customary Practices Related to Natural Resource Management: A Case Study of the Hill Tiwas Of Assam’.

Fieldwork of twenty one days was then conducted in January, 2006, in which demographic and other details of Manipur I village were taken and key informants identified. In this phase of fieldwork, data was also collected on customary laws and
shortcomings and inadequacies in the data already collected and conduct interviews with key persons identified. Writing of the Ph.D. thesis took up the whole of 2009.

2.8. Methods and Techniques

Sociological observation requires as its first condition that the members of the group be viewed as social values for one another (Young, 1998). Further, a social researcher does not view his facts as isolated phenomena; rather he sees them as closely intertwined and associated with each other. Again, facts are not intelligible unless they are related to other facts and are shown to be part of a larger system (Goode and Hatt, 1952). With this perspective in mind, the researcher embarked upon fieldwork very well realizing that one had not only to spread nets in the right place and wait for what will fall into them. But that one was expected to be an active huntsman and drive one's queries into them and follow them up to their most inaccessible lairs.

The anthropological field-worker adheres to 'the principle of multi-instrument research' (Pelto and Pelto, 1978: 67) and possesses a number of different research tools or techniques in his or her field kit. It has been the researcher's personal experience that a field worker has got to realize that she/he must adapt every technique of investigation to the special requirements of the local scene and the nature of the problem. Further, it was felt that a combination of methods and techniques often yields the best results, but the balance of emphasis shifts with the frame of reference and the objective of the research. The primary methods employed by the researcher in collecting data in the field are observation, interview, case study, and survey schedule. Before embarking on field study, the researcher had consulted Notes and Queries on Anthropology (1951) to have a comprehensive idea regarding the details which would need to be collected in the field pertaining to customary law. Also, Goode and Hatt's Methods in Social Research (1952), Pelto and Pelto's Anthropological Research: The Structure of Enquiry (1978) and Young's Scientific Social Surveys and Research (1998) were consulted to equip oneself with the field methods to be followed in collecting data among the Tiwas.
traditional institutions, keeping the research questions or objectives in mind. Fieldwork in Manipur I, Manipur II, Bar Manipur, Noagaon and Pumakuchi villages illustrated how the customary laws and practices and traditional institutions of the Tiwas have undergone changes over time, in response to changing needs and situations. On the basis of the said fieldwork, the researcher presented the Pre-final (Ph.D.) Seminar paper entitled ‘Continuity and Change in Customary Laws of the Tiwas of Morigaon District, Assam’, on 28 June, 2006 in the Department of Anthropology, Gauhati University. The seminar was attended by the teachers, research scholars, students and interested persons. Following the seminar, the researcher was finally registered for the Ph.D. Programme of the Gauhati University.

During the period from October, 2006 to April, 2007, two more fieldwork was done. Fieldwork was again conducted in Manipur I village during the period from October, 2006 to December, 2006. During this fieldwork, an attempt was made to collect and thoroughly analyse the demographic data of this village, collected through the survey schedule method. During this fieldwork, an attempt was also made to substantiate the data collected on customary laws and traditional institutions during the earlier phases of fieldwork. A number of case studies were collected. Fieldwork of one month duration was carried out in Pumakuchi village from February, 2007 to March, 2007. During this period, the researcher has also tried to present some of these findings in the form of a research paper. A joint research paper, along with the research supervisor Prof. Birinchi K. Medhi entitled ‘Changing Dynamics of Customary Laws and Traditional Institutions in a Tiwa Village of Assam’ has since been published in the Bulletin, Department of Anthropology, Gauhati University (Spl. Issue) 10.

