

Chapter – XVII

LAND RIGHTS, AUTONOMY AND CONFLICT IN MANIPUR

17.1 Introduction

The Northeast in general and Manipur, in particular, has been in the throes of a violent conflict in recent times. The momentum gained by the Naga political movement in the state has revived and intensified strife between the Nagas and the Meiteis. The conflict can be understood in the context of territorial claims postulated by both the Nagas and the Meiteis in their construction of separate ‘nation states’. It is a direct result of the ongoing pan-Naga political struggle for a greater Nagaland in the northeastern region. Related to this is the assertion of ethnic supremacy and glorification of a golden past by a section of the dominant Meiteis. The agreement for the extension of the ceasefire to the Naga-inhabited areas of Manipur by the Government of India and the National Socialist Council of Nagalim (NSCN) in 2001 and the violent incidents in its aftermath (including the burning down of the legislative assembly building and subsequent deaths of 14 protestors) reflects the tensions and the potential for conflict inherent in the political situation.

The emergence of distinct ethnicities in Manipur is a consequence of the following factors: (i) distinctive social and cultural identities manifested by all social groups in the state; (ii) limited social and cultural interaction between the different ethnic groups despite the physical and linguistic affinities among them and (iii) heightened importance of historical and religious differences in political struggles against the dominance of larger and more powerful ethnic groups.¹

Development in Manipur is closely related to the ongoing conflicts and social tensions in the state. In his report on the Northeast, SP Shukla said: ‘It would be simplistic to believe that development by itself can end insurgency and restore tranquility. Yet it constitutes a most important element in that task and an effective entry point for dealing with complex problems of historical neglect, rapid transition and social change. The extraordinary ethno-geographic and bio-geographic diversity of the region precludes uniform solutions as different communities are at varying stages of growth.’² (See Chapter-III).

17.2 Ethno-demographic Profile

The ethnic, religious and linguistic heterogeneity of the population is discussed in detail in Chapter 3. By virtue of being in the majority and occupying the most productive and fertile agricultural tracts and also on account of their historical association with Manipur’s former monarchic state, the Meiteis occupy a dominant position in the state’s economic, administrative and political structures. Naga tribes are concentrated mainly in the districts of Ukhrul, Tamenglong, Senapati and Chandel, while the Kuki-affiliated tribes are dispersed over the five hill districts, with larger concentrations in Churachandpur, Senapati and Chandel districts. The hill tribes were largely converted to Christianity in the 19th Century, although some sections of Naga tribes like the Kabui/Rongmei retain their traditional tribal religions.

¹ U. A. Shimray, ‘Ethnicity and Socio-Political Assertion: The Manipur Experience.’ *Economic and Political Weekly*, 29 Sept, 2001. p.3675.

² S. P. Shukla, 1997, Transforming the Northeast, High Level Commission Report to the Prime Minister, p4

(ii) Ethnic Identity

In Manipur, every ethnic group no matter how small, wants to protect, preserve and cherish its identity at all cost. Every tribe has a socio-political organization working for the consolidation of linguistic-cultural uniformity ; for example, the Tangkhul Naga Long (TNL) was formed in 1929 the Zeliangrong Naga Union (ZNU) in 1947 Paite National Council (PNC) in 1949; Vaiphei National Assembly (VNA) in 1947 the Pangan Union (PU) in 1947 and the Zomi National Congress and the Mao Union (MU) in 1971.

In the last few decades, the broad labels of 'Naga' and 'Kuki' have become the loci of ethnic re-alignment and re-grouping.³ Tribes such as the Anal, Monsang, Chothe and Chiru, once designated as 'Kuki', have now obtained official recognition as Naga tribes. Among the Kukis there have been movements to distinguish the 'old' from the 'new' migrant with the numerically stronger Thadou attempting to establish their cultural dominance. In fact, since the creation of the 'Schedule' of recognized tribes there has been considerable flux in nomenclature, tribal group formation and self-identification. There are many cases of tiny ethnicities associating themselves with one or the other of the major groups, or demanding changes in nomenclature and recognition of their separate status on the basis of language and other traits. The Meiteis, whose royal chronicles date their ascendancy in the valley to the 1st Century A.D., are themselves an amalgamation of Indo-Aryan and Mongoloid or Tibeto-Burman peoples, having assimilated numerous tribal populations into their fold over time.

17.3 Inter-ethnic Relations in Manipur

More often than not what is seen as 'ethnic conflict' is actually a dispute over genuine social, political and economic issues, or historical grievances, and ethnicity is used as a means of social mobilization.

