

Constitutional Provisions of the Hill Tribes in North East India: A Study on Land and Identity Politics in Manipur

Soihiamlung Dangmei

Department of Political Science & Human Rights, Indira Gandhi National Tribal University
Regional Campus, Manipur

Email: soihiam@yahoo.com

Abstract: Despite the creation of various constitutional provisions such as the Sixth Schedule, Autonomous District Councils, and other provisions for the protection of the interests of the hill tribes of North East India, sectarian demands for autonomy based on identity politics continue to proliferate leading to conflict. The article delves into the nature of the constitutional provisions, and particularly, the working of the Autonomous District Council, contestation on land, and identity politics in the hills of Manipur.

Key Words: Autonomous District Council, Sixth Schedule, Constitutional Provision, Article 371 (A)

Introduction:

The Government of India created several states, and autonomous district councils in North East India, with the objective of granting them some autonomy, and in the process integrating them into the modern liberal democracy. Despite such attempts made by the Government of India, the tribal populations continue to press for more autonomy, and even demand for self-determination. The multiple existence of identities, tribes, ethnic groups, and communities in the region has aggravated the demands for separate states, and homelands. The politics of ethnicity, and conflict has become a phenomenon in the multicultural, and multi-ethnic communities of North East India.

The Sixth Scheduled, and the autonomous district councils benefitted only some elites of the hill tribes in North East, who often have political ambitions in the state legislative assembly. The Sixth Scheduled, and the autonomous district councils also often come into conflict with the members of the legislative assembly, and the interests of the state legislative assembly override the interests of the autonomous district councils. The members of the state legislative assembly including the members from the hill tribes often does not favour the interests of the autonomous district

councils. Therefore, the various provisions contain in the Sixth Scheduled, and the autonomous district councils remained an act, and has been a distant dream in implementation.

The village authority represented by councils, or the chief also often come into conflict with the powers and provisions of the Sixth Scheduled, and the autonomous district councils. Constitutionally, the village authority, and the chief are to be under the elected members of the autonomous district councils. However, in practice, and in actual functioning, the village authority, and the chief continued to concentrate their powers in the village administration. The objective of the autonomous district councils has been for the development of the tribals areas, and also for the integration of the tribals into the democratic system. However, the autonomous district councils, in most instances, failed to work together with the village authority in the development of the tribal areas. The Sixth Scheduled in Assam, Mizoram and Tripura have been comparatively working successfully. However, in Manipur, the hill areas are governed by the autonomous district councils without the actual executive, and financial powers. Therefore, the tribals in Manipur have been demanding for the

implementation of Sixth Scheduled in the state.

The Sixth Scheduled, and the autonomous district councils in fact only reflected the interests of the new sections of educated elites. The Nagas, under the leadership of A.Z. Phizo demanded for the independence of Nagas. A.Z. Phizo rejected the idea of district council, and ran a parallel government in Naga areas (Chaube 1999: 108). The Nagas have been demanding independence on the ground that they were never ruled by the British, or under any rulers. During the British rule, when the Government of India Act was passed in 1935, the Naga hills was left unadministered. The British also did not interfere in the internal affairs of the Nagas tribal institutions, and village polity. The British, therefore, introduced the non-interference policy towards the Nagas. The British concentrated only in the affairs of law and order, and collection of revenues. Therefore, the Nagas, declared that they were never under the British.

During the colonial rule, the tribal hill areas of North East region were included in the excluded areas or partially excluded areas of British administration. The social, customs, religious and economic life of the Nagas were left untouched by the Nagas. The *“excluded areas were the tracts where any advanced form of government was not a possibility because of the backwardness of the area. These areas would be administered by the Governor himself. The Ministers would have no constitutional right to advise him in connection with their administration. Neither the Central nor the Provincial legislature shall have power to make laws applicable to the tract but the Governor-in-Council might direct that any Act of the Provincial legislature should apply to the tract subject to such exceptions or modifications as the Governor thought. In the case of partially excluded areas discussion in the Legislative Assembly was not barred. It was allowed with previous permission of the Governor. The Provincial Government was given full discretion in*

applying or refusing to apply new enactments. The Governor might direct that any act of the Provincial legislature should not apply to the tract or shall apply subject to such exceptions or modifications as the Governor thought fit” (Rao 1975: 78-79).

