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**Tribal Polity vis-a-vis Constitutional Provisions with
Reference to Manipur.
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Abstract

The Indian Constitution which was adopted on 26th November 1949, is not just a supreme political and legal document, but also an instrument of social and economic transformation. The document, inter alia, assures to protect and promote the interests of all communities within the territories of India. While every Indian citizen is equal before law, special facilities are given to certain categories of people, in the form of affirmative action. The constitution contains a number of provisions for preserving and protecting the interest tribal communities in the country. Having realized that the northeastern region is a home to a large number of tribes, the framers of the constitution have secured for them Sixth Schedule for the administration to the tribal areas while providing Fifth Schedule for the tribals of other regions. A part from this, there is several other safeguards which enabled them to practice promote and preserve their distinctive identity and tradition. The Kuki-Chin and other tribal groups out here practice chieftainship, which is basically the traditional polity. Though it is a legally recognized institution, it contains elements and features that are highly antagonistic to democratic principles and governance. As such the need is to reform the traditional system of governance in order to make more responsive to people's need, and also upholding the rights of all the villagers. Further, there is a need to formalize and reconcile traditional polity with the modern day inclusive developmental bodies. The paper is an attempt to study some of the issues with regard to the traditional tribal polity vis-a-vis constitutional provision with reference to Manipur.

Key Words: *Constitution, Safeguards, provisions, traditional polity, democratic principles, governance.*

Introduction: The Constitution of India confers fundamental rights and other rights to its citizens. It also assures to protect and promote the interests of all communities within the territories of India. While every Indian citizen is equal in the eyes of the law, constitutional safeguards are given to tribal people to protect their unique cultural and linguistic identities, in the form of affirmative action. It may be noted here that cultural, linguistic and religious

minorities' rights are part of enforceable fundamental rights too. As such, the tribal people can practice, promote and preserve their distinctive culture and customs. In furtherance to this objective the Government of India also provides grants and other assistances. Of late, the common tribal people have begun to question among themselves the practice of autocratic tribal chieftainship in a country which takes pride in its democratic polity, values and practices. In this regard the two system of governance seem contradictory and normally cannot co-exist. In spite of that, it is also contended that there appears no contradiction as the legalized tribal chiefs, being owners of the land within their chieftom, are allowed to manage the village affairs in accordance with their customary laws and tradition.

As part of democratic decentralization process in the country in the post-Independent India, the tribal people out here has also two important institutions for self-governance namely, the Hill Areas Committee (HAC) and the Autonomous District Council to manage the hill areas. However, both failed to fulfill the aspiration of the people. While the former simply remained as a toothless institution the latter too does not serve the purpose. Both existed under the mercy of the state government. The corrupt administration and indifferent attitude of the state government towards these problems on the one hand and the problem of effective implementation of the constitutional provisions on the other eventually invites all sorts of socio-economic and political problem among the various ethnic groups.

Traditional tribal institutions: Chieftainship institution is the traditional practice of almost all the Chin Kuki Mizo tribes. It is the main political system. The village is the autonomous political, social, economic and cultural entity. The Nagas have their own democratic political system from time immemorial which was described by a colonial writer as "small republics". Right from the pre-colonial days the kings of Manipur recognized this traditional polity of the tribes. During the British rule, this institution was adopted as a unit of regular administration. In the post-independence period, the people continue to profess their customs and tradition which form the core of their polity. The Nagas have clear cut village boundary and a well regulated land ownership system. The judicial system and other social institutions are based on customary laws. Among the Nagas the land ownership includes the community land, clan land and individual land. The Indian legislations relating to crime, forest and revenue has eroded the sanctity of traditional tribal polity. Further, with the emergence of private property among the tribal society the sanctity has further eroded. The traditional customary laws are very powerful guiding principles in matters relating to societal living and the perpetuation of the polity. It has been observed that the traditional tribal polity forms the basis of their administration right from the pre-colonial days. The Meitei monarchy or the state did not interfere and the villages enjoyed their autonomous political entity with each own set of administration.

The institution combined all the three organs of government such as executive, legislative and judiciary functions in running the village administration. The house of the chief served as the court of justice where cases are settled as per the customary laws. It is important for the survival and retention of their culture, identity and the yet-to-be codified and documented customary laws. Attempt to abolish the institution must on no account be

allowed as it is akin to abolishing their identity and culture. But, this socio-economic and political institution, unlike in the past, has lost all its inherent virtues and moral obligation towards its community in the age of materialistic consumerist society. It has more or less turned into a corrupted institution. Unfortunately, it is being subjected to abuse and misuse by the chief and elites of the tribal society for their vested interest. In the name of protecting identity and tradition, the common masses are being subjected to maximum exploitation. The Land ownership system and its socio-political institution are supposed to serve the interest of the community and if it does not, the same should be replaced or modified in order to accommodate society's particular needs. Therefore, we need to see the prevailing different types of chieftainship system in the tribal society.