Topographical division can also be clearly seen in the seat shares of the state legislative assembly. Whereas 40 MLAs are from valley-based constituencies, only 20 seats are in the hills. The assembly election results show that seat sharing is done more or less on ethnic lines; for instance, the Tangkhul Nagas represent Ukhrul district (which has three seats), whereas, members from Thadou, Paite and Hmar represent Churachandpur district. Nagas and Kukis share seats in Senapati and Chandel district and Zeliangrong Nagas occupy Tamenglong district seats. In the valley, it is the Meiteis who are in a majority and a few Pangans who dominate all the seats. The ethnic feelings that have thus spilled over into the political arena have deepened the sense of ethnic separation and self-identification in Manipur. Another major element of ethnic division is the large presence of ethnic group-based underground organizations operating in the state.

One such grouping is section of Meiteis striving for independence from the Indian state. Fired by a sense of ethnic and cultural supremacy, their leaders are inspired by the vision of a golden past and unfulfilled promises on their accession to the Indian nation state. The Nagas and Kukis are the other groups who are in conflict with the Indian state over their demand for self-determination. Different groups have different perceptions of autonomy and self-determination. While for a section of the Kukis, federal autonomy or the formation of a separate district, or merger with Mizoram in adjoining areas is acceptable, for most Naga groups, the formation of greater Nagaland that combines the Naga areas of Arunachal Pradesh, Nagaland, Manipur and Assam is the first step to a solution. There are also groups

³ B. Pakem (1990). *Nationality, Ethnicity and Cultural Identity in North-East India*,. Omsons Publications, New Delhi

calling for the merger with Burma's Naga areas and 'Independence' from India. The Nagas and Kukis are in conflict with each other as well as with the Meiteis due to the combination of several historical and contemporary factors discussed below. The Meiteis and Pangans were involved in communal clashes in 1992. This list is by no means exhaustive but an indication of the various dimensions of the strife, which can broadly be categorized into inter-ethnic and communal conflicts, on the one hand, and a struggle for autonomy and self-determination against the Indian state on the other.

(i) The Context

It was the British who first recognized this aspect of Manipur's social dynamics and used it for their own purposes. Accordingly, the Kukis, Nagas and Meiteis were used as a buffer group in the war against the Burmese.⁴ Subsequently, Nagas and Kukis were used by the British to suppress rebellion. Attempts made by the Meitei monarchy to establish its suzerainty over the neighbouring hill areas before the advent of British rule also created tensions between the Nagas and the Meiteis. The ethnic tensions and rivalry between these three major groups grew progressively over the years and persists in one form or another even today.

The complex issue of territorial integration in Manipur needs to be understood in this context. According to some observers, the Kuki-Naga conflict in 1993-1996 was primarily 'an elitist conflict over land and right to self-determination'.⁵ As far as the political aspirations of the various Kuki groups are concerned, they did not seem to have a concrete focus, except in a few instances, most notably in 1946, when the Kuki National Assembly proposed a separate Kuki homeland. Since India's Independence, the Kukis have sought greater internal autonomy within the framework of the Indian Constitution. In contrast, certain Naga formations have had a specific target for their political movement — the demand for self-determination outside the Constitution of India. However, the most immediate reason for the ethnic conflict between Kukis, Nagas and other groups is the uncertainty about who actually controls the land, especially the forested hill tracts that cover the major part of the state. Differing systems of land ownership and tenure reinforced the accentuated ethnic divide between the people of the plains and the hill tribes.

(ii) Main Causes of Ethnic Conflict

(a) Control over Land and Territory:

(b) Preservation of identity: Identity is a key factor. Control over territory and land are related to the issue of identity and territoriality. The Sardar Hills in Senapati district is a crucial issue between the Nagas and Kukis. The Nagas oppose the Kuki's claim for the formation of a district here and object to their refusal to pay the tax levied by the Naga insurgents. They argue that the Kukis are later migrants and interlopers and that they are the original inhabitants of the hills.

(c) Control over border trade: One of the crucial causes of the struggle for territorial control is the control of border trade, including the lucrative smuggling and drug trafficking at points

⁴ See, Kailash S. Aggarwal (1999), *Dynamics of Identity and Inter-Group Relations in N.E. India*. Shimla: Indian Institute of Advanced Studies, p. 184.

⁵ Lal Dena, 'The Kuki-Naga conflict juxtaposed in the colonial context' in Aggarwal (1999), *ibid.* p. 183.

along the Indo-Myanmar international border. The internecine Naga-Kuki battles that took place in the Moreh-Tamu area on this border in 1993 are manifestations of this conflict.

(d) Breakdown of governance: Some analysts are of the view that the real reason for such ethnic strife in recent years is the collapse of institutions of law and governance in the context of a non-expanding or stagnant economy.⁶ The local elite has accumulated wealth by resorting to corrupt practices in public works, illegal border trade and other unlawful activities.

(e) Manipulative colonial policy: basically the manipulative colonial policy of divide and rule and a misreading of customary land relations by the British and continued upto the present are cited repeatedly as a major factor behind the prevailing ethnic conflict in the state.

