



Construction of Colonial Law in the Frontier Hills of North-East India 1826-1947

A Thesis submitted to the Department of History,
University of Hyderabad in partial fulfilment of the
requirements for the award of Doctorate of
Philosophy Degree

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DECLARATION

I, **Thungdemo N Yanthan**, hereby declare that this Dissertation entitled **“Construction of Colonial Law in the Frontier Hills of North East India 1826-1947”** submitted by me under the guidance and supervision of **Prof. Anindita Mukhopadhyay** is an original and independent research work. Which is also free from plagiarism. I also declare that it has not been submitted previously in part or in full in this University or any other University or Institution for the award of any degree or diploma. I hereby agree that my thesis can be deposited in the Shodganga/INFLIBNET.

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Glossary/Abbreviations

Abkari- An excise or internal revenue tax on manufacture or sale of intoxicating liquors or drugs.

Aksu- Feast for peace and reconciliation in Ao Naga traditional practice.

Ame- Bride price in Sema Naga.

Amung – Observation of Sacred day in Ao's custom.

Aqha axe- Low social status in Sumi (Sema) Naga.

Bigha- Any of various Indian units of land areas varying between 1/3 acre and 1 acre.

EIC- East India Company.

Faringati- High Land.

Mahal- Revenue Division.

Gaonbura - Village elder.

Jhum- Shifting Cultivation.

Khat - Land formerly given to Nagas by Ahoms; rent from khats went to Government from 1921, and Nagas received a fixed amount.

Khel: An Assamese word for an exogamous group.

Khelwaree- Ahom's division on land-based on various khel in a village for occupation.

Losü-man- Fine paid at the time divorce in Lotha Naga.

Mauzadar- Collect Land Revenue and other government dues.

Mithan – Gayal/'bos frontalis', one of a species of Indian bison.

Mouza- A single Revenue Estate.

Oman- Bride Price in Lotha Naga.

Parwanas: Agreement signed between the Deputy Commissioner of Khasi-Jaintia Hills and the Sirdars and Lyngdohs.

Rupit- Low paddy fields.

Sanads- Agreement signed between the Lieutenant Governor and the *syiems* (chief)

Thana- Police Station.

Tola- A unit of weight of India equal to 180 grains troy or 11.7 grams.

Upas- Mizo village elders in Village Council.

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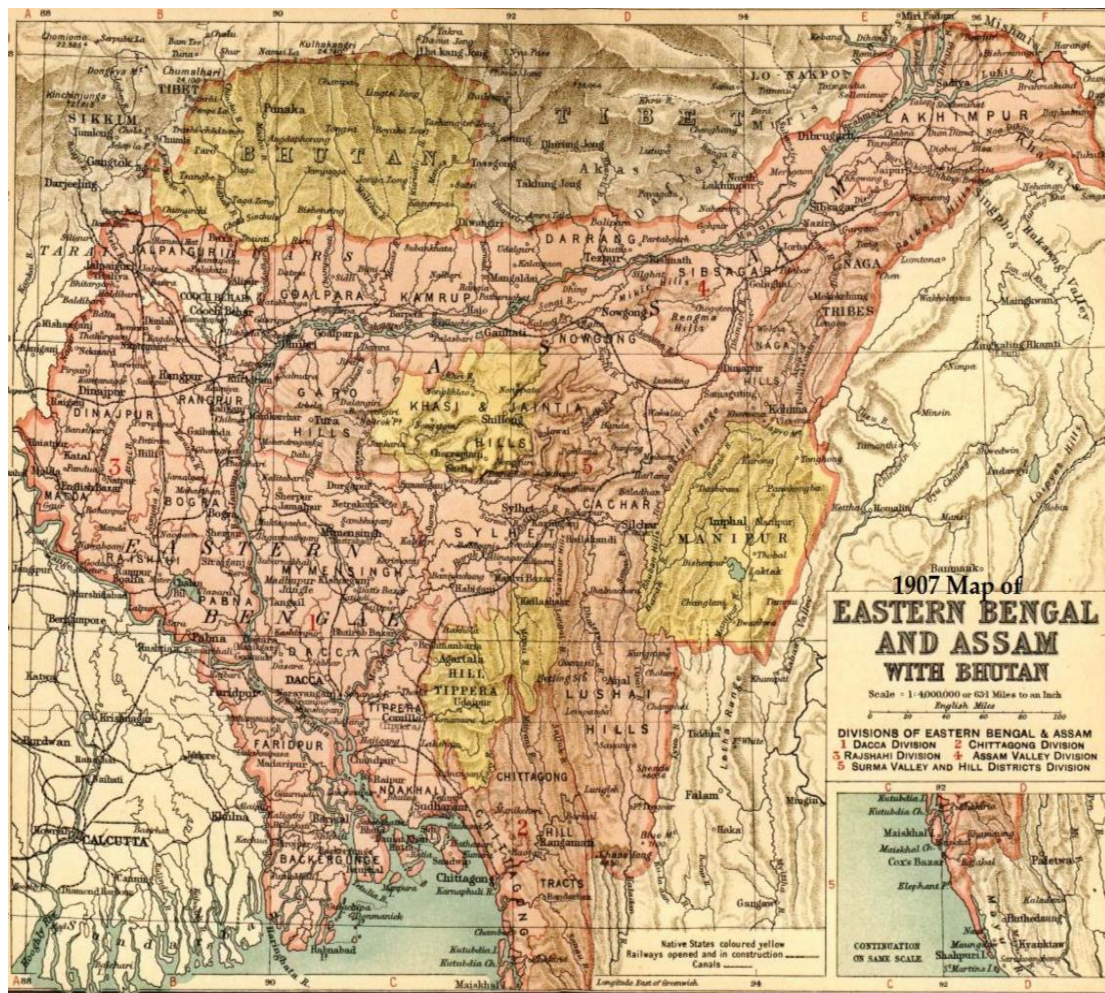
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Introduction

The thesis is a study of the colonial state on the North Eastern Hills of India from the period 1826 to 1947. It seeks to study the power relationship of the dominant British ruling race over the hill peoples, who were considered to be ‘primitive’, ‘wild’, ‘savages’, and ‘barbarians’¹. The thesis emphasizes the ‘modern networks’ or technologies of governance implemented by the British to govern the ethnic people of North-East India. In this connection, the study examines the workings of colonial laws which were imperative in reconfiguring the indigenous world-view and in changing the notions of authority, power, justice, punishment, inheritance, property rights, and gender relations differently. However, the thesis narrows down the broad canvas that the previous statement indicates. It focuses on the shift in notions of authority, power, justice and punishment. It also focuses on the development of a modern state and the technologies of governance into regions. Prior to the colonial intervention these regions were not familiar with modern statecraft as represented by colonial power networks, and hence these new technologies of governance altered the very nature of the way in which power and authority were constituted in these regions.

The arrival of modernity in North East was not a result of social, economic or political progress. Therefore, it is important to see how the frameworks of modernity, as developed by various scholars, ask important questions about the manner in which the North-East as a region and the Naga Hills in particular, underwent transformations during the colonial rule. To begin with, there is a need to understand clearly the nature of ‘modernity’, as the experience of modernity in

¹ Temjenwapang emphasizes the discourses on primitive’ ‘savage’ ‘wild’ and ‘barbarism’ through historiography. He then turns towards the colonial administrators, the anthropologist, the missionaries, and the post-colonial writers. He also mentions the pre-colonial understanding of the plainsmen towards the tribes who were later described as ‘head-hunters’ and ‘untouchables’. In the process, the colonial state crystallized this discourse and thus “the savage became their historical identity”. Temjenwapang, *The making of a history: Experiences from Naga historiography*, Ph.D. Thesis, University of Hyderabad, 2012.

the colonies is different from Europe. For instance, Sumit Sarkar regarded colonial modernism as an “incomplete/unfinished” version of the modernising process which had characterized the Europe historical process. In his argument, the formation of the Indian National Congress (1885) was the beginning of ‘modern’ India. It was during this period India began to develop their ‘bourgeois class’ or intelligentsia while the British had attained stable political and economic system.² However, this class was not the politically and economically powerful European bourgeois, but a much weaker, non-entrepreneurial service class that was heavily dependent on the colonial state for providing employment opportunities, and socio-political and legal institutional frameworks. Sarkar further asserts that the local self-government which was introduced in India to provide paternalistic benevolence “was essentially no more than a measure of necessary financial decentralization”.³ The inclusion of Indian in the civil service was on the basis of equality and equity. In the political and administrative role, the Europeans held most of the post in the Indian administrative service and the Indian who could get into the service were not given equality in terms of powers and decisions making. He lamented on the deplorable conditions of the educated Indian, the lack of industries, and biasness in educational institutions. These problems were aggravated by the racist practice of the colonial state where educated Indians had to overcome white obstructions in their carriers.⁴ However, in spite of this difference in the character of the bourgeois in colonized India, there was a significant politicization by the Indian intelligentsia, apparent in the discourse of Indian nationalism.⁵ And this class of educated intellectuals argued that the colonial rule was delaying the progress and modernization of the nation, and India could only become modern through self-rule, the fundamental claim of Indian nationalism.

This thesis will demonstrate that the North-East in particular experienced a complex trajectory towards the modernizing process. This thesis does not address

² Sumit Sarkar, *Modern India 1885-1947*, Palgrave Macmillan, New York, 1989, p. xvi.

³ Ibid, p. 1.

⁴ Ibid, p. 81-82.

⁵ Ibid, p. 81.

directly the growth of the middle-classes, but instead focuses on the differences of the structural framework that the colonial state pushed into all the regions over which it had political sway. Thus the North-East bypassed the major transformations that other regions had experienced at the level of legal transformation of land rights, land usage and proprietorship. Further, this work will show that the colonial state functioned on three legs: (a) the structural implants or the colonial legal and penal institutions which ensured 'order' and gave the state power its legitimacy, (b) the bureaucratic hierarchical machinery which was placed strategically at nodal points within indigenous communities to provide administrative and judicial efficiency, and to manage the extraction of resources (collection of taxes, fines, levies, etc.), and finally (c) the rhetorical or sets of discursive strategies to put in place a new rationale of power, did not deploy the structural implants in the North-East in the same manner as it had in the presidencies.

Thus there was an appearance of the bureaucratic (hierarchically ordered) machinery along with the colonial state, and discursive strategies to represent the socio-political equation the colonial rule exercised over the North-East, but the legal and penal institutions were introduced in the region on different principles. The civil side of colonial legislative functions, where proprietary rights over land and individual land rights were decided in colonial courts of law, were weak, and were present only to tap through taxation the existent understanding of private property of houses or land: there was no move to push a generalized, Occidental definition of individual property rights (of land or fixed assets) realizable through colonial laws and regulations. Moreover, even the criminal side dealing with public issues of law and order (like murder, theft or physical violence – or crimes against the person), took into cognizance the local/indigenous principles of justice and punitive procedures and allowed a communitarian ruling, thereby lending the colonial state's legitimacy to ethnic judicial and social norms. It was only the direct equation of the local with the dominant colonial authority that was policed and subjected to both administrative control (enforced by the police) and in the event of 'rebellions' or 'raids' to military action. In this sense, this

work argues that the colonial process in the North-East was “incomplete”, thus borrowing Sarkar’s analytical category of an “incomplete/unfinished” project of modernity, but pushing it in a different direction.

Modernity and modernisation

The previous section gives a thumb-nail sketch of the major transformations the colonial rule brought about in indigenous societies in the North-East, as it did in the other Presidencies through its assertion of political domination over the colonized communities. These transformations have been understood to be moves towards modernity, as the changes brought about greater integration within the global capitalistic economy through new systemic and structural changes, which would in turn efficiently/inefficiently mediate between local socio-economic structures and communities and global systems. In this context, a discussion around the concepts of modernity and modernization is relevant.

There is a thin line of difference in the study of modernity and modernisation. The concept ‘modernity’ can be defined as ‘universalistic’ and ‘evolutionary’ in dynamic societies.⁶ It emerged in Europe with the development of art, literature, science, and technology, which in turn led to imperialistic conquests of non-western societies. The result was rapid urbanisation, industrialisation, and the rise of nation-states. Therefore, to differentiate the two different stages of a pre-modern and a rise of a modern western world, the word ‘modernity’, an abstract noun, was coined to denote “a new experience of the world”.⁷ However, “modernity is not European” phenomenon though it is

⁶ Rajesh Kumar Nayak, *Alternative Modernities: Consequences of Cultural Change in Pre-Colonial India*, Shodh Sanchayan, Vol-4, Issue-1, 15Jan-2013, p. 1.

⁷ Ron Eyerman, *Modernity and Social Movements*, in Hans Haferkamp and Neil J. Smelser (Ed.), *Social Change and Modernity*, University of California Press, Berkley, 1992, p. 38.

frequently associated with Europe, as it is a process that can occur in any society.⁸

According to Alberto Martinelli, “by modernization we mean the sum of the process of large-scale change through which a certain society tends to acquire the economic, political, social and cultural characteristics considered typically of modernity.”⁹ Thus, modernisation is a process which often implies modernity, as both refers to the “specific modalities of social life and culture” but the former is an “ensemble of well-define processes...”, which characterizes life-styles; however, modernity has far deeper implications – where deeper structural changes within state structures, societies, optic shifts within individuals all interplay to create transformations.¹⁰ In this context, Alberto Martinelli claims that the transformation can either manifest itself within specific cultures or move in the direction of European societies.¹¹ Therefore he argues, modernity is not necessarily Eurocentric but rather pluralistic in nature as the progressive transformations can develop in any location/region/country in the world.¹² Alberto Martinelli, further points out the different dimension of modernisation through economic, social, political, and culture. In economic modernisation, it is usually associated with industrial production as it develops scientific technologies, division of labours, goods and services, commercialization, and global market.¹³ In social dimension, it looks on the demographic change, which is articulated through social differentiation. In political modernisation, it is a “process of transforming institutions and political relations that are common to extremely diverse political system.”¹⁴ In other words, modernity has assumed a global spread, which entered non-western

⁸ Gerard Delanty, *Europe and the Emergence of Modernity. The Entanglement of two Reference Cultures*, International Journal for History, Culture and Modernity, p. 24.

⁹ Alberto Martinelli, *Global Modernization: Rethinking the Project of Modernity*, Sage Publication, London, 2005, p. 8.

¹⁰ Ibid.

¹¹ Ibid, p. 10.

¹² Ibid.

¹³ Ibid, p. 12.

¹⁴ Ibid, p. 15.

societies through colonialism. This study attempts to look into the political, social, and economic modernization in North-East, and in particular, the Naga Hills.

The frames of political, social, and economic modernization in North-East has been explored by many scholars in the context of colonialism on traditional societies. Sudipta Kaviraj in his article “An Outline of Revisionist Theory of Modernity”, argues that modernity in non-Western societies may ‘appear’ very different from the ‘universal’ features of the ‘modern state’ that Marx and Weber advanced “as a process that expands from the West to the other part of the World...”¹⁵ However, the expansion of the European theory of modernity in societies such as Canada, America and Australia, partially connect on the ground that their social histories were quite similar to Europe.¹⁶ But this was not true in the case of non-western societies, where the historical context was culture-specific, and therefore the process of modernization set off processes that transformed. This resulted in the hybrid formation and not in the mirror-image of the modern west.

Kaviraj further theorises on the experience of modernity in the colonized regions. He argues that the political theory of development and economic theory of growth¹⁷ which were implemented to non-western societies to transform traditional institutions of governance and economic systems did bring the expected results. Rather it did not transform the non-western society and left them half-way between European modernity and pre-modern conditions. These theories argue that modernization is not a uniform process rather it was plural in nature.

The expectation of the Eurocentric theories on modernization was that non-western societies, in the various teleologically ordered, phases of transition, would begin to resemble western development more and more. Marx had put it

¹⁵Sudipta Kaviraj, *An Outline of Revisionist Theory of Modernity*, Cambridge University Press, European Journal of Sociology, Vol. 46, No. 3 (2005), pp. 497-527.

¹⁶ Ibid, p. 497.

¹⁷ Ibid, p. 498.

succinctly- “Modern European history showed to the societies of Asia, Africa and Latin America, the images of their own future.”¹⁸ Modern thinkers like Marx, Weber, and Guizot expounded that the emanations of the forces of modernity from Europe had altered fundamental power relations in other parts of the world. These thinkers considered the European civilization to be ‘superior’, in contrast to the other civilizations which were labelled as ‘inferior’. Thereby, the European states projected themselves as ‘universalistic’- to rule and spread modernity to all other human societies.¹⁹ In this way, European modernity is viewed as ‘universal modernity’ by a certain kind of Eurocentric scholarship. However, Kaviraj argues that modernity is a process of ‘self-differentiation’, where the very logic of transformation does not rest on Western assumptions/premises, or institutional structures. Non-western societies develop their own socio-political, cultural and economic filters to adapt Western forces of modernization for their own use. Therefore the spread of modernity only results in ‘pluralism’.²⁰

The constitutive features of ‘pluralism’ is an ongoing debate. Charles Taylor in “Two Theories of Modernity” in “*Alternative Modernities*” argued that modernity has two forms. Taylor argued that the civilizational differences whereat the transition of medieval Europe towards modernity would be different from the transition of medieval Indian societies towards modernity. This argument was based on the anthropological sense of the word ‘culture’, which makes possible academic analyses spread across various disciplines to turn on the fulcrum of cultural plurality. This, in turn implies that a culture has its own “specific understandings of... persons, nature and the good (specific understandings of personhood, social relations, states of mind/soul, goods and bads, virtues and vices and the like)”.²¹ There is an underlying moral grounding which, in the West, came out of Christianity. Thus, even though religion was

¹⁸ Ibid.

¹⁹ Ibid, p. 503.

²⁰ Ibid, p. 504.

²¹ Charles Taylor, Two Theories of Modernity, in Dilip Gaonkar (ed.), *Alternative Modernities*, Duke University Press, Durham, London, 2001, p. 171 and also see p. 182.

inefficacious, much of its undergirding moral and ethical values passed into a secular frame. Therefore, in the West, historical transformations giving rise to a new culture shared many cultural features with its “predecessor civilization”. Taking this line, it has been argued in the scholarly works discussed in the analyses of the various Indian regions under colonial rule, that there was a fundamental transformation of cultural relationships governing “persons, nature and the good”. Such transformations changed the cultural orientation of Indian communities – and produced new hybrid cultures, where totally new socio-cultural configurations appeared, in clear distinction to their pre-colonial pasts. The North-East as a region experienced this cultural transformation through fairly general conversions to Christianity, undertaken by Western missionary proselytization efforts (and covertly backed by the colonial state which did nothing to impede this process), but this is not the angle of this thesis pursues. This thesis looks at the institutional inroads that the colonial state pushed into place- rational organisation of bureaucracy that interlocked with the indigenous rationale of power distribution and authority, the institutional reorganisation of the power to punish and the reconfigured understanding of crime. This point is further deliberated in chapter IV of the thesis.

Taylor’s second theory, which he designates ‘acultural’, could occur in any traditional society, contingent however, to the appearance of appropriate conditions: thus scientific consciousness, development of secular outlook, increased mobility, or the rise of instrumental rationality, concentration of population – could all change or force to change the traditional cultural equations. This theory, according to this thesis, is primary to change, while the first theory is contingent to the appearance of appropriate conditions which is specific to the second theory explaining modernity, or acultural modernity.²² These universal developments tips the socio-political structures in totally different directions. The acultural is often interpreted as “a loss of traditional beliefs and allegiance” because of the transformation in institutions with the growth of urbanisation while degrading rural society or because of the progress

²² Ibid, pp. 172-173.

in scientific reason.²³ In the acultural theory, modernisation occurs and develops in traditional societies and as a consequences, “we tend to glorify modernity, or to vilify it”.²⁴

As Taylor argues, both paradigms are essential to explain the rise of modernity, no single paradigm can take the field of analysis. In colonial India, both the cultural and acultural theories of modernity (offered by Taylor) are needed to explain the transformations that occurred in colonial India in a greater or lesser degree brought in new techniques of governance through the institutions of the modern state. The modern transition and progress through institutions like industries, market economy, bureaucratic, and modes of rule altered the traditional cultural practices.²⁵ As Taylor pointed out, modernity across the world are not identical, and hence one has to come up with alternative modernities, but with “functionally equivalent one.”²⁶

In the North-East, prominent scholars like Joy Pachau, Sajal Nag, David Syiemliah, etc. and also emerging scholars like Kekhriesituo Yhome, Tezenlo Thong, Riku Khutso, etc. have shown the complete dislocation of cultural trajectories in the sense Taylor has deployed the first theory of ‘modernity’. There was a different twist to the story of the advent of modernity. The cultural transformation took place because of the powerful presence of a highly politicized Christianity. While the modern forms of governance and a rationalized bureaucracy brought in ‘acultural’ transformations.

While the nature of transformation might be argued to be pluralistic, nevertheless it is important to keep in mind that it was the colonial STATE that pushed in these changes in non-western societies. The nature of the state does matter. While critiquing the early modernity theory (where the modernization process in transition move towards greater and greater Europeanization), Kaviraj also argues that when these theories are read into India’s history (a) then our pre-

²³ Ibid, p. 175.

²⁴ Ibid, p. 176.

²⁵ Ibid, pp. 182-183.

²⁶ Ibid, p. 184.

colonial histories and (b) our future- do not reflect reality.²⁷ Thus the concept of ‘feudalism’ in the abstract, if used directly through Indian histories, as R.S. Sharma and Ifran Habib has shown, in very nuanced, methodological application of parameters of inquiry, that feudalism in the European sense could not be an overarching framework of explanation, as the medieval or the Mughal state deployed power in very different ways. Thus, theories of what constitutes the modern parameters could be useful for understanding political development (state) and economic growth (capitalistic features) in pre-colonial India as well. Therefore, ‘slavery’ and ‘feudalism’ too were not clear concepts to understand pre-colonial Indian pasts. Thus, the conditions which allowed the evolution of political development and economic growth in pre-colonial India, were very different from the conditions prevalent in the European context of the evolving process of modernity.²⁸ However, some scholars asserted that the rule of the Mughal Empire had a substantial appearance of systematic bureaucratic and administrative control.²⁹ Before the British rule, there was a strong political unity beyond political territories because of the serious intellectual exchanges and commercial transitions in the subcontinent. Nevertheless, with the decline of the Mughal Empire, different powerful regional kingdoms emerged, indicating further evidence of diverse political system- second impulse.³⁰ It was only with the coming of the British rule; a sense of uniform political unity was forged. But with the expansion of colonial power, it also endorsed diverse practice of revenue systems throughout India. In this way, the colonial state balanced the two impulses through their techniques of governance, and continued to rule and legislate India through the intricate pattern. Kaviraj opines that the contemporary Indian states did not resemble with the nineteenth and twentieth centuries construct of the European nation-state. Instead, it was the by-product of the pre-colonial political structures of the Mauryan, Guptas, Mughals and other regional kingdoms. Kaviraj further argues that “we can find greater analytical assistance

²⁷ Ibid, p. 499.

²⁸ Ibid, p. 500.

²⁹ Sudipta Kaviraj, *The Imaginary Institution of India*, Columbia University Press, New York, p. 3.

³⁰ Ibid.

from studying not the history of Europe in the modern period- in which the social science studies focus obsessively- but pre-modern Indian history.”³¹

The state formation in India was completely different from the West as the Indian society power often structured around the traditional society practice of the caste system. In the traditional Indian society, power were distributed to the various strata- from the village to regional kingdoms to vast empires. This structure made the power structure continually shifts from one level to another. Kaviraj called this shifts as ‘subsumption’ or ‘subsidiary’.³² Thus, in the Indian political history, there was no sense of sovereignty (highest centres of power) as the power constantly re-emerged with the decline of other empires. Ultimately, what consistently remained in the Indian power structure was the caste system and the lowest levels.³³

The weak power of the native rulers allowed the British to establish as a ruler over the vast sub-continent. Therefore the character and logic of the institutions are clearly specific to historical specificities and contexts. Therefore, though there was a theoretical feature that assumed that “processual outcomes of modernity to become increasingly uniform”,³⁴ the assumption was not the same in real time and space. While the colonial state power was very different from previous forms, “the nature of its claim over the Indian, its legal apparatus, its techniques of rule and its long-term purpose were qualitatively different from former empire-states”,³⁵ different types of indigenous communities adapted to these modern governance strategies differently. Thus the bureaucracy, that is one of the modern state’s principal institutions, was constructed very differently from the Weberian bureaucratic state. The difference originated from the fact that the Indian state evolved over various stages adapted local institutions to Western organization.³⁶ This is precisely the point that my thesis will make when it

³¹ Ibid, p. 4.

³² Ibid, p. 20.

³³ Ibid.

³⁴ Ibid,

³⁵ Ibid.

³⁶ Ibid.

analyses the change local institutions of power underwent when buttressed with colonial bureaucratic structures. Further, Kaviraj observes, the Indian state experienced a different form of modernity from Europe with the “increasing success of democratic politics.”³⁷ Kaviraj also noted that, from the mid-nineteenth century, political history of India has to be written in the frame of the modern state. The question that I will posit, on the basis of data, is that perhaps there was some element of overlap with Western liberal political language of entitlement and shared power structures of ethnic communities (a history written in the frame of the modern state) – which the colonial state did not modify greatly in the North –eastern region, as compared to the other regions.