Head-clan chief: Chieftainship was handed down to the senior man of the clan or the headman called *Mi-upa* in course of the historical process. According to tradition, he is the only person who can become chief - *Haosa*, which is established by the fact that in every Kuki village when the chief died his eldest son inherited the position and the subsequent line of succession went to his eldest male descendants.¹ The laws of primogeniture were adhered strictly. These principles are strictly adhered to by the chiefs because they give stability and legitimacy to the chieftainship system. This traditional institution has been in practice till today.

Collateral chief: Apart from the head clan chief, the collateral village chiefs are the younger branches of clan chief. It is the custom of the Kuki Chin group that the eldest son had to remain with his father and inherit his position, while the younger sons who have a part of their fathers subjects made over to him are allowed to establish for themselves. The recognition for establishing a new village by the younger branches of the clan chief, involves customary procedures and obligations. The would-be new village chief offer *Salubel peng* (head of an animal with a jar of wine) to the head clan chief after which they are given the chieftainship-right called *Haosat kilah* to form a new village of their own. These chiefs are also considered as the legitimate chief as they fulfill certain customary obligation for establishing a new village with his younger clan groups. This shows that customarily all those who want to become chief could not simply become chief. It is impossible for a man of common stock or lay people to become chief as per the tradition goes.

Territorial village chief: Apart from the two types of chieftainship discussed herein, there is yet another type of chieftainship system called territorial chief² which are the creation of recent years or time. This type of chieftainship is not a traditional phenomenon but a modern day or contemporary practices more so in the very recent times. Most Kuki chief who falls within this category are not legitimate as per tradition. Besides, there are also different types of chieftainship system wherein the chief had sold off the land to the villagers and yet continued to function as chief only in namesake. In this type of villages the power of the chief is totally weak and diluted unlike the traditional village chief³ who exercise enormous powers and functions. In other words, the chief can no longer expel the villager even if he cannot see eye to eye with them. The villager has an absolute right of

ownership over the entire homestead land he occupies. This type of chiefs cannot act according to his whims and fancies. In fact, the villagers are independent in their own purchased homestead land and the chief has no authority over them. In such case, the chief is not duty bound anymore to protect the interest of the villagers. The common interests of the villagers are look after by the democratically elected village authorities. Even there are cases of elected chairman for a specific term and had to run the village administration along with the elected authority members to fulfill certain social obligations. All this indicate departure from the age old traditional social norms of life. There is no question of the chief enjoying the age-old prerogatives. Thus, in the process the concept of democratic elements made inroads into the tribal society.

Contemporary Kuki society has witnessed mushrooming of many new villages for various reasons. One main reason among others is that they are highly tempted with the inflow of development funds or schemes from the central government like JRY (Jawahar Rozgar Yojana), NREGS/MGNREGA (Mahatma Gandhi National Rural Employment Guarantee Act) etc. Driven by the prospect of getting developmental funds, many aspired to become chief by fair or foul means. They acquired some acres of land by purchasing the land from some other chief and got it recognized through the concerned district administration and then secured the gazette notification. So, customarily many of them are not legitimate chief as they did not perform the usual customary obligation and ceremony *Haosat kilah* to the head clan. In most cases all the scheme/fund oriented chiefs are non-resident chief simply because he has no villagers, though in the government records they fulfil the minimum household requirement which is done through sheer manipulation by bribing the officials. They are nothing but fraud and unethically indulged in money-making business. Such phenomenal changes have disgraced and eroded the sanctity of the chieftainship institution thereby spoiling age-old value system.

Another negative impact of the authoritarian Kuki chief is that many villagers left their native village for good and began to settle in towns and cities. It becomes difficult for villagers to live in a village rule by an illiterate or poorly educated chief who hardly knows how to read and write. These chiefs do not respect the views, opinions and suggestions of their educated villagers. This being the case the village cannot develop into a bigger village but rather split into smaller village with just few households. As such there is no big Kuki village worth mentioning in the interior parts of hills of Manipur. Further, with the impact of globalisation and high consumerism, most chiefs become egoistic, selfish, greedy and hardly care for welfare of the hapless common villagers. Besides, during state and parliamentary election, exercise of adult franchise is also illegally manipulated by the chief in total violation of the democratic rights of the individual villager. The villagers are normally expected to vote for a particular candidate whom the chief support, if not the villager could face dire consequences. There are many instances of the villager facing the wrath of the chief resulting in the latter's expulsion from the village. As such, traditional institutions are seen undemocratic and instrument of domination and subjugation of chiefs over others. It is also considered as one main reason for lack of societal progress as a whole.