At this stage of the research, it was realized that though sufficient data has come in from the individual villages, field data remains to be collected in the context of the Tiwa Autonomous Council, for which extensive interviews need to be conducted with the members of the Council, based in Morigaon town. That apart, a field visit has to be paid to the village where the Tiwa king—Gobha Raja resides. Two fieldwork of one month duration each was again conducted during the period between April, 2007 to October, 2007. Once fieldwork was completed (by October, 2007), the researcher spent almost a year in analysing the field data, with occasional visits to the field to overcome
2.8.1. Observation

Observation may be defined as ‘systematic viewing, coupled with consideration of the seen phenomena. That is, consideration must be given to the larger unit of activity in which the specific observed phenomena occur’ (Young, op.cit.: 161). Observing must be accompanied by perceiving if the observation is to be fruitful. In the field, observation commences from the very first moment one enters it right up to the end.

Observation may be classified into participant and non-participant, controlled and uncontrolled. The former two concepts date back to the publication of Social Discovery by Professor Eduard Lindeman in 1924. Linderman considered as absurd ‘any attempt to avoid bias by posing questions requiring a simple yes or no reply in a study which entailed not only what of life, but also why and how...Furthermore, he said that in answering questions (a person) will reply in terms of the objective things he is really doing...Thus, if you wish to know that he is really doing, watch him, don't ask him' (in Marie Jahoda, et ah., 1951: 142). Most of the knowledge which people have about social relations is derived from uncontrolled observation, whether participant or non participant.

According to Beattie (op.cit.), the social anthropologist must participate as fully as he appropriately can in the everyday life of the community he is studying: he must live in it and get to know its members as people, as nearly as possible on equal terms. He further cites the example of Evans- Pritchard who claimed that when he was studying divination among the Azande of the Sudan, he found it expedient to order his daily affairs by constant reference to the oracles, as Azande do. Beattie further said that unless the anthropologist takes part in the culture of the communities, he can never really hope to see it as its members see it.

The shortcomings of the non-participant observer role which impede the flow of information and distorts perception was acutely felt by Malinowski in his famous Trobriand Islands fieldwork (1914-1918) and he suggested that the ethnographer need not just be a recorder with a camera, note-book and pencil but can also observe social institutions more fruitfully by joining himself in what is going on (in Bhagabati, 1994). However, it is submitted that the degree of participation depends largely on the nature of the study and the practical demands of the situation and that it has certain disadvantages.
When the researcher becomes the participant, the range of experience is narrowed and in certain cases, the researcher may take up a particular position within the group, which comes in the way of objective analysis. Further, when the researcher becomes a participant, the experience becomes uniquely his or hers so that another researcher would almost never be able to record the same facts. Thus, this situation leads to less standardization of the data.

Non-participant observation does away with the above drawbacks of participant observation. The anthropologist actually moves from one role to the other while in the field. This shift is made easier by the fact that the patterns of the society are not likely to be changed in important ways by the presence of an outsider, if the role of the latter is properly defined. However, since there are relatively few controls on the observer in the use of this technique, he must self-consciously apply a range of tools for systematising and recording the data that are part of his experience. The difficulty lies in the fact that purely non-participant observation is difficult. Both the group and the outsider are likely to feel uncomfortable when the latter, a non-member is always present but never participating. At times they may be suspicious and fearful of his wide-ranging curiosity and of his non-committal attitudes and dispassionate observations of their intimate life and struggles. Also, for many research situations it is almost impossible for the outsider to be a genuine participant in all ways. The social scientist cannot, for example, become a criminal in order to study a criminal gang, without running the risk of completing his report in prison (Goode and Hatt, op.cit.). On the other hand, it is not necessary that his role-playing be complete. It is possible to take part in a great many activities of the group, so as to avoid the awkwardness of complete non-participation, while taking on the role of the observer and interviewer for other activities. This has been a classic pattern in social research (ibid.) Non-participant observation is, then, usually ‘quasi-participant’ observation.