Do these communities then remain ‘traditional’? This work will show that the standard definition of what is ‘traditional’ does not fit the set of changes that accompanied colonial domination in the North-East. A binary distinction between ‘traditional’ and ‘modern’ produces the assumption that what is not ‘modern’ is ‘traditional’. However, it also produces another anomaly- what to call the colonial transformation that did not resemble western form of politics, economy and social behaviour. For the societies that emerged after colonial interventions were certainly not ‘traditional’ frames in colonial and post-colonial societies.³⁸ The spread of European model of modernization occurred along with the colonialization as the colonial practices introduced or constructed new set of institutions. Some of the new institutions were completely new which did not have any precursors in earlier history but in many, it was the transformation of the old institutions.³⁹ However, the colonialization brought immense changes to the colonized communities and their perceptions of law, authority, governance or justice. Therefore, we must see differences in the way the state, institutions, techniques of governance, law and legal institutions set off a different trajectory of development in colonial India (more specifically the North-East where the colonial state claimed it did not make any change at all!). Moreover, within

³⁷ Democratic politics gave rise to patterns of political conduct- collective political behaviour, critical thinking, and evaluative judgement. Ibid, p. 501.

³⁸ Ibid.

³⁹ Ibid, 517.

colonial India different regions were subjected to a differently tiered control systems, while in the North-East the colonial bureaucracy was ordered by how the colonial state interpreted the local power structures to be ordered.

Kaviraj has argued pertinently in *“Imaginary institutions of India”* “...it can be claimed that many of the central transformations of colonial modernity were wrought by the causal force of state actions – the peculiarly concentrated and organized form of violence represented in the modern state: in fact some of the changes in the economy were dependent on prior causal impulses from the state and the political realm.”⁴⁰ He also points out that internal sequences are important for understanding the nature of the impact of colonialism in different parts of Indian society.⁴¹

Kaviraj, thus pins change to the advent of the rational colonial state.⁴² He says sharply that the “logical structure of endogenous change does not apply here. Here transformation agendas attack as an external force...” “it is inscribed on every move, every object, every proposal, every legislative act, each line of causality”.⁴³ He too notes that in the larger part of colonial India, in order to harness the economic part of the various societies, the colonial state brought into play new legal and juridical categories. However, what is specific to my thesis is his observation that the political forms of liberalism were not introduced – which is parliamentary representative government. However, property rights were integral to political forms of liberalism, and so introduced a new political grammar into the colonized societies. “It brought in the idea of the state as a neutral structure, holding in place the idea of an individual subject (which was necessary particularly to introduce the new regime of property and the entire regime of taxes and other obligations”.⁴⁴ However, in the North-East, the very idea of the individual tied to private property was very partially introduced. Therefore, the North-East was indeed an exceptional region in the way

⁴⁰ Op. cit., Sudipta Kaviraj, *The Imaginary Institution of India*, 2010, p. 4.

⁴¹ Ibid, p. 5.

⁴² Ibid, pp. 15-16.

⁴³ Ibid, p. 16.

⁴⁴ Ibid p. 17.

modernity was ushered in through the colonial state, most particularly through legislative initiatives.

He also noted that the colonial power did not just rest on these structures but also (and very importantly) on a set of discourses. These discursive strategies intended to substitute the indigenous structures of economic and social organisations. Again, my argument shows that this intervention too, was partial. In other parts of India, it was clear that “[S]ince colonial authority could not legitimized in terms of the constituted common sense of traditional Indian society, the proper course of action was to reconstitute this common sense.”⁴⁵ While the recantation of subjectivities in the North-East was largely shifted with conversion to Christianity, property rights and legal individualization occurred very partially, as the colonial state most often left collective land rights, and thus weak notions of private property fairly untouched.

Continuing from his above work, Kaviraj in his new volume, “*The trajectories of the Indian State: Politics and ideas*”,⁴⁶ looks at the structure and function of the present modern Indian state institutions. Compared to the modern European nation-states, the political history of India creates two contradictory complex impulses- ‘single political unity’ and geographical territory as claimed by the British. These impulses have been casually observed on the institutional structures on Indian political history for the past one and half-centuries.⁴⁷ He argues that in the pre-modern India the two impulses “contradicted and cancelled each other” and it was only in the modern statecraft that the two impulses balanced out both in moderate form.

⁴⁵ Ibid, p. 18.

⁴⁶ Sudipta Kaviraj, *The trajectories of the Indian State: Politics and ideas*, Permanent Black, 2013.

⁴⁷ Kaviraj goes on to say that India was not even less a ‘single political system’, and each region have varied intersection point. Ibid, p. 2

Kaviraj noted that once the British established their rule in India the colonial power constructed modern state in the European model.⁴⁸ The colonial rule with its liberal approach and also exploitative policies prepared the grounds for the formation of Indian a state- “techniques of disciplinary power and the rise of nationalism, democracy and the welfare state”.⁴⁹ The formation of state was possible because of the accumulation of intensive native knowledge and information, and it gradually introduced discursive institutions allowing the colonial power to control the Indians. Then the colonial state-defined and differentiated the European societies and Indian societies, which was critical in their policy-making. Thus, Kaviraj asserts, “In these circumstances, the colonial structure of power eventually came to be modelled upon the British state only in some respects; in others it developed according to a substantially different logic”.⁵⁰ The colonial rule ultimately created a new structure of knowledge but it also created spaces for the development of a distinct state which was different from the colonial state.

As seen in the section on the pre-colonial state formation, the North East state power was not under single political unit. The power was distributed to various native rulers such controlling specific territories. Prior to the British colonialism in India, the native rulers did not try to assimilate the North-East region under its effective political control. The North-East had no single dominant ruler who could assert its power over the people, as a result the various ethnic groups fought with each other. The only recognizable sovereigns were in the present state of Assam, Manipur and Tripura. They commanded sovereignty over small territories mostly in the plains, and had hostile relations with the hill communities. It was only with the arrival of the colonial state that a sense of sovereign state was instilled. Through colonial practices in North-East India the

⁴⁸ The traditional Indian society too had experience state formation, but the British concentration on the modern state exhibited towards globalization. Ibid, pp. 20-21.

⁴⁹ The process of state functionary during the East India Company created a real sense of ‘colonial state’ only after a lapse of a century. Ibid, p. 21.

⁵⁰ Ibid, pp. 22-23.

formation of state, population, and territory emerged which transformed the indigenous communities culturally, socially, politically, and economically.

This thesis discusses the tangible/intangible institutions created with the arrival of colonial rule in the Naga Hills. The colonial state in their benevolent styled project to civilize and improve the governance of the Naga ethnic groups established a 'new order'. The establishment of colonial power also consolidated the American Baptist mission in the Naga Hills. Although they were fundamentally different, their interest often intersected, which ultimately transformed the ethnic communities. The British rule oriented towards the bureaucratic regulation. Hoineilhing Sitlhou remarked that the British administration was "influential only at the policymaking".⁵¹ On the other hand, Sajal Nag wrote that the missionaries took charge of conquering the local inhabitants "morally and culturally".⁵² Nag further commented that "the former looked after peace, law and order, while the other established new social and cultural institutions".⁵³ The politics of missionary quotidian practice demanded the Nagas to accept new religious and socio-culture frames. To put both parties in a frame, they sought for "urgent cultural imperative"⁵⁴ which eventually shaped the Naga society towards the modern colonial state.

As mentioned above, the major transformations in the Naga Hills were in the socio-cultural domain. In the legal sphere, customary law prevailed as the colonial state intervened in cases involving only its own direct subjects in the initial phase of the colonial entry into the North-East. When the colonial power initially started their administration in India (Bengal), it started as a "revenue-

⁵¹ Hoineilhing Sitlhou, *Deconstructing Colonial Ethnography: An Analysis of Missionary Writings on North East India*, Ruby Press & Co., New Delhi, 2017, p. 43.

⁵² Sajal Nag, *Rescuing Imagined Slaves: Colonial State, Missionary and Slavery Debate in North East India (1908-1920)*, Indian Historical Review, Sage Publication, 2012, p. 57. Also cited in Op. cit., Hoineilhing Sitlhou, *Deconstructing Colonial Ethnography: An Analysis of Missionary Writings on North East India*,

⁵³ Op. cit., Sajal Nag, *Rescuing Imagined Slaves: Colonial State, Missionary and Slavery Debate in North East India (1908-1920)*, p. 57.

⁵⁴ Eugene Irschick, *Dialogue and History: Constructing South India, 1795-1895*, oxford University Press, New Delhi, p. 6.

raising body”.⁵⁵ In the process, it enabled the colonial power to assimilate and alter/control the social and political institutions in India. However, these were not the case in the Naga Hills or the hill frontiers of North-East India. The establishment of colonial rule was by ‘force control’ in the hill segments in order to protect the economic zones on the plain districts of Assam. As pointed out, there was a rampant transformation in the cultural aspect, but a weak fragmentation of modern colonial suzerainty in the Naga Hills.⁵⁶ This eventually created ‘incomplete modernity’ in the Naga Hills.

Another important aspect is that both the plains and hills communities possessed a wide range of cultures. Though they mingled through trades, marriages and warfare, the cultural etiquettes remained intact. As a result, cultural divergences also shaped the communities’ responses to the new technologies of colonial governance. The divergences in culture produced different responses paving the way for new evolving cultural forms even though the colonial technologies were generated from the same imperialistic logic.

This thesis will layout the argument that unlike other regions in British India, the North-East especially the Naga Hills, was subjected to an incomplete colonial modification project, as the land use and community rights over land remained unchanged. Here it must be noted that there were concentrations of Western missionaries that had some lease holdings on the land. Thus, my argument is that the civil side of British administration- the civil courts, especially in relation to land surveys, and assessments of land reforms for taxation had not taken place in the region.

⁵⁵ Op. cit., Sudipta Kaviraj, *The trajectories of the Indian State: Politics and ideas*, p. 20.

⁵⁶ Jane Bennett defined modernity as “institutional structures associated with such a temper, including popular elections, rule of law, a secular bureaucracy, an independent judiciary, and free press, public education, capitalism, and monogamous marriage.” Jane Bennett, *Modernity and its Critics*. The Oxford Handbook of Political Science, Online Publication date September 2013. See, <https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199548439.001.0001/oxfordhb-9780199548439-e-11>, retrieved on 23-03-2019.

Pre-colonial notion of authority and power

Historically, the concept of North-East India emerged with the coming of colonialism. In the pre-colonial times, the present North-East comprised of various ethnic communities with their own distinctive identities. Thus, they exercised different forms of power, authority, and control through specific geography and organisational frameworks. Power, authority and control were not necessarily exercised through state structures. In the plains and valleys of North-East India, state structures had existed during the pre-colonial era. In these regions monarchical, centralised power structures with organised hierarchical layers of authority and rules with written codes operated. Strong literary traditions in Assam, Manipur, and Tripura encoded the form of authority, modes of revenue extraction and ideology of the state-turning on the divinity of kings. Oral traditions prevailed in the hill areas, which were predominantly settled by the 'tribal' ethnic communities. Here, the notion of state-formation was not yet established and thus it was primarily based on family-clan networks, occasionally spreading over large tracts, but could also exist independently in small areas. Thus, we find different kinds of authority and power in heterogeneous ethnic communities where the power was vested either with the village elders or in the chieftains of the clans/communities. A quick survey of the forms of authority and control reveals the contours of complexity in pre-colonial North-Eastern region.

The present state of Assam can be traced back to pre-historic times. Though these pre-historic sites were unearthed in Daojali Hading and Saru Taru, of Neolithic period, their dates remain vague.⁵⁷ The origin of the ancient Assam monarchy or Kamarupa Kingdom has been questioned by various historians because of the lack of historical authenticity. However, the dynasty claims its descent from the Asura-Naraka, thus bypassing all human agency to establish the

⁵⁷ Delip Kumar Medhi, *Prehistory of Assam*, University of Hawai'i Press, Asian Perspectives, Vol 29, No.1, 1990, pp. 41-42. Also in Nayanjot Lahiri, *Pre Ahom Assam: Studies in the Inscriptions of Assam between the Fifth and the Thirteenth Century AD*, Munshiram Manoharlal Publisher Pvt Ltd, 1991, pp. 13-14.

ruling dynasty as the legitimate centre. The dynasty of Bhauma-Naraka, has often been considered as ‘mythological’. Though this dynasty has its literary references in the fifth century in the epics of the Ramayana, the Mahabharata and in certain epigraphic references of the Kalika Purana⁵⁸, yet the uncertainty on the chronological order of the legendary kings and also on the date of their rules, had limited any definite construction of the Bhauma-Naraka dynasty. The proper political history began with the dynasty of the Bhauma-Varman. This dynasty had been accounted both from the local sources and from the foreign sources. Likewise, the other two dynasties which ruled the Ancient Assam were the Salastambha and the Pala. The death of Jayapala had considerably weaken the Kamarupa kingdom and it had resulted in the loss of its unified status. The Kamarupa kingdom, had made contact with the Vedic culture and this influenced their culture and policy making. These origin myths and dynastic histories were part of the literate encoding of power and authority, and legitimate claims to hereditary rule.

The literary tradition of pre-colonial Assam, go even further back according to some scholars. There were two major scripts one of which later developed into the present Assamese script. The first was of the Kamrupa which follows a proto-Nagari script and the second was the Chutya Kingdom following the Tai script, which is also explored here.⁵⁹ The earliest Assamese script is believed to be derived from the Devanagari.⁶⁰ According to Nayanjot Lahiri, “The script of Assam started off by being very closely associated with the classical style of North India.”⁶¹ She gives striking features of similar characters from the Allahabad stone pillar of the Indian Brahmi script. This similarity was

⁵⁸ Ibid, p. 62.

⁵⁹ Yasmin Saikia, *Memories: Struggling to be Tai-Ahom in India*, Duke University Press, 2004, p. 6.

⁶⁰ P.C. Choudhury, *The History of Civilisation of the People of Assam to the Twelfth Century A.D.*, published by the Government of Assam in the Department of Historical and Antiquarian studies, Gauhati, Assam, 1959, pp. 390-391.

⁶¹ Op. cit., Nayanjot Lahiri, *Pre Ahom Assam: Studies in the Inscriptions of Assam between the Fifth and the Thirteenth Century AD*, also see all tables of the similar script characters prepared by the author, pp. 57-61.

attributed to the mobility of the Ancient Assam with other regions. Perhaps, Lahiri argues, the striking commonalities with other cultural writings may be “related to the growth of a very large kingdoms, which by their very nature had to adopt a uniform style of writing within their jurisdiction”.⁶² However, the evidence of the scripts suggest that the Assamese language did not entirely derive from the Sanskrit. In relation to this, Macdonell writes that the Assamese “possesses an important literature- Its literary style does not suffer like Bengal from the excessive use of Sankritisations. The literature goes back to an early date, is varied in character and especially abounds in historical works.”⁶³

From the sources available from the epigraphs, the early state monarchies followed the seven principles of the *prakrtis*.⁶⁴ Thus we find a developed structure of state-formation in the Ancient Assam dynasty. The central authority was vested with the kings. He was often associated with the incarnation of Hindu gods, thus giving him the status of god. This allowed them to claim parallel powers akin to the Hindu deities. Thereby, the king received respect and equal status of gods from their subjects.⁶⁵ The epigraphy indicates that the kingship was not only based on the law of primogeniture (right of succession) but sometimes elective or selection from the reigning king. However, the general practice of the succession of the throne was hereditary. The king possess the highest authority (*dandaniti*) and thereby rule his people through “the code of the Brahmanas and customs of the people.”⁶⁶ He was often assisted by the council of ministers who were pre-dominantly Brahmanas. They hold important positions and supervised different departments. The people of the Ancient Assam did not

⁶² Ibid, p. 59.

⁶³ Op. cit., P.C. Choudhury, *The History of Civilisation of the People of Assam to the Twelfth Century A.D.*, p. 392.

⁶⁴ The seven principle are king, minister, territory, fort, treasury, army and ally. P.C. Choudhury, Ibid, p. 279.

⁶⁵ Pusyavarman was considered to be of second Visnu, Narayanavarma with Chakrapani, Bhutivaraman with Indra, Ratnapala with Rama and Krisna, etc., see the comparison of Ancient Assam Kings with gods, Ibid, p. 281.

⁶⁶ Ibid, p. 283.

enjoy much autonomy as rulers issued *sasanas* and exercised their influence.⁶⁷ The major source of income was from the land revenue (*kara and bhaga*) and the cultivators had no proprietary rights on land.⁶⁸

Not just in Assam but in other parts of North-East, the emergence of the state began from the 13th century right down to the 16th century. It was in this period that independent kingdoms were consolidated in Chutiya (Saidiya), Tai-Ahom, the Dimasa, Tripuri, Manipur and the Khasi-Jaintia.⁶⁹ The Chutiya kingdom (1187 to 1673) comprised of the present day states of Assam and Arunachal Pradesh with the capital at Sadiya. It was the largest kingdom post-Kamurapa kingdom, and before the rise of Ahom. The founder of the Chutiya Kingdom is attributed to a petty chieftain named Bir Pal.⁷⁰ As mentioned earlier of the two scripts, the first branched into the Assamese script while the second was developed in the Chutiya Kingdom, following the Tai script.⁷¹ The Chutiyas were the “most developed of the tribes in the 15th century”.⁷² The rise of Ahom in the 16th century disintegrated and gradually incorporated the Chutyia Kingdom.

Thus, the different dynasties in the North-East region had deep webs of interconnecting histories. Though originally starting from an autonomous location, socio-cultural webs through conquests, the fates of different ruling dynasties intertwined and complex histories were recorded. For example, the

⁶⁷ S. L. Baruah, *A Comprehensive History of Assam*, Munshiram Manoharlal, New Delhi, 2002, pp. 139-140.

⁶⁸ Scholars like B.K. Barua, U.N. Ghoshal, attempted to differentiate the land tax of ancient Assam; *kara* was levied on general tax on land periodically; *Bhaga*, on general property tax levied periodically. Op. cit., P.C. Choudhury, *The History of Civilisation of the People of Assam to the Twelfth Century A.D.*, 1959, pp. 292-293.

⁶⁹ Amalendu Guha, *The Ahom Political System: An Enquiry into the State Formation Process in Medieval Assam (1228-1714)*, Social Scientist, Vol. 11 No. 12 (Dec. 1983), p. 5.

⁷⁰ Claim to be the descent from the mythical Bhishmak. Edward Gait, *A History of Assam*, EBH Publisher, Guwahati, Reprint 2013, p. 42.

⁷¹ Yasmin Saikia, *Memories: Struggling to be Tai-Ahom in India*, Duke University Press, 2004, p. 6.

⁷² Op. cit., Amalendu Guha, *The Ahom Political System: An Enquiry into the State Formation Process in Medieval Assam (1228-1714)*, p.

history of the Ahom Kingdom (1228-1826) has been recorded in Buranjis or chronicles. According to Gaits, the Ahom kingdom was a “fully developed” state.⁷³ The Buranjis records were maintained by various nobles and priests giving the account of their rulers. In the early period, the Buranjis were written in Tai-script (also known as Tai-Ahom script)⁷⁴ but with the adaptation of Assamese as their court language, the records were later maintained in Assamese. The rapid expansion of the Ahom kingdom resulted to the inclusion of various ethnic communities. In the process, the kingdom which ruled for nearly 600 years became a major ‘multi-ethnic’ centre and thus influencing its cultural traits in the neighbouring areas. For instance, it was the Ahom who first brought the wet cultivation or permanent cultivation. This assimilation had “absorb stateless shifting cultivators into a common polity”.⁷⁵

Another important kingdom which emerged from the North-East region was the Koch kingdom. In the early sixteenth century, the Koch’s political power was concentrated in the western Brahmaputra.⁷⁶ The state formation of the Koch kingdom emerged from the continuous feud among ethnic groups. Noorur Rahman observes that the Koch kingdom developed into a state because of “constant pressure of war and conflict”.⁷⁷ In order to protect from such threats, a strong military was required. Thus, the king Naranarayan and his brother Chilarari developed the whole structure of Koch militia and subjugated many of the ethnic groups into the kingdom. The ambitious nature of the Koch kingdom frequently resulted in wars with the other powerful kingdoms like Ahom, Kachar, Tripura, Manipur and Jaintia. Therefore, in order to sustain the kingdom,

⁷³ Op. cit., Edward Gait, *A History of Assam*, p. 5.

⁷⁴ A. Diller, *Tai Language: In International Encyclopaedia of Linguistics*, vol. 4, Oxford University Press, Oxford, 1993.

⁷⁵ Op. cit., Amalendu Guha, *The Ahom Political System: An Enquiry into the State Formation Process in Medieval Assam (1228-1714)*, pp. 11-12.

⁷⁶ D. Nath, *History of the Koch Kingdom (c. 1515-1615)*, Mittal Publications, Delhi, 1989, p. 1.

⁷⁷ The Koch were constantly pressured from the neighbouring tribes and Mughal Empire. Md. Shah Noorur Rahman, *The Emergence of the Koch State In the 16th century*, in J.B. Bhattacharjee and David R. Syiemlieh (Ed.) *Early States in North East India*, Regency Publications, New Delhi, 2013, p. 53.

the Koch king Naranarayan tried to establish regular revenue collection by appointing several officials.⁷⁸ Another significant contribution of the Koch Kingdom was the circulation of coins known as *Narayanimudr*.⁷⁹ Nicholas Rhodes claims that the circulation of coins must have been influenced by the “Hindu-State formation in Koch Bihar”.⁸⁰ Nevertheless, the circulation of coins in the Koch state represents the emergence of well-developed states in North-East India.

Further to the south of North-East region, a new state emerged but it was isolated from the other neighbouring kingdoms.⁸¹ But the early state of Manipur was a non-Hindu state. The state name ‘Manipur’ came into use only during the reign of Pamheiba (Gharib Nawaz) in the early eighteenth century. Hitherto, the dynasty was known by Kangleipak, but historical records also suggest that the state was known by different names like “Namthak Sharongpung, Hanna Sheba Konna Loiba, Poirei Pungmayon, Mayaikoiren, Tillikokton, Muwapalli” etc.⁸² Like their counter-part kingdoms, the Manipur kingdom also had developed an encoded script describing the events of their rulers. The earliest script known to the Manipuri Kingdom was called *Meitri (Meitei) Mayek* but the origin of encoded script is not known. It was this script which provided the historical accounts or the Royal Chronicles of the Manipur Kingdom.⁸³ The *Puyas* written in Meitri Mayek contain the traditional religious text and cultural history of the early Manipur Kingdom. The most important historical sources of the Manipur

⁷⁸ The revenue collection includes, land revenue, *Hatkar* (market tax), *Ghatkar* (taxes from river outpost), *Din* (sale tax), etc. Ibid, pp. 55-56.

⁷⁹ Debajit Dutta, *King Nara Narayana's Military Campaigns in North-East India: An Analysis through Numismatics*, The NEHU Journal, Vol. XI, No. 1, January 2013, pp. 35-43, p. 37.

⁸⁰ Op. cit., Md. Shah Noorur Rahman, *The Emergence of the Koch State In the 16th century*, p. 56.

⁸¹ Op. cit., Edward Gait, *A History of Assam*, p. 321.

⁸² Moirangthem Rajendra, *Studies in the History of Manipur (1508 to 1709)*, Soibam Leik: Khanglabung Leirak, Imphal, 2000, p. 1.

⁸³ *Puya* is a corrupt word of the Sanskrit term *Puran* or *Purana*. The *Puyas* contains five subjects, viz., *Leisemlon* (creation of earth), *Nongsemelon* (creation of universe), *Lairon* (genealogy of gods and patriarchs), *Ningthourol* (account of the kings) and *Meihourol* (genealogy). Soibam Birajit, *Meeyamgi Kholao (Sprout of Consciousness)* Vol 1, Issue 4, p. 120.

Kingdom is the *Cheitharol Kumbaba* (Royal chronicle).⁸⁴ Though the genealogy of Manipur Kingdom is still vague (debate among the scholars), the recorded history (*Cheitharol Kumbaba*) can be traced back to 33 A.D. However in the eighteenth century, the Manipuri King Pamheiba embraced Vaishnavism, and he burned down most of the historical records except *Cheitharol Kumbaba*.⁸⁵ It was from this period, the Manipuri adopted Bengali script. This period also witnessed the adaptation of new culture in the Manipuri, as new gods and goddess of the Hindu culture were introduced.⁸⁶ However in the post-colonial period, the local inhabitants have started to revive the old Meitei script.⁸⁷

To add further complexity to the political terrain, power and authority had also evolved among communities without literary traditions. Such regions were the Dimasa (Kachari) kingdom and the Khasi-Jaintia. The Kachari Kingdom was one of the powerful kingdoms that emerged post Kamarupa dynasty. Like the Chutiya, the Kachari kingdom was also founded by a chieftain. Their dynasty was influenced by the Hindu culture. During their zenith period, the Kachari kingdom extended their kingdom from the south bank of Brahmaputra to Dikhu River and to the Kallang River including the Dhansiri River and the North Cachar region (present day Dima Hasao).⁸⁸ Despite vast possessions, the Kachari kingdom did not develop the art of written code or script. But there has been references of the Kachari Kingdom in the Ahom's chronical or Buranjis. But it

⁸⁴ Khwairakpam Renuka Devi, *Representation of the Pre-Vaishnavite Culture of the Meities: "Cheitharol Kumpapa" of Manipur*, Proceedings of the Indian History Congress, Vol. 72, Part-I (2011), p. 501.