But in the case of the Nagas it is the other way round. The land belongs to the community and the village council headed by the chief or headman take care the village administration.

Chiefs' mindset and characters: The Kuki chief perceived that the land they occupied within their chieftom exclusively belongs to them and the innocent villagers should live and settle according to their whims and fancies. They can expel or kick out any villagers if they disobey or speak against their ideas and policy programmes concerning the village administration. Developing even a slightest enmity with them could lead to unwanted consequences. They did not know that they are simply the custodian and own the land on behalf of his villagers. Traditionally, the chiefs are mere distributor of the village land for cultivation. Further, many chief are ignorant about the constitutional restrictions in connection with the purchase of tribal lands by outsiders or non-tribals without prior permission of the districts council or the district administration.

The Kuki chiefs were generally not only arrogant but also filled with false pride and self-glorification. They are egoistic and also boasted about their position which is based on birth. They don't mind defiling certain social norms within their chieftom. They also speak with irreverence with scanty regard for their poor villagers. They rule unceremoniously and the way they exercised their powers sometime becomes very irritating and unbearable which eventually compelled some of his villagers to migrate to another village only to meet the same fate at the hands of another chief. The way how they use the developmental funds/schemes are very exploitative in character. In this connection, it is to say that the Constitution of India is supreme and no special privileges is given to anybody not even the erstwhile Kings and Maharajas after the adoption of the Constitution of India. The constitution never mentions any special privileges for the tribal chieftains except the safeguards which enable them to practice and promote their traditional culture in order to preserve their distinctiveness. In conformity with this constitutional provision, the Manipur Land Revenue (MLR) and Land Reform (LR) Act has also not been extended in the hill areas of Manipur. This has enabled the tribal chief in particular and the tribal people in general enjoy constitutional protection of their land, culture and identity. The respective tribal chief could rule their chieftom and their vast tract of land without interference from outsiders or even from the state or district administration.

Give and take society: Considering a community cultural dynamics, the Kuki society has also been basically a 'give and take' society. The chiefs being considered the 'lords' of the soil within their boundaries and usually the head of the clan were entitled to receive customary tithes and tributes from the village community. The village community is a well-knit closed society and they enjoyed high social wellbeing. The tithes and tributes paid to the chief added his resources to enable him run the village administration. But in contrast to the traditional Kuki village administration system, the villagers at present paid nothing. What was paid to the chief earlier like *samal*, *changseo* etc. have been stopped long time back more so with the arrival of Christianity. As such, the chief has very limited resource to run the village administration and for the maintenance of his personal family. Such circumstances often forced him to siphoning off certain amount of development funds for

his personal benefits. Personal development of the chief assumed more prominence than community development. This situation made the chief more corrupt and tempted to abuse their official position or power for their personal benefit. In the case of Nagas there is no question of the abuse of power as the elected village council is the supreme governing body who works for the common interest.

Prevailing scenario: Chieftainship institution has become highly corrupted. The mushrooming of numerous Kuki chiefs in various parts of north-eastern states of India and especially in Manipur should be seen in the light of this prevailing corruption. There is no methodology as to how a new village should be established. The old traditional system of setting up a new village by obtaining prior permission or authorisation from the lineage head is no more practiced. Today the Kuki society has witnessed unprecedented ballooning of non-viable villages. The village chief enjoyed enormous powers and privileges which made the chieftainship organization to become authoritarian in nature. Generally, the characteristic features of the Kuki chieftainship practices are such that the chief captures all position, power, authority and responsibilities. There is no freedom for the villagers to develop their full potentials. The villagers are often denied democratic rights at the grass root level. The chief is considered by the ignorant villagers the sole owner of the land within its territorial jurisdiction and has to be pleased by the villagers all the time. Most often, the chief exercised his power arbitrarily over the villagers and this has discouraged the people. The authority of the chief in all matters has diminished the incentives of the villagers/individuals. Lastly, the worst part is that the chief has the right to sell off the land without the knowledge or consent of the villagers unlike the ethnic Naga Community.

This shows that the position of Kuki chief is nothing less than a dictator. The so-called village authorities among the Kuki groups are existed for name-sake. They are hotchpotch authorities appointed and dismissed as and when the chief deemed fit. He could expel anybody from the village who opposes him in matters relating to his administration. As such normally no villager dares to react against the chief for fear of his wrath. It is extremely difficult for the poor villagers who are settling under the mercy of the chief. Truly speaking, there is no sense of security for the villagers. As such there is no question of long-term plan like engaging in horticulture plantation, agro-based farming, etc. Due to this apprehension no one dares to construct permanent building or long-term developmental projects in the village. This being the case, Kuki villages is not developed in all respects. While the chief becomes richer and richer year after year the condition of the hapless villagers continues to be grim. Villagers in many cases have not benefitted any of these schemes as it never reaches to them. Many chief hardly cares to run the administration for the welfare of the villagers. There is no doubt that the chiefs had played useful role in the past because of which their office was retained as part of an administrative empowerment. Unlike the traditional past the institution of chieftainship as of now is highly debated and questioned among the Kuki intelligentsia. This calls for immediate reformation of the chieftainship institution without undermining the traditional culture and customs. There were many wrong doings on the part of the chief but no villager dares to challenge him. The