During the course of fieldwork, it was felt that for observation to be successful, it was important for the researcher to take stock of oneself and discover what prejudices and biases on the researcher’s part could have prevented impartial study and disinterested points of view. Mead alluded to the need for training anthropology students ‘to form an estimate of their own strengths and weaknesses as observers’, in order to minimize errors
of observation (in Young, *op.cit.*: 183). Such introspection may have another social value; that is, it sensitizes the observer to the problems of others and creates sympathetic insight, which facilitates at least to some degree, the understanding of people’s behaviour in similar circumstances and similar cultural contexts. Again, the researcher also used to constantly keep in mind that it is easy to become attracted by the conspicuous, dramatic, and interesting factors. Therefore, there was the need to safeguard oneself against observing merely the unique and the striking fragments, which might not project an accurate picture of the real situation.

2.8.2. Interview

The interview may be viewed as an effective, verbal and non-verbal conversation, initiated for a specific purpose and focused on certain planned content areas. As the very term implies, interviewing is an interactional process. It is a mutual view of each other. Interviewing is not just a simple two-way conversation between an interrogator and informant. Gestures, glances, facial expressions, pauses, voice inflections, and halting statements often reveal subtle feelings. Furthermore, not only reactions to a statement but also attitudes can be learned from a blush, nervous laugh, sudden pallor, or under embarrassment. This behaviour is in itself important data for the interviewer (Sullivan, 1951). It is evident that the interaction that takes place in an interview is highly complex. What the interviewers hear should be regarded by them as representing merely ‘the perception of the informant, filtered and modified by his cognitive and emotional reactions and reported through his personal verbal usages (of) the picture of the world as he sees it’ (Young, *op.cit.*: 215). Again, the process of social interaction in the interview is complicated by the fact that the interviewee also has insight, guessing at the motives of the interviewer, responding to the embarrassment of the latter, even to the lack of insight on his part.

While conducting fieldwork for the Ph.D. research, the researcher would, therefore, become alert to what she was bringing to the interview situation: one’s appearance, facial and manual gestures, intonation, one’s fear and anxieties etc. Being alert to these characteristics allowed the researcher at least to change those elements
where required, which were under one's control, even if only in the restricted context of the interview situation.

It has been indicated that a greater range and intensity of attitude are more likely to be expressed when the interviewer is closer to the class and ethnic position of the respondent. This is most especially true, of course, when the opinions to be expressed are somewhat opposed to general public opinion or anti-establishment. For instance, in a town torn by union strife, a very obviously white-collar interviewer might meet with considerable suspicion and might find that many respondents express a suspiciously high proportion of pro-management attitudes (ibid.). In the Hill Tiwa village of Pumakuchi, for instance, the researcher was looked upon with suspicion when she wanted to obtain data about past civil and criminal cases in the village; with people asking whether she had any links with the government, police etc. In the researcher's view, the best strategy in such a case is to adopt an honest approach. The researcher would explain to the villagers in a simple and succinct manner that she was an independent researcher with a sympathetic approach to their problems and that their inputs to the research would be used solely for academic purposes.

Again, the interviewer would do well to remember that individuals vary a great deal with regard to their knowledge and interpretations of their own social and cultural systems. Human beings differ in their willingness as well as their capabilities for verbally expressing cultural information. Consequently, the anthropologist finds that only a small number of individuals in any community are good key informants (Pelto and Pelto, op.cit.). The researcher had observed in the field that different topics required interviews with different people; a person who could give meticulous, reliable information on one aspect could not necessarily do the same on another topic. So the researcher tried to interview people from a very broad spectrum; for instance, data on traditional customary laws of the community could be best collected from the gaonburha (village headman) and senior members of the community, who proved to be reliable informants regarding the changes in the law over time. On the other hand, the youth were found to be more aware of the current functioning and jurisdiction of the Tiwa Autonomous Council and modern police jurisdiction. While most of the women in general were not very forthcoming initially, the women active in the mahila samitis (local level women's
organisation) etc. were found to be more vocal and cooperative of the research, also narrating to the researcher their grievances against the limited role of women in the traditional village institutions.