(f) Invoking of AFSPA: The policy adopted by the Indian Government seemed like an extension of colonial policy in the sense that civil strife was treated as a 'law and order' problem. The Armed Forces Special Powers Act, 1958 (AFSPA) was brought into effect and the Indian Army took over through the Assam Rifles with the objective of protecting the rights of the people from attacks by insurgent groups. They were, however, seen as occupiers, not protectors, and thus managed to keep the discord alive. There are reports of extensive violation of the democratic and fundamental rights of the common people in the name of fighting insurgency. Clandestine talks with selected insurgent groups failed to serve the intended objective, they brought the Nagas and Meiteis in conflict over the ceasefire reached in 2001 because the Meitei saw this as a legitimization of Naga identity and territorial claim.

(g) Dwindling Livelihood Avenues: Most industries are extractive in nature thus reducing the state to that of a supplier of timber and purchaser of finished products. Unemployment, shrinking government jobs and the lack of investment in the secondary sector implies a growing dependence on the primary sector and low-productivity tertiary sector.

(h) Land Resources

The coexistence of a high dependence on land and lack of alternative source of employment has resulted in a strong assertion of exclusive territorial claims over land and forests, creating a potentially explosive situation.

(i) Exploitation of resources by Outsiders: Outsiders control the markets and exploit the state's resources especially the forest wealth. The people's determination to resist such activities gets articulated as struggles to preserve and protect their nationality, identity and ethnicity.

In effect the tensions boil down to a very simple point: The hill people oppose any policy that treats the hills and valleys as homogeneous or entails the enactment of a uniform law applicable to both the valley and hills. Assimilation and integration are seen as attempts to undermine their historical and customary rights over territory and natural resources. Any special protection accorded is seen by them as a legitimization of their distinct identity and a prelude to state formation of the hill areas. Conversely, the Meiteis oppose any policy that treats the two as distinct entities.

⁶ .Amar Yumnam. ' Ethnic and Intergroup Tensions in Manipur: An Institutional Perspective' in Aggarwal (1999) *ibid.* p. 188.

The Central government's responses to the uprising and movements in Manipur is based on its perception of the situation: (i) as a threat to internal security and a breach of law and order, underlined by India's strategic interests in the Northeast as a buffer zone and (ii) as a challenge to develop the Northeast as (a) a corridor and transit to East and Southeast Asia and (b) a source of valuable resources like oil, timber, minerals and hydroelectric power.

Unfortunately, neither of the two perceptions considers any of the demands and aspirations of the local people. This has undermined the authority of the civil administration and resulted in granting unprecedented powers to the Indian armed forces.

17.4 Role of AFSPA

The Armed Forces Special Powers Act (AFSPA) 1958 has been in force in in Manipur, since the time when Tamenglong was declared a 'disturbed' area more than 40 years ago. The Act gives far greater powers without judicial accountability than the original British law of 1942,⁷ on which it is modeled. It is also in operation in Jammu and Kashmir and was used briefly in Punjab.

Box 1: Provisions of the AFSPA Act

It defines a "disturbed area" as follows: if the Governor of a state or the Central government is of the opinion that an area is in such a disturbed or dangerous state that the use of forces in aid of civil power is necessary, then either of them can declare it to be "disturbed area" by notification in the Gazette.

Section 4 gives the following special powers to any commissioned officer, warrant officer or non-officer of the armed forces in a disturbed area:

(a) If in his opinion, it is necessary for maintenance for public order to fire even to the extent of causing death or otherwise use force against a person who is acting in contravention of an order prohibiting the assembly of five or more persons or the carrying of weapons or of 'things capable of being used as weapons'.

(b) If in his opinion, it is necessary to do so, then to destroy any arms dump or fortified position, any shelter from which armed attacks are made or are 'likely to be made', and any structure used as training camp for armed volunteers or as a hide out for armed gangs or absconders.

(c) Arrest without warrant any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is likely to commit a cognizable offence and to use whatever force is necessary to affect the arrest.

(d) To enter and search without warrant any premises to make an arrest or to recover any arms, ammunition, explosive substance or suspected stolen property.

Section 5 makes it mandatory for the army to hand over a person arrested under the Act to the nearest police station with least possible delay.

Section 6 lays down that a prosecution suit or other legal proceeding can be instituted against the previous sanction of the Central government."