⁸⁵ On October 5th, 1732, Pamheiba collected all the *puyas* and burnt them at the palace's coronation. Op. cit., Soibam Birajit, *Meeyamgi Kholao (Sprout of Consciouss)*, Vol 1, Issue 4, pp. 120-122. Also see, Madhu Chandra, *The Effects of the Burning of Meitie Puyas (The Sacred Writings of Manipur)*.

⁸⁶ Op. cit., Khwairakpam Renuka Devi, *Representation of the Pre-Vaishnavite Culture of the Meities: "Cheitharol Kumpapa" of Manipur*, p. 505.

⁸⁷ Since the early 1980s, the Manipuri alphabet has been taught in educational centres. *Manipuri (Meeteilon/Meithei)*. The online Encyclopedia of writing systems and languages.

⁸⁸ These large territories were under Kachari Kingdom for three centuries (13th, 14th and 15th centuries). Op. cit., Edward Gaits, *A History of Assam*, pp. 300-301.

does not suffice the long historical events or list of kings, as the Buranjis references were mostly for wars between the two kingdoms.⁸⁹

There are different theories among the scholars on the formation of states in the Khasi and Jaintia Hills. Scholars like Sib Charan Roy, H. Lyndoh and H. Bareh opine that in around 1200 A.D., the Khasis and Jaintias were under one *syiem* or Raja (Mailong Raja) who controlled a vast territory beyond the present Hills and the dynasty was known as Madur- Maskut.⁹⁰ The *syiem* of Khasi (Shillong King) and the *syiem* of Sutnga (Jaintia King) were under the Mailong Raja. The increasing power of U Niang Raja, who was the brother of Mailong Raja, had created discord in the kingdoms of Shillong and Sutnga.⁹¹ The revolt of the Jaintia *syiem* against the Madur Maskut dynasty brought the disintegration and emergence of the smaller Khasi and Jaintia states.⁹²

However, S.N Lamare, attributes the evolution of state with the contact of the plains. He points out that “the existence of larger states in the neighbouring plains influenced the process. Hindu idea of state formation had crept into the political mind of the Jaintia.”⁹³ The political institutions of the Khasi-Jaintia Hills, had evolved with the contact of the plainsmen. In the process, a cluster of villages formed a state which was closely associated with the *kur* (clan). Thus political institutions of the Khasi-Jaintia can be called as the ‘multi-clan’ ethnic-

⁸⁹ Ibid, p. 300.

⁹⁰ These scholars believe that the Madur Maskut kingdom occupied a vast areas whose sovereignty extended from Manipur in the East to Mymensing in the West, from the Brahmaputra on the North to Dacca in the south. See, Op. cit., Kynpham Singh, *Syiems and Durbars in Khasi Polity*, Edited by S. K. Chattopadhyay, *Tribal Institutions of Meghalaya*, Pp. 12-13. Hamlet Bareh, *Khasi Democracy*, printed at Ri Khasi Press, Shillong, 1964, p. 35 and Hamlet Bareh, *The History and the culture of the Khasi People*, Printed at Naba Mudran Pvt. Ltd. Calcutta, 1964, p. 41.

⁹¹ According to the traditional folklore, the Sutnga King with the help of a woman planned to kill U Niang Raja by deceiving him in love charm. The plan was succeeded, which led to the defeat of Madhur Maskut. Bijoya Sawian, *Khasi Myths, Legends & Folk Tales*, p. 105-107.

⁹² Op. cit., Kynpham Singh, *Syiems and Durbars in Khasi Polity*, Edited by S. K. Chattopadhyay, *Tribal Institutions of Meghalaya*, pp. 12-13.

⁹³ Shobhan N. Lamare, *The Jaintias: Studies in Society and Change*, p. 43.

state. The account of several folklores and documents show that the early political institutions of the Khasi and Jaintia comprised of small states. Kynpham Singh in his writing argues that the states of Khasi and Jaintia were mini-oligarchies.

“... the primary units of the present Khasi States were originally small organized bodies or independent mini-oligarchies... many of these clusters not only bear the names of clans or kurs but are associated with legends relating to those clans, from which we may deduce that the primary units were clan states.”⁹⁴

Another theory on the emergence of the Khasi and Jaintia state is based on the growth of population and kinship. This theory was first propounded by Gurdon, which later scholars tends to accept. With the increase of population, new villages were established but they were always restricted by the ancestral customs. As such, a mutual consent among those villages led to the formation of small states for their protection. According to Samar K. Chattopadhyay, “it is a kinship first and foremost”⁹⁵ Mawrie also observes that the small communities united to form states to protect their customs and rights from external invading forces.⁹⁶

Though the *syiem* was officially recognized as the king of the Khasi, his power was very limited. The *syiemship* was created to establish a more centralized form of political organization. The important feature of *syiemship* was that he was not a territorial ruler but a nominal head of the state. Thus, he was more of a head statesman than a king. The position of the *syiemship* was only emanated from the *kur* of *Basan* and *Lyndoh*. He acted as the guardian of the Khasi law and was responsible for maintaining law and order in his

⁹⁴ Kynpham Singh, *Syiems and Durbars in Khasi Polity*, Edited by S. K. Chattopadhyay, *Tribal Institutions of Meghalaya*, p. 13.

⁹⁵ S.K. Chattopadhyay, *The Jaintias, Socio-Political Institutions of the Jaintia Hills*, p. 70.

⁹⁶ To safeguard the land ownership and to their rights and customs, the Khasi people organized a political administration. Rights and customs are analogous to religion and rites. H. O. Mawrie, *The Khasi Milieu*, Concept Publishing Company, New Delhi, 1981, p. 90.

confederation state. In terms of administration, the *durbar hima* or state *durbar* was the highest political institution of the Khasi-Jaintia states. This *durbar* was presided by the *syiem* and was assisted by the *myntris*, the headman and the adult representatives from the villages of the state (elders above 50 years of age).⁹⁷ The *durbar hima* under the *syiem* exercised executive, legislative and judicial power. Pakem observes that “in the traditional system of administration of justice, therefore, we have the chief or the headman acting as judge and the *durbar* as the jury.”⁹⁸ Therefore, even without a literate tradition, state formation in the North-East region had been present in pre-colonial times.

As mentioned above, the formation of states in North-East region developed with or without script. Most of the dynasties emerged as independent states post Kamarupa dynasty. But there were also ethnic groups in the North-East without a state inhabiting nearby the independent kingdoms. These ethnic groups such as the Nagas and Mizos mostly occupied the hills and remained independent. In the Naga Hills, the various ethnic groups distanced themselves from the state civilizations and maintained small scale power, authority and control. The various forms of power and authority and control in this region did not coalesced in state formation. The Nagas practiced three types of governance—despot, democracy, and republican forms of government. Asoso Yonuo⁹⁹ writes that the despot form of governance was practiced by the Semas, Konyaks and Maos Nagas. Whereas the Ao Nagas had a republican form of government. And the Naga tribes such as Angamis, Lothas, Rengmas and others practiced a form of governance similar to the modern democracy.

Thus, we see that the Nagas did not have similarity form of governance. But there was a commonality in the composition of their political institutions. Each Naga village had one or more chiefs who were assisted by the village

⁹⁷ Op. cit., Kynpham Singh, *Syiems and Durbars in Khasi Polity*, Op. cit., Edited, S. K. Chattopadhyay, *Tribal Institutions of Meghalaya*, p. 21.

⁹⁸ B. Pakem, *Administration of Justice in Jaintia Hills*, Op. cit., Edited, S. K. Chattopadhyay, *Tribal Institutions of Meghalaya*, p. 176.

⁹⁹ Asoso Yonuo, *The Rising Nagas: A Historical and Political Study*, Manas Publications, Delhi: Reprinted 1984, p. 15.

elders. And together they form a village council. This council was the highest political institution among many of the Naga villages. The popularity of the chiefs depended on his councillors. This was mainly because the councillors frequently guided and advised the chief in accordance to the customs.¹⁰⁰ The size and the selection of the village councils differed from village to village. The council members acted as guardians of the customary laws. It was often the council who fixed the dates for festivals, religious ceremonies, *genna*, communal hunting and fishing, and even for *jhuming* cultivation. They were responsible for the administration and wielded the power of legislation and adjudication.¹⁰¹ They also had the power of the judiciary. Oath taking, to settle disputes was common throughout the Nagas. The guilty party was often asked to pay fines to the aggrieved party by the village council. It was rare for the chiefs or the councils to pronounce death sentence. In certain cases, the village council become more powerful than the chief particularly when he has a weak charisma.

Much like the Nagas, the political organization of the Mizo was centred on the village. The chief or the *lal* headed the institution and enjoyed greater power for administration unlike other ethnic groups. In the pre-colonial period, the *Sailo* clan was the chief in most of the villages.¹⁰² In the Mizo society, the strength and the symbol of the villages depended on the character of the chiefs. An able chiefs always had large number of subjects in his village. In theory, the power of the chief in the Mizo society can be likened to an autocrat ruler. But he cannot act as an autocrat ruler among his subjects. Tyrannical chiefs often found themselves with less subjects under him. The people frequently left their village and migrated to other village, if the chief was incompetent or autocrat in nature.

Therefore, the chiefs were expected to rule for the welfare of the society. He controlled everything including land (*ram*) and distributed works to his people. He was responsible for distributing land for cultivations to his subjects

¹⁰⁰ A. Nshoga, *Traditional Naga Village System and its Transformation*, Anshah Publishing House, Delhi, 2009, pp. 119-120.

¹⁰¹ Chandrika Singh, *The Naga Society*, Manas Publication, New Delhi, 2008, *The Naga Society*, p. 35.

¹⁰² N. E. Parry, *Lushai Custom A Monograph on Lushai Customs and Ceremonies*, p. 1.

and in return he received a tribute in the form of paddy from his subjects. He was also entitled to receive the shares from the fortune of his subjects. For instance, he was entitled a portion of meat portion, if any of his subjects killed an animal during hunting. The chiefs also had the right to collect tax on bees and salt from his subjects and the other villagers, if the goods were extracted from his jurisdiction.¹⁰³ But he also provided shelter and food to his subjects when they were in poverty. Generally, the orphans and the widows would seek such refuge from the chiefs and they provided manual labours. Thus he was expected to act as a father figure and a benevolent ruler who took special care to his people. The position of the chief was hereditary and the chief succeeded by his youngest son who inherit his house and other properties. Suhas Chatterjee commented:

“Everything in the chieftainship was authenticated in the name of the chief. The chief was the fountain-head of the justice. He was the chief judge as well as the police officer within the jurisdiction of his village or cluster of villages. The chief was the theoretical head of the legal system but he had to take the assistances of his elders. The power and authority depended upon the personality of the chief.”¹⁰⁴

In matters related to the village administration, the chief was the highest authority. All the important positions for the administration was appointed by the chief. In legal matters, he was assisted by the elders of the village council called *Upas*. The *Upas* advised the chief on all the matters of the village. The council decided on all the village disputes and they received a fee called *salam* (a female pig) from the party who lose the case.¹⁰⁵ Apart from the remuneration, a separate fine was paid to the winning party by the losing party. The court of the chief was the highest court of appeal. He had the authority to award death sentence and he also had the power to pardon the offenders that had been tried and convicted. The chief had every right to protect criminals, murderers and debtors by granting

¹⁰³ C. Nunthara, *Mizoram: Society and Polity*, Indus Publication Company, New Delhi, pp. 68-69.

¹⁰⁴ Suhas Chatterjee, *Mizo Chiefs and the Chieftaindom*, M D Publication Pvt. Ltd., New Delhi, p. 27.

¹⁰⁵ J. Shakespear, *The Lushei Kuki Clans*, Macmillan and Co., Limited, London, 1912, p. 44.

them asylum in his house. Such people become *bawi* (slaves) for their lives to the chief and they cannot gain freedom.

In the 'stateless' ethnic communities, the village polity was the highest form of organization. Their social, political, economic, religious and cultural activities were all centred in the village. Though the village maintained their independent status, yet we find many similarities among these ethnic groups. They separated themselves from the neighbouring 'state' and preserved their distinct culture. In other words, the ethnic village was completely 'ethnocentric'. However, with colonialism this village structure became less relevant as new ethos were constituted. Many of the indigenous 'cultural practices' were devalued and often considered 'barbaric' by the colonial administrators and Christian missionaries. The old traditions of the ethnic communities were often challenged with the introduction of the colonial law and the coming of Christianity. For example, the traditional education was banned and introduced western style of education. The feast of merit which was an integral part of the ethnic society to improve one's status in the society was also banned. A person who could organize the feast of merit was considered to be of an elite citizen.

During the pre-colonial period, most of the ethnic communities maintained their independent status by settling on the hilltops, distancing themselves from the lowland or the valley people. In the plains, we find the emergence of different regional kingdoms with organised power structure. The state formation in North-East was influenced by "pan-Indian Brahmanical" model.¹⁰⁶ Consequently, these regional kingdoms accepted the Hindu religious frames and administered their states through the Hindu model- it evolved and centred on the kings. They established a strong state economy by imposing several taxes to his subjects. The state resources depended on the plains regions as the regional kingdoms isolated themselves from the hill regions. These hill ethnic groups maintained their independent spaces from the state and continued to rule according to their traditional customs. Apart from the Khasi-Jaintia, who had

¹⁰⁶ J. B. Bhattacharjee, *State and Wealth- The Early States in Northeast India*, DVS publisher, Guwahati, 2010, p. 36.

formed a confederation of village-state, most ethnic groups in the hills were 'stateless'. In other ethnic communities, polity did not develop apart from the 'micro-level' chiefdom. Moreover, the ethnic groups did not developed settled agriculture and were more orientated with the environment for their livelihood. Thus, we find a sharp contrast between the plains and the hills in the pre-colonial history of North-East India. The gap that emerged from the two regions requires a thorough study after the intrusion of the colonial state and the introduction of 'modern state'.

Decentralizing discourse of power

As the section above delineates, pre-colonial North-East had a widely differing range of societies that had some trades and some links, but which were largely dominated by traditional commandments and norms that had the sanction of personalized authority structures – a chieftain, a king, or a priest. These were backed by a punitive coercion mechanism in case of non-conformity to these community rules, and specific punishments for various types of transgressions, therefore, came under the rubric of “criminal law”: these were specific to different communities. The rules which regulated community relations between kinsmen, clansmen, family members, settled economic relations, laid down rules of marriage, rituals, the practice of magic, the exercise of power could be broadly categorized under the rubric of “civil law”.¹⁰⁷ My argument here is that these norms of social and political order, essential to all human societies, were essentially different from the rationality of order that the colonial strategies of governance brought to bear on the regions they brought under their sway.

These difference between the plains and the hills had created a sharp distinction among the various communities. As discussed above, one region was under the administrative control, whereas the other region remained outside the

¹⁰⁷Law and Custom, Bronislaw Malinowski (from *Crime and Custom in Savage Society*, London, Kegan Paul (1926) PP. 51-68, in *Law and Society*, C.M. Campbell, Paul Wiles (eds.), Martin Robertson, Oxford, 1979. pp. 92-96.

state civilization. The administrative control, authority and power were exercised through systematic technologies of laws. But those living outside the political control were 'beyond the law'. In other words, the hill people were outside the 'relevant range' from the state control. The state possessed a strong written code. The common feature among the ethnic communities living in the hill areas was the absence of a written script. James C. Scott observes that "the peoples so codified were likewise ranged along an evolutionary scale of civilization."¹⁰⁸ The ethnic groups remained outside the authority of the state and were exempted from state-tax. Scott further writes "as a political location-outside the state but adjacent to it- the ethicized barbarians represent a permanent example of defiance of central authority."¹⁰⁹

Baruah, points out that "in the absence of any significant development of the forces of production there, these tribal societies repelled advanced ideas flowing from the neighbouring plains".¹¹⁰ Moreover, the state avoided the 'stateless' communities as it prove to be too expensive and dangerous to govern.¹¹¹ Technically, the state possessed developed warfare compared to the non-state groups. However, sudden attacks from the ethnic communities in the state often caused considerable trouble. The ethnic groups become more potent by 'raiding' or taking tributes from the adjacent states.¹¹² Thus, the plain considered the hill people as 'savages' or 'barbarians'. This strictly defines the process of 'othering' which was common throughout the Indian-subcontinent.¹¹³ The earliest description of the colonial writers on the 'stateless' ethnic group was based on the knowledge of the plain people. The colonial state further exaggerated the perceptions of the plains. In F. Hamilton's report (1807-1814):

¹⁰⁸ James C. Scott, *The Art of Not Being Governed*, Orient BlackSwan, Hyderabad, 2014, p. 124.

¹⁰⁹ Ibid, p. 125.

¹¹⁰ Op. cit., S. L. Baruah, *A Comprehensive History of Assam*, Munshiram Manoharlal, p. 369.

¹¹¹ Ibid.

¹¹² Op. cit., James C. Scott, *The Art of Not Being Governed*, p. 123.

¹¹³ Op. cit., Temjenwapang, *The making of a history: Experiences from Naga Historiography*, p. 62.

“On the side of the Brahmaputra..., are said by the native of the Nogang to dwell a people called Abor, and further up another tribes called Tikliya Nagas, both of whom are extremely savage. They are indeed said by the Brahman of Bengal to be cannibals, and to have little intercourse with the people of Assam, although the two territories are adjacent.”¹¹⁴

The early contact of the British with the ethnic communities was during the consolidation of colonial rule in Assam. Most of the ethnic groups were hostile to the colonial state. For instance, the Nagas attacked the British troops for using their territory while the colonial state was finding a direct route with Manipur state and Nowgong (upper Assam). The establishment of British authority bordering hill areas restricted the hill people from their movement. The ethnic communities constantly disturbed the administered areas causing chaotic to the British subjects. However, the colonial government was reluctant to occupy the hill territories as it was seen as unproductive and costly for administration. Instead of annexation, the colonial state thus followed the policy of ‘non-interference’. But to protect her subjects, the colonial government established several military outposts to counter the ‘raids’ of the hill people. Meanwhile, punitive expeditions were carried out as an act of ‘punishment’ and ‘discipline’ to the ‘disobedient’ ethnic groups. In other words, the military expeditions exhibited the superiority power of the colonial state.

Raids and expeditions

In Michael Mann’s book “*The Source of Social Power, A History of power from the beginning to A.D. 1700*”, it is argued that there were four major power networks- ideological, economic, military, and political, which are interrelated

¹¹⁴ F. Hamilton, Curious Reports, 1807-1814, in Elwin, Verrier, 1969 (ed.), *The Nagas in the Nineteen Century*, Oxford University Press, London, 1969, p. 611.

and overlapping.¹¹⁵ These four networks attain 'human goals' as it constitutes organised and institutionalised power. In another word, the four social power "offer alternative organisational means of social control" as it dictates time and space.¹¹⁶ However, for the study on raids and expedition, it narrows down to the theoretical take on military power. Mann points out that military power is not the original human goal but one of the important sources in driving power. The military power offers an authoritative organisation- "the power of the high command over its own troops is concentrated, coercive, and highly mobilised. It is intensive rather than extensive..."¹¹⁷

However, stressing Owen Lattimore's works, Mann deliberates that military action is an extensive geographical phenomenon.¹¹⁸ It is an extensive geographical phenomenon because it can be studied into two radii. The first is the 'inner' radius where after the conquest, the territories are added to the state. The second is called the 'outer' radius where military action is taken outside the state for punitive or tribute raids. Therefore, in the inner radius the military action is more extensive than the outer radius. It means that in the outer radius, there is less interference of civil administration or the state.¹¹⁹ Therefore in Lattimore's theory, it was the military factor and not economy that constructed extensive integration of human society. The change in military technology power also changes the relation in political and economic. But at the same time, military power is dependent on political and economic support.¹²⁰

When the barbarian attacks the civilizations, the military organisation takes punitive action. This action allows the barbarians to experience the emergence of a state.¹²¹ Military power also re-structured and re-organised the social networks

¹¹⁵ Michael Mann, *The Source of Social Power, A History of power from the beginning to A.D. 1700*, Vol. 1, Cambridge University Press, Cambridge, 1986, p.2.

¹¹⁶ Ibid, p. 3.

¹¹⁷ Ibid, p. 8.

¹¹⁸ Ibid, p. 9.

¹¹⁹ Ibid.

¹²⁰ Ibid. pp. 18-19.

¹²¹ Ibid, p. 11.

and provided existing dominant institutions “as it enabled a reorganising spurt, a regrouping both of the myriad networks of society and of its dominant power configurations”.¹²² The military power is necessary for defending the territories as it is coercive. Therefore Mann argues, “Militarism has thus proved useful where concentrated, intensive, authoritative power has yielded disproportionate results. Military power also has a more extensive reach, of a negative, terroristic form.”¹²³

Neeladri Bhattacharya in his book *“The Great Agrarian Conquest”* describes the ethnic raiding as “a way of territorialising space.”¹²⁴ He argues that ethnic raiding was political because it demarcates boundaries, limits movements, and identify the grazing lands. The clear demarcation of the territorial spaces allowed the ethnic groups to decided where to raid and where not to. The raids are carried out against the enemy or outside their territory and not within the community.¹²⁵ Another important feature of ethnic raiding was the symbol of authority and power. It was often during raiding that the ethnic group could either gain or lose legitimacy over other groups. In this way, the ethnic groups often engaged in raiding and counter raiding to assert their power and authority. Thus, through raids and counter raids, the ethnic community establish a hierarchy of power.¹²⁶ In other words, the weaker group submit to the stronger one and pay tribute.

The relation between the hill people of North-East frontier and the colonial state was built on ‘raids’ and ‘expeditions’. The term ‘raid’ was associated with the hill people and the ‘expedition’ with British. The British romanticised themselves as a civilizing agent. Raid was considered uncivilized, uncoordinated trip of plunder and rapine, while colonial military expeditions was considered to establish 'law and order.' For the colonial government, the raids

¹²² Ibid, pp. 19-20.

¹²³ Ibid, p. 26.

¹²⁴ Neeladri Bhattacharya, *The Great Conquest: The colonial reshaping of a rural world*, Permanent Black, New Delhi, 2019, p. 344.

¹²⁵ Ibid, pp. 344-345.

¹²⁶ Ibid, p. 343.

conducted by the hill people reflected ‘savage’, ‘murderous’, and ‘marauding incursion’.¹²⁷ While the military expeditions of the colonial state represented ‘peace’. The colonial officials who conduct expeditions were considered to be ‘obedient’,¹²⁸ servant of the government. Besides, the colonial state perceived raids incite violence and chaos in their administered areas. The British subjects were identified as ‘victims’ of raids.¹²⁹ As noted earlier, in order to protect the commercial interest, the colonial state initiated several military expeditions in the hill territories. The colonial state was against raiding, but the hill people did not understand the logic.¹³⁰ For the hill, people raid was a ‘right’, while for the colonial state, it was unlawful.

Sajal Nag in “The Making of Inner Line” writes that raids produced terror in the “minds of the victims”.¹³¹ For the ethnic communities, raid was more than to induce ‘terror’ but it was a key survival strategy. The raids often occurred when there were threats from enemy, to reassert authority, scarcity in the hills, and to acquire slaves to replenish man-power (economy).¹³² These ethnic groups residing outside the administration circle of the colonial state constantly raided the administered areas. The expansion of tea plantations on the foothills threatened the territories of the ethnic communities. It was because the tea planters gradually encroached the land of the ethnic communities as it was favourable for tea plantation.

¹²⁷ John Butler considered himself to be an obedient servant as he faithfully carries out the orders of the government. John Butler, *Travels and Adventures in the Province of Assam: During a Residence of Fourteen years*, Munshiram Manoharlal, New Delhi, 2004 (First published 1855), p. 12.

¹²⁸ Ibid, p. 13.

¹²⁹ Raj Kumar Thakur, *Whose Hills? Whose Plains? The Politics of Border*, Indian Historical Review, 43 (1) 83-101, ICHR, SAGE Publication, 2016, p. 90.

¹³⁰ James Johnstone, *Manipur and The Naga Hills*, Cultural Publishing House, Delhi, 1983 (First printed 1896), p. 39.

¹³¹ Sajal Nag, *The Making of Inner Line*, in H. Srikanth, C. Joshua Thomas, Recordus Enmi Kharbani (Ed.), *Vision for Meghalaya: On and Beyond the Inner Line Permit*, ICSR, Shillong, 2014, p. 28.

¹³² Ibid, pp. 28-29.