For an interview to be successful, it needs to be remembered that many limitations ascribed to the interview are not inherent in its general technique or process but are due to faulty perception and ill-defined goals of particular interviews. The researcher took special care to ensure that the questions were not only timely and wisely rationed, but also phrased in terms that showed respect and concern for the interviewee. Blunt questions cause antagonism and withdrawal, and the researcher was always cautious not to use even one inadvertently.

Some knowledge of the daily routine of the interviewee is essential if a proper time and place are to be chosen. The researcher found that early morning and late evening were the best times to interview people practicing agriculture so that their work was not hampered. Women, who did not go to the fields, were found to be most receptive to the process of interview during late morning when they had some idle moments to spare after their household chores had been done and their husbands were at work and children in the school. Again, the place of the interview is very crucial; the most suitable place being where it is believed that the interviewee will be most at ease. Women, for instance, were found to be most at ease in the familiar environment of their own homes, or when they were in company of other women.

The researcher also found out that when studying a community or a cultural group it is often wise to interview the leaders first, to enlist their cooperation, and, if they see any justification for the study, to have them recommend the interviewer to others in the group. Thus, permission was sought from the gaonburhas of the individual villages before conducting research in the field. In both the villages, it was the gaonburha who introduced the researcher to her first informants. While conducting interviews, the researcher operated on the firm belief that the interviewee is entitled to know why he or she is being interviewed, particularly since a considerable expenditure of his or her time and energy may be involved. The purpose of the interview was explained in the initial contact itself, though taking care to state it in terms of the interviewee's capacity to understand it.
It was in the field that the researcher learnt that listening is hard work, and that it requires self-restraint and self-discipline, also patience and humility. Ability to listen with understanding, respect, and curiosity is the gateway to communication. When an interviewee feels that he or she will not meet with interruptions, denial, contradictions, and other harassments, he or she is not likely to resist and withhold information. People are motivated to communicate when the atmosphere is permissive, the attitude non-judgmental; when the listener is so genuinely absorbed in the revelations that he or she can identify himself or herself, at least vicariously, and gain sympathetic insight into what Robert Redfield called that 'little fraction of the human comedy, or drama in which one has become embroiled' (in Young, *op.cit.:* 229). Nevertheless, it has been pointed out that the interviewer cannot be efficient if he tries to be only a passive listener. Not only will he fail to impress the respondent with the significance of the research, but also he will fail to obtain the information, which is the purpose of the interview. He must be a critical and intelligent questioner (*ibid.*). The researcher found that the best tool was the use of one's own inventiveness to avoid losing the interview on the one hand, and to gain the crucial information on the other.

On many occasions the researcher found that a prepared guide, when judiciously used as a suggestive reference, aided in focusing attention on salient points in the study. An interview guide was used in the field to indicate topics for further conversation when one seemed to have exhausted all of them or to serve as a checklist so that no topic was inadvertently left out. For instance, while interviewing people like the members of the Tiwa Autonomous Council with whom a formal appointment was made beforehand, the researcher used to prepare a guide prior to the interview so that all topics relevant to the research were covered in the small time given. However, efforts were made to see that the guide did not constrain the interview nor was it used as 'an oral questionnaire.' According to Young, 'the guide defeats its own purpose if undue attention is paid to it. When an interview is filled with frequent questions from the guide and is thereby forced into a mould, self-expression vanishes, and so does reality' (*op.cit.*: 238).

There is probably a natural closing point to each interview. Best results might be secured if each interview breaks off at a time when the interviewee is still fresh, still has something important to say, and himself proposes another talk. It is well to share the
responsibility of getting a complete account with the interviewee and ask: 'What have we omitted?' or 'What else would you like to tell me?' This was tried to be adhered to in each of the interviews conducted during the course of fieldwork.