Similarly, the Mizos, under the Mizo National Front (MNF) also demanded independence in 1966. The MNF demanded for the integration of the Kuki-Chin-Mizo group. However, the Government of India signed the Mizo Accord in 1988, the state of Mizoram was created, and many Kuki inhabited areas of North East including Manipur were left out. Therefore, the Kukis, after the signing of the Mizo Accord, began to organized themselves for the integration of Kuki-Chin groups inhabiting the North East region of India, and also part of Myanmar and Bangladesh. The Nagas in Manipur, on the other hand, also demanded the integration of their contiguous territories. When the Government of India created the state of Nagaland in 1963, large portion of Naga areas in North East region were left out. Therefore, the aspirations of the Nagas, or Kukis to live together under one administrative unit has been the demand. The autonomous district councils, or non-territorial autonomy aims to address the aspirations of the tribals, as the primary objective of the district council is the integration of the tribals into the Indian democratic system.

The state of Nagaland is protected by Article 371 (A) of the Indian constitution. The Article states that *“no Act of Parliament in respect of-(a) religious or social practices of the Nagas, (b) Naga customary law and procedure, (c) administration of civil and criminal justice involving decisions according to Naga customary law, (d) ownership and transfer of land and its resources, shall apply to the State of Nagaland”* (Bijoy et. al, 2010: 260). Despite such provision, sections of the Nagas continue to demand for independence. Creation of several states,

and autonomous district councils, in a way attempted to accommodate the tribals such as the Nagas, and Kukis in the region. However, there arises the issue of land and territory, and identity question in North East India. Nevertheless, the educated elites benefitted from the institutions of the grassroot democracy, and continue to support and uphold the democratic system.

Autonomous District Council in Manipur:

The Manipur (Hill Areas) District Councils Act 1971 was passed by an Act of Parliament by the Government of India in 1971. However, the act became under the Manipur Legislative Assembly in 1972 with the formation of the full-fledged state of Manipur. The enactment of the Manipur (Hill Areas) District Councils Act 1971 by the Manipur Legislative Assembly as the Manipur (Hill Areas) District Councils Act Rules 1972 has considerably diminished the powers and functions of the act. In protest to the Manipur Legislative Assembly, and the Government of Manipur, the hill tribes demanded for the introduction of Sixth Scheduled in the state. However, the demands of the tribals had been denied by the Government. Therefore, the autonomous district council election was boycotted by the tribals for a very long time.

In 2010, after a long gap of 21 years, the autonomous district council election was held again. The tribal bodies agreed to hold the election with the hope that the Government of India, and also the Government of Manipur would bring equitable development, and devolution of powers at the local administration. The state government also made assurances that it would attempt to empower the autonomous district councils for the smooth functioning of local self-government. Despite the assurances, and the promises, the autonomous district council continue to function at the mercy of the state legislative assembly.

The interests of the hill tribes is often safeguarded by the All Tribal Students' Union, Manipur (ATSUM), an apex students' body of the hill tribes in the state. Despite the fact that various hill tribes have their own specific political goals and aspirations, ATSUM has been influential in safeguarding the rights, and interests of the hill tribals in the state. The recent autonomous district council bill of 2021 in Manipur has become a conflicting issue between the hills and the valley. The valley-based civil society organizations in the state boycotted the bill asserting that the bill is likely to have negative impact for the integrity and peaceful co-existence of different ethnic communities. Mention must be made that the autonomous district council had been boycotted by the hill tribes since the beginning of the council act in 1972. The reason has been that the autonomous district council was not empowered with executive and financial powers adequately. Therefore, the hill tribes boycotted the autonomous district council for twenty-one years. It was only in 2010 that the district council election was held with the hope that the Government of India, and the state Government would devolve more powers and functions to the district councils. The state government also made various assurances that it would attempt to allow more responsibilities to the autonomous district councils for the smooth functioning of local self-government.

The autonomous district council bill 2021, which has once again become a move for devolution of more powers for local self-government has been opposed by the various valley-based civil society organizations by terming it as a highly sensitive bill, and stated that it should not be tabled in the Legislative Assembly. The valley-based civil society organizations claimed that the bill contained maximum provisions for creating Naga Autonomous Territorial Council, and Kuki Autonomous Territorial Council, and stated all stake holders should be consulted before passing the bill. The bill, in fact, recommended

more powers to the Hill Area Committee, and the Autonomous District Council in the administration of the hill areas. In response to the valley-based civil society organizations, the ATSUM and its federating units in the hills called for a total shut down in the hills.