chief is neither accountable to his villagers nor to the government. As such there is no question of social audit when it comes to the implementation of development funds/schemes or any financial matters in the village. Under the unscrupulous chief, the institution has become a den of thieves and robbers. The Kuki Chiefs' Association is also formed just to promote and protect their vested interest. The association hardly looks after the interest of the common masses. But in the case of Nagas since land is owned communally with collective responsibility⁴, the residents have equal rights over the land and works for the common interest only.

Survival and Retention of traditional polity: The system of chieftainship among the Kuki-Chin was the main reason behind the sustenance of traditional governance which in turn preserved and retained the customs and culture. The institution itself combined all the three organs of government such as executive, legislative and judiciary functions in running the village administration. The chief was the fountain head of justice and retainer of customs. Similarly, the Naga traditional polity survives despite varied changes around. It is found that customs play a crucial role in all walks of life be it on matters relating to social, economic, political, religion, judiciary etc. In spite of many defects, chieftainship systems or for that matter that of the headship of the Nagas, remained functional. The hapless villagers have to bear and suffered. It is very unfortunate.

Traditional system of governance was really vital and important so much so that it stood as the main reason behind their unity and strength. The attempt to abolish was far more counter-productive which must on no account be allowed to do so in the interest of peace and tranquillity in the state. Chieftainship among the Kukis needs to be reform at the earliest if it has to be retain and make it survive without losing its essence in tune with the changing times. The institution still survives today with all its antecedents. It has still remained a functional system despite various legislative measures which have been taken for abolition. Thus, the Kuki-Chin tribes as a whole, who are distinctive for their homogeneity unlike the Nagas who are distinctively known for their heterogeneity, have inherited a unique traditional government. In spite of various changes and emerging new forces brought about by the modern civilization the institution remains deep rooted in the social structure. The attempt to abolish chieftainship was far more counter-productive and more harmful. The chieftainship system was shaken by the forces of imperialism no doubt, yet it remained intact and withstood the test of times.

Constitutional safeguards: This safeguard has enabled the tribals to retain their traditional polity and socio-cultural identities. Had not the constitution enforced restrictions on the entry of outsiders in tribal areas, the tribal chief would not own such a vast tract of land in his name. Land in the hill areas where the tribal people settled are not surveyed. It is to note here that the Indian Constitution has guaranteed to the states and the citizens, powers and rights within their areas. The Constitution has provided minorities rights and also sufficient safeguards to the scheduled tribes. Article 19 of the Constitution provides that all citizens shall have the right 'to move freely throughout the territory of India and to reside and settle

in any part of the territory of India'. However, this right is subjected to restriction in the interest of the general public or for the protection of any Scheduled tribe⁵. Besides, "The entry of outsiders in tribal areas is restricted to protect the distinctive culture, language, customs and manners of scheduled tribes and to safeguard their traditional vocation and properties against exploitation" (M Laxmikanth: 2010:7.11)⁶ For instance, the non-tribal in the Inner Line Permit (ILP) enforced state is mere residents. It strictly meant for preservation and protection of the tribals and their inhabited areas from encroachment, exploitation and assimilation of the plain people. The safeguard meant the tribal people can practice, promote and preserve their distinctive culture and customs. ILP is strictly meant for preservation and protection of the indigenous people and their inhabited areas from encroachment, exploitation and assimilation of the non-natives. Under Section 2 of the Regulation of 1873, the system of ILP was enforced in Mizoram, Arunachal Pradesh and Nagaland. Now, it has come into effect in Manipur too, from January 1, 2020, making it the fourth northeastern state to come under the ILP regime. Both the hill and plain people of Manipur will be benefitted as the system will regulate the influx of outsiders. Besides, the majority Meiteis in the valley are also demanding Scheduled Tribe status for the last ten years though there are stiff opposition from the tribal population. Only time will tell the future outcome.

Constitutional Provision - Hill Area Committee: In the North Eastern States Reorganisation Act, 1971 Article 371C was introduced in the Constitution of India. Then in the Legislative Assembly of Manipur, Hill Area Committee was constituted. This committee is empowered by the Constitution to monitor law making and administration of hill areas. At the time of movement for statehood in Manipur, the tribal leaders wanted constitutional safeguard for the tribal people of hill areas. The Parliament provided the constitutional safeguards in the form of an amendment. Art. 371C was thus inserted in the Constitution of India. According to this article, "the President may... provide for the constitution and functioning of a Committee of the Legislative Assembly of the State consisting of the members of the Assembly elected from the Hill Areas... for any special responsibility of the Governor in order to secure the proper functioning of such Committee".