Its stated aim was to contain insurgency, but ironically it has only added fuel to an already inflamed situation, as(a) it effectively appropriates the powers of the democratically elected state government and civil administration and vests these in the army, the Governor and the Central government. (b) it abrogates the civil liberties and fundamental rights of the ordinary citizens by declaring a de facto state of emergency by suspending Article 32 (1). (c) it provides the Centre absolute powers to deploy the army in the states or disturbed areas once the Governor (without consulting the elected Chief minister) or Central government has used his/her discretion to declare an area as 'disturbed' in the Gazette, (d) it provides the army absolute powers with immunity from legal accountability, since neither the citizens nor the state government can initiate legal proceedings or administrative action against the army without the previous sanction of the Central government.

⁷ Brought in force to break the Quit India Movement

Scholars record that most organizations in the Northeast (many of whom fall under the 80 'militant outfits' identified by the army) started as peaceful movements, but in the absence of redressal mechanisms combined with absolute power resulted in shameful excesses against innocent citizens of India. There appears to be a correspondence between the Act and the alarming incidences of transgression of people's rights and increasing political instability.

17.5 Land Rights and Reforms⁸

Today, there are broadly three property systems, based on ethnic features that govern land rights in Manipur. Each system has its own enforcement mechanisms as well as codification of rules and norms. In the hill areas the community, not the state, owns most of the land, though private plots of terraces and forests as well as private encroachment of common property (not sanctioned by customary law) is prevalent in some places. Urbanization is usually low in the region. The Kukis and the Nagas both have a system of community ownership governed by unwritten custom and tradition. There are, however, two fundamental differences between the Nagas and the Kukis: in the case of the former, the tiller or direct producer has inalienable occupancy and inheritance rights, which cannot be superseded by the Chief, while in the case of the Kukis he has far greater overriding power over land use and access. The Nagas enjoy the rights of inheritance and occupancy and every village has more than one clan. They have a three-tier system of land ownership – clan, village and private land. The Kuki-Chin-Mizos have a more semi-feudal system of landownership with built in disincentives against private or farm investment. There is a well developed system of grain rent collection called *tangsen*, *bushan*, *changsen* or *fathang*. Furthermore, the Chief exacts labour from the cultivator families, often at the rate of four days per person per annum. The Kuki families are far more at the mercy of their Chief, who often tends to be autocratic and arbitrary. The third system of property rights is prevalent in the valley, where complete private individual ownership exists and is protected by the state through its laws and institutions.⁹

In the Naga areas the land holdings are under the control of the village administration, which exercises executive, judicial and administrative autonomy. The Naga Chief is bound by the advice of the village elders and council. This is not necessarily true of the Kuki areas where the Chief is seen to be more arbitrary in exercising his authority. However, in doing so even he is bound to take the village elders into confidence. Again, though both tribes own village lands, in Naga villages, individual households have land tenures and can sell land to anyone from their own village although transactions with people outside the village are prohibited. In Kuki villages on the other hand, no individual household can lay claim to any land. The Chief distributes this land to village people for paddy cultivation, and in return the latter have to give a portion of their paddy to the Chief. Apart from these systems there are also several other systems of smaller tribes like the Hmars where the entire village community owns the land, but in practice has to give the Chief a portion of their paddy or hunted animal as the case may be. In the pre-British period this system was maintained through the autonomy of the village councils and jhum was the main system of cultivation with a fallow cycle of about 15 years.¹

⁸ L. Chinzakham Ngaihte (1998), *Tribal Agrarian System of Manipur, a Study of Zomi*, Anmol Publications Pvt. Ltd. New Delhi, Amar Yumnam. 'Ethnic and Intergroup Tensions in Manipur: An Institutional Perspective' in Aggarwal (1999)

⁹ Also in the Kuki areas in the hills land can be purchased from chiefs

Recent years bear witness to increasing landlessness and differentiation among the Nagas and the Kukis and the emergence of a creamy layer of richer and more powerful members. Furthermore, there seems to be collusion between tribal Chiefs, timber traders and Forest Department officials (often under protection from or in the name of the underground militant outfits). The small but emerging tribal elite collaborate in the plunder of the hills but invest in the valley. In the hills, both state policy and government agencies neglect the majority of cultivators, and in many instances government servants try to keep the Chiefs in good humor in order to maximize their personal gains.

The attachment to land is not entirely due to its economic importance. Territory plays an important role in shaping cultural and ethnic identity. Our detailed investigations and interviews led us inexorably to the conclusion that people who fight for their territorial land rights want at the same time to move away from land as a means of livelihood. "Some of them...have even sold their land in the hope of getting a job in the government administration. This is a new development for the region. The tribal communities have traditionally been tied to land and forests with which they had established a symbiotic relationship. They are now ready to sell it or mortgage it in the hope of moving to greener pastures in the form of jobs in the administration."

The elite in tribal societies owes its emergence in part to the 'modern' administrative system's preference for individual land ownership. Privatization of land has led to its commodification, resulting in mortgaging and sale of land within the community. This creates classes and introduces differentiation and land alienation. It also reinforces patriarchy since the *pattas* are made in a male's name only and thus excludes women from land ownership. Hence more than half the population is denied its land rights.