The hill tribes were disappointed with the Government of Manipur appointing eight members of Manipur Legislative Assembly by the Speaker of the Assembly from the valley into the hill areas committee. The hill tribes claimed that such order of appointment is unconstitutional, and therefore, a total shut down has been imposed in the hill areas. In a memorandum submitted to the Governor of Manipur by the All Manipur Tribal Union, it stated that *“the appointment order itself of such valley constituencies which are not notified as Hill Areas in Gazette notice is not constitutionally under the purview of the Speaker of Manipur Legislative Assembly as he has overridden the proceedings of election of such Committee members, if it all appointment of such additional HAC members has to be legalized; because such similar Committee members like Expenditure Committee and Estimate Committee members of the Legislative Assembly are elected from those sitting MLAs. Legislative Assembly Speaker cannot simply appoint such members without Election Procedures in the Legislative Assembly”* (All Manipur Tribal Union 2021). The Kuki Inpi Manipur also stated in its memorandum that they *“believe in peaceful coexistence in the state and recognizes that mutual respect among the different communities of each other’s political, constitutional and legal rights are the way forward”* (Kuki Inpi Manipur 2021). The All Manipur Tribal Union, therefore, seek the attention of the Governor of Manipur to constitutionally rectify the constitutional injustice. Subsequently, the Government of Manipur revoked the order in the interests of the hill tribes. Despite the differences in the politics of the various hill tribes, ATSUM and other

civil society organizations of the hill tribes has been instrumental in safeguarding the interests of the hill tribes which are common, and necessary.

Land, Identity and Politics:

Land, and identity are inseparable in tribal society. The concept of land, ownership and management of the tribals in North East India, and particularly in the hills of Manipur is governed by their tradition and customary laws. During the colonial rule, the tribal traditional institutions, and customary laws were highly honored by the colonial rulers. Therefore, the colonial administration did not interfere in the internal affairs of the tribal people. The colonial rule interfered only in the administration of revenue and dispensing of justice. There were no conscious efforts of the colonial rulers to interfere the tribal populations, and many of the tribal areas in North East India were left unadministered. Therefore, when the colonial administration passed the Government of India Act 1935, many tribals areas were declared as unadministered areas.

The term ‘land’ is considered as a territorial space, inhabited by the tribal communities since time immemorial, and more particularly, before the formation of the modern nation-states. Land is the single most important possession of the tribals. Despite the coming of modernization, development and evolving of their traditional institutions into the democratic process, land continued to be most valuable asset in tribal society. The development of the social, cultural and polity of the tribals had been informed by the folklores, legends, and myths that was traced to their association with land. This is particularly profound in the folk songs that was developed from their jhumming activities.

In the past, jhum cultivation was perhaps the only viable method of cultivation, and the folk songs, and folklores were developed based on the jhum cycle of cultivation. The embeddedness of the tribals, their life towards their land, and

ecology, in fact developed the concept of nature worship. Therefore, study on tribal religion informed us that there was no religious founder, nor developed any kind of religious book, as the symbiotic relationship of man and nature was established. In the tribal traditional system, land could be acquired by an individual in the following manner:

- (1) A man might have taken some unappropriated land for himself.
- (2) He might have been granted land by the head of a land-owning family, sometimes, subject to the latter's right to revert it.
- (3) It might be an out and out gift to him of virgin land by a family having more land than necessary.
- (4) A man might, as a member of a family, inherit a share of family land, the ownership being of course still in the family. Any land inherited or acquired by an individual becomes property of his family until and unless the same is partitioned between its members after marriage (Ningshen 2016: 62-63).

During the British colonial rule, many of the tribal areas in North East India were left unadministered. The Naga hills, and Lushai hills for example, were declared as excluded, or partially areas when the British passed the Government of India Act 1935. The colonial administration did not disturb the social, cultural and economic currents of the tribal communities, and left to the tribals so that they could govern themselves. The economic activity of the tribals specifically depended on land for survival. The colonial rule, at first were interested only in the collection of revenue, and the tribal lands were untouched. The princely states of Manipur and Tripura, despite their development of the monarchical system concentrated only in the plain areas, and the surrounding hill areas were not entirely under their control and domination. However, in some instances, the Maharaja employed some

tribals for construction of bridges, digging of trenches, and carrying of baggage of the touring officials of the Maharaja. The land holding system of the tribals were untouched by the Maharaja or the colonial administration.