However, for the colonial government, it was seen as a hostile approach by the hill communities to their subjects. Thus, British relationships with the hill communities began with punitive expeditions. It was specifically targeted to stop ethnic raids and protect the plain districts. For instance, to counter the raids on the administered plains of Goalpara under Bengal Presidency, the Regulation X of 1822, came into force in the Garo Hills. Similarly, to counter raids on the other parts of the hill areas, the colonial state established several military outposts. These outposts checked the movements of the ethnic groups and changed the pattern of raids from “essential part of their living to a frequent fight to resist the colonial power”.¹³³

In order to provide security to the British subjects, the colonial state retaliated with military expeditions on the aggressive ethnic villages or groups. In the process, the colonial state reasserted their authority over the hill people by punishing them for their offences. The colonial intervention on ‘raids’ eventually fixed and deconstructed the formation of ‘social identities’.¹³⁴ Imdad Hussain, in his article “The Early Military Expeditions on the North-East Frontier” challenges the colonial state narrative that military expedition was the last resort in the hills to protect its territory.¹³⁵ He asserts further that the colonial officials were too eager to resort to military expeditions.¹³⁶ When the military conducted the expeditions, the colonial government’s intention was to create ‘fear’ among the ethnic groups. Therefore, the colonial government severely punished the ‘raiders’ as a form of coercion, which would utterly demoralise the ethnic communities from future raids. Military expeditions were also significant because it demanded the ethnic groups to recognise the authority of the colonial state.

The hill regions provided timbers and other resources, which were hitherto the sole property of the ethnic communities. Thus, the activities carried out by

¹³³ Ibid, p. 29.

¹³⁴ Kekhriesituo Yhome, *The Making of the Modern Naga Identity: A Historico-Geographical Dimension*, Ph. D. Thesis, University of Hyderabad, 2007, pp. 2-3.

¹³⁵ Imdad Hussain, *Early Expeditions of the North-East Frontier, 1826-1858*,

¹³⁶ Ibid.

the tea planters in the foothills had threatened their land rights, customary rights and sovereignty, which resulted in more raids. The encroachment of land and its problems are further discussed in Chapter III of the thesis. As a consequence, the policy of 'non-interference' failed miserably. The raids resulted in loss of lives and properties of the British subjects. The growth of tea gardens and other useful industries had obliged the colonial government to protect her subjects in the plains of Assam. The economic interest of the colonial government led to the annexation of the hill areas. The occupation of the hill territories established a new order in the North-East Frontier and a coherent government.

The annexation provided different kinds of experience of power, authority and control to the hill people. The colonial government divided the administrative units between the plains and the hill regions of North-East India by formulating Inner Line Regulation of 1873 and other various regulations. The colonial state instituted a 'paternalist approach' of governance in the hill regions which will be discussed further in the next chapter. The colonial state established new institutions but "whose characteristics change from stage to stage".¹³⁷ The colonial government, while manipulating space for administration, evaded many of the pre-colonial customs. Here the British administrative machinery seamlessly integrated the local primitive structures to their networks of power: communication and information.

Colonial administrative categories: The political-strategic shift

Douglas V. Davidson writes that the European intellectuals thought their culture was the "apex of man's cultural evolution".¹³⁸ He argues that the Europeans considered the colonialized people as 'savages' and they were still at

¹³⁷ Bipan Chandra, *Essay on Colonialism*, Orient Longman, Reprint 200, Pp. 18-20

¹³⁸ Douglas V. Davidson, *The Sociology of oppressed cultures: An analysis of the socio cultural dynamics of Colonialism*, The Review of Black Political Economy, Vol. 6, Issue 4, June 1976, p. 421.

the early stages of ‘cultural evolution’.¹³⁹ With this philosophy the Europeans justified and legitimised themselves as the ruling race. Progress was forcibly initiated in the form of Western education, socio-political organisation, economic system, science and legal code. This resulted in socio-political shifts in the non-European countries through colonialism. However, this shift within indigenous communities was twinned with the discourse of ‘modernisation’ and ‘progress’,¹⁴⁰ which impacted the world-view of the ethnic communities. The imperialist consolidated their positions through intellectual domination. The colonial state used indigenous knowledge to administer the natives to provide effective means of governance. Thereby, the whole structure of the native society was deconstructed and transformed.¹⁴¹ It gave them a sense of “cohesion and purpose”¹⁴² in Martin Evan’s term.

As already discussed, the diverse ethnic groups of North-East had their own histories; some with the proper state with written code and some without state and unwritten code. It was in the plain areas where state formation developed, whereas in the hill areas, the idea of the state was not yet developed. Thus, to conceptualise the whole of North-East region into a ‘singular territory’¹⁴³ becomes problematic in itself. The different cultural phenomenon divided the plains and the hill people in different categories. This categorisation was further used by the British after the occupation of proper Assam in the nineteenth century. The plains people were considered ‘civilised’ whereas the

¹³⁹ Ibid.

¹⁴⁰ Dirks uses the word ‘capitalism’, but for the thesis related, I use the term, ‘progresses’. Bernard S. Cohn, *Colonialism and Its Forms of Knowledge: The British in India*, see foreword by Nicholas B. Dirks, p. i.

¹⁴¹ Ibid.

¹⁴² Martin Evans, *Culture and Empire, 1830-1962: An Overview*. Martin Evans (Ed.), *Empire and Culture, The French Experience, 1830-1940*, Palgrave Macmillan Ltd, Houndmills, 2004, p. 2.

¹⁴³ Hoineilhing Sitlhou, *Deconstructing Colonial Ethnography: An Analysis of Missionary Writings on North East India*, Ruby Press & Co., New Delhi, p. xxii.

hill people were considered ‘uncivilised’. Moreover, the hill areas were predominantly categorised as ‘unprofitable’ terrains.¹⁴⁴

In order to economically exploit Assam, the colonial state followed different policies in North-East India. Initially, the policy of ‘non-interference’ was central to the British administrative policy in the hill areas. But with the economic prospects of tea, oil, coal, and other important recourses had forced the colonial state was forced to formulate strong policies in the Assam frontier. In 1841, William Robinson in his report, stressed the importance of Assam as a “great commercial advantage to British India”.¹⁴⁵ The colonial state in order to protect Assam, took coercive military expeditions to the neighbouring aggressive ethnic groups. This demanded colonial expeditions beyond proper Assam to study the topography of the North-East frontier. The expeditions involved extensive surveys throughout the regions to find suitable means of communication networks. Through expeditions, the colonial state made contacts with most of the hill people. Sanghamitra Misra argues that the occupation of the hills happened for “greater commercial” interest and its strategic geographical location as a “border to lands”.¹⁴⁶

It was imperative for the colonial state to link proper Assam with other administrative centres of North-East India. As mentioned, the colonial state took intensive survey expeditions in the region and this led to the annexation of the hill areas. For instance, the Khasi and Jaintia Hills were annexed to construct a road between the Assam valley and Sylhet (now presently in Bangladesh). Similarly, the British made first contact with the Nagas in 1832 while searching a direct route from Manipur to Upper Assam. At various stages, the colonial state assimilated the ethnic communities to the larger frame of the British administrative circle. The search for new networks had gradually shaped the

¹⁴⁴ Alexander Mackenzie, *The North-East Frontier of India*, New Delhi, Mittal Publication, Reproduced 2011, p. 114.

¹⁴⁵ William Robinson, *A Descriptive of Assam*, Sanskaran Prakashak, Delhi, Reprint 1975, p. 1975.

¹⁴⁶ Sanghamitra Misra, *The Nature of Colonial Intervention in the Naga Hills, 1840-80*, Economic and Political Weekly, December 19, 1988, p. iii.

future of the ethnic communities. It forced them to accept the cohesion of the external 'power'.

Instead of extending foreign laws, the colonial government recognized the ancient customs of the ethnic communities. The British government also felt the need to protect the ethnic communities from 'corrupt civilizations'. Thus, the colonial state sought for a paternalist approach to govern the hill people. The colonial state believed and supported the theory that they were "the agent of their own civilization"¹⁴⁷ for the hill districts. In doing so, they introduced the inner line permit and restricted the entry of the 'outsiders' without the permission to the hills. The colonial state also introduced various regulations, which segregated the plains and the hills regions. In this way, the colonial government protected and extracted maximum profit from the plain administered areas. The segregation of laws between the plains and the hills created social and economic imbalance in the hill regions.¹⁴⁸

Colonial rationality on revenue

When the colonial state took over the ethnic communities, the colonial government asserted its sovereignty. It was important for the colonial state to introduce new fiscal regime to secure their sovereignty. The imposition of taxation was a fundamental principle of colonial rule. Through taxation the colonial state governed its subjects. In the Naga Hills, the British legitimised their rule through house-tax. In the sense, those Nagas that were paying house-tax were considered to be British subjects (administered area) and the non-tax payers were outside the realm of administration (unadministered). Neeladri Bhattacharya observes that "to

¹⁴⁷ Nirode K. Barooah, *David Scott in North-East India 1802-1832; A Study on British Paternalism*, Munshiram Manoharlal Oriental Publisher, New Delhi, 1970, p. 59-61.

¹⁴⁸ J. B. Bhattacharjee, *Colonialization of Economy in North-East India*: in David Syiemlieh and Manorama Sharma, *Society and Economy in North-East India*, Vol- 3, Regency Publications, New Delhi, 2008, p. 25.

assert sovereignty is to monopolise the right to tax, to claim the power to authorise tax”.¹⁴⁹

James C. Scott points out how the hill people evaded the state-tax and isolated themselves from the state-power. The hill people adopted subsistence strategies which allow them to distance themselves from the state. Among the many strategies, Scott describes the ability of the hill people to settle in inaccessibility terrain, and practice “escape agriculture” or shifting agriculture.¹⁵⁰ The study emphasizes towards the practice of shifting agriculture and its importance to the hill people. The practice of shifting agriculture was mainly to evade state and tax. This agricultural practice was not economic but political strategies of the hill people. Thus, Scott termed it as “agro political strategy” as it avoids “raiding, state-making, and state appropriation”.¹⁵¹ If the hill people practiced permanent cultivation, then it became an easy target for a state or raiders, as it constrained their mobility.

From the above perspective, North-East India can be understood through the “Zomia studies”.¹⁵² Therefore, when the colonial state first arrived in the North-East frontier, the hill people practice shifting cultivating, except in few areas. In the Naga Hills, we find two kinds of cultivation- terrace or wet cultivation (mostly in Kohima), and in the other parts of the regions, it was predominantly shifting or *jhum* cultivation. The colonial state considered the practice of shifting cultivation as ‘primitive’ and ‘insufficient’.¹⁵³ Thus, when the regular administration began in 1881, the colonial officials proposed to introduce terrace cultivation in Naga Hills. The Chief Commissioner of Assam, Charles Elliot, instructed the political officers to encourage every Naga tribes to practice

¹⁴⁹ Op. cit., Neeladri Bhattacharya, *The Great Agrarian Conquest*, p. 348.

¹⁵⁰ Op. cit., James C. Scott, *The Art of not Being Governed*, pp. 180-191.

¹⁵¹ Ibid, p. 193.

¹⁵² Bengt G. Karlsson, *Evading the State: Ethnicity in Northeast India through the Lens of James Scott*, Asian Ethnology, Vol. 72, No. 2, Nanzan University, pp. 322-323.

¹⁵³ Op. cit., James C. Scott, *The Art of not Being Governed*, p. 192.

terrace cultivation which was considered to be more scientific.¹⁵⁴ He also directed the officials to introduce different crops like potatoes and other staples. However, the colonial state did not impose strict restriction for terrace cultivation as they feared an uprising. But the government discouraged *jhuming* cultivation.

The reason why the government encouraged terrace cultivation in the Naga Hills was because the government wanted to introduce agricultural loan to the cultivators.¹⁵⁵ The colonial state also introduced ploughing in the Naga Hills and issued guns to protect the fields from wild animals. All these were done to encourage and improve terrace cultivation, but it could not be implemented across the Naga Hills. This was partly because of the weak policies and partly due to lack of financial assistance as the government often reported the lack of funds.

The above discussion is vital to understand the revenue rationality of the colonial government in the Naga Hills as the colonial policies of the hill district were political and not economic. Since pre-colonial times, the ethnic Naga communities had distanced themselves from the 'state' and evaded tax. The colonial state allowed the Nagas to continue their traditional practice of land ownership. The traditional landownership of the Nagas could be understood in the following words of U. A Shimray:

“The Naga concept of land includes village land, territory forest, economy, and culture. At the same time, they are the objects which they possess and control and that is inherited and immutable. Nagas have their

¹⁵⁴ Piketo Sema, *British Policy and Administration in Nagaland 1881-1947*, Scholar Publishing House, New Delhi, 1992 (Second Edition), p. 99.

¹⁵⁵ The Assam Agriculturists' Loans Act XII of 1884 was introduced at Kohima to provide financial assistance. *Ibid*, p. 100.

way of understanding land and its implications... Moreover land is the basic foundation of the Naga social, culture and its eco -system.”¹⁵⁶

Among the Nagas the major reason for conflicts between villages or the ethnic groups was mostly because of land.¹⁵⁷ This shows how much the Nagas valued their land, as it was their only source of livelihood. Thus, the colonial state did not impose land revenue to the Nagas as their main objective of colonising the Naga Hills was to protect the Assam frontier. But this does not mean that the Naga were totally free from imperial tax. The colonial state improvised and substituted land tax with house tax. In more advanced areas where terrace cultivation was practiced, the colonial government levied a higher rate of house-tax compared to the less advanced areas where shifting cultivation was practiced. As Washbrook pointed out that the laws set up by the colonial state were to “legitimize the social institutions and norms of conduct which they find valuable”.¹⁵⁸

Nonetheless, the colonial state also imposed land tax in some exceptional cases. In the regions such as Numbar forest, Barpathar areas, the estates occupied by the American missionaries, and in some part of Dimapur, lease were introduced in the form of annual *patta*.¹⁵⁹ Although land settlement had penetrated in some portions, the larger part of the Naga Hills remained untouched by it. This can be seen even today in the rural areas, as the indigenous Nagas continue to uphold their traditional system of landholding. However in the urban areas, the traditional landholding system is slowly breaking away, but the indigenous Nagas still do not pay any land tax to the government.¹⁶⁰ To conclude, I quote the statement made by the Naga Hoho in 2016 in one of the local newspapers:

¹⁵⁶ U. A. Shimray, *Land Ownership system of the Naga Community: Uniqueness in Tradition*, Edited Ch. Priyoranjan Singh, *Tribalism and the Tragedy of the Commons: Land, Identity and Development: The Manipur Experience*, Akansha Publishing House, New Delhi, 2009, p. 247.

¹⁵⁷ Assam Administration Report, 1882-83.

¹⁵⁸ Op. cit., D.A. Washbrook, *Law, State and Agrarian Society in Colonial India*, p. 649.

¹⁵⁹ Op. cit., Piketo Sema, *British Policy and Administration in Nagaland 1881-1947*, p. 108.

¹⁶⁰ The state of Nagaland is protected under the Indian Constitution- Article 371 (A), which give rights to the Nagas as the owner of the land and not to the government.

“Except Dimapur Mouza which has been declared as cadastral area, there is no *patta* system in other Districts in the State of Nagaland. Till date, most of the land in the District Headquarter which comes under municipality belongs to the private individuals. Many individuals constructed their residential building as well as commercial building over the private individual lands and paying land tax to the original owners. Therefore, to levy tax by the Municipalities over the private owned land would be unconstitutional and against Naga Customary practice.”¹⁶¹

The Introduction has outlined the theoretical categories of analysis this work uses in order to understand the colonial intervention in the North East, with stress on the Naga Hills. The next chapter looks at the actual modes of colonial intervention in the region.

¹⁶¹ Women reservation not the issue but land tax: Naga Hoho, Eastern Mirror, September 13, 2016. <https://www.easternmirrornagaland.com/women-reservation-not-the-issue-but-land-tax-naga-hoho/>

Chapter- I

The Colonial Ideologies and New Techniques of Governance

Along with the conquest of Indian territories, the colonial state developed its imperialistic rationale of endowing or gifting to the Indians a workable ideology, which would also be the administrative steel-frame: 'law and order'. It is in this context that I argue that the military encounters initiated by the British in India, became 'expeditions' undertaken well-considered. Later strategies, and always confirmation from superior official ratification, which turned them into legitimate course of procedure, unlike 'raids' that were actuated by uncivilized un-coordinated trips of plunder and rapine.

It was clear while British military aggressive action came within the British administration's definition of law and order, 'raids' occupied illegal zones of enemy aggression. Colonial legitimacy rested on the East India Company's Court of Directors' Directives, while British Parliament and ultimately, British sovereign were the ultimate sanction for policies of the EIC. It is again important to stress that British policy, the British drive for legitimacy were finally derived from the British definition of 'law and order' that were also produced by the governmental strategies of Imperialistic discourse.

As discussed in the introduction, the ethnic groups of North-East India had consciously pursued autonomous political-legal, socio-traditional and cultural identities. For centuries, they had upheld and preserved their traditional customary practices. Some of the independent regional kingdoms had sophisticated written cultures. The written culture provides historicity and legitimacy to these regional kingdoms. However, communities that settled in the hill regions did not have a

written culture. These group of people were governed through “virtual bargains”.¹ The practice of “virtual bargains (like customs, conventions and, social norms) have normative force: as with an explicit bargain (e.g., as codified in a legal agreement), participants know that they should behave as the bargain specifies.”² Thus, we see two completely different kinds of governance in North-East India during the pre-colonial period. These differences are again exposed by the British government when they began to administer the Assam province.

In the late eighteen century, the Ahom kingdom which had ruled Assam for over six centuries was on the verge of decline due to constant internal conflicts and civil wars. Meanwhile, the East India Company (EIC) had already ceded Chittagong (under Bengal province), and by the 1780s a large number of Bengalis began to settle in Assam. Therefore, Gourinath Singh, the raja of Ahom, appealed to the British government to expel the lawless robbers who had migrated from Bengal.³ In response, the Governor-General of India, Lord Cornwallis quickly assembled troops under the command of Captain Welsh and occupied Guwahati in 1792-93 to maintain law and order in lower Assam. Welsh dismissed the oppressive and corrupt officials, and secured the cordial cooperation of the other officials.⁴ However, before the Company could fully implement the order, Captain Welsh was recalled from Assam. He was recalled due to the change of administration in India. Lord Cornwallis was replaced by John Shore, who showed little interest in the imperial policy. In July 1794, the British had permanently left Assam and followed the policy of non-interference.

The beginning of the nineteen century saw the lowest point in the history of the Ahom kingdom. It was marked with social unrest and political upheaval. As the East India Company maintained its non-interference with the Ahom conflicts, an

¹ Jennifer B. Misyak, Tigran Melkonyan, Hossam Zeitoun, and Nick Charter, *Unwritten rules: Virtual bargaining underpins social interaction, culture, and society*, *Trends in Cognitive Science*, Cell Press, Vol. 18, Issue 10, October 2014, pp. 512-519.

² Ibid, p. 514.

³ Alexander Mackenzie, *The North-East Frontier of India*, New Delhi, Mittal Publication, Reproduced 2011, p. 3.

⁴ Edward Gait, *A History of Assam*, EBH Publisher, Guwahati, Reprint 2013, p. 217.

alternate external power was sought to restore order in Assam. In 1816, Badan Chandra, the king's viceroy struck a friendship with the Burmese government and defeated his old foe Burha Gohain (de facto ruler in upper Assam).⁵ The Burmese reinstated the throne to Chandrakanta and left Assam. However, the reinstated raja was soon dethroned by Purandar Singh. And this compelled Chandrakanta to seek the intervention of the Burmese government again.⁶ In 1819, the Burmese troops reached Assam under the command of Ala Mingi. The Burmese troops forced Purandar Singh to leave the throne and he fled to Guwahati.

Once again Chandrakanta was reinstated to the throne. But this time he was only a nominal ruler as the Burmese commander Ala Mingi assumed the real authority. The Burmese troops hunted down all adherents of the Burha Gohain and the Bar Barua.⁷ The Burmese also sent troops to Guwahati to capture Purandar Singh. He was able to escape from the Burmese and took asylum at Chilmari in Bengal British territory. In 1821, the ambitious Burmese king invaded Assam for the third time which forced Chandrakanta to turn against the Burmese troops but he failed miserably.⁸ After his failure to resist the Burmese aggression, he escaped to the Golopara district of British Bengal. The Burmese demanded the British government to surrender the fugitive raja and threatened the Company if it failed to surrender the raja. The Burmese were ready to send eighteen thousand troops commanded by forty rajas to capture the Ahom king from the Company's territory.⁹

Meanwhile, the British officials in Calcutta were carefully examining the events in Assam. In July 1822, David Scott, the Civil Commissioner of Rangpur, reported that "the Burmese, having obtained complete mastery of Assam and a person of that nation having been appointed to supreme authority may now be

⁵ Ibid, p. 231.

⁶ Priyam Goswami, *The History of Assam From Yandabo to Partition, 1826-1947*, Orient BlackSwan, Hyderabad, 2012, p. 15.

⁷ Op. cit., Edward Gaits, *A History of Assam*, p. 233.

⁸ R. M. Lahiri, *The Annexation of Assam (1824-1854)*, Firma KLM Private Limited, Calcutta, p. 11.

⁹ Op. cit., Edward Gaits, *A History of Assam*, p. 233.

considered as a province of the Burman Empire".¹⁰ The ambitious Burmese by 1823 had already captured Manipur and dethroned raja Gambhir Singh. After capturing Assam and Manipur, the Burmese were threatening to take over the kingdom of Cachar. The fall of Cachar would have directly exposed the adjoining areas of Eastern Bengal to the ambitious Burmese. The Burmese court treated Manipur and Assam as their dependents. The ambitious policy of Burmese ended the rule of Ahoms in Assam and establish its rule. But the British refused to accept the sovereignty of the Burmese in these regions.¹¹ The British records are full of the Burmese atrocities in Assam, an administrative rhetorical flourish which would allow them to take over these regions. By the end of 1823, the Burmese forces were found firmly entrenched on the entire frontier line of the British from Goalpara to Cox's Bazar.¹²

The vulnerability of the eastern frontier of Bengal from Burmese invasion compelled the authorities in Calcutta to abandon the policy of non-interference in Assam.¹³ In response to the aggressive policy of Burma, the EIC appointed David Scott as the Political Agent to the Governor-General of the North-East Frontier in November 1823. As an Agent, he reported the movements and tendencies of the Burmese in Assam to the authorities in Calcutta.¹⁴

Reviewing the advancements of the Burmese, the ECI declared that the Burmese have put "the two countries in a state of actual war".¹⁵ Thus, on 5th March 1824, the first Anglo-Burmese war was fought. The fall of Rangpur proved fatal to the Burmese and the campaign of the Burmese in Assam ended. However, the final mission of the British was to expel the Burmese from the Cachar and Manipur as

¹⁰ Op. Cit., Priyam Goswami, *The History of Assam From Yandabo to Partition, 1826-1947*, p. 16.

¹¹ Ooi Keat Gin Ed., *South East Asia: A Historical Encyclopedia from Angkor Wat to Timor*, p. 155.

¹² Op. cit., R. M. Lahiri, *The Annexation of Assam*, p. 14

¹³ H. K Barpujari, *Problem of the Hill Tribes North East Frontier Vol. 1*, Shillong: Modern Offset, Reprint 1998, p. 27.

¹⁴ Op. cit., R. M. Lahiri, *The Annexation of Assam*, p. 14.

¹⁵ Op. cit., Priyam Goswami, *The History of Assam From Yandabo to Partition, 1826-1947*, p. 16.

well. The expulsion of Burmese from Manipur was done by Gambhir Singh, the raja of Manipur. Gambhir Singh's army of five hundred Manipuris and Kacharis was aided with British arms to expel the Burmese.¹⁶ The Burmese were expelled from the North-East Frontier and this laid the foundation of British rule in the North-East.

The first Anglo-Burmese war (1824-26) provided the East India Company (EIC) to collect information on the Eastern Frontier geographies.¹⁷ The treaty of Yandaboo ended the war and opened a gateway for the British to cede the pre-colonial states or kingdoms like the Ahom, Manipur, Cachar, and Jaintia. However, J.N Chawdhuri was critical of the treaty and noted as "neither complete nor sincere"¹⁸ from the EIC as they began to assert their authority. Meanwhile, S.K. Bhuyan and Priyam Goswami observed that the EIC rule was meant to be a temporary arrangement or administration.¹⁹ Whether it was an incomplete or temporary arrangement, the treaty marked the beginning of colonization in the North-East Frontier. This event eventually led to the contact of many independent ethnic groups to the colonial administration. Gradually, the British occupied the hill frontiers for their strategic policies. As K Yhome has sharply pointed out, these regions were only nailed for their strategic location, inhabited by autonomous, aggressive communities.

The process of colonisation by the British was inevitably accompanied by the raising of an administrative scaffolding buttressed and supported by new legal coercion enactments based on the principles of western jurisprudence, backed by formally instituted. In mainland India, in the three major Presidencies there was a concerted attempt to reconfigure the deep-base of the state- domain if the revenue

¹⁶ Op. cit., Edward Gaits, *A History of Assam*, p. 339-340.

¹⁷ Clements R. Markham, *A Memoir on the Indian Surveys*, London, Printed by order of the Majesty's Secretary of State for India in Council, 1878 (Second Edition), p. 98.

¹⁸ J.N. Chawdhuri, *Khasi Canvas: A Cultural and Political History*, Shillong, Shrimati Jaya Chawdhuri, 1978, p. 256.