2.8.3. Case Study

The case study involves a fairly exhaustive study of a person or group. It is a comprehensive study of a social unit; whether that unit be a person, a group, a social institution, a district or a community. Whether a section or the whole of a life is studied, the intention is to establish the natural history, that is, an account of the generic development of a person or a group, or whatever constitutes the social unit in a particular study, revealing the factors that moulded the life of the unit within its cultural setting. Because of its aid in studying behaviour in specific, precise detail, Burgess (in Gurvitch and Moore, ed., 1945) termed the case study method, 'the social microscope'. Case study is an approach, which views any social unit as a whole. It is a set of useful research techniques, such as the use of personal documents, probing many facets of the respondent's life, adjusting the wording of questions to fit the peculiar experience of the respondent, sharing experiences with the individuals being studied, collecting life histories, gathering data over the lifetime of the individual, etc.

Frederic Le Play is reputed to have introduced the case study method into social sciences while Herbert Spencer was the first to use case materials in his ethnographic studies. Dr. William Healy, a psychiatrist, was the first to adopt the case study method in his work with juvenile delinquents. After an intensive statistical study of one thousand delinquents he became convinced that 'statistics will never tell the whole story, as they in themselves are but symptoms of unknown causal processes and can serve only as provisional grounds for sociological hypotheses' (in Young, op.cit.: 247). The actual adoption and use of the case study method in systematic sociological field research is, however, attributed to the work of Thomas and Znaniecki, in which they favoured the personal documents for the spontaneity of privacies they reveal regarding personal habits, crises, relationships; for the continuity of experiences they indicate; for the explanations they offer regarding social processes, and for illuminating personality structure (in
Young, *op.cit.:* 249). They also expressed the opinion that if social science has to resort to the use of other than life history data, it was ‘only because of the practical difficulty of obtaining at the moment a sufficient number of such records to cover the totality of sociological problems and the enormous amount of work demanded for an adequate analysis of all the personal material necessary to characterise the life of a social group’ (*ibid.*).

Anthropologists and ethnologists have utilized the case study method for their detailed descriptions of primitive and modern cultures as by Robert Redfield on his study of the Mexican village of Tepoztlan, by Lewis, Cora Du Bois and others. Anthropologists have also profitably applied this method to the study of curing, witchcraft, aspects of religion, economic transactions and many other facets of culture. The basic danger in its use is the response of the researcher. Again, the fieldworker who adopts the case method cannot observe all instances of a given social event, so he or she should develop some means of sampling systematically from the total population of cases (Pelto and Pelto, *op.cit.*). He or she must use an adequate sampling pattern. Knowing that the sample is good, one has a rational basis for making estimates about the universe from which it was drawn. It is clear that this approach is a costly one in terms of time and money. Each case becomes a short research in itself, and collection of adequately documented cases may consume lots of time and resource. Since the data are not usually standardized, the system of keeping records and of developing techniques for standardizing the observations must be rather elaborate. Nevertheless, most research takes some recourse to case analysis, even if it does not appear so much in the final publication of results.

The case data, rich in intimate detail, supply not only a portrait of human personality and social situations but also a basis upon which hypotheses relevant to the study can be built. In the present instance, while collecting data on customary laws and practices among the Tiwas, the researcher has made extensive use of the case study. In fact, case studies were very important in order to understand about the actual working of the law in individual situations. Case studies have always occupied pride of place in anthropological studies of law. As already detailed in Chapter I, some of the most seminal works in this field of research by stalwarts like Hoebel, Llewellyn, and others
sought to develop an understanding of the substantive principles of tribal law through
detailed study of ‘instances’ or cases, which reflected the actual working of the law.

2.8.4. Census and Survey

A classified enumeration of population obtained through census and survey,
according to the Notes and Queries on Anthropology (1951), is not only intrinsically
valuable in providing data for statistical estimations of density of population, sex ratios,
fertility rates and other indices: it is also essential to an understanding of social structures
since the organisation and functions of kin groups, associations and other social groups
will be found related to their numerical strength and to be modified with changes in that
strength. It was by resorting to census and survey that the researcher could collect the
demographic data of the two villages under study. Basically, age-sex distribution,
educational qualifications, marital status, age at marriage, occupational pattern, family
type were looked into, these being the areas most pertinent to the research. In most cases,
the points of inquiry are determined by the objectives and focus of the research.