The colonial administration in Manipur separated the administration of the hill areas from the Meitei Maharaja, so that the tribals could preserve and develop their own polity. The hill areas had been looked after by the political agent, a civil servant of the British colonial administration. There are those who argued that it was the colonial administration that divided the hills and the plains in Manipur. However, the hills and plains had been separated since time immemorial. The Meitei civilization, and the development of a Meitei identity was formed after many Salais or clan fought each other for supremacy. The triumphed of the Ningthouja dynasty consolidated the various clan, and the Meitei state was formed. The Meiteis occupy the most productive and fertile agricultural lands, and therefore, dominated the state in the economic and political spheres (Kipgen, cited in Bhattacharyya & Basu 2018: 113). The colonial rule, and the Indian national leaders preferred to call the Indian villages as a republic, self-sufficient, and autonomous (Lohe 2011: 4). The villages, and the rural areas have been described to have followed the Asiatic mode of production. The rural areas, and the villages are self-sufficient in the Asiatic mode of production. Therefore, the post-independent India also favoured the notion of self-sufficiency of the rural areas and villages. Constitutional laws have been framed by granting local autonomy for the smooth functioning of democracy at the grassroot level. The Naga village was a republic in the past. Like the Greek city-state, the Naga village were independent from each other. The idea of self-sufficiency was highly prevalent in the past. The village was the highest political institution of the Nagas. The idea of collectivism of Nagas as a political identity

is a recent phenomenon. However, the Nagas practiced the collective land holding system, or the land was a community land. The post independent India also granted the tribals some form of autonomy in matters of land holding system, apart from the socio-cultural autonomy. Despite the functioning of the autonomous district council in Manipur, the tribals have been granted maximum liberty for local self-government. Their inhabited land areas have been protected by the constitutional laws so that non-tribals are prohibited from purchasing land and settlement. The customary laws of the tribals are also respected and honoured. In the case of the Kuki tribes, the lands are controlled, and belonged solely to the chief. The chief exercised maximum power in order to maintain the land, and therefore, there is no notion of community land. This has been a hindrance in the democratic working at the grassroot level.

The land ownership system, or the land holding system of the tribals differ from tribe to tribe. The hills of Manipur are inhabited by the tribals, and non-tribals are prohibited from settlement, and also from carrying land transactions. The hill areas of Manipur is protected by the constitution of India under Article 371 (C). Article 371 (C) of the Indian constitution prohibits the settlement of non-tribals in the hill areas of the state, and also prohibits from carrying out land transactions. The hill areas of the state is largely inhabited by the Naga tribes, and the Kuki tribes. The Naga tribes largely practiced the community land holding system in which the land belongs to the community.

However, there are variations of the land holding system from village to village, and also from tribe to tribe. The Kukis, on the other largely practiced the chieftainship system in which the land belongs to the chief. Therefore, the Kuki chiefs are considered autocratic in their administration of the land holding system, while the Nagas are more democratic in dealing with the land holding system. Despite the land being owned by the

community among the Naga tribes, there are also private lands in which the community does not interfere. The advent of modern economy is also responsible for the rise of private land ownership in the hills.

Land continued to be the most important asset for the tribals. The folklores of the tribals informed that the identity formation, cultural development, myths and legends developed over the centuries in their association with the land they inhabit. The practice of jhum cultivation narrated how the life of tribals revolved around in the jhuming cycle. The life cycle from the cradle to the grave of the tribal cultural, socio-economic and legends revolved around the cycle of jhum cultivation. The practice of jhum cultivation was the most important agricultural activities of the tribals. The practice of jhum cultivation requires a large land areas. The practice of terrace farming has been a recent phenomenon for the tribals. The topography did not favour the practice of terrace farming, and therefore, the practice of jhum cultivation has been the most viable method of farming. The practice of jhum farming continued to be the most viable method of farming in most of the tribal areas in the hills of Manipur.