The emergence of an impoverished and even landless class of tenants is recorded in several places in the hills, most notably in Kuki areas but even amongst the Rongmei, the Thangkuls and other Nagas. Immigration and encroachment on land are especially important. The struggle to acquire resources (most notably land) amidst changing land relations translates into ethnic conflicts.

Land and forests are the two basic resources for subsistence in the hills. An essential requirement of this region is an healthy and adaptive system of land rights that can tackle the incipient problems of differentiation, jhum, inequality, and the emergence of a local elite.

Land rights are dialectically tied to the method of production and land use. Communal systems go well with shifting cultivation, private ownership is associated with settled agriculture, and horticulture with the use of some productivity-enhancing non-labour inputs and plough as well as labour-intensive capital formation. As seen above, land ownership in Manipur is a combination of community and private ownership of land. The Manipur Land Revenue and Land Reforms Act, 1960 (henceforth LRA) was introduced in this context and has been a bone of contention.

The primary objective of the Act is to prevent concentration; end low-productivity communitarianism and promote investment and growth, develop a land market and encourage 'individualization'. An associated aim is to curtail the powers of the Chiefs.

In most parts of the country LRA was introduced with any one (or all) of the following objectives: (a) implementation of ceiling regulation, (b) introduction of tenancy reforms (c) removal of intermediaries. While for the Kukis, the Chiefs may be despotic; this is not true for the Nagas. The land reforms in the rest of India correctly abolish exploitative intermediaries between the state and individuals. But in Northeast India most of the tribal communities derive only a part of their income from cultivation. They also earn substantially through collection of root tubers, leaves and forest products. As members of their respective communities they have access to these resources. Hence, if the community as the 'intermediary' between the state and individual householders is removed, the tribal households will be actually dispossessed of much larger resources, though their rights over small areas of settled agricultural land will be consolidated.¹⁰ They, therefore, fear that along with individualization, they may not have access to community forests which will pass into the hands of the state, seen as Meitei-controlled. Furthermore, land revenue exactions will commence. It is also feared that LRA will only facilitate the ongoing plunder of timber and other forest wealth currently under clan control.

The MLR and LRA, 1960 was sought to be amended through the Sixth Amendment Bill (1989) by repealing the provision which (a) excluded the hill areas of Manipur, from the ambit of the Act and (b) protected tribal land under Section 158.¹¹ The most unfortunate aspect of the amendment was the deletion of the special safeguard against land alienation in the hills, which led to widespread protests at the time as the people in the hills feared that the Act would divest them of their land rights.

Tribals apprehend that its introduction will result in dispossession by the more affluent 'outsiders'. The LRA is also seen as a precursor to the ban on jhum and restriction on forest rights. They tried to establish territorial rights over the hills in two ways; (i) by invoking

¹⁰ L. Chinzakham Ngaihte 1998, *Tribal Agrarian System of Manipur: A Study of Zomi*, Anmol Publications Pvt. Ltd. p.92,

¹¹ Section 158: No transfer of land by a person who is a member of STs shall be valid unless—

- (a) The transfer is to another member of the Scheduled Tribes; or
- (b) Where the transfer is to a person who is not a member of any such tribe; it is made with the previous permission in writing to the deputy commissioner who shall not give such permission unless he has first secured the consent thereto of the district council within whose jurisdiction the land lies; or
- (c) The transfer is by way of mortgage to a cooperative society.

158-A. Restriction on transfer of land

No agricultural land shall be transferred to any person except for his personal cultivation provided that the Deputy Commissioner concerned may, subject to rule as may be prescribed, allow any non-tiller to purchase any land in the absence of any willing tiller to purchase the same land.

158-B Restriction on land transfer of land to non-residents

No land shall be transferred in favour of any person unless he has been an ordinary resident in the state provided that the Deputy Commissioner may permit the transfer of land in favour of a person who has not been ordinarily resident in the state if he has been a resident of the state for not less than 30 years.

158-C Restriction on new settlement, etc.

There shall be no new settlement or formation of any machet in the hill areas without the permission of the state government and no such permission for new settlement or formation of any machet in hill area should be given unless the new settlement or formation of any machet has 50-75 families. This part of the Amendment Bill is contradictory to the District Council Act, and Village Authority (V.A.) Act.

This Amendment also proposed to repeal the Manipur Hill Areas (house tax) Act, 1966, by inserting it under section 16-A, of the MLR & LR Act, making it liable to payment of an annual tax in lieu of land revenue at the rate of such tax determined by the State government having regard to the rates of land revenue and the assessed tax be realized in such manner as may be prescribed.