The sub-section No (2) of this Article further states, "The Governor shall annually or whenever so required by the President, make a report to the President regarding the Hill Areas in the State of Manipur and the executive power of the Union shall extend to the giving of direction to the state as to the administration of the said area". As per this Constitutional provision -

- 1st, the President of India shall constitute the Hill Area Committee of the Assembly,
- 2nd, the Governor has been entrusted a special responsibility and power to ensure that the Hill Areas Committee functions properly,
- 3rd, the Governor shall report periodically to the President on the administration of the Hill Areas,

4th, the Government of India is empowered to issue direction to the state on the status of administration in the hill areas.

Dr. V.V. Giri President of India promulgated the Manipur Legislative Assembly (Hill Areas Committee) Order, 1972. The First Schedule of the order describes the “Hill Areas” and the Second Schedule contains the list of the Scheduled Matters (13 in number). The Hill Areas Committee had four legislative functions. They are –

(i) All bills except money bill containing the Schedule Matters shall be referred to HAC for consideration and report to the Assembly.

(ii) The HAC shall have the right to consider and pass resolution recommended by the government of the state, the legislative or executive action affecting the Hill Areas with respect to the Scheduled Matters.

(iii) The HAC shall have the right to discuss the Annual Financial Statement (State Budget) in so far it relates to the Hill Areas and to facilitate discussion in the budget of the Hill Areas.

(iv) The bill recommended by the HAC may be passed by the Assembly with variation. With regard to the general functions, (i) The HAC shall safeguard the interest of the people of the Hill Areas particularly the accelerated development of the area. (ii) The HAC shall promote unity between the people of the Hill Areas and other areas of the state. (iii) The HAC has special responsibility on the development plan of the Hill Areas, “The development plan shall be placed before the HAC for its views and its views will be taken in account before the plans are finalized”. The Government shall submit quarterly report to the HAC showing the progress of the implementation of the plans.

Scheduled Matters: The Scheduled Matters which are under the jurisdiction of the HAC are:

- (i) The power and functioning of the District Councils
- (ii) Development and Economic Planning
- (iii) Allotment, Occupation or use or selling a part of land
- (iv) Management of Forest (other than Reserve Forest)
- (v) Use of Land and water resources for the purpose of agriculture
- (vi) Regulation of the practice of Jhum or other forms of shifting cultivation
- (vii) Establishment of village committee or councils and their power and other matter relating to village administration
- (viii) Public health and sanitation
- (ix) The appointment or succession of chief or headman
- (x) Inheritance of property
- (xi) Marriage and divorce
- (xii) Social customs
- (xiii) Any other matter which the Assembly may by resolution declare to be a matter which shall come within the provision of the Hill Areas Committee.⁷

The analysis of the power and function of the Hill Areas Committee shows that the HAC is a powerful instrument to safeguard the tribal interests and promote good governance and developmental process in the Hill Areas. However, it is necessary to examine how far the HAC has been able to protect the interest of the tribal people.

Analysis of HAC: Art. 371C is a powerful constitutional body meant to serve as an instrument for the protection of the interest of the tribal people of Manipur. It should ensure effective implementation of developmental programmes with a view to promote good governance in the hill areas. The HAC, despite a constitutional body, has been totally incapacitated over the years by the Manipur Legislative Assembly controlled and manipulated with scanty regard for the interest of the tribal people by ruling parties and the concerned executive departments. The tribal MLAs could not evolve any consensus or common ground on various tribal problems due to party politics and infighting among themselves for ministerial berths. In short, they all want to be in the good books of the Chief Minister. As loyalty to their political party became supreme the tribal leaders ignored if not totally forgotten to assert their constitutional rights. The Chairman of the Hill Areas Committee, being always a man from the ruling party makes the committee simply one of the organs of the ruling party. It appears that they simply play the role of advisory and suggestion without any tangible outcome. The Governor of the state is duty bound to do his job in conformity with the Constitutional provisions by monitoring the powers and functions of the HAC and its working system. It appears that the Governor needs to do a lot more and see whether the interest of the tribal people is properly safeguarded as per the provision of the Constitution. Sadly, neither the Governor nor the Government bothers the functioning of Hill Area Committee.