¹⁹ S.K. Bhuyan, *Anglo-Assamese Relations 1771-1826*, published by the Government of Assam, 1949, p. 51. Op. cit., Priyam Goswami, *The History of Assam: From Yandabo to Partition 1826-194*, p. 46.

collection, which is to say- the reconfiguring of land relations within indigenous socio-political hierarchies. The concepts of land-ownership, land and property inheritance, usufructuary rights, in land and how they played out on the ground, as indigenous local customs laid down, in accordance to *shastric*/religious injunctions, were all reconsidered as ineffectual, ineffective or in terminate, as East India Company's emerging rationale of revenue collection. This turned on the principle of completely certainty as to the revenue yields of the conquered regions. Therefore, we need to see the emerging patterns of EIC engagements.

Consolidation of colonial power in India: Methods and political takeover

The East India Company (EIC) who first came to India to trade with the Mughal Empire gradually began to extend their trading activities in other major parts of India. Established as a trading Company, the EIC initially did not envision to politically take over India. However, the dynastic feuds among the India rulers and the competitions from other European nations for commercial interest gave the British the opportunity to establish military to politically rule in India. The EIC who came for commercial trading in the early seventeenth century gradually shifted their focus to military conquest in India by the mid-eighteenth century. The battle of Plassey (1757) and the battle of Buxar (1764) proved crucial for the EIC to consolidate their supremacy in Bengal. Consequently, with the annexation of Bengal, the EIC implemented a loose administration of 'law and order'. To control the Indians, 'orientalist knowledge' was sought as the Company felt that it was necessary to establish their rule and to maintain law and order.

Eric Stokes argued that the EIC was 'too inexperienced' and 'unready' to govern the newly acquired territories and the Company restored the Nawab of Bengal (nawab) as nominal figure. Stokes called the Nawab as "puppet Indian government" because the Company wielded the sovereign power.²⁰ It was clear from the beginning that economic interest was the driving force behind the various

²⁰ Eric Stokes, *The English Utilitarians and India*, Oxford University Press, Delhi, Third Impression 1992, p. 1.

policies introduced by the British in India. Therefore when the EIC came to power in Bengal, Robert Clive separated the administration and revenue collection after acquiring the Diwani right. The Nawab of Bengal was entrusted with the administrative responsibilities and the EIC took charge of the revenue collection. In this way, the EIC overtly ignored the Indian institutions because the British regarded themselves as “inheritors”, “revivers” rather than “innovators” and “vanguard of the new”.²¹ To revive the administration in India, Hasting abandoned Clive’s Code of ‘dual government’ and asserted for “British sovereignty and responsibility”.²²

The Regulating Act of 1773 instituted the Supreme Court in Calcutta which brought the English legal system in India. The colonial state intended to bring English laws to the India and to govern the people with the English constitutional principles.²³ Thus, providing a scope of extending the British judicial jurisdiction in the Bengal territories. Aware of such possibility, Hasting made a conscious effort to preserve the indigenous laws of Hindu and Muslim against the English law. His effort would gradually involve the production of oriental knowledge, especially with the publication of the two treaties: “The Hindu Law (1773)” and “Digest of Hindu Law on Contracts and Successions (1789)”. However, the major critique of the orientalist knowledge for constructing the legal system was that the British officials depended on the local interpretations. Especially in the case of the Hindu laws, “the interpretations reflected a Brahminical view of society”.²⁴ To Bernard Cohn, “it was not fixed written code, but it was commentators’ interpretations of prolix and ever changing living law.”²⁵ Nevertheless, the preservation of Indian intuitions allowed the indigenous people to govern themselves according to their

²¹ Ibid.

²² Pp. 2-3.

²³ Michael Edwardes, *British in India 1772-1947; A survey of the nature and effects of alien rule*, Rupa. Co, Calcutta, 1993, p. 48.

²⁴ D.A. Washbrook, *Law, State and Agrarian Society in Colonial India*, Modern Asian Studies, Vol, 15, No. 3, Cambridge University Press, 1981, p. 653.

²⁵ Bernard S. Cohn, *From Indian Status to British Contract*, The Journal of Economic History, vol. 21, No. 4, 1961, p. 614.

ancient customs had once again brought back Clive's principle of 'dual government'.²⁶

Pitt's India Act (1784) played a crucial role in transforming the colonial legal system in India. It gave a structure to the colonial governing body. The EIC which was initially a mercantilist company was gradually moving away from their primary role. The merchants were no longer traders but they were beginning to hold important positions in the governing body. The traders became colonial bureaucrats holding the positions of magistrates and judge. This transformation was to give effective means of English administration system in India as it shifted from "commercial body to direct Crown rule".²⁷

In the last decade of the eighteenth century, the Cornwallis Code laid the foundation of the Indian legal system.²⁸ Lord Cornwallis as the Governor-General of Bengal (1786-1783) introduced a new discourse on the British political power in India. The principle of Cornwallis also marked the second wave of Anglicisation. Cornwallis was critical of the indigenous authority and considered them as the 'source of every ill'.²⁹ Cornwallis was a firm believer of limiting the power of the government and state by limiting revenue collection. In other words, Cornwallis believed in the division of power- judiciary and executive, which was the philosophy of the English Whig government. To achieve the limitation of power, Cornwallis propagated to reduce the state revenue on land.³⁰ Thus, he introduced the Permanent Settlement in 1793, which fixed the revenue of the state. It solved the problem of excessive power which was the core of corruption and abuse as the settlement reduced the Revenue Board and collector "to the mere collection of public dues" and restricted them from all judicial powers.³¹ Overall, the Permanent Land settlement not only limited the power system, but it also introduced the

²⁶ Op. cit., Eric Stokes, *The English Utilitarians and India*, p. 3.

²⁷ Op. cit., Thomas R. Metcalf, *Ideologies of the Raj*, p. 17.

²⁸ Nancy Gardner Cassels, *Social Legislation of the East India Company: Public justice versus Public Instruction*, Sage Publication, New Delhi, 2010, p. 19.

²⁹ Op. cit., Eric Stokes, *The English Utilitarians and India*, p. 4.

³⁰ Ibid, p. 5.

³¹ Ibid, p. 5.

Western concept of land as part of private property rights. The concept of western land law differentiated the public law and private law for the colonial subjects. The new landlords (*Zamindars*) acquired new 'values' and restricted the Company's servants from making a private trade.³² Furthermore, Lord Cornwallis through the Bengal Code of Regulations of 1793, introduced the concept of the 'rule of law' in India. He devalued the indigenous government and relied on the English political tradition to govern India.³³ In this way, the magistrate of Bengal became the enforcer of the Cornwallis Code. The magistrate became the symbol of British sovereignty as he was empowered with all the judicial power and was superior to the collector.³⁴ Wellesley (1798-1805) continued to work on Cornwallis model to govern India. During his tenure, the power of the government was separated into the legislative, executive and judicial. The British constitution, which followed the separation of power, was instituted in Bengal, and Wellesley wanted to adopt this structure in the Madras Presidency.³⁵ He disregarded the indigenous government and claimed that the administration of independent judiciary would "best guarantee" the protection and toleration to the people of India.³⁶

In the nineteenth century, particularly from the second decade, the rise of liberalism in India began to counter the model of government developed by Cornwallis. In fact, we see a very peculiar encounter or rivalry of political philosophies and intellectual traditions in India. Three liberal groups- romantic (paternalist), evangelical (Christian missionaries), and radical (utilitarian) emerged which would later prove to be influential in shaping British policies in India. However, these political philosophies created confusions for the Company, and the company policies leaned towards economic interest.³⁷

³² This embodied the idea of Whig's government as the colonial servants were restricted to the task of 'impartial administration' of law. Op. cit., Thomas R. Metcalf, *Ideologies of the Raj*, pp. 20-22.

³³ Op. cit., Eric Stokes, *The English Utilitarians and India*, pp. 5-7.

³⁴ Ibid, p. 7.

³⁵ Ibid, pp. 7-8.

³⁶ Ibid, p. 8.

³⁷ The primary phenomena of economic relation; Britain and India on the development of Industrial Revolution gradually transformed for political dominion. Ibid, p. xiii.

The paternalist thinkers criticised the Cornwallis system because of the misconceptions or ignorance about the past society of India. The Cornwallis system by-passed history and tried to create the society ‘anew’ society through alien tradition (English).³⁸ In short, they were against Cornwallis’s revenue and judicial plans.³⁹ Their main principle was for a unitary form of government but without the division of power and to restore the traditional institutions.⁴⁰ Some of the important personnel of the paternalist school were Thomas Munro, John Malcolm, Mount Stuart Elphinstone, and Charles Metcalfe.

Munro as the Governor of Madras altered and developed a new system of land revenue assessment (*ryotwari* system) and political administration which was completely different from the Bengal presidency. He countered the Cornwallis model for artificially developing on the foreign character. He restored the traditional institutions such as the village panchayats, which extended the judicial jurisdiction to the indigenous people.⁴¹ He also abolished the rigid separation of power in Madras, and entrusted all the power to the Madras collector.⁴² However, it was Metcalfe who gave a practical shape of the paternalist principle in Delhi. He did not introduce any new system of revenue and let Mughal revenue system to continue. Like Munro, he empowered the traditional institutions to settle their disputes. The difference in Munro and Metcalfe approaches was that the later was much more “primitive and patriarchal form of rule” than the former.⁴³

Although Elphinstone followed the same ideology as Munro and Metcalf did, he found a way to blend the two schools- paternalism and utilitarianism for the Bombay presidency. He adopted Munro’s *ryotwari* system for the land revenue assessment, and merged the office of magistrate and collector for administrative

³⁸ Ibid, p. 15.

³⁹ Ibid, p. 148.

⁴⁰ Ibid, p. 144.

⁴¹ Ibid, p. 141.

⁴² The collector has also added the responsibility of a magistrate which empowered him to decide boundary and rent disputes and headed the local chief of police. He was answerable to the Board of Revenue at the seat of government. Ibid, pp. 143-144.

⁴³ Ibid, p. 144.

structure.⁴⁴ However, he was aware of the possible misuse of power if it was to be controlled by a single officer and so he appointed Superintendent of Deccan to control the district officers.⁴⁵ At the same time, he wanted to avoid the mistake of the Cornwallis model which disregarded the Indian institutions. Therefore, he sought to unite the Indian and the European model of institutions whereby he wanted Bentham's solution by controlling administration through simple code and laws. In this way, the colonial state also protected the indigenous institutions and laws through written forms.⁴⁶ Malcolm (1827-30) as a Governor of Bombay also extended the principle of paternalism and advocated for 'individual agency'.⁴⁷ He followed a similar pattern of Munro's model in Madras and appointed collectors and sub-collectors who were under the revenue commissioner.

Though there were slight differences in the idea of political institution, primarily between Malcolm and Metcalf, they were determined to preserve the indigenous institutions rather than construct 'anew' society borrowed from the alien tradition. They strived to implement 'unmodified' theoretic virtue in India that was 'the rule of law' and 'separation of power' without fallacy.⁴⁸ Thus the main objective of the liberal idealism was the continuation of the traditional Indian institutions and to consider themselves as an 'innovator'. To them, Indian politics were mostly experimental and pragmatic. As Stokes stated, "Politics to them were experimental in nature, necessarily near-sighted, and essentially limited in their achievements."⁴⁹

During the same period there was another group who voiced for 'anew' construction of the Indian society. They challenged the paternal thinkers and pursued civilizing mission along with the commercial purpose. The Charter Act of 1813 granted freedom to the Christian missionaries to spread the gospel in India. The evangelists such as Charles Grant and Wilberforce condemned the Hindu

⁴⁴ Ibid, p. 148.

⁴⁵ Ibid.

⁴⁶ Ibid, p. 149.

⁴⁷ Ibid, p. 167.

⁴⁸ Ibid, p. 15-20.

⁴⁹ Ibid, p. 23.

religion and made a concerted effort to civilize the Indian society. The evangelist emphasised the importance of education as it was an integral part of conversion and promoted Western morals and values.⁵⁰ They also attacked the EIC for being too profit oriented. Moreover, the Evangelical attitude differed from the EIC as the former sought for the abolition of the traditional Indian customs, the later always mostly practiced the policy of the non-interference.⁵¹ However, putting aside their differences, the EIC and the Evangelical assimilated in the 1820s. They merged their principles of ‘commerce’ and ‘mission’ and produced the colonial policy of nineteenth-century liberalism in India.⁵²

The legal system in British India was greatly influenced by the principle of Utilitarianism. Bentham conceived the principle of Utilitarianism but it was his disciples such as James Mill, John Stuart Mill and closely followed by Thomas Macaulay who played vital roles in codifying the Indian legal system. Both the Evangelist and the Utilitarians shared similar beliefs. For instance, both targeted the ‘rigid’ Indian society and tried to liberate them of their ancient customs. It focused on individualism rather than community and believed that the Western ideas would free the people. They were thus emphasising on Western education and discipline to govern them through systematic laws. However, the major difference between the two schools of thought was that the Utilitarians focused on ‘secular law’ rather than ‘divine law’. In other words, the Utilitarians advocated for human legislator that was in “the form of government and the laws” which “abolished God and substituted human for Divine Justice”.⁵³ But both schools rejected the past history of the Indian institutions and replaced them with alien institutions.

For Bentham and James Mill, the colonial state must move away from the semi-independent authorities to sovereign authority. In another word, the presidencies of Madras and Bombay were to include in central legislative organ and

⁵⁰ Ibid, pp. 32-34.

⁵¹ Ibid, pp. 35-36.

⁵² Ibid, p. 40.

⁵³ Ibid, pp. 54-55.

thus taking away the semi-independent power of legislation.⁵⁴ This transformation was to be achieved through law and thereby establishing the sovereign legislative body in India as the law-making organ. Once this process was completed, it would transform India into a 'uniform' and 'centralized state'.⁵⁵ Bentham was severely against the Whig's philosophy of division of power. Bentham sought to reiterate the drawbacks of Whig theory to advocate for a "discipline administrative hierarchy".⁵⁶ In this way, Bentham tried to divide the territory of the state into districts, sub-districts and smaller divisions which were similar to that of military ranks. He propagated for the distribution of power to various officials (departmental subordinates) through the division of the state. These officials would, in turn, be aided by the indigenous leaders resulting in 'unity' and 'harmony'.⁵⁷ Bentham believed India could be governed only through a bureaucracy and the division of state would create unity and uniformity throughout India under one strong central government.

James Mill's central focus was on three principles- government, justice and political economy. However in India, land revenue was the most important administrative system. As Stokes noted "All the great issues, the union or separation of judiciary and executive, the law to be administered and the rights to be protected, hinged upon it."⁵⁸ Thus, the question of administration always revolved on the land revenue system, especially on the principles of Cornwallis and Munro. For James Mill, he favoured Munro's principle that is payment "directly from the individual peasant."⁵⁹ He wanted the state to levy maximum taxes from the territory as land revenue without affecting India's economic progress. In other words, all the tariffs on trade could be entirely abolished as it was directly a part of

⁵⁴ Ibid, p. 73.

⁵⁵ Ibid.

⁵⁶ Bentham reworked on the separation of powers to strip traditional defects and to distinguish control and executive functions. Ibid, p. 74.

⁵⁷ Bentham created a host of collective bodies to administer land revenue (under Provincial Revenue Boards) and justice (under Provincial Courts of Appeal). Under a systematic bureaucratic hierarchy, the subordinate officials hold personal accountability. Ibid, pp. 74-75.

⁵⁸ Ibid, pp. 75-76.

⁵⁹ Ibid, p. 76.

land revenue which he termed as “light taxes and good laws.”⁶⁰ However, this practice required highly skilled administrators and indigenous knowledge, including an agricultural system which demanded a ‘great reform programme’. It strived for strong central government, scientific codes of all law, expansion of the judicial system, reorganising administrative service, survey and registration of all landholdings and detailed scientific land revenue assessment based on agricultural production.⁶¹ Mill also favoured Cornwallis’s principle of political administration.

The most influential thinker of the English liberalism was Thomas Macaulay. He echoed the views of Charles Grant and Wilberforce on the ‘conquest of mind’. Macaulay was of the view that “to trade with civilised men is infinitely profitable than to govern savage.”⁶² Therefore, he advocated to develop trade in India to gain maximum profit which would ultimately diffuse the Indians into their political power. He emphasised the importance of English-education in India over Persian or Sanskrit. Macaulay believed that such reforms would lead to the emergence of educated middle class in India, and the government would use them as a medium of an agency to reach out the Indian mass.⁶³ Macaulay’s principle revolted between the Utilitarian philosophy and the Whig philosophy. He rejected the theory of ‘abstract universal’ of the Utilitarian and accepted the Whig philosophy of “protection of persons and property”.⁶⁴ However, he stressed more on the Utilitarianism while formulating his policies in India. For example, he advocated for a strong central government, positive laws through legislation, single judge and process of appeals, and to replace with the digest codes with rational codes (Bentham’s principles).⁶⁵ His first attempt on the Penal Code was delivered in 1835 though it came into existence only in 1860.

The process of Anglicisation in India began with the abandonment of Clive’s ‘dual government’. However, the policies of Cornwallis constructed a new political

⁶⁰ Ibid, pp. 77-78.

⁶¹ Ibid, p. 78.

⁶² Ibid, p. 44.

⁶³ Ibid, p. 46.

⁶⁴ Ibid, pp. 191-193.

⁶⁵ Ibid, pp.194-210.

tradition in India. He was a firm believer of instituting the ‘rule of law’ instead of ‘law of the rulers’⁶⁶ and limited the power of government. The liberal thinkers were critical of the Cornwallis’s model. Thus from the 1820s to 1850s, the Company prepared various laws for codification in the colony, which Cassels term it as ‘experimental laboratory’.⁶⁷ Thomas R. Metcalf pointed out that the liberal idealism was centred on the philosophy to provide equality to all.⁶⁸ The elite Indian supported the separation of power but they wanted the laws to be equal for both the Indians and the British.⁶⁹ Consequently, with the Revolt of 1857 and the transfer of government from the Company to the British Crown, a uniform code was introduced in India. The Civil Procedure Code (1858), Criminal Procedure Code (1861), and the Penal Code (1862) were instituted to systematise the law. These codes codified the Indian legal system into a uniform law, and in 1864 the indigenous laws officers were removed from their duties. Marc Galanter observes that by 1882 “there was virtually complete codification of all fields of commercial, criminal and procedural law”.⁷⁰ The only laws which were exempted were on the personal laws of Hindus and Muslims. He further argues that the Indian legal system became more rigid and to modify the laws, legislation became the ‘dominant mode’. Thus the “codes themselves do not represent any fusion with indigenous law.”⁷¹ As shown in the above discussion, the utilitarian drive in Indian administrative policies resulted in the centralization of power.

The EIC devalued the traditional institutions of the Indians and ‘revolutionised’ the commercial ‘mode of production’ to extract maximum source

⁶⁶ Op. cit., Michael Edwardes, *British in India 1772-1947; A survey of the nature and effects of alien rule*, Rupa. Co, Calcutta, 1993, p. 48.

⁶⁷ Op. cit., Nancy Gardner Cassels, *Social Legislation of the East India Company: Public justice versus Public Instruction*, p. 23.

⁶⁸ Thomas R. Metcalf, *Ideologies of the Raj*, Cambridge University Press, New Delhi, Reprint, 2013, p. 34.

⁶⁹ The elite Indians supported the idea but for different reasons. It was Ram Mohun Roy who advocated for “the enactment of equal laws”. Elizabeth Kolsky, *Colonial Justice in British India White Violence and the Rule of Law*, Cambridge University Press, Reprint 2011, pp. 42-43.

⁷⁰ Marc Galanter, *Law and Society in Modern India*, Oxford University Press, Delhi, 1989, p. 18.

⁷¹ However in exceptional case there were accommodation, adjustments and elaborations of local rules. Ibid, pp. 17-19.

for the colonial administration.⁷² The British government introduced the land settlement system following the system of the Mughals but regulated it according to the British customs and laws. Thus industrialization and mode of production (surplus extraction) became the two most important things under the colonial regime in the Indian economy.⁷³ The colonial government categorised the Indian land into three settlements- *zamindari*, *ryotwari* and *mahalgari* according to the colonial requirement.⁷⁴ These land revenue systems covered almost every portion of British India, and each settlement differed in terms of land-ownership rights or collection. “The colonial administration had come through the phase of familiarizing itself with local realities and simply adopted the models elaborated in the course of conquest of the diverse regional contexts, with the two fold objective of ensuring sufficient tax revenues and of gaining the support of the rural elites.”⁷⁵

In the article “Land and Law in Colonial India”, Anand V Swamy reflects that the Company’s revenue system through land settlements also created legal systems.⁷⁶ In this article, he focuses on two regions- Bengal where Permanent Settlement was introduced, and Bombay Deccan where the *raiyyatwari* system came into force. In the Permanent Settlement, the colonial administrator allowed the *zamindars* to collect taxes but they were “excluded from higher levels of the judiciary”.⁷⁷ In the *raiyyatwari* system, which was a direct response of the Permanent Settlement, tax collection was assigned directly to the cultivators. This

⁷² Md Hamid Husain and Firoj High Sarwar, *A Comparative Study of Zamindari, Raiyyatwari and Mahalgari Land Revenue Settlements: The Colonial Mechanisms of Surplus and Extraction in 19th Century British India*, IOSR Journal of Humanities and Social Science (JHSS), Vol. 2 issue 4 (Sept-Oct. 2012), p. 16.

⁷³ Ibid.

⁷⁴ Zamindari settlement covered 19 percent of the total area of British India covering Bengal, Bihar, Orissa, Banaras division of U.P., North-eastern part of Madras and Eastern U.P. The Mahalgari settlement was concentrated on U.P., the Central Provinces, the Punjab and the central providences covering nearly 30 percent of British India. The final settlement covered 51 percent of total British India and the revenue was majorly collected from Bombay, Madras and Sindh Province and was also applied in some parts of Assam and Burma. Ibid, p. 19.

⁷⁵ Ibid, pp. 22-23.

⁷⁶ Anand V. Swamy, *Land and Law in Colonial India, Long-term Economic Change in Eurasian Perspective*, Stanford University Press, December 2010, p. 2.

⁷⁷ Ibid, p. 5.

system objected the removal of Indians from the judiciary. The *raiyyatwari* system was first introduced in Madras and later adopted in the Bombay Deccan. In both zamindari and *raiyyatwari* areas, the colonial government legislated and intervened in the agrarian structure to consolidate its power and authority. The nineteenth century saw the growth of the agrarian economy, which was becoming increasingly commercialized primarily due to the emergence of new traders/lenders from further north.⁷⁸ Land became the most important collateral for taking credit as the colonial government created systematic documentation. Thus, a new relationship between the moneylender and the peasant emerged during colonial rule. Hitherto, during the pre-colonial period, it was the village panchayat that decided the case of the moneylenders and borrowers/peasants which usually sided with the later. However, with the institutional change introduced by the colonial rule, the moneylenders could appeal to the more powerful and higher authority in a civil court.⁷⁹ The moneylenders extensively used the civil courts as it often provided protection and security from the debtors. This resulted in the Deccan riot of 1875 as the peasants under the new system lost a substantial amount of land to the moneylenders. This riot also led to the introduction of "checks and balances of the operation of the civil courts, when it came to peasants' debts, and, especially, transfer of land for debt repayment."⁸⁰

Neeladri Bhattacharya in his book "*The Great Agrarian Conquest*"⁸¹ explores the working of colonial power which eventually reshaped and altered the social relations in the community. The colonial power considered the agrarian as 'universal rural' and 'normative'. Bhattacharya looks at the colonial expropriation in undivided Punjab from the mid-nineteenth to the mid-twentieth centuries which was critical in reshaping the 'rural world'. The colonial state refigured the old and normalised the colonial modern with a new order in the rural through categorising, organising life,

⁷⁸ Ibid, pp. 12-13.

⁷⁹ Ibid, pp. 13-14.

⁸⁰ Ibid, p. 14.

⁸¹ Neeladri Bhattacharya, *The Great Conquest: The colonial reshaping of a rural world*, Permanent Black, New Delhi, 2019.

institutionalising and integrating people.⁸² Bhattacharya discusses on the colonial style of governance which he calls “masculine paternalism”. At the time of Punjab annexation, the British officials such as Henry Lawrence, John Lawrence, James Dalhousie, and James Wilson had different ‘imaginaries’ and advocated their theories of governance. For Henry Lawrence, the rule in Punjab was to be established through “local enquiry and implemented by men on spot” (masculine). In that way, the locals were to be governed through their customs and norms.⁸³ However, before it could be consolidated, Dalhousie dissolved the Punjab Board and took away all authority from Henry. Dalhousie wanted the colonial power to be ‘visible’, ‘authoritative’ and ‘unitary’ with an ‘unambiguous locus’.⁸⁴ The arguments and dissimilarities between the two visions of power had effected Punjab administration during its early rule. At this juncture, John Lawrence, the brother of Henry, neither supported both the ‘imaginary’ power structures in Punjab. Bhattacharya writes “If John Lawrence was distressed by his brother’s dislike for systems and rules, he was equally uncomfortable with Dalhousie’s aggressive Utilitarianism”.⁸⁵ For John, “rules were to be imposed but within the structure of a personalised and patriarchal administration”⁸⁶ which eventually paved the way for ‘rules and codes’ in Punjab.