This amendment further attempts to regulate and control jhum or migratory cultivation by making rules in the name of protection of environment.

community ownership and (ii) by quoting British sources, which portrayed the Chief as king with absolute inheritable territorial rights, excluded from British civil and criminal jurisdiction. Their demand is that the customary tribal land ownership institutions should not be tampered with on the plea that the land rights of the people are closely linked to the authority of the Chiefs and the community over the land. This implies that there is no government land in the hills and the villagers hold the land with the sanction of the Chief and community and not the government.

Our understanding is that the blanket application of the Act to all parts of the state in its present form will create political turmoil without achieving the stated aims. The Sixth Amendment Bill (1989) is particularly problematic as it threatens tribal land rights, thus exposing the hill people to the risk of losing their land without creating an alternative livelihood system. The hill areas and the valley have their specific and distinct systems of land ownership and tenure. They have their own problems and institutional mechanisms to resolve them. We recommend that the problems in the hills be addressed through the empowerment of the village and district councils as well as a symbiotic land and forest management approach. These would require after which Separate Acts can be drafted for different areas, after a series of consultations, perhaps through the codification of customary law and practices as they have evolved, on the principles of justice and gender-equity. As a first step, a Land Commission that investigates the different problems related to land ownership and land rights may be set up immediately.

17.6 Inclusion of Hill Areas Under Sixth Schedule

1) Land, Forests, and Autonomous Councils

The Sixth Schedule was introduced in the hill districts of Assam after Independence. Under this Schedule, autonomous tribal councils could be formed in tribal areas and governed by their own self-governing institutions. Areas under this Schedule were to have separate elections, their own customary patterns of land tenures, and, amongst other things, a council fund for which they could raise resources. In Manipur too, district councils were formed under the Manipur District Councils Act of 1971, in the hill areas of Senapati and Sadar (Senapati district), Ukhrul, Chandel, Churachandpur and Tamenglong districts. But these councils were different from the ones formed under the Sixth Schedule in at least two ways. First, no area was declared as 'tribal area' as in Assam, Meghalaya, and Mizoram; and secondly, these councils only had the status of territorial councils with some administrative control. They were not put under the Sixth Schedule and were completely dependent on the state government for their survival. While Section 29 of the Act empowered these councils to manage "any forest which was not a reserved forest" and gave it the mandate for controlling jhum cultivation, tribal welfare and many other sectors these powers were merely recommendatory in nature. Moreover, the councils were completely dependent on the state governments financially. They are required to submit a yearly budget to the state government, which is at liberty to modify, accept or reject this demand.

The Act also empowers the District Commissioner to suspend or modify any decision and function of the councils. Most of the council areas in the state are beset with conflict and insurgency. Keeping this in mind, the Government of Manipur passed a cabinet resolution demanding the imposition of the Sixth Schedule in these areas.² The Hill Areas Committee of the Manipur State Assembly passed a resolution in 1974 recommending the replacement of district councils by the Sixth Schedule. Two successive state governments in 1991 and 1992 echoed this demand and recommendations were sent by the state government to the Centre. However, the issue still remains pending with the Government of India.

ii) Relevance of the Sixth Schedule for Manipur

Can the Sixth Schedule help resolve the conflicts centred on land and forest resources? The public debate within Manipur is polarised on this issue. At one end of the spectrum are local committees like the Sixth Schedule Demand Committee of Manipur which states that though the Schedule is the best available mechanism to govern autonomous tribal areas, it needs to be further strengthened and improved. At the other end of the spectrum are the organisations of the two main tribes, i.e., the Kukis and Nagas, who see the Schedule as a means of suppressing the demands for a separate homeland. They want extension of Article 370 and amendment of Article 371 to maintain the 1949 territorial integrity of Manipur. The Meiteis, prefer the recognition of traditional village council structures instead of the Sixth Schedule. The Meiteis oppose the demand because historically this has been the precursor to the attainment of statehood in the areas that now fall in Nagaland and Mizoram and they fear that history might repeat itself.

A Consultation Paper of the National Committee for the Review of the Indian Constitution³ recommended the Sixth Schedule for Manipur's councils, with certain changes on the basis of past experience in other northeastern states. These will address the confrontation between the state governments and the councils and between traditional structures of authority and the councils. They highlighted the following points:

1. The question of the consent of the Governor has been a problematic issue in the working of the council. Paragraph 3, clause 3 of the Schedule held that the legislative powers of the councils would have no effect unless they received the assent of the Governor. There are several cases where the governors had withheld consent for over 10 years! *It is necessary to delimit the scope of this provision by stating that the assent has to be granted within a specified period of time, and that in case it is not it should be referred to an independent statutory commission.*
2. The Review Committee held that the possibilities of placing 30 subjects under the jurisdiction of the autonomous district councils and panchayat institutions should be examined and power should be devolved till the village level. The problem of overlapping power structures needs to be sorted out if the district councils are to enjoy any degree of autonomy. Almost every provision of the Sixth Schedule says that the Governor's decision will prevail in case of a conflict between the state government and district councils, which means that, effectively, the writ of the state government will be upheld. *These provisions need to be altered to clearly demarcate the exclusive powers of the district councils that can only be overturned by an independent statutory regulatory commission under the State Assembly.*
3. In the context of Manipur the powers, in addition to the subjects underlined under the Autonomous District Councils Act 1971, may be conferred on the councils if territorial disputes between the state government and tribal groups are to be resolved. These are:
 - *Settlement of land tenures that include customary and collective tenures.* The Manipur Land Revenue Act should be amended suitably to allocate such powers to district councils and take customary tenures into account.
 - *The reclassification and settlement of forests by the district councils.* The process of recording and fixing of rights of local people in forests should also be given to these councils. A special provision should be added to the Indian Forest Act, 1927 and Assam Forest Regulation, 1891 to ensure that these powers are included. There should also be provision for amendments so that customary forms of use and conservation can be included within the ambit of these laws.

4. In keeping with the experience of states like Tripura, the Sixth Schedule should be amended to include the Review Committee's recommendation with respect to the *formation of an independent Finance Commission to pass and regulate the implementation of the budget prepared by the district councils. This Finance Commission should also regulate and make guidelines for the division of royalties between the state government and the district councils. The accounts of the district councils should not only be audited by the State Auditor but also be scrutinized by the Public Accounts Committee of the State Legislature.* Paragraph 7 and Paragraph 9 clause 2 of the Sixth Schedule should be amended accordingly for this purpose.
5. Experiences of other northeastern states show that the Sixth Schedule has provided shelter to some traditional institutions like Syiems, Nokmas and Dolois of the Khasis, Garos and Jaintias of Meghalaya and increased their domination within the tribal society. And even while there is a good case for the inclusion of some representative of customary institutions within the Schedule, this should be done in a way that the Schedule does not become a tool of exploitation by the existing Chiefs. In this context it is pertinent to note *the recommendation of the Review Committee that the district councils should be made more accountable to the people by inserting a clause that makes the creation of village councils with a degree of representation to the people through elections mandatory. Clause 2 of Paragraph 1 of the Schedule on composition of the councils should be amended to this effect.*
6. *There is also a need to amend Paragraph 1 of the Schedule to include the representation of women, minority tribes and non-tribals in the councils.* The experience of Mizoram and Assam, in particular, shows that minority communities hardly get any representation in the councils and as a result their needs and interests remain largely neglected. The situation in Manipur will be more or less, similar in nature, particularly with the Hmars and the Paites supporting the implementation of the Schedule for Manipur. This will help democratise the councils.

The Sixth Schedule can be an effective instrument only if it is backed by the political will to create *truly autonomous district councils* and by a progressive movement *to democratise traditional power structures in Manipur.*

It can provide some degree of autonomy to the tribal areas with adequate devolution of functions and finances; curtailment of powers of the Chiefs, observance of the principle of subsidiarity, establishment of a clear guiding principle of jurisdiction and pre-eminence, and curtailment of the excessive power and discretion vested in the Governor.

(ii) Seventy Third Amendment Vs. Sixth Schedule

A comparative assessment of the Sixth Schedule and the 73rd Amendment 1992 (STA) demonstrates the fact that while the former is subject to interference, supersession and dissolution by the Central government through the Governor, the STA aims to create institutions of local self-government for decentralized development with statutory financial devolution to the Panchayati Raj institutions, even though the experience is uneven across the country.

Roy Burman states: 'In the Seventh Five-Year Plan, the feasibility of extending the self-management thrust of the Sixth Schedule to all tribal areas in the country was suggested. This should not, however, mean extension of the Sixth Schedule in all tribal areas in a mechanical manner. As it is the provisions of the Sixth Schedule are not uniform in all areas brought within its ambit. The councils in their operation are liable to state intervention to a large

extent in Mizoram and Tripura; the scope of state intervention slightly less in Meghalaya and lesser in Assam. The STA Act 1992, has brought out more than anything else the extremely limited power of self-government conferred under the Sixth Schedule; complete dissociation of regulatory power and development decision-making power will make completely, bare the utter in-congruity of the system. On the other hand, the Sixth Schedule has a long history of tribal struggle for identity assertion. It cannot be dispensed with, without causing serious doubts about the intention of the Indian state. The whole issue of inter-articulation of the institutional arrangements and operational range under the Sixth Schedule and the STA, 1992, will have to be carefully examined and a substantially altered Sixth Schedule by synthesizing the positive thrusts of both will have to be evolved.¹²

Box 2: Provision of the Sixth Schedule

“The Regional Council and the District Council shall have power for their respective jurisdiction to make laws regulating (a) the allotment, occupation or use, or the setting apart, of land, other than any land, which is a reserved forest... (b) the management of a forest not being a reserved forest, (c) the use of any canal or water course for the purpose of agriculture, (d) the regulation of the practice of jhum or other forms of shifting cultivation (e) the establishment of village or town committees of the councils and their power, (f) any other matter relating to town or village administration, including village or town police and public health and sanitation (g) the appointment or succession of Chiefs or headmen, (h) the inheritance of property, (i) marriage and divorce and (j) social customs.