The HAC is a mere puppet in the hands of the Chief Minister as they invariably follow the dictates of the latter. The members are easily influenced by money power and other inducement. There should be half yearly furnishing report by the Governor to the President through the Ministry of Tribal Affairs, Govt. of India regarding the administration of Hill Areas of Manipur. Annual reports of the same should be easily accessible to the public to make them aware of the progress of administration. Union Government should also direct the State on issues of tribal customs and traditions, law and justice, land alienation and reservation in jobs, projects affecting the interest of the tribals, fund allocation to ADCs etc. Thus, it is to say that the tribals in Manipur are not happy in contrast to the tribals in Sixth Schedule areas of other states. The members of HAC should take pro-active role and should ensure that their legitimate demands are met by the government so that development programmes penetrated at the grassroot level. In short, they should fulfill their constitutional mandate. They should come to the forefront on every issues affecting the interest of the tribals. But the tragedy is that due to disunity among tribal MLAs the very purposes of this constitutional body to safeguard their interest is defeated. The loosely structured Hill Area Committee simply remains as one of the wings of the ruling party which does not serve its purpose. Without reviewing the committee's power and functions, with revolutionary changes in its working mechanism it will continue to remain worthless. They are supposed

to be pro-active towards the interest of the tribal community. The HAC is formed to provide legislative protection to the tribals but it has done nothing substantial. It is to note that during the last 50 years of its existence as a constitutional body, it has failed to act as an effective committee to protect the interest of the tribal people. Despite the fact that the tribal areas of Manipur are included in the Scheduled Areas they are not provided the same provisions similar to that of the Sixth Schedule areas. So far the traditional land use system which sustained their life, culture and identity is not threatened except for the recent incidents of overlapping of census, proposed Manipur Village Authorities Act-1956, the recent introduction of Manipur government Police jurisdiction, Forest Rights Acts, etc. Protection and preservation of tribal identity, culture and customs, language and literature are part of the enforceable fundamental rights. In a way it is their constitutional right to govern themselves through traditional form of governance. Failure to preserve and practice the distinctive tribal culture by its own people in its true form, may invite the risk of losing Scheduled Tribe status.

In analyzing the Hill Area Committee, the members and functionaries of this committee are more loyal to their party affiliation and their senior political leaders or boss rather than looking after the interest of the tribal community. But this does not happen instead indulge in blame game only. The tribal leaders themselves are to a great extent responsible for their own backwardness. The tragedy is that due to disunity among tribal MLAs the very purposes of this constitutional body to safeguard their interest is defeated. The HAC is a powerful constitutional body meant to serve as an instrument for the protection of the interest of the tribal people of Manipur. It should ensure effective implementation of developmental programmes with a view to promote good governance in the hill areas. As loyalty to their political party became supreme the tribal leaders ignored if not totally forgotten to assert their constitutional rights.

Chiefship vis-a-vis Autonomous District Council (ADC): Decentralized governance or democratic decentralization in the form of district council among the hill people of Manipur fails to satisfy their aspiration. The holding of Autonomous District Council election in the hills of Manipur after a gap of about 20 years had a mixed response from the people. Being under the state legislation, the success and failure of district council depends entirely on the state government. There is no real autonomy in the hills as it is outside the ambit of the Sixth Schedule. It is bound to fail as developmental tool due to the absence of the Funds (money), Functions (power), and Functionary (staff/workers). The aspiration of the tribal people is that the provision of Sixth Schedule of the Constitution of India be extended to the present District Council of Manipur and even beyond that.

In this connection, the mistrust and suspicions between the state government and the tribal as a whole should be eliminated. The government should take the tribal people into confidence if at all election for village developmental bodies are to be held under their supervision. Then, the village administration should be reformed thoroughly with proper safeguards for preservation of their customary laws, culture, identity and land. The HAC should exercise their power and rights to ensure that interest of the tribal people are well

protected. As such the present district council does not serve the purpose without having executive powers. The state legislature in consultation with the HAC should empower the Autonomous District Council so as to ensure good governance. As there is no implementing agencies at the local level, arrangement cannot be made for releasing of funds. In the absence of development bodies in the village, a link could not established with the District Council.

There is no doubt, however, that at one point of time in the past the traditional practice of Kuki chieftainship served the interest of the community but in the present day context of a complex society, comprehensive reformation of the institution is a must in order to ensure justice, equitable distribution and balanced development. In the context of Kuki society, the chief should remain as the customary head in order to preserve their identity and culture. Traditional governance should be bifurcated from developmental governance. Earlier attempt to constitute the village level bodies was opposed by the Kuki chiefs as it was perceived differently. The government, the chiefs and the community leaders and all stakeholders should put their heads together in reforming the traditional polity and ensure good governance by creating developmental bodies and restructuring the complicated land holding system. Traditional polity may continue but not without a sweeping changes and reformation. The continued suppression of the democratic rights of the poor villagers by the chief for ages together is unconstitutional. In a way the Naga polity is much better than that of the Kukis in terms of developmental perspective.