Therefore, land continued to be the most precious asset in tribal community. The land holding system, and its usage is regulated by the village authority in the case of the Naga tribes. From time to time, certain land areas are declared for the purpose of jhum cultivation so that the ecology and the environment is protected. The land holding system, and the management and regulation of land usage is democratically decided and regulated by the community. The Naga village is constituted and governed by the village authority or village councils. The village authority is constituted and represented by a member from every clan of the village. The village headman, therefore, is assisted and guided by the village councils.

Despite the fact that land is owned by the community, there is also a portion of land owned by the clan. Each clan owned some portion of land, and is used for cultivation, and other agricultural related activities. However, such portion of the land is hardly used for settlement or for carrying out land settlement. Large portion of the land in the village is reserved and preserved as forest lands. The practice of terrace farming is carried out in the private land of the individuals. In the past, the practice of jhum cultivation was considered to be collectively owned by the community. However, in the present context, there are villages in which even the jhum cultivation is carried out in the individual private land. The community ownership of land has become deteriorating in the present context. In the case of the Kuki tribes, the village chief is the sole owner and custodian of the village land. Therefore, it often results in the individuals seeking new lands to establish new villages in order to free themselves from the autocratic rule of the chief. These individuals who founded new villages became the chief in their own villages. The autocratic nature of the village chiefs also resulted in the lack of proper usage of lands in the hills. In principle, the chief has to govern the village for the welfare of every member of the village. Therefore, *“the chief is obliged to provide the villagers security, settle disputes and well-being. The chief and his village council also make rules regarding forest and land use. The land is distributed to the villagers according to the size of the family for cultivation and for making homesteads”* (Kipgen, cited in Bhattacharyya & Basu 2018: 115). The authoritarian nature of the chief of the Kuki villages, in fact, is also responsible for the rise of new villages.

Conclusion:

The Sixth Scheduled of the Indian constitution granted more financial, and executive power for local self-government in the tribal areas of North East India. In Manipur, the dominant tribal groups such as

the Nagas, and the Kukis has been demanding for the implementation of Sixth Scheduled as the Autonomous District Council has been implemented with limited financial and executive powers. Besides, there has been demands for territorial councils, and other autonomous provisions in the hills of the state. Therefore, various peace talks has been initiated by the Government of India to bring about a lasting peace and development in the state, and the North East region. The Naga peace accord is one such initiative taken by the Government of India to bring peace and prosperity in the region. The dissatisfaction of the working of Autonomous District Council in the hills, and the contestation on land, and the proliferation of identity politics has been largely responsible for the lack of peace and development in the state.

Acknowledgement: The author acknowledges that the article is part of the Research Project “Study on Changing Trends of Traditional Governance of the Tribals in Manipur vis à-vis Constitutional Provisions as well as State laws/Guidelines” sponsored by the Tribal Research Institute, Government of Manipur (2019-2022).

References:

Bhattacharyya, Asmita & Basu, Sudeep. 2018. *Marginalities in India: Themes and Perspectives* (Singapore: Springer).

Bijoy et. al. 2010. *India and the Rights of Indigenous Peoples: Constitutional, Legislative and Administrative Provisions Concerning Indigenous and Tribal Peoples in India and their Relation to International Law on Indigenous Peoples* (Chiang Mai, Thailand: Asia Indigenous Peoples Pact).

Chaube, S. K. 1999. *Hill Politics in Northeast India* (New Delhi: Orient Longman).

Lohe, Kewepfuzu. 2011. *Naga Village: A Sociological Study* (Guwahati: EBH Publishers).

Memorandum submitted to La Ganesan, Hon'ble Governor of Manipur by the All Manipur Tribal Union, dated 4th September, 2021.

Memorandum submitted to the Chief Minister of Manipur by the Kuki Inpi Manipur, dated 4th September, 2021.

Ningshen, Vareso. 2016. 'The Tangkhul Naga Customary Land Laws and its Emerging Challenges', cited in Ng. Ngalengnam, ed., *Immediate Challenges in the Hill Areas of Manipur: Education, Economy, Social, and Political Realities* (New Delhi: Ruby Press & Co).

Rao, V. Venkata. 1975. *A Century of Tribal Politics in North East India* (New Delhi: S. Chand & Company Pvt. Ltd).