All laws made under this paragraph shall be submitted forthwith to the Governor and until assented to by him, shall have no effect... (for) Administration of justice in autonomous districts and autonomous regions the Regional Council and District Council may constitute village councils or courts within their respective jurisdictions for the trial of suits and cases (except certain categories of cases mentioned in the Schedule) between the parties all of whom belong to the Scheduled Tribes. The Regional Council and the District Council shall exercise the power of a court of appeal in respect of all suits and cases triable by a village council or court. The High Court shall have and exercise jurisdiction over suits and cases specified by the Governor from time to time... Para 8 empowers the Regional Council and the District Council to assess and collect revenue... These Councils shall also have the power to levy and collect taxes on lands and buildings and tolls on persons resident within their respective jurisdiction.^{1”}

Furthermore, while the power to license/lease land for prospecting or extracting minerals rests with the state government, pre-decided royalty shares are to be paid to the District Council. At least three-fourths of the District Council members should agree to issue a license in order that a non Scheduled Tribe member conducts business and money lending, provided that traders and moneylenders who conducted such business prior to the regulation are not denied licenses.

Sixth Schedule status was granted in most if not all cases as a response to demands for greater autonomy. Unlike the STA, the Sixth Schedule confers few development functions to the district councils, and this creates two parallel structures with overlapping functions and authority. The provision of resources and formulation of a strategy for development is the Collector’s prerogative. Thus, the collectors and state government staff wield enormous power and act as an agent of the state government accountable to their cadres and line departments and not the ADCs and village assembly, which in effect, undermines local self-government and autonomy.

The introduction of the Sixth Schedule without concomitant democratization and reform resulted, in many instances, in the consolidation and strengthening of the Chiefs’ authority, except in areas where popular uprisings took place. In areas where the removal of the powers of the Chiefs coincided with the LRA coming into force, there was resistance from the elite.

¹²B.K. Roy Burman, op cit, p 100

People were encouraged to believe that the preservation of chiefdom was essential to safeguard the territorial and land rights of the tribals.

Immediate and effective confidence-building measures have become imperative to preserve the integrity of the Indian Union. The AFSPA has not helped to contain insurgency in the last 24 years; it is not likely to do so now. Many people in Manipur are protesting against the absence of civil liberties and fundamental rights, which has to be the foundation of citizenship. Clearly, a bold and pragmatic political solution, which includes the repeal of the AFSPA and an unconditional and inclusive dialogue at the Centre's initiative is the need of the hour.

17.7 Conclusion

An understanding of the relationship between ethnic demands, economic development and development planning is crucial. An objective and inclusive economic development policy for Manipur is necessary at this critical juncture. Needless to say, any delay could prove to be ruinous for the state.

First and foremost, the Armed Forces Special Powers Act should be repealed. Secondly, the Sixth Schedule and the Panchayati Raj Act should be extended and effectively implemented by the devolution of requisite finances and powers, in the hills and the valley, respectively. The decentralisation must be accompanied by a provision for democratically elected local bodies with due representation for women. The Land Reforms Act should not be imposed on the hill people. A Land Commission may be set up immediately to look into issues of land ownership in keeping with the ethnic diversity and territorial rights of the people.

¹ Arti Nandi and P.K. Bose 'Shifting Cultivation in Manipur' in Saradindu Bose eds., *Shifting Cultivation in India*, pp.52-29. See p.55. Also see Amar Yumnam, 'Traditional Self Government Institutions of Hill Tribes of Manipur' in Atul Goswami (eds), *Traditional Self Government Institutions Amongst Hill Tribes of North East India*, Akanksha Publishing House, Delhi, 2002.

² A.K. Ray and H. Kamukenthang, 'District Councils in Manipur visa-a-vis Sixth Schedule' in L.S. Gassah (eds) *Autonomous District Councils*, Omsons Publications, Delhi, 1997, pp. 243-55.

³ Consultation Paper on Empowering and Strengthening Panchayati Raj Institutions/Autonomous District Councils/ Traditional Self Governing Institutions in northeast India, National Commission for Review of the Working of the Constitution, Advisory Panel on Decentralisation and Devolution, 2002, pp. 1137-1204 [downloaded from www.ncrwc.nic.in].