Experiences and all research evidences have point to the fact that efficient local self governance and Human Development Index is co-related. As the government developmental schemes hardly reach to the public, poverty, hunger and starvation continues to dog the tribal mass. In today's world of globalisation, per capita income does not indicate the real growth and development and the new indicator being Human Development Index, we have to look for the success of 'inclusive growth through inclusive governance'. The unrest among the tribal people and the consequent mushrooming of various militant groups is the fallout of the 'failed state' coupled with 'hill-valley divide' syndrome. Unless the hills of Manipur are well developed, peace in the state would be elusive. Besides, the present demand by the tribal people for the extension of the provision of Constitution Sixth Schedule in the hills areas may be attributed to mainly economic growth and developmental reasons.

Failure of District Council as a development tool: Tribal in Manipur had been enjoying the status of special constitutional safeguards under Article 371 C without the Sixth Schedule. Under this article of the Indian Constitution, any matter of public issues relative to tribal and the Hill matters should be routed through the Hill Area Committee as mandated by Clause 4 of the Hill Area Committee Order, 1972. The HAC was designed to be the Hill Assembly of the tribals under Art.371C for special constitutional safeguards of tribal is, in practice only a toothless institution, as their plans for the upliftment of the tribals are often voted down in the state Assembly. As such the present district council does not serve the

purpose without having financial, judicial and administrative powers. It simply exists under the mercy of the state government.

The Kuki chief opposed constitution of village level bodies under district council even for developmental purposes. The Nagas too opposed the same due to political reasons. As there is no implementing agencies at the local level, arrangement cannot be made for releasing of funds. There is no development council at the grass root level to link with the District council. As such there is no hierarchy. Since there is no linkage there can be no responsibility and accountability. Government should insist or ensure financial accountability so that funds may not be diverted. Since the government cannot sanction funds due to non-election of village development council the election of District Council as a developmental tool has failed.

From the side of the state Government the district council needs to be empowered. The followings suggestions have been made in this regard:

- i) That the power of allotment and others mentioned under the sixth schedule of the constitution of India be transferred to all district councils in Manipur.
- ii) Land records, including all relevant records of the land lying within the district be handed over to district council from the state government settlement and revenue departments.
- iii) A committee comprising tribal members should be formed to study land holding system of the tribal and separate land laws for the hill district be enacted.
- iv) Government should not encroach upon the land lying within the hill districts except in exceptional cases of acquisition as mentioned in the Sixth Schedule of the Indian constitution.

In the light of this background, it is imperative on the part of the tribal chief to make a change-over and explore way and means for economic viability in the hill areas of the state without any further delay. As the social set-up is different in the case of Kukis, the chief being the fountain head of justice and retainer of traditions and customs, the chief should remain chiefs but democratic form of administration for development administration should be introduced in order to pave the way for economic development. That means the chief should be desisted from interfering in the developmental governance of the village. The chief should be sensitised through Kuki Inpi (apex body) to transform their mindset in the interest and benefit of villagers. With the help of the chief and headman all government institution should be made functional. Besides, all centrally sponsored schemes such as mid-day meal, JRY, NREGS etc. be implemented as envisaged by the scheme to the benefit of the villagers without any excuse.

Suggestions: In conformity with our study and findings, the following points are humbly suggested which the legislators may consider.

- i) Provisions similar to the Sixth Schedule areas should be granted as it appears that without it the political aspirations and traditional rights of the tribal people

of the state cannot be effectively safeguarded. It is to say here that the power of allotment and land records lying within the district and others mentioned under the sixth schedule of the constitution of India be transferred to all the district councils in Manipur.⁸

- ii) The Constitutional provision for the tribal people in Manipur in the form of Article 371C needs to be amended or reviewed. The name Hill Area Committee may be changed into Hill Area Commission with the power of the civil court.
- iii) The tribal MLAs who are supposed to be the prime movers and key players of the HAC or this constitutional body should assert their power and constitutional rights without any fear. The elected representatives should come to the forefront on every issue affecting the interest to the tribal people. In short they should claim their power and fulfill their constitution mandate.
- iv) Past experiences tells us that Chairman of HAC should not necessarily be from the ruling party. This constitutional post should be occupied with consensus from amongst the elected tribal MLAs and if possible in consultation with the tribal leaders or should be chaired by members of the opposition party.
- v) Ministers and bureaucrats who deal matters relating to hill areas needs to be well aware and appraise of this important constitutional safeguard for the tribals and they should shed their discriminatory attitude when it comes to developmental process of the hill areas for the interest of peace in the state.
- vi) There should also be a committee to look into the tribal land ownership system vis-a-vis their socio-cultural set up. The need of the hour is to set up a committee comprising tribal members to bring out separate land laws to be enacted effectively. Only under exceptional circumstances should the state be allowed to acquire lands lying within the hill districts. Amendment of Manipur (Hill Areas) Village Authorities Act in the context of 73rd amendment of Indian constitution which is long overdue needs to be addressed.
- vii) There is no legitimate authority at the village level to look after the developmental aspects. This could be filled by having a cluster of villages of 100 houses as the lowest level of developmental planning.