Once the rules and codes were developed, the colonial state started to focus on controlling and extracting revenues. It was important for the colonial government to create and categorise the heterogeneous groups in Punjab. Bhattacharya thus explores the diverse region of Punjab and examines how the colonial construct ‘rural space’ as ‘village’. The colonial state was “keen to convert all rural spaces into productive landscapes”.⁸⁷ In the process, the colonial officials fixed and mapped all landscapes in Punjab and even fixed the boundaries of the pastoral people as the colonial state desired ‘settled agriculture’. Eventually, it forced the nomads to settle in the ordered villages. In this way, the colonial state refused to accept the “legitimacy of other

⁸² Ibid, pp. 2-3.

⁸³ Ibid, p. 25.

⁸⁴ Ibid, pp. 26-29.

⁸⁵ Ibid, p. 34-35.

⁸⁶ Ibid, p. 46.

⁸⁷ Ibid, p. 69.

space, other habitations” and took control of all the natural resources for commercialisation which also made the village as the ‘universal rural’.⁸⁸ The colonial state in doing so delimited the territory, formed uniform space, created private rights, and brought the heterogeneous groups into the homogenous unit. Over the course of village construction, three types of structured space could be seen: (a) villages of the plains, (b) hills, arid and in pastoral zones, and (c) merged scattered homelands.

The colonial officials as surveyors and mappers were crucial in administrating Punjab province. They even presented themselves as ‘paternal masters’. It also enabled the colonial state to impose revenue assessment on each village by 1850s, unlike the Permanent settlement in Bengal. In this way, the colonial state refigured the tenurial categorisation through the process of enquiry. Bhattacharya argues that “all rural spaces were to be recast as tenurial space” and this eventually led to the agrarian conquest.⁸⁹ The colonial state then defined the property rights and created two groups: ‘proprietor’ and ‘tenant’ to comprehend and order the agrarian society.⁹⁰ However, because of the heterogeneous population and customs, it was difficult for the colonial government to distinguish between the proprietors and the tenants. Therefore, the province of Punjab was built upon ‘colonial assumptions’, ‘reinterpretation’, ‘redefined terminology’ and new juridical categories.

The agrarian territorial reshaping and categorisation had created more difficulty and confusion for the colonial officials to define who was the ‘insider’ and ‘outsider’. The colonial state was also aware of the rapid transfer of lands at large scale and peasants’ debts to the money-lenders. As Bhattacharya argues, the transfer of land from the peasants to the ‘non-agriculturists’ would hammer the stability of the colonial rule.⁹¹ Therefore, in order to protect and rule over the agrarian, the colonial government implemented the Punjab Land Alienation Act of 1900. Though the Act was meant to define who the ‘insider’ and ‘outsider’ was, the ambiguity in

⁸⁸ The colonial state took control such as- forest, and the scrublands, the pastures and the meadows, the deserts, and the dry tracts, the hilly regions and the mountains. Ibid, pp. 69-70.

⁸⁹ Ibid, p. 135.

⁹⁰ Ibid, p. 152.

⁹¹ Ibid, pp. 288-289.

distinguishing the two eventually led the British to define through caste.⁹² Thus, the Land Alienation Act divided the Punjab people as ‘agriculturists’ and ‘non-agriculturalists’. According to the definition, “Regardless of occupation, all cultivating and pastoral castes were considered agriculturists, and all mercantile and “lower” castes were categorised as non-agriculturists”.⁹³ This also prevented the ‘agriculturalists’ from selling their land to the ‘non-agriculturists’. Thus, Bhattacharya noted that the Act changed the land rights in Punjab as it was “no longer co-share vs non co-sharer, or agnate vs non-agnate, but agriculturalist vs non-agriculturalist”.⁹⁴

G. Cassan points out the impact of colonial land reform in Punjab through the Alienation of Land Act. He examines the creation of new identities through the Act- ‘agriculturalist’ or ‘non-agriculturalist’. Cassan also reflects on the insecurity of the colonial state because of the “peasantry debts” which forced many of the peasants to transfer their lands to the urban moneylenders. This created fear among the colonial officials for agrarian unrest in Punjab. Thus, ‘agricultural tribe’ was introduced in June 1901, which restricted the peasants from selling the land and restricted the non-agricultural caste from buying of lands from the non-agricultural caste. Land could only be transferred as property within the agriculture tribe.⁹⁵ The British government, after the annexation of Punjab Province invested heavily in the productive farm for ‘capital gain’, thus differentiating private ownership and commercial land. Hindu moneylenders played a crucial role in the land market, and as a result, the Punjab Land Alienation Act was enacted to squeeze the money lenders “out practically from the land market”.⁹⁶ The Act caused a significant constraint in the Province of Punjab because it excluded moneylenders from the land market. However, it also allowed the money lenders to manipulate their identity as agricultural tribe that entitled to buy

⁹² Ibid, pp. 288-290.

⁹³ Ibid, p. 290.

⁹⁴ Ibid, pp. 290-291.

⁹⁵ Guilhem Cassan, *British Law and caste identity manipulation in colonial India: the Punjab Alienation of Land Act*, September 10, 2009, p. 3.

⁹⁶ S Hirashima, *The Land Market in Development: A Case Study of Punjab in Pakistan and India*, Economic & Political Weekly, October 18, 2008, pp. 42-43.

and sell lands.⁹⁷ The census of 1901 indicated a sharp increase of population among the agriculture tribe. Cassan argues that this was mostly because of the manipulation of identity caste groups.

Colonial paternalist approach of administration in the hill areas

The arrival of the paternal thinkers corresponded with the EIC relationship in the further east of Indian frontier. David Scott who was serving as a magistrate of Rangpur district (1813), and later as Commissioner in Cooch Behar (1816) under Bengal province, conducted government relationship with Assam.⁹⁸ It was during this period, when he first encountered the ‘outrages’ of the hill people. The Garo Hills frequently raided the Zamindars of the administered plains of Goalpara under Bengal Presidency. In order to subdue the hill people, David Scott proposed two separate administrations for the plains and hill people. Scott was a close follower of the paternal school of thought. He understood the different lifestyles and cultures of the hill people, and he was against the move to impose the existing Laws and Regulations of Bengal on the Garo community. He pointed out that “the Regulations are evidently inapplicable to the existing state of society amongst them, a people in general entirely ignorant of Bengal language or any other dialect understood in our Courts.”⁹⁹ Therefore after prudently examining the society, Scott wrote a lengthy proposal to the government to exclude the Bengal Regulation and impose a modified judicial system.¹⁰⁰ Taking note of the proposal, the government introduced the Regulation X of 1822 in the Garo Hills. The Bengal Regulation

⁹⁷Op. cit., Guilhem Cassan, *British Law and caste identity manipulation in colonial India: the Punjab Alienation of Land Act*, p. 4, p. 15.

⁹⁸ He also continued as a joint magistrate of Rungpore and thus the thanas of Dhubri, Nageswari, Goalpara and Karaibari was under his jurisdiction. Op. cit., S. K. Bhuyan, *Anglo-Assamese Relations 1771-1826*, Government of Assam in the Department of Historical and Antiquarian Studies, Guwhati, 1949, pp. 456-457.

⁹⁹ Op. cit., Alexander Mackenzie, *The North-East Frontier of India*, p. 249.

¹⁰⁰ To protect from the raids and exaction to the Zamindars of the plains country from the mountainous tracts of Garo Hills the Government passed a separate Regulation of special form of administration. *Reports on the Administration of the North East India 1921-22*, New Delhi, Mittal Publication, 1984, p. 36. Bengal Regulation of 1822-25. Also see, Op. cit., S. K. Bhuyan, *Anglo-Assamese Relations 1771-1826*, p. 457.

separated North-East thana of Rangpur district into three- Goalpara, Dhubri, and Karaibari.¹⁰¹

Of the many proposals laid down by Scott, the chiefs were allowed to conduct his subjects on civil and criminal cases relating to petty cases. He believed that the relationship between the EIC and the hill community would improve, if the chiefs of the hill community were allowed to assist in police and in judicial matters. This move was conceptualised with the vision that it would ultimately make the Garo community as “the agent of their own civilization.”¹⁰² Scott’s vision of paternalism was to run the administration through the traditional institutions. This gave birth to what is generally known as the ‘non-regulation system’. For the administration, a Civil Commissioner was appointed. The commissioner was empowered with special powers such as to act as a magistrate, revenue collector, supervising the police, and power over all branches of the government applicable in the Garo Hills. This regulation gives us a glimpse of rules and regulations to be modelled in the hills of the North-East frontier.

After subduing the Khasi Hills rebellion movement (1829-33), the British introduced the same kind of governance conducted in the Garo Hills to govern the Khasi Hills. The Khasi Hills was divided into two portions- Khasi state and British portion. In Khasi state, the villages were recognised as independent entities. The villages as states were brought under the subsidiary alliance, and the *syiems* (chiefs) were required to sign an Agreement with the British authority. Initially, the terms of agreement were relatively different for each state, though they all ceded their authority to the colonial government. In 1853, A.J.M. Mills observed and recommended “the enactment of a complete set of rules and procedure suited to the usages and institution of the country”.¹⁰³

¹⁰¹ Op. cit., *Reports on the Administration of the North East India 1921-22*, p. 36.

¹⁰² Nirode K. Barooah, *David Scott in North-East India 1802-1832; A Study on British Paternalism*, Munshiram Manoharial Oriental Publisher, New Delhi, 1970, pp. 59-61.

¹⁰³ A. J. Mills, *Report on the Khasi and Jaintia Hills 1853*, New Delhi, M.C. Gabriel for the North-Eastern Hill University Publications, 1985, p. 116.

A new administrative unit was established for the British portion of the Khasi Hills under the supervision of the Political Agent in 1835. In the same year, Cachar was also brought under the British ascendancy. The extension of the British territory and their sovereign power had again raised a question on the administrative system in the frontier hills. On 30 March 1835, the Governor-General of India enacted an Act VI of 1835 for the administration in the Khasi Hills and Cachar. The officer in charge of the Khasi Hills was deputed as Political Agent similar to that of the Garo Hills' Civil Commissioner. During this period, the Jaintia Hills was not considered to be a part of the Khasi Hills owing to the distinct character of the territory. However, the unsettled dispute with the Jaintia King subsequently led to the annexation of the Jaintia Hills in 1835. Initially, the Jaintia territory was sanctioned by the government to be incorporate with the Sylhet district under Act XXI of 1836. But only the plains part of the Jaintia Hills were incorporated to the district, and the hills were extended to the Act VI of 1835.¹⁰⁴ Similar with other non-regulation areas, the chiefs were given the authority to try petty cases on their subjects both in civil and criminal cases. But crimes of heinous nature was handled by the Political Agent. Thus the Political Agent was a political ruler as well as a magistrate in the new administrative unit.

Following the principle of paternal approach, the 'rule of law' did not come into effect in the hills institutions and the colonial state followed the non-interference policy in traditional indigenous institutions under the supervision of a European officer. The use of force to overpower the hill people was discouraged until the later part of the nineteenth century. The colonial government felt that this gesture would "gradually win the confidence and friendship"¹⁰⁵ of the various ethnic communities. The colonial government recognised the traditional institution of chieftainship. However, the rapid annexation of the hill areas under the British authority forced the colonial state to review its policy to govern the hill communities.

¹⁰⁴ Ibid, p. 8-9.

¹⁰⁵ See, Orders of the Government, Op. cit., Alexander Mackenzie, *The North-East Frontier of India*, pp. 119-120.

Understanding the Inner Line Regulation

So what actually is the 'inner line'? According to Alexander Mackenzie, inner line was "defined merely for purposes of jurisdiction. It does not decide the sovereignty of the territory beyond. Beyond the line the tribes are left to manage their own affairs with only such interference on the part of the frontier officers in their political capacity as may be considered advisable with the view of establishing a personal influence for good among the chief and tribes."¹⁰⁶ In one of the official letters, the inner line was defined as "the ordinary territorial limit of the district, that is, the boundary between ordinary and political jurisdiction."¹⁰⁷ Similarly, C.U. Aitchison described the inner line as "a jurisdictional and not a territorial boundary."¹⁰⁸ Thus, the 'inner line' was simply a boundary or line to protect the economy of the plain districts and at the same time to protect the indigenous hill people from advanced civilization. The regulation empowered the Governor General in Council "to prohibit all British subjects from going beyond the Inner Line, without a pass from the Deputy Commissioner."¹⁰⁹

Elizabeth Kolsky argues that "law defined the territorial boundaries of empire". Through law the state "legitimized its authority, and facilitated the daily routines of governance."¹¹⁰ In the context of North-East India, the territorial boundaries were vague which made the British to loosely govern the hill people. But the gradual expansion of territorial boundaries in the nineteenth century led to

¹⁰⁶ Ibid, p. 89.

¹⁰⁷ Government of Nagaland, *Correspondence Regarding issue of Inner line regulation between Southern District of Sibsagar and Naga Territory*, 1874, File No. 115, p. 2.

¹⁰⁸ Foreign Department, Political A, April 1874, Nos 268-9, Demarcation of the Duffla Frontier.

¹⁰⁹ Appendix B., Foreign Department, No. 631P., dated the 8th of March 1876, No. 2427P., dated the 30th September 1875, No. 1486 P., dated the 21st June 1876, No. 299P., dated the 20th August 1875, Political Proceedings, Nos. 149-62 dated the 30th June 1879, Government of Nagaland, File No. 119. Also cited in Alexander Mackenzie, *The North-East Frontier of India*, Appendix B. p. 395-397. And see, Section 2 of the Inner Line Regulation, 1873, Proceedings, June 1873, Foreign Department, From C. Bernard Esq., Offg. Secy to the Govt. of Bengal., To The Secy. to the Govt. of India, No. 1543 dated Calcutta, the 27th June 1873 (file 16-3), File-113.

¹¹⁰ Op. cit., Elizabeth Kolsky, *Colonial Justice in British India White Violence and the Rule of Law*, p. 30.

the development of new policies. In the process, the colonial state categorised the plains and the hills, and how they were to be governed. It was apparent that with the development of tea plantation, and other economic enterprises in the plains of Assam, the colonial state needed to consolidate its authority over the hills. The raids executed by the hill communities had constantly hampered the progress of tea plantation in the foothills.

The hill areas were considered as ‘unproductive’ and to administer the hills would cost the government more money and manpower than the hills could generate as taxes and labours to the government. The main objective of the government was to protect the plain administered areas, and consolidate the British rule in hill areas.¹¹¹ Therefore, the government instead of taking over the hills, initiated military expeditions when required to exert the power of the colonial state. However, the punitive actions of the colonial state did not produce the results they were hoping for. The agitated British officers and subjects frequently recommended the government for direct control of the hill areas. The British subjects in the plains constantly sought protection from the colonial government. In this connection, Baden-Powell wrote that “if landholding in these hills and the trade intercourse were not regulated, complications and quarrels would be sure to ensue.”¹¹² The political boundaries were fixed only in some hill areas due to poor political relation with the hill communities. But there were so many shortcomings on those demarcated lines. Bodhisattva Kar reflects on the difficulties and challenges of the British government stating that the problems were “between the wider territorial possessions of the British state and its constricted judicial limits.”¹¹³ Acknowledging the security problem of the subjects, the government decided to implement “special powers and lay down special rules.”¹¹⁴ Instead of direct control, the government proceeded with different policies to control the hill areas. The

¹¹¹ Op. cit., Alexander Mackenzie, *The North-East Frontier of India*, pp. 114 and p. 120.

¹¹² B. H. Baden-Powell, *The Land System of British India*, Vol. III, Book IV: *The Raiyatwari and Allied Systems*, Delhi First Reprint 1900, p. 452

¹¹³ Bodhisattva Kar, *When was the Postcolonial? A History of Policing Impossible Lines*, in Sanjib Baruah (Ed.), *Beyond Counter-insurgency, Breaking the Impasse in Northeast India*, Oxford University Press, New Delhi, 2009, p. 51.

¹¹⁴ Op. cit., Alexander Mackenzie, *The North-East Frontier of India*, p. 55.

government introduced Inner Line Regulation of 1873. This regulation of 1873 clearly divided the Assam frontier into two areas- the plains and the hills.

Before the 'inner line' was introduced, the colonial government experimented with a 'pass system' in the Naga Hills. The "*Annual report on the administration of Bengal Presidency (1867-68)*", gives an account of the Angami Nagas taking passes from the Deputy Commissioner of Naga Hills for visiting the plain areas of Assam. This enabled the officers to check and make direct contacts with the Nagas from Angami villages going to the plain areas. This pass system enabled them to collect correct information, and also identify and keep a check on those villages which caused outrages in the plain areas.¹¹⁵ This introduction of experimental pass proved to be successful in dealing with the Angami Nagas. In the following year report, it was recorded that 3,000 Angami Nagas had taken the passes to trade in the plains and they did not commit any sort of unlawful activity.¹¹⁶

In the original provisions of Act XXXIII Vic. Cap. 3 Section, the regulation was extended to the districts of Kamrup, Darrang, Nowgong, Sibsagar, Lakhimpur, Garo Hills, Khasi and Jaintia Hills, Naga Hills and Chittagong Hills.¹¹⁷ The district officers were responsible in supervising and issuing passes to the British subjects according to the rules laid down (in Section 2). Charles Taylor in "Two Theories of Modernity" argued that colonial government was hierarchal in nature. This hierarchy was evident in the bureaucracy the colonial state introduced in the North-East. The power instituted to the European officers indicates clear bureaucratic hierarchy of the colonial state. The modern transition and progress through a bureaucratic institution also altered traditional cultural practices.¹¹⁸ It brought in new techniques of governance and punishment, which also dictated modernity. The offender or a person without a pass was to be convicted before the magistrate. For the first offence, a fine of not more than Rs. 100 was levied. And for the subsequent

¹¹⁵ Annual Report on the Administration of the Bengal Presidency for 1867-68, p. 251

¹¹⁶ Annual Report on the Administration of the Bengal Presidency for 1868-69, p. 98

¹¹⁷ For details on the Inner Line Regulation see, Ibid, Proceedings, June 1873. Also see, Government of Nagaland, No. 31 Regulation of 1873, File No. 114.

¹¹⁸ Charles Taylor, Two Theories of Modernity, in Dilip Gaonkar (ed.), *Alternative Modernities*, Duke University Press, Durham, London, 2001, pp. 182-183.

offences, a fine not exceeding Rs. 500 or a term of not more than three months of rigorous imprisonment was levied (Section 3 & 4).

The Regulation also prohibited the British subjects from collecting natural resources, and acquiring land beyond the 'inner line' without the authority of the local government (Section 5 & 7). Without the written permission from the local government, any attempt to capture or kill wild elephants was punishable with a fine not exceeding Rs. 200 for every elephant. In the case of the self-defence from the wild elephant, if it was captured, the elephant was to be surrendered, and if killed, a payment was given to the local government (Section 8). The Lieutenant Governor had the authority to extend, revise or abolish the 'inner line' to any part of the 'tribal areas' if it was necessary.

Initially in the Naga Hills, only a small portion of the hills was politically controlled and the inner-line regulation was introduced in British controlled areas. But with the gradual expansion of territories in Wokha (1875), and Kohima (1878), the concept of 'political control' had created a 'confused situation'.¹¹⁹ Robert Reid, the Governor of Assam, pointed out that "the general policy appears to have been one of consolidating our rule around those two centres"¹²⁰. Consequently in 1881, with the decision to make Naga Hills as British Assam district,¹²¹ the 'political control' was replaced with 'administrative control'. Following this administrative change, the 'inner line' was extended to British administered areas of Wokha and Kohima in the Naga Hills.¹²² In 1890, the British consolidated its power over the eastern part of the Naga Hills inhabited by the Ao Nagas. As the British control over the Naga Hills district began to expand, the 'inner-line' was introduced in the British administered areas.

¹¹⁹ S.K Chubae, *Hill Politics in Northeast India*, Orient BlackSwan, Kolkata, Reprinted 2016, p. 15.

¹²⁰ Two centre- Wokha and Kohima. Robert Reid, *History of the Frontier Areas Bordering on Assam From 1883-1841*, Spectrum Publication, Guwhati, Reprint 1997, p. 101.

¹²¹ Ibid, p. 99.

¹²² The British administered areas of the Naga Hills before 1882, only covered Kohima and Wokha. Ibid, p. 101.

Withdrawal and extension of Inner Line in different hill districts

The inner line regulation was very contingent in nature. In some districts of Assam, the 'inner line' was withdrawn or extended for different reasons. For instance, the 'inner line' in the Garo Hills was repealed by the Act of 1897.¹²³ But Sadon K. Blah pointed out that "till today none was able to produce a copy of the repealing Act".¹²⁴ Nevertheless, it was understood that the withdrawal of inner line was mainly because of loss in revenue. In Assam, the *ryotwari* system was introduced, but the Garo Hills was placed under Goalpara *zamindari* system.¹²⁵ Some scholars also pointed out that the 'inner line' was repealed not only because of loss in revenue but also due to the indigenous protest against the *zamindars*.¹²⁶ The Garo people resisted the attempts of the powerful *zamindars* to encroach their customary rights and to turn the indigenous people into tenants in their own land.¹²⁷

The inner line of the Cachar district was also withdrawn in 1930, but it was extended to the Lushai Hills. When the Inner Line was implemented, the Lushai Hills was yet to be under the British colonial state. It was from the Cachar district that the colonial government regulated the movement of the British subjects. To enter the Lushai Hills, a pass was issued by the Deputy Commissioner of Cachar. The Superintendent of Lushai Hills did not have the authority to grant passes to British subjects, or person residing in or passing through the Cachar district for crossing the Cachar inner line.¹²⁸ In short, the Superintendent did not have any legal authority or to take action against the defaulters. The state of affairs in the Cachar and Lushai Hills had changed ever since the latter became one of the districts in

¹²³ Erwin K. Syiem Sutnga, *Finding a middle path to controlling influx in Meghalaya*, The Shillong Times, 11 December 2011, <http://www.theshillongtimes.com/2013/12/11/the-legal-historical-and-ground-realities-of-influx-the-ilp-and-the-proposed-tenancy-act/>

¹²⁴ Sadon K. Blah, ILP and Right to Ethnic Rights of Indigenous People, in Edited, H. Srikanth, C. Joshua Thomas, Recordius Enmi Kharbani, *Vision for Meghalaya: On and Beyond the Inner Line Permit*, ICSSR North Eastern Regional Centre, 2014, p. 22.

¹²⁵ Ibid.

¹²⁶ Fenela Lyngdoh Nonglait, *Inner Line Permit: A Legal Paradox*, The Shillong Time, October 3, 2013. Sanjeeva Kumar, *State 'Simplification': Garo Protest in Late 19th and Early 20th Century Assam*, Economic and Political Weekly, Vol. 40, No. 27 (July 2-8, 2005), p. 2942.

¹²⁷ Ibid.

¹²⁸ Political-A, December 1930. Nos- 30-66, Ibid, p. 7.

Assam. The proposal for inner line extension or to empower the Superintendent had been raised by several officers. For instance, in 1895 even before the North and the South Lushai Hills were merged as a district, the Chief Commissioner of Assam, Sir William Ward had proposed for the extension of the inner line regulation in the North Lushai Hills. But his proposal was never taken seriously. In 1902, Major Shakespear, the Superintendent, of the Lushai Hills raised a similar issue. He proposed for the empowerment of the Superintendent office to deal with the ‘outsiders’ in a letter to the Chief Commissioner of Assam:

“The Superintendent should be powers to summon to expel any people other than Lushais who may be found exercising a bad influence on the Lushais and to prevent the influx of undesirable characters. I find now that a number of beggars and people with no means of substance wander up the roads and then sick and are taken into our hospitals and become a charge to Government. While healthy daily labourers are desirable immigrants, the class of loafer of whom I speak is very much the reverse. In Chin Hills Regulation the Superintendent is given the power I now ask for.”¹²⁹

The increasing number of ‘outsiders’ in the Lushai Hills was distressing to the officers serving in the Lushai Hills. They vigorously proposed and suggested the government to extend the inner line regulation in the Hills. Even after the establishment of British administration, the debate for the inner line in the Lushai Hills continued for over three decades. There were two major problems in the debate for the extension of inner line. The first major problem was that the extension of the inner line would require the rearrangement of the whole boundary of the Lushai Hills and the district of Cachar. Therefore in 1920, A.J. Lane opined that such rearrangement of the boundary would cause severe complications to the plains contractors as some of the Lushai Hills forest reserves were under the control of the Cachar forest authorities.¹³⁰ The second major problem was regarding the

¹²⁹ From Major J. Shakespear, to the Secy. to the Chief Commissioner, Assam, No. 260G., dated Aijal, the 9th June 1902 CB-8 G-89.

¹³⁰ Political-A, December 1930, A. J. Lane, 30th August 1920, p. 13.

issuing of passes to those missionaries, government officials and plains people who had already settled in the Lushai Hills.

In December 1929, the Director of Survey had informally laid the boundaries¹³¹ in the northern part of Lushai Hills for the inner line regulation. Before addressing the proposed inner line to the government in India, it was first consulted with the three local officers of the concerned districts: Sylhet, Cachar and Lushai Hills. They agreed on the boundary line drawn for the proposed inner line as mapped by the Director of Survey. The Superintendent of the Lushai Hills, Mr. Helme, also suggested for extending the line in the western boundary of the district. Nevertheless, the proposed boundary line was sanctioned by the British colonial government to extend the inner line in the Lushai Hills and to withdraw the inner line in the Cachar district.¹³² In the case of the western boundary, the Commissioner of Surma Valley and Hills Division, overlooked and notified the Superintendent that until the dispute with the Tripura state was not settled, the inner line for the said boundary cannot be taken up.