2.8.5. Other Tools

Besides the above techniques, the data collected through fieldwork was sought to
be augmented through maps and photographs. The drawing of maps and plans of the area
under investigation is essential to a clear understanding of the economic and social life of
a people. Such maps should locate major action settings, major social divisions of the
community, agricultural areas, directions and distances of neighbouring communities,
and major natural features such as rivers, mountains and swamps (Pelto and Pelto,
op.cit.). Photographs constitute an indispensable adjunct to fieldwork. They tend to
present accurately a mass of detail, which is apt to escape the human reporter. The
photographic ‘eye’ views with authenticity and impartiality. It has ‘almost’ no
preconceived notions and selective interests. Photographs enhance their own value if they
portray current as well as past conditions which can be adequately compared and used as
a basis for judging trends and degrees of change. Photographs viewed singly may be of
interest, but when the photographs of different generations or at two points of time are 
compared, one can gain considerable understanding of the degree of cultural change, 
judging at least by outward appearances. While carrying out fieldwork using the above 
techniques, the researcher realized that every technique had to be adapted to the special 
requirements of the local scene with there being no ready-made instruments. One had to 
adhere to a methodology which had to be devised specifically suited to the problem at 
hand and based on the orientation of the research.

2.9. Thesis Organisation

The findings of the research, based on fieldwork, secondary sources, and 
thetical perspectives have been arranged into a number of clearly defined chapters, 
which in totality help in arriving at a comprehensive understanding of the problem. 
Chapter I is the introductory chapter, where the researcher has sought to provide the 
theoretical background of the research. This chapter deals with all the relevant theoretical 
developments in the realm of anthropology of law chronologically. Beginning with a 
critique of the earliest anthropological approach to the study of law from an evolutionary 
perspective, it deals with the different stages in anthropology of law as the problem of 
order, the study of dispute process etc., and the recent trends in legal pluralism. Chapter 
II is devoted to the methodology of the present research, where apart from elaborating on 
the techniques used in the fieldwork, the researcher has devoted a large part of the 
chapter to her fieldwork experiences.

Chapter III presents the ethnographic setting of the research; a comparative study 
of the Hill Tiwas and the Plains Tiwas has been made in terms of history and migration, 
society, economy, political organisation, worldview and religion, present status, etc. 
Chapter IV describes the setting of the research- the base villages of Manipur I and 
Pumakuchi in Morigaon and Karbi Anglong districts, respectively. The two villages on 
which demographic survey has been resorted to, have been described in terms of location 
and origin, ethnic composition and language, population, settlement pattern and house 
type, economic structure, education, religion and village organisation. It also contains 
demographic analysis of both the villages.
In chapter V, the researcher has sought to present the field findings with respect to customary laws and practices, governing the public and the private sphere, the secular and the religious. Here, attention has been devoted to analysis of the traditional laws and practices governing the domestic sphere—family, marriage, and inheritance. It has also sought to look into the customary laws in respect of civil and criminal offences. A major focus of the chapter is also the role of religious taboos and prescriptions, which often take the force of law in tribal societies. Chapter VI deals with the analysis of the role of traditional institutions—both the secular and religious—in administering customary laws and practices in Tiwa society and the changes and overlapping, which have come about in the modern day, with the imposition of the modern legal regime. Chapter VII is devoted to the workings of the Tiwa Autonomous Council and its role in the socio-political life of the Tiwas. This chapter seeks to look into the overlapping between customary laws, those of the Council and the state imposed laws; examining the operation of legal pluralism in the field. In chapter VIII, the researcher has sought to arrive at a conclusion of the above chapters and present a summary of findings. In addition to the above chapters, the researcher has supplemented the work with a number of tables, maps, photographs etc.