Kuki chieftainship is a legally recognized institution unlike the *Khap* panchayat of the northern Indian states. The Kuki chief plays a unifying role by providing leadership and solidarity among the various clan and sub-clan centric society. In the past various Acts such as the Manipur Village Authority Act, 1956, the Manipur Land Revenue (MLR) & Land Reform(LR) Act, 1960 and the Manipur Hill Areas (Acquisition of Chief Rights) Acts 1976 were passed. All these Acts were attempting to abolish the tribal traditional polity and land rights to make uniform land laws in the state. However, as the state witnessed strong protest from the tribal community against these Acts, it could not be implemented. Modern legislation and Christianity have failed to abolish this institution⁹. Attempt to introduce MLR & LR Act 1960 in hill areas seems to be opposed continuously by the tribal people under the leadership of various civil society leaders/organization under different names and banner. The KCA in the recent past has pitched for an autonomous Kukiland Territorial

Council in Manipur under article 244 of the Indian Constitution saying it would present the 'most workable solution if not the best' for the Kukis in the state.¹⁰ The KSDC (Kuki State Demand Committee) and the two Kuki apex militant bodies are also demanding a separate Kuki state out of Manipur.

Land use system should be reformed before the state intervenes as the age old land use system is not ideal for commercial farming in a modern day economy. It will check the migratory tendency of the people too. If possible statutory recognition of individual rights of ownership on land may also be introduced (without any exploitation by the non-tribal). The chief are becoming selfish and lost interest in the welfare of his villagers. Most significant change is that Kuki chief no longer enjoys certain customary privileges as in the past. Legalistic approach of the state government is likely to remain futile till the Kuki chief and leaders are convinced of democratic principles/values.¹¹ There is need to reconcile and harmonize traditional tribal institution with modern day developmental governance. Critics may not see any justification of the continued traditional polity especially in India which takes pride in democratic values and principles. All stakeholders including the state, Kuki community and their chiefs are central in reforming the traditional tribal polity and restructuring workable land system in Manipur. Otherwise, migratory habit either locally or externally seems to continue due to absence of individual rights or permanent ownerships on land. As such there is intense desire for privatisation/individual ownership of lands. As of now the tribal people living in big towns and big villages by the side of the State and National highways began practicing *Patta* land system where every individual household became a legal owner. The intense desire to possess individual legal ownership – *Patta/Jamabandi* copy for their respective homestead land is the direct fallout of the autocratic chieftainship practices. But such things were comparatively very less amongst their Naga counterpart in Manipur.

Concluding remarks: Chieftainship institution is highly antagonistic to democratic principles and values. It's survival depended on the continuity and strengthening of tradition. The idea of democratic decentralization under the Indian system of governance is to empower people at the grass root level. The prevailing traditional institution especially among the Chin Kukis of Manipur needs to reform in tune with the changing times. It does not empower the people at the grass root level. Rule of men is the prevailing practices among these villages rather than the rule of law. As traditional polity is antagonistic to the principles of democratic decentralization, it is bound to contradict every law passed by the state. As such, a mechanism is required to formalize this traditional institution within the governance fabric of the government. There is a need to reconcile the traditional institution which basically comprises male members headed by traditional tribal chief with the modern day inclusive developmental bodies. There is also a need to harmonise the traditional village authorities and village development board/council under the government¹² and make them co-exist without being antagonistic to each other. The tribal people of Manipur are the only group in the northeast who do not have district council or local government according to the Fifth or Sixth schedule. If they are to be given true form of local self-government, the

provision of 6th Schedule needs to be provided or the Hill Areas should have separate land laws. In the light of this background, it is imperative on the part of all concerned to exploring the ways and means for effective and good governance in the hill areas of the state without any further delay. The government also needs strong political will to address this decade long problem without underestimating the tribal sentiments. The state has to rise above the politics of deprivation and consider certain genuine demands in the right earnest for peace, prosperity and progress of the tribal people in particular and the state in general. The recent publication of certain documents by the Manipur government declaring that democratic election are held in Kuki villages are not true as there is no electronic or video graphic evidence to show that election has been conducted under the supervision of the Government. This kind of sheer manipulation should be avoided. Kuki-Chin traditional polity is antagonistic to democracy on the one hand but the survival and retention of the institution serve the interest of the tribal people on the other.

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