The unsettled agreement for the extension of the inner line in the western part of the Lushai Hill was settled in 1933. The Governor-in-Council extended the Bengal Eastern Frontier Regulation, 1873 (V of 1873), as amended by the Bengal Eastern Frontier Regulation, 1925 (V of 1925), to the Lushai Hills districts and subsequently withdrew the 'inner line' of the Cachar district. With the extension of the inner line, the problem of the boundaries was fixed. In the case of the second problem, the government prescribed two points along with the notification of the extension of the inner line regulation:

- “1. Foreigners who have been permitted to reside in the Lushai Hills District,
2. Indigenous inhabitants of the Lushai Hills district.”¹³³

¹³¹ Rough boundary line of the northern boundaries of the Lushai Hills had been described in, Political-A, December, 1930, Unofficially No. Pol-2995-7962 A.P., Pp. 19-22.

¹³² Political-A, December, 1930, From the Commissioner, Surma Valley and Hills Division, No. 457P., Dated the 25th April 1930. P. 24.

¹³³ General Department, No. 9104A.P, p. 44, CB-33 G-412. Also see, Political-A, December, 1930, p. 112.

They were exempted from the prohibition against crossing the Inner Line. And by 1933, the government notified new boundaries defining the inner line covering the whole region of North, South, West and East of Lushai Hills.¹³⁴

As mentioned above, the inner line was a jurisdiction line and not a line of sovereign territory. The foreigners were denied to enter the hill without valid passes from the district officials. The regulation was intended to protect the commercial areas in the plains, and control the hill people living on the borders of British jurisdiction. The hill people were then administered by the political officers but with little interference. This practice allowed the indigenous people to manage their own state of affairs with minimum control from the government. This isolated the frontier hill people from other political developments in British. The demarcation of jurisdiction was critical in shaping the future policies of the colonial government.

Administrative hierarchy in Assam Province

The administrative hierarchy in the Assam province evolved throughout the nineteenth and twentieth centuries. Before the Anglo-Burmese war, the East India Company maintained a cordial relationship with Assam through the magistrate of Rungpore district of Bengal presidency. But after the Anglo-Burmese war (1824-26), Assam was placed under the British military commanders. The collapsed of law and order in Assam during and in the aftermath of the war had unsettled the frontier and it was placed under the martial law (1824-1828).¹³⁵ The Treaty of Yandaboo expelled the Burmese army from the Assam frontier, and the EIC formally took authoritative measure by appointing a political agent. However, with the improvement of law and order situation, the head of the Assam frontier was changed to Commissioner of Assam under Bengal Presidency. But the gradual

¹³⁴ For full details of the defining boundaries see, General Department, No. 2106A.P. p. 16, CB-36 G-464.

¹³⁵ M.L. Bose, *Development of Administration in Assam: With Special Reference to Land Revenue Justice and Police 1874-1920*, Concept Publishing Company Pvt. Ltd., New Delhi, Reprint 2010, pp. 92-93.

expansion of the unexplored territories of Assam frontiers had created a problem to administer Assam through Bengal. Moreover, the tea planters demanded a separate province in order to protect their interests which would also allow them to use the state's tools efficiently.¹³⁶ John Lawrence also proposed for a separate province for Assam. Thus in 1874, Assam was created as a separate province of the British India which comprised of Assam proper, Goalpara, Cachar, Garo Hills and the hill districts.¹³⁷ The province was created because Assam neither fitted under the Presidency nor Lt. Governorship.¹³⁸

The expansion of North-East frontier divided the Assam province into two administrative units. The first Commissionership or the Assam valley included the five districts of Assam proper and Garo Hills, and Guwahati was chosen as the headquarter of Assam valley.¹³⁹ The second Commissionership was under the Surma and Hills division, which was created in 1893. Its headquarters was at Silchar, where four hill districts were included with the two frontier tracts.¹⁴⁰

However, the partition of Bengal in 1905 had also affected Assam province. The division of Bengal reduced a large tract of Bengal presidency and Assam was amalgamated with the East Bengal. From 1905-1912, the Assam frontier was known as Eastern Bengal, and Assam was governed by a lieutenant governor. It also created a new administrative hierarchy as the Chief Secretary was superior to a division Commissioner. The newly created province was again divided into two commissionerships. In October 1905, the Surma Valley and Hills Division was formed as the second Commissionership with a separate jurisdiction from the

¹³⁶ Ashfaque Hossain, *The Making of Assam-Bengal Borders and the Sylhet Referendum*, Modern Asian Studies 47, 1 (2013), Cambridge University Press, 2012, p. 260.

¹³⁷ Ibid, p. 260.

¹³⁸ An Act passed by Parliament in 1854, provided for creation, by a proclamation, local administrations with the prior sanction of the Board of Control and the Court of Directors, in any part of India, to relieve Presidencies. Op. cit., M.L. Bose, *Development of Administration in Assam: With Special Reference to Land Revenue Justice and Police 1874-1920*, p. 4.

¹³⁹ Op. cit., Report on the Administration of North-East India, 1921-22, p. 73. The five districts were Kamrup, Nowgong, Darrang, Sibsagar and Lakhimpur)

¹⁴⁰ Four Hill districts of Assam province were Cachar Hills, Khasi and Jaintia Hills, Naga Hills and Lushai Hills and the two frontier tract district were Balipara Frontier Tract and Sadiya Frontier Tract.

Commissioner of Assam Valley.¹⁴¹ But with the nullification of Bengal partition in 1912, Assam was restored to its previous status of Chief Commissionership. The final evolution of Assam administrative hierarchy came with a change from commissionership to the governor in 1921. The head of the Assam province was assisted by European or political officers who were spread across the administered territories. In British India, the political officers were known by different titles. For instance, in the 'regulated provinces', the officers were known by the titles such as 'magistrate and collector', whereas in the 'non-regulated provinces' they were known as a 'Deputy Commissioner'.¹⁴² As such, in the non-regulated provinces, it was the Deputy Commissioner who held the joint responsibility of magistrate and collector.

This chapter discussed the enactment of substantive laws in the hill districts of Assam province. Given the different challenges of the hill districts, the question of administration was always debated among the colonial government officials. However, paternal school of governance was instituted where the traditional institutions were also endured. In this way, the colonial state regarded themselves as 'inheritors' or 'revivers'. Through the direction of the colonial state, self-governance was encouraged for the hill districts. Thus, this substantive law provided special powers to the European officers to officiate the hill districts. They were accounted for building a 'bridge' between the colonial state and the subjects.

Techniques of governance: Uniform regulations

In the first half of the nineteenth century, all districts that were under the authority of the colonial state were administered differently. The Cachar, Garo

¹⁴¹ The Hills and Surma Division was established in 1893. But in 1905 the second commissionership was created. <http://hbvdassam.gov.in/history.asp>. Retrieved on 23-08-2017.

¹⁴² In all hill districts of the North East Frontier they were titled as a Deputy Commissioner, except in the Lushai Hills which titled as Superintendent. Op. cit., M.L. Bose, *Development of Administration in Assam: With Special Reference to Land Revenue Justice and Police 1874-1920*, p. xii.

Hills, the Khasi and Jaintia Hills had separate regulation or Act for their governance. Though the model of governance was similar there was no uniform technique of administration. In the other hill regions, the government governed the people through the policy of 'non-interference'. But by the second half of the nineteenth century, the British authority gradually took permanent possession on the territories with whom they followed the policy of 'non-interference'. This created the need for new techniques of governance for the hill people. For this purpose, the colonial government firstly categorised the Assam frontier and governed the hills and the plains differently. After the Revolt of 1857, the Civil Procedure Code (1858), Criminal Procedure Code (1861) and the Penal Code (1862) were codified and they were extended to the plains of Assam. But these legal codes were not applied in the eastern frontier hill areas. However, instead of different regulations and Acts, which I have discussed above, the British tried to structure the whole hill areas under uniform procedure of regulations.

A.J.M. Mills was one of the earliest officials to advocate for a uniform procedure to govern the North-East frontier. However, his view was confined only to the independent Khasi state and not the whole of British administered hills. He advocated the uniform procedure in the year 1853, but it was only in 1859 that a concrete attempt was made by the British authority for General Agreement on all Khasi states. Here it is important to note that the British government began to introduce uniform code in India as well. In 1877, the General Agreement was reformulated into the '*Sanads*' and '*Parwanas*'. The Sanads were signed between the Lieutenant Governor and the *syiems* (chief), and the *Parwanas* were signed between the Deputy Commissioner of Khasi-Jaintia Hills and the Sirdars and Lyngdohs, who were the chiefs of smaller states.¹⁴³ This agreement divided the Khasi state into major and minor states. The British constantly reviewed the Agreements in accordance to their needs.

¹⁴³ C.U. Aitchison, *A Collection of Treaties, Engagements and Sanads*, New Delhi, Mittal Publication, Reprint 1983, see footnotes, p. 87. Keith Cantlie's *Notes on Khasi Law*, Shillong, Chapala Publishing House, 2008-09 (Edition), p. 148.

The establishment of headquarters in the Naga Hills in 1866 changed the British administrative policies in the hill areas. Instead of separate regulations/Acts, the government sought for a uniform procedure. The Act XXII of 1869 was introduced and the Regulation X of 1822 and Act VI of 1835 were repealed. This Act kept the hills areas away from the Regulation of the Bengal Code and any other laws or regulations implemented in British India unless the Governor-General deemed it necessary. The Governor-General had the discretionary power to appoint officers and give directions in matters related to the administration of civil and criminal justice, and other duties.¹⁴⁴ This Act was extended to the Garo Hills, the Khasi and Jaintia Hills, and the Naga Hills with some modification in the rules of civil and criminal justice, and police regulation. This was done to provide a simple form of administration. The Act was to be in force only in the areas directly under the administrative control of the European officer.¹⁴⁵ The Commissioner of Assam was the Inspector-General of Police and exercised the powers as laid down in Section 3, Act VII of 1869.¹⁴⁶

The Commissioner of Assam, Colonel H. Hopkinson, criticized the newly enacted Act. He was of the opinion that the new Act should be implemented in the Khasi and Jaintia hills but not in the Naga Hills because it had not been under British rule for long. In other words, he suggested the Lieutenant Governor for the implementation of the Garo Act to the Khasi state.¹⁴⁷ As the Act XXII of 1869 was extended only in the portion of the British Khasi territory. The Commissioner of Assam, was also critical of the extension of the Act in the Naga Hills. In his letter to the Government of Bengal, Hopkinson wrote:

¹⁴⁴ Op. cit., Alexander Mackenzie, *The North-East Frontier of India*, pp. 261-263.

¹⁴⁵ The Calcutta Gazette, July-August 1872, p. 101. Also see, Proceedings, June 1872, Judicial Department, By Col. Hopkinson, Agent, Governor General, N.E.F., and Commissioner of Assam. Rules for the Administration of the Naga Hills forwarded to the Secretary to the Government of Bengal, No. 90T, dated Shillong, the 6th May 1872, p. 59. File No. 5.

¹⁴⁶ Proceeding, June 1872, *Rules for the administration of the Naga and Khasi and Jaintia Hills*, p. 52 and p. 59.

¹⁴⁷ Proceedings, June 1872, Judicial Department, By Col. Hopkinson, Agent, Governor General, to the Secretary to the Government of Bengal, No. 136, dated Gowhatty, 6th October 1871. File No. 5 p. 48.

“I beg to state that, considering our recent occupation of the Naga Hills and small amount of authority we exercise over the people, and our policy of not interfering with their internal government, I do not consider it expedient to recommend the extension of the Act to that territory.”¹⁴⁸

Debarring from the general laws and regulations

The creation of the separate province of Assam in 1874 had once again created the need to change the British policies in the hill areas. The change in Assam status repealed the Act XXII of 1869, and introduced the Scheduled District Act XIV of 1874. But the Scheduled District came into force only on 3rd November, 1877 in the Assam province.¹⁴⁹ The Scheduled District Act sought to distinguish which “parts of British India are excluded from the operation of the General Laws and Regulations, and to consolidate the law relating to the local extent of the Acts and Regulations and the jurisdiction of the Courts.”¹⁵⁰ Thus the local government of Assam under the Chief Commissioner was further empowered to modify laws as notified under Section 6 of the Act XIV of 1874.¹⁵¹

¹⁴⁸ Op. cit., Alexander Mackenzie, *The North-East Frontier of India*, p. 249. O. cit., Nirode K. Barooah, *David Scott in North-East India 1802-1831*, p. 56.

¹⁴⁹ Home Proceedings, May 1877.

¹⁵⁰ Legislative Department, Proceedings, December, 1874. From Recorder of Rangoon, to Officiating Assistant Secretary to Chief Commissioner, British Burma- No. 99, dated 20th July 1872.

¹⁵¹ “The Local Government may from time to time- (P.T.O)

1. Appoint officers to administer civil and criminal justice and to superintend the settlement and collection of the public revenue, and all matters relating to rent, and otherwise to conduct the administration, within the Scheduled Districts,
2. Regulate the procedure of the officers so appointed; but not so as to restrict the operation of any enactment for the time being in force in any of the said districts,
3. Direct by what authority any jurisdiction, powers or duties incident to the operation of any of the enactment for the time being in force in such district shall be exercised or performed.”

Government of India, Legislative Department, *The Unrepealed General Acts of the Governor General in Council From 1868 to 1878, both inclusive*, Vol. II. Fourth Edition. Calcutta, 1909, p. 34.

The provisional Gazetteer of Assam published in 1906 clearly stated the primary role of the Chief Commissioner of Assam for the enactment of laws and regulations:

“Provision has also been made for the enactment of Regulations suited to the peculiar necessities of the Province, and the Chief Commissioner is empowered to propose to Governor General in Council drafts of any such Regulations as seem to him to require. These Regulations, after they have been approved by the executive Council of the Governor General, and after they have received his assent, are published in the Gazette of India, and thereupon have the force of law. The Chief Commissioner has also power, with the previous assent of the Governor General in Council, to extend to the Province any measures passed by the local Legislatures which appear to him to be suited to its requirement.”¹⁵²

The power of the local government over the local rules and orders varied from one province to another as notified in the Gazette notifications. In the Assam province, the rules and orders were notified in ‘the Assam Gazette 1877 Part I’.¹⁵³ Under this provision, the local government was authorized to settle issues on disputed boundaries between the Scheduled Districts and other territories. In the judicial matter, as per the rules and orders of the local government, the Chief Commissioner and his subordinates can imprison or transport any person beyond sea. In other words, the Calcutta High Court did not have any jurisdiction over the judicial system in the Assam Scheduled Districts as the Chief Commissioner acted as the highest court.

Subsequently, under the provision of the Scheduled District Act of 1874, the Assam Frontier Tracts Regulation, II of 1880, was passed to administer the frontier hills. It was issued “to provide for the removal of certain frontier tracts in Assam

¹⁵² Provisional Gazetteer of Assam, 1906, p. 72

¹⁵³ The author does not have a personal copy of ‘The Assam Gazette Part I 1877’ but this reference was cited in several other books; Op. cit., *S.K. Chaube, Hill Politics in Northeast India*, see footnote No. 21, p. 27 and Helen Giri, *The Khasi under British Rule (1824-1947)*, Regency Publication, Shillong, Second Edition, 2012, see footnote No. 37, p. 163.

inhabited or frequented by barbarous or semi-civilized tribes from the operation of enactments in force therein.”¹⁵⁴ This Regulation also extended the power of the Chief Commissioner to enact or remove any law of the Assam hill tracts with the sanction of the Governor-General in Council. Thereof as prescribed in the section 1, the Governor-General in Council extended the Assam Frontier Tracts Regulation, III of 1884, to the Garo Hills District, the Khasi and Jaintia Hills Districts, the portion of the Nowgong Districts (Mikir Hills) and Cachar district (North Cachar). This regulation clearly directed the local government that “Act 10 of 1872 (the Code of Criminal Procedure) shall be deemed never to have come into force in the Garo Hills District, the Naga Hills District or the Khasi and Jaintia Hills Districts.”¹⁵⁵ Consequently, the Naga Hills came under this regulation on 22nd April 1884¹⁵⁶ and the Khasi and Jaintia Hills on 5th November 1884.¹⁵⁷

All the newly acquired British territories of the hill areas were brought under the Scheduled District Act. For instance, when Mokokchung (inhabited by Ao Nagas) was brought under the Naga Hills district administration in 1888, the Chief Commissioner of Assam conferred by the power of Section 5 of the Scheduled Districts Act, XIV of 1874, and with the sanction of the Governor-General in Council, extended the Assam Frontier Tract Regulation, II of 1880.¹⁵⁸ Similarly, when Lushai Hills was created by merging the South and North Lushai Hills, the local government proposed for the extension of Scheduled District Act of 1874. Erstwhile, the South Lushai Hills was framed under the Chin Hills Regulation III, of 1896 (Section 2 of this enactment was similar to the Section 2 of Regulation II of 1880). Therefore, with the formation of Lushai Hills, the local government also proposed to transfer the hills under Assam province. The Lieutenant Governor of Bengal suggested for a “uniform character, and applicable to the whole of the

¹⁵⁴ Manilal Bose, *Historical and Constitutional Documents of North-Eastern India (1824-1973)*, Concept Publishing Company, Delhi, 1979, p. 65.

¹⁵⁵ The Assam Code in volumes II containing, *The Regulations and Local Acts in Force in the Province of Assam*, Calcutta, 1915, p. 244.

¹⁵⁶ Foreign Department Notification No. 988 E, dated April 22, 1884.

¹⁵⁷ Op. cit., S.K. Chaube, *Hill Politics in Northeast India*, p. 18.

¹⁵⁸ Judicial Department, Extract from the Assam Gazette dated 17th January 1891. No. 3 of 1891. (Part II) P. 30. No. 167J. p. 1. File No. 881.

amalgamated areas”¹⁵⁹ and the local government consented to the idea as ‘desirable’ for the administering the Lushai Hills. Mr. Henry Cotton, the Chief Secretary of Bengal, observed that the most convenient procedure for administration was to extend Regulation of 1880 in the Lushai Hills. It proposed to administer Lushai Hills under Section 6 of Act XIV of 1874. Drafted rules were prepared by Mr. Porteous, the Political Officer, and Sir William Ward, the Chief Commissioner of Assam, accepted them after a careful examination from Mr. Cotton. The draft rules for the Lushai Hills administration were based on those in force in the Naga Hills.¹⁶⁰ A draft notification was issued on 1st October 1897 for the enforcement of the regulation in the Lushai Hills. But the final decision was declared on 1st April 1898, for the extension of the Regulation II of 1880. This extension also repealed the South Lushai Hills Regulation, 1896 by the Assam Frontier Tracts Regulation (1880) Amendment Regulation 1898.¹⁶¹

The Scheduled District Act acted as a guardian for the indigenous institutions in the hill districts. It debarred the implementation of the ‘rule of law’ in the hill districts. It was the Chief Commissioner or Governor General who could enforce any enactment applicable to particular areas. For instance, Court fees, Stamps Act, transfer of property Act, Civil and Criminal Procedure and the Registration Act were not extended to the hill districts of Assam. But the executives depending on the needs introduced simplified rules and regulations framed under Section VI of the Scheduled District Act of 1874. Therefore, the Bengal Court did not have any authority in the hill districts.

The primary aim of the British was to protect the ‘primitive’ people and their customs from the ‘civilized’ people. Though it should not be forgotten that the interest of the colonial state lay mostly in the economic profits that the plains of Assam brought. The colonial state introduced these Acts to safeguard the hill people from the exploitation of the plains people. And only specific rules were laid

¹⁵⁹ Foreign Department, From The offg. Secretary to the Chief Commissioner of Assam, To the Secretary to the Government of India, the 17th July 1897.

¹⁶⁰ Ibid.

¹⁶¹ The Assam Code in Vol. II, p. 320.

down by the colonial state to administer the hill districts. Thus, in the hill districts of Assam a new political and bureaucratic institution was established. But this new system was weak in criminal cases and even more ineffective in the civil administration.

As mentioned above, the executive heads could introduce special rules in the hills for the administration of criminal and civil procedures, and police, with certain modifications. The hill districts did “follow the spirit of the Indian Penal Code and the Criminal Procedure Code, but are separate rules issued under the Scheduled District Act”.¹⁶² Therefore, a ‘specialised’ form of governance was introduced to the hill districts. But at the same time it isolated the hill people from the penal codes followed in India. The British recognised the village authorities and their ancient customs. The village chiefs were given the right to try petty cases in their jurisdictions. But for other serious crimes it was the Deputy Commissioner and his assistant who acted as a magistrate. The village authorities were also responsible for the maintenance of law and order in his jurisdiction.¹⁶³ They acted as a rural police, and aided the British police (whose duty were mostly confined in patrolling the cart road¹⁶⁴) and the Deputy Commissioner. In short, the village chiefs were the agents of the government as they were empowered to arrest, watch and levy fine, if any crime was committed in their jurisdictions. Thus the policy of the hill districts made the officer in-charge the highest figure to maintain law and order. The role of the political officer (Deputy Commissioner) and along with the administration of criminal and civil justice, and police are discussed in the next chapter.

The regulations of the British government can be understood as “a motley amalgam of British Indian laws”.¹⁶⁵ It was so because the Code of Civil Procedure (1859), the Indian Penal Code (1860) and the Criminal Procedure Code (1862)

¹⁶² Imperial Gazetteer of India, *Provincial Series Eastern Bengal and Assam*, Calcutta, Superintendent of Government Printing 1909, p. 479.

¹⁶³ See Chapter II.

¹⁶⁴ Op. cit. Imperial Gazetteer of India, *Provincial Series Eastern Bengal and Assam*, Calcutta, Superintendent of Government Printing 1909, p. 479.

¹⁶⁵ Sekhar Bandyopadhyay, *From Plassey to Partition A History of Modern India*, Hyderabad, Orient BlackSwan, Reprint 2010, p. 100.

were applied only in the British India. And the colonial state also separated the hill communities and the princely states from such codes. In another word, for the hills of North-East Frontier, the government introduced a ‘Substantive law’ rather than a ‘Procedure law’.

Limitations of Backward Tracts

The implementation of codified rules and regulations during the nineteenth century was crucial in shaping the modern history of North-East frontier of India. Though this development isolated the hill districts from the mainstream British administration, the hills districts were still under the British discretions. In the nineteenth century, separate rules and regulations were developed to administer the hill districts. Emulating on the previous century, the government in the twentieth century isolated the hill districts from the plains. With the view to provide good governance in the Scheduled Districts, the Government Act of 1915 under the provision of Section 71¹⁶⁶ made the Governor General in Council responsible for making regulations for administrative purposes. Thereupon, the Assam General Clause Act of 1915 was introduced and in Section 14, it states “unless and until

¹⁶⁶ Government of India 1915, *Being supplement to the Indian Constitutional Documents (1773-1915)* introduction by Panchanandas Mukherji. Thacker, Spink & Co. Calcutta, 1915, p. 30. The following are the Section 71 of the Act;

1. “The local Government of any part of British India to which this section for the time being applies may propose to the Governor-General in Council the draft of any regulation for the peace and good government of that part, with the reasons for proposing the regulation.
2. Thereupon the Governor-General in Council may take any such draft and reasons into consideration; and when any such draft has been approved by the Governor-General in Council and assented by the Governor-General, it shall be published in the Gazette of India and in the local official gazette, if any, and shall thereupon have the like force of law and be subject to the like disallowance as if it were an Act of the Governor-General in Legislative Council.
3. The Governor-General shall send to the Secretary of the State in Council an authentic copy of every regulation to which he has assented under this section.
4. The Secretary of the State may, by resolution in council, apply this section to any part of British India, as from a date to be fixed in the resolution, and withdraw the application of this section from any part to which it has been applied.”

extended under the Scheduled Districts Acts, 1874, or otherwise, no Act in the absence of special provisions to the contrary, shall come into force...”¹⁶⁷ In short, no local Act were to be passed in the Scheduled Districts without the sanction of the Chief Commissioner. He could also withdraw any enactment that was in force in the Assam frontier tracts.

The Assam frontier tracts had already been secured from any law to be enacted with the implementation of the Assam General Clause Act 1915. But when the Montagu Chelmsford Report was circulated, various opinions were raised by the officials in Assam regarding the recommendation of Assam Frontier Tracts under the ‘backward tracts’. The question of whether the whole of Assam or the hill areas to be excluded from the Constitutional Reform was debated. As a result, the Indian Act of 1919 was not implemented immediately in the Assam province. Owing to the complex nature of administration in the hill areas, the government suggested to set up a separate committee to assess the Assam province and sought for a “preliminary period of training before the scheme of the Report.”¹⁶⁸

However, para 199 of the Joint Report (published on 1918) suggested that exclusion should only be extended on the portion of the Scheduled District of Assam. The Chief Commissioner of Assam, Sir Archdale Earle (1912-18), and two senior officers, Messrs Reid and Barnes, submitted and supported the proposed idea of excluding the hills from the reform as the hill areas were not ruled by ordinary law.¹⁶⁹ They advocated the problem of a ‘socio-political union’ between the plains and the hills. Earle was of the view that all the hills were to be excluded from the Scheme as the ordinary law was not in force. However, officers like William Reid was of the opinion that, certain tracts were to be brought under the reformed scheme. These tracts were fairly advanced compared to the other part of frontier hills. He wanted the tracts of Garo Hills, Mikir Hills, and Cachar Hills to be

¹⁶⁷ Assam General Clauses Act, 1915 (Assam Act No. II of 1915).

¹⁶⁸ First Despatch on Indian Constitutional Reforms, Calcutta, Government of India Central Publication Branch 1928, p. 16.

¹⁶⁹ Op. cit., Helen Giri, *The Khasi under British Rule*, p. 169.

included within the reforms, and remove them from the backward tract.¹⁷⁰ However, Reid regarded the Naga Hills, the Frontier Tracts and the Lushai Hills on a “different footing”. These hills were to be excluded from the new reform scheme as they were “typically backward”.¹⁷¹ Meanwhile, the new Chief Commissioner of Assam, Nicholas Beatson Bell (1918-21), voiced an interesting theory for the Assam frontier tracts. Bell supported the exclusion of the hill areas from the reform scheme and at the same time he proposed the hills to be included “within the scope of reform”.¹⁷² He pointed out that there was no harm in extending the legislative council in the hill areas because the backward tracts were already protected under Section 14 of the Government of India Act 1915, and an additional safeguard through the Assam Frontier Tract, II Regulation of 1880. In other words, Sir Beatson Bell recommendation was to include the backward tracts under Montagu Chelmsford reform, but the backward tracts were to be administered by the Governor-General in Council and the Governor. But his proposal was rejected by the Government of India in their Ninth Despatch. The Function committee opined that:

“In our view if these special methods of control are necessary it is better not to make a pretence of bringing the tracts within the scope of the Reforms scheme. We have not been able to find any satisfactory via media between the inclusion and the exclusion. We recommend therefore, that the tracts in question should be excluded from the jurisdiction of the Reformed Provincial Government.”¹⁷³

The Committee further wrote that the Governor should directly administer the backward communities as a “reserved subject”¹⁷⁴ and the Government of India

¹⁷⁰ Ibid, p. 169. Also see, Simon Commission Report on India, Vol. XIV, *Memorandum submitted by the Government of Assam to the Indian Statutory Commission*, Swati Publications, New Delhi, Reprinted 1988, p. 79.

¹⁷¹ Ibid, p. 80.

¹⁷² Ibid, p. 79; also see, Op. cit., Helen Giri, *The Khasi under British Rule*, p. 169.

¹⁷³ Report of the Function (Southborough) Committee, 1918, para 49.

¹⁷⁴ Under the Act, the Government divided its power for the administration of her subject viz., Central and Provincial. The Provincial subjects was again categorised into two- ‘transferred’

should take over the departments like Public Works, forest and Excise. However, the Committee failed to understand the complex situation of the Assam hill tracts and was “unable to appreciate the administrative difficulties”.¹⁷⁵ The Committee further wrote:

“In the case of Assam, we found that the problems connected with the backward areas had an important bearing on our recommendations for transfer in the rest of the province, we have in consequence been unable to advise the transfer either of Excise or Public Works.”¹⁷⁶

There was another problem regarding the backward tracts of Assam apart from administrative system. The Franchise Committee saw this problem as a ‘more practical point’, if the tracts were brought under the backward tract. The problem here was about the expenditure to be incurred if the hill areas were to be excluded from the Reforms. Therefore they recommended:

“If the hills are to be altogether excluded from the new scheme it will be necessary to arrange that the plains are to pay an annual tribute to the Government of India. There are obvious practical objections to such a system. Moreover, if the plains are to supply funds for the administration of the hills it is equitable that the representatives of the plains should not be deprived of all voice in the spending of their money.”¹⁷⁷

Therefore, the challenges for the Government of India was to create an ideal system for the administration in the Scheduled Districts of Assam. It was neither possible nor desirable for the government to bring the whole of the hill areas under the backward tracts. Because the hill areas covered nearly two-third of the whole

and ‘reserved’. The transferred subjects was headed by the Governor along with the ministers and controls Local Self-Government, Public Health, Sanitation and Medical Administration, Education, Public Works etc. Whereas in the Reserved subjects, it was to be administered by the Governor in Council and control over the Police, Land Revenue, Administration, Justice, Irrigation and Canals, Famine Relief, Control, Newspaper, Forest, etc. Op. cit., Helen Giri, *The Khasis Under British Rule*, Pp. 168-171.

¹⁷⁵ Ibid, p. 171.

¹⁷⁶ The Franchise Committee 1918-1919, Committee on Division of Functions, p. 35.

¹⁷⁷ Ibid, pp. 268-269.

Assam province (50,500 square miles out of 77,500 square miles)¹⁷⁸. In view of these problems in the hill tracts, the government decided to divide the frontier tracts into two units for the effective administration as per the Section 7¹⁷⁹ of the Government of India Act, 1915 with the exception of the Shillong station. The government introduced the category of excluded and partially excluded for the backward tracts which differed from the Montford's recommendation for "a uniform pattern of partial exclusion".¹⁸⁰ The excluded areas was to be controlled directly by the Governor in-Council, whereas the partially excluded areas were to be administered by the Governor acting under the Reformed Council.¹⁸¹ In the partially excluded backward tracts, the legislature could vote for expenditure, ask questions, and also enforce for special laws. However for such laws to be passed, the Governor-General in Council was responsible for sanctioning of any such new laws as the discretionary power was under the council.¹⁸² In short, in the partially excluded areas, the Governor in-Council could bar or modify any local Act passed in the areas. Whereas in the wholly excluded areas, any Act that was passed was to be effected only through regulation. Meanwhile, the government also proposed the plains of Assam to bear the expenses for the 'excluded' areas, which was met with resentment from the plains people.

An outstanding deficit on the budget of the hills had irked some of the plain people, as they were given the burden to bear expenses. People like Nabin Chandra Bardoli, Chandranath Sarma, and others were critical of the government budget on the hills. Both advocated a similar opinion, and opposed the government policy. They demanded that the central government should take the financial responsibility

¹⁷⁸ Ibid, p. 267.

¹⁷⁹ Section 7- "In any Act it shall be necessary for the purpose of reviving either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose". Op. cit., Assam General Clauses Act, 1915 (Assam Act No. II of 1915).

¹⁸⁰ Op. cit., S.K. Chaube, *Hill Politics in Northeast India*, p. 20.

¹⁸¹ Home India, No. 7 of 1919, Dated 5th of June 1919, Ninth Despatch on the Indian Constitutional Reforms.

¹⁸² Z.A. Ahmad, *Excluded Areas Under the New Constitution*, Congress and Economic studies-No. 4, 1937, p. 2.

of the hills areas instead of burdening the plains people. Here are some of the responses of the Assamese regarding the budget of the hills:¹⁸³

“We have no objection to bear the expenditure of the administration of the hill districts if these hill districts get the advantages of the civil administration which the plains districts have.” (An Assamese Responsivist.)

“Sir, in our scheme it is submitted that the hill districts with the exception of the British portion of the Khasi Hills may be administered by His Excellency, the Governor, as the Agent of the Government of India and the whole expenditure also may be borne by the Government of India. If this is done there will be no administrative or financial difficulty even, when Sylhet is transferred to Bengal.” (An Assamese responsivist)

“Before long Assam Valley will have to see its own way to disjoin itself from the hill districts.” (An Assamese Swarajist.)

Even some Assam Legislators criticized the government for burdening the plain districts. They were of the view that the central government should fund the hills, instead of imposing the burden on the plain districts, and demanded for the separate administration for the hills districts. However, certain section of the Assamese people were in favour of including the hills under the reform scheme. Nevertheless, on 3rd January 1921, the Government of India Act 1919 was implemented and the hill districts of Assam were declared ‘backward tracts’. This meant that the ‘backward tracts’ were not under the ordinary laws of administration. The ‘backward tracts’ were to be governed with the prevailing regulations of Assam Frontier Tracts Regulation of 1880, and Assam General Clause Act of 1915 (Section 14). Meanwhile in other parts of India, through this Act, a ‘diarchy’ form of local government was introduced, thus giving the people of India the experience to form their own government under the British Raj.

¹⁸³ Op. cit., Simon Commission Report on India, Vol. XIV, p. 86-87. Also cited in, Op. cit., Helen Giri, *The Khasis Under British Rule (1824-1947)*, p. 174.

Entrenchment of Excluded and Partially Excluded Areas

At the proposal of the Chief Commissioner, the Governor General in Council declared the hill districts of the Garo Hills, the Khasi and Jaintia Hills of the British portion (excluding the Shillong Municipality and Cantonment), the Naga Hills, the Mikir Hills (Nowgong and Sibsagar districts), the North Cachar Hills, the Lakhimpur Frontier Tract, the Balipara Frontier Tracts, the Lushai Hills and the Sadiya Frontier Tracts as backward tracts. As per the Act of 1919 under Section 52A (1), the term ‘backward tract’ were applied to the areas:

“The Governor-General in Council may declare any territory in British India be a “backward tract,” and may, by notification, with such sanction as aforesaid, direct that the principal Act and this Act shall apply to that territory subject to such exceptions and modifications as may be prescribed in the notification. Where the Governor-General in Council has, by notification, directed as aforesaid, he may, by the same or subsequent notification, direct that any Act of the Indian legislature shall not apply to the territory in question or any part thereof, or shall apply to the territory or any part thereof subject to such exceptions or modifications as the Governor-General thinks fit, or may authorise the governor in Council to give similar directions as respects any Act of the local legislature.”¹⁸⁴

The Act of 1919 did not impact or change any major policy on the tribal areas of the North-East frontier. In fact this Act was “to simplify, standardize and codify the existing practice of the future” and “exclude from the scope of the Reformed Council.”¹⁸⁵ In other words, any Act of Indian legislation or local legislature could not to be applied in the backward tracts unless the Governor-General initiated, and thereby the hills districts remained unaffected by the constitutional changes. The hill districts which were declared backward tracts were also denied of any political development. However, in the more advance hill district of Assam, the government

¹⁸⁴ Government of India Act, 1919. (9 & 10 Geo. Ch. 101.), Pp. 20-21

¹⁸⁵ Op. cit., Helen Giri, *The Khasi under British Rule*, Pp. 167-169.

experimented to bring the hill areas in the Assam Legislative Council. It meant that “though unrepresented in the Council, they were included in the then existing system, and the Council could, and to a limited extent did, legislate for, budget for, and ask questions about them”.¹⁸⁶ The Garo Hills was first chosen with the nomination of Janggin Sangma Laskar in 1921.¹⁸⁷ But the attempt of representing the hill people in the Assam Legislature failed completely as the new legislator did not understand the process of legislation and the language used in the Council. So in 1924, Rev. J.C. Evans, a Welsh missionary, represented the tribal areas in the Legislative Council. But he represented only the Khasi and Jaintia Hills and not the whole of the ‘backward tracts’. Meanwhile in Shillong, a constituency for the Assam Legislative was put in place. The first person to be elected from the Shillong Constituency was Rev. J.J.M. Nicholas Roy.

The declaration of the hill tracts as ‘backward tracts’ did not solve all the problems of the hill districts. The problems of the hills were discussed in length, and twenty questions out of 48 questions in total were raised in the Assam Legislative Council during 1920 to 1927. The questions were mainly based on the administration of the hill areas. For instance, questions were raised on the issues for the rights of the hill chiefs (two questions), judicial system (seven), reserved forests (one), principles of education (one), wages of indented labour (one), salary of the Labour Crops who returned from France after the First World War, the succession rights of Indian Christians (one), the appointments open to hill men (one), prevailing scarcity in a hill area (one) and the system of license to acquire lime in the Khasi Hills (one).¹⁸⁸ The other four questions were matters related to Shillong.

The Indian Act of 1919 was widely resented by the Indian nationalist. The government appointed Simon Commission on November 1927 to meet the demands of the national leaders. It comprised of seven members under the leadership of Sir John Allsebrook Simon. They were also given the task to study the position of the Assam province especially the ‘backward tracts’ for the future administration.

¹⁸⁶ Op. cit., Simon Commission Report on India, Vol. XIV, p. 79.

¹⁸⁷ Op. cit., Helen Giri, *The Khasi under British Rule*, p. 201.

¹⁸⁸ Op. cit., Simon Commission Report on India, Vol. XIV, p. 87.

Before the Simon Commission submitted their recommendation, the Assam Government forwarded their proposal for the backward tracts. The recommendation was to exclude the backward tracts again from the reforms except for Shillong municipality. In their view, the union of the hills and the plains were based on ‘artificial line’ and there was a clear resentment between the two areas. Apparently, the government wanted the backward tracts to govern themselves in accordance to their customs. In their opinion, the lack of development in the backward tracts was the reason behind the failure for effective representation in the Council. The Assam Government wrote, “Yet these restrictions are necessary, because the backward tracts have not and cannot for many years hope to have effective representation in the Council..., and in which they would be unable at present to distinguish the good from the evil.”¹⁸⁹

The Assam government further recommended that the backward tracts should be placed under the British officers as the hill districts would resent any other authority. Therefore based on those reasons, the Assam Government wanted to end the artificial union, and the backward tracts to be excluded from the Assam province. The hill areas should to be administered by the Governor-in-Council, as agent to the Governor-General in Council, and the administration cost to be funded from the Central revenues.¹⁹⁰ They wanted a unified form of administration in all the backward tracts including the Khasi and Jaintia hill district. Though the Khasi and Jaintia district was comparatively advanced than the other backward tracts, yet they recommended it for the safeguard from other civilization. The British officers also felt that the Khasi and Jaintia people would benefit from the change in administration. The Assam government justified their stand by stating that the Khasi and Jaintia Hills was a deficit district (as it did not generate revenue) and they did not share any cultural similarities with the plainsmen. Besides, the district was more vulnerable for exploitation from the plain districts than the other hill

¹⁸⁹ Ibid, p. 100.

¹⁹⁰ Ibid, p. 101.

districts.¹⁹¹ Therefore, the local government felt that the district required an immediate protection to safeguard their civilization.

Most of the recommendations by the Assam government was accepted by the Simon Commission in their report for the future administration of the backward tracts. The Simon Commission understood that the issues of backward tracts in Assam were of great importance because of the unparalleled civilization advancement between the plains and the hill communities. Therefore, they visited some of the hill communities before they could recommend their views for the future constitutional development of the backward tracts. The Commission admitted that the backward tracts were under-represented in the legislative Council.¹⁹² The representative of the backward tract was nominated from the Welsh missionary. Rev. J.C. Evans was appointed to represent the hill communities that had half a million population.

In their report, the ‘typically backward’ tracts of Assam with exception of the Khasi and Jaintia Hills must be completely excluded. The backward tracts were not to be placed outside the province of the Assam Governor as it involved unnecessary expenditure.¹⁹³ The only alternative authority the Commission foresaw was to entrust the Governor-General in Council with the responsibility to govern the excluded areas, as they were excluded from the provisional executives which involved centralisation.¹⁹⁴ Therefore, the administration of the backward tracts rested in the authority of the Governor who acted as an agent to the central government. It meant that the backward tracts should be administered directly under the central government for adequate development in the hills. The other suggestions of the Commission was to entrust qualified officers for work, to review policy, to implement adequate funds, and to simplify the overlapping enactments in the backward tracts. However, for those districts that were under the backward

¹⁹¹ Ibid, p. 102.

¹⁹² Simon Commission Report on India, Vol. I, *Survey*, Government of India, Calcutta, 1930. P. 160.

¹⁹³ Simon Commission Report on India, Vol. II, *Recommendations*, Swati Publications Delhi, Reprinted 1988, p. 110.

¹⁹⁴ Ibid.

tracts but are more developed than other districts, the Commission recommended for further enquiry in order to meet different arrangement from the 'typically backward' tracts.

The Commission proposed two kinds of administration in the backward tracts. In the more developed backward tracts, the Commission suggested for partial exclusion and in the case of the typically backward tracts, they recommended exclusion from any reform. However, the Commission did not mention which backward tracts were to be considered excluded areas or partially excluded. Nevertheless, the Commission was clear that those areas which had attained higher civilization were to be brought under the partially excluded areas. This also meant that the areas which were to be under the 'partially excluded' could then send representative in the Assam Legislative Council. But any law passed by the Council in those areas were to be approved by the Governor with the consultation of the legislative representative arranged by the central government.¹⁹⁵ The Commission also suggested that in the partially excluded areas, taxation should be in similar pattern with the plains districts, and the revenue should be used for the development on these areas. In case of any deficit, the central government should financially aid the 'partially excluded' areas.

Whereas for the typically backward tracts, the Commission recommended for total exclusion. By such arrangement, they felt that the 'excluded' areas would be protected from exploitations. They recommended for an efficient administration as these areas were not to be represented in the Assam Legislative Council. Rather the Commission suggested for the gradual development on its own through self-government. They declared that these areas were to be deficit areas and therefore the central government was to borne the financial expenditures as the provisional government does not have sufficient funds for the 'excluded' areas.

Finally, the Commission recommended for a change of terminology, in which the 'backward tracts' were to be renamed as 'excluded areas'. The Commission

¹⁹⁵ Government of India's, *Despatch on the proposals for Constitutional Reform*, Simla, 1930, p. 47.

held that the term ‘backward tracts’ was derogatory and therefore it “should be discarded in the statute, and give place to the more colourless designation ‘excluded area’.”¹⁹⁶

The proposal of the Simon Commission was referred to J.H. Hutton by the Government of Assam. They wanted to seek an insight from an experienced officer who had worked and had adequate knowledge about the hill people. On the advice of Hutton, the government accepted most of the recommendations made on the backward tracts. The provisional government agreed on the recommendation that the deficit of the hill districts were to be borne by the central government and not by the local government. They also accepted that the inclusion of the ‘backward tracts’ with the plains could lead to exploitations of the hills communities. Finally, the Assam government viewed that the hill people would prefer the European officers rather than the plains officials largely due to the impact of Christianity.¹⁹⁷

However, the government also criticized some of the recommendation made by the Simon Commission. For instance, though the Assam government supported centralization, it was dubious of the possible transfer of the backward tracts from the province to the centre especially in the matter of the cost of the administration. Secondly, they did not agree with the proposal of the partially excluded areas in certain Hills.¹⁹⁸ The Assam government in 1930 unanimously proposed for total exclusion of North Cachar Hills district and Mikir Hills district (along with Naga Hills, Lushai Hills, and Frontier Tracts). However, in 1931 they changed their stand and recommended for the Mikir Hills to be included within the reforms with certain safeguards.¹⁹⁹ Thus, The Assam government wanted complete exclusion for the Naga Hills, the Lushai Hills, the North Cachar Hills and all the Frontier tracts. However for the Khasi and Jaintia Hills and the Garo Hills, they accepted the

¹⁹⁶ Ibid, p. 48.

¹⁹⁷ Op. cit., Helen Giri, *The Khasi Under British Rule*, p. 187.

¹⁹⁸ Op. cit., Government of India's, *Despatch on the proposals for Constitutional Reform*, Pp. 47-48.

¹⁹⁹ Assam Secretariat, Political- A, December 1936. No. Act, 1935. No. 1-30, File No. 458.

partial exclusion scheme.²⁰⁰ With these suggestions, the Assam government was clear on which ‘backward tracts’ to be categorised as ‘excluded areas’ and ‘partially excluded areas’.

Further the Assam government doubted whether the Assembly had enough knowledge of the hill people. They feared that the lack of knowledge would eventually ignore the backward areas. For instance, the ‘backward tracts’ had failed to have a suitable candidate to represent them in the Legislative Council. Moreover, the role of the Governor in the ‘excluded areas’ to be carried out appropriately as an agent to the central government was put in question. They did not find any valid point to involve the Governor General in Council to share power with the Governor. In fact, they were of the opinion that the power of authority should be vested in the Governor. And the governor should decide to what extent the provincial or central legislation should apply.²⁰¹ Thus, the Assam government suggested that the backward areas were to be wholly excluded from the purview of the Legislative Council. The Assam government also felt that the financial expenses of the ‘excluded areas’ were less “conclusive in view of the proposals”.²⁰² Therefore, they suggested for a separate budget for the hill districts which were to be shared among the three departments. In their calculation proposal, Rs. 7, 50,000 each should be contributed by the local areas and the province of Assam. However the larger share was to be borne by the central government. The government at the centre was expected to contribute Rs. 25, 00,000 and this amount was non-votable in the legislative council.²⁰³

²⁰⁰Political- B, Nos., 1138-1189, No 16/F.71/31-R. From- W.E. Lewis, Esq., C.I.E., I.C.S., Joint Secretary to the Government of India, Reform Office. To His Majesty’s Under-Secretary of the State of India, India Office, London, S.W. 1, No. 1143, Dated Simla, the 12th May 1932. File No. 455.

²⁰¹Ibid.

²⁰²Op. cit., Government of India’s, *Despatch on the proposals for Constitutional Reform*, p. 48.

²⁰³Political- B, Nos., 1138-1189, No 16/F.71/31-R. From- W.E. Lewis, Esq., C.I.E., I.C.S., Joint Secretary to the Government of India, Reform Office. To His Majesty’s Under-Secretary of the State of India, India Office, London, S.W. 1, No. 1143, Dated Simla, the 12th May 1932. File No. 455.

The Assam government in their proposal implied that the backward tracts “can never form a portion of Assam, though they will technically remain within the province”.²⁰⁴ They wanted to maintain and continue with the indigenous systems of land tenure and local administration. Thus, a clear differentiation was indicated through the proposal of the Assam government between the plains and the hills people of Assam province. To them, the incorporation of the plains and the hills was impossible.²⁰⁵

Meanwhile, the British Government of India differed from the opinion of the Assam government on the proposal for ‘partially excluded’ and ‘excluded’ areas. In the ‘partially excluded’ areas, the Indian government sought to remove the special protection. Although they agreed that there was no elected representative from these regions, the Indian government wanted the continuation of contacts between the indigenous people and the plains districts.²⁰⁶ They felt that the development in the plain districts would eventually influence the ‘partially excluded’ regions as they were much closer to them. As for the ‘excluded’ areas, the Indian government was of the opinion that the total exclusion would only create a disadvantage to the hills men, and therefore they were against such recommendation. Moreover, the Indian government considered that there was little apparent explanation from the Assam government for total exclusion of central legislation (in matter to railway, posts and telegraphs, and currency).²⁰⁷ Hence, the Government of India favoured for partial exclusion of all the hills areas. The Indian Government justified it with two reasons- one, for a progressive future and to attain political status, and two, the new regime should not bring any sudden and disturbing changes to the present system of administration.²⁰⁸ Thus, instead of ‘partial exclusion’ and ‘excluded areas’ as recommended by the Assam government, the Indian government wanted only partial exclusion on the excluded areas as it cannot yet be brought wholly under normal constitutional arrangements.

²⁰⁴ Ibid.

²⁰⁵ Ibid.

²⁰⁶ Ibid.

²⁰⁷ Ibid.

²⁰⁸ Ibid.

As for the administration, the government of India agreed with the Government of Assam- whatever the nature and scope of the ‘backward tracts’, the backward areas should be administered solely by the Governor. In other words, the Governor was to be empowered with the “powers of interference and restraint to prevent undesirable exploitation”.²⁰⁹ The Indian government wanted the power of legislation which was exercised by the Governor-General in Council for the regulation of the backward tracts (Section 71) to be transferred to the Governor. And the Governor could consult the provisional legislatures and the person representing the hill people on the necessary legislations to be introduced. This power vested on the Governor would enable him to protect the hill areas. The Government of India’s criticisms on the proposal for ‘total exclusion’ clearly showed it didn’t desire to keep any territories under the category of backward tracts. On the financial front, the Government of India could not commit themselves on the proposal made by the Assam government.

But The Secretary of State of India favoured the recommendations of the Assam Government rather than the Government of India. In the report of India Committee 1930, the Secretary of State feared that if the Assam legislature was to control the administration of these tracts, it might ignore the hills communities as they did not have sizeable amount of representatives. Therefore, the central government must take the responsibility in taking up the administration of these tracts with the help of the provisional government. Broadly speaking, the Secretary of State did not agree with the suggestion of the Indian Government where all backward tracts were to be under the ‘partial exclusion’. Similarly, on the financial matter, the Secretary of State agreed with the Government of Assam for sharing the funds as the province of Assam was itself a deficit. The fund would be distributed through proper examination after which it would be distributed to particular localities by the central government for their administration and development.²¹⁰ In the partially excluded areas, the expenditure was to be borne by the provisional

²⁰⁹ Ibid.

²¹⁰ Report of the India Committee- 1930, p. 25. Also see, Quote from the Secretary of State for India, cited in Helen Giri, *The Khasi Under British Rule*, p. 188.

government subjected to 'non-votable' in the council. But the Governor should be empowered to restore, reject or reduced votes.²¹¹

The Secretary of State of India expressed that the backward tracts were to be excluded from the jurisdiction of the provisional legislatures, the ministers, and from the federal legislature ("except only with the reference to the discussion of any subvention from the federal revenues that might be involved"),²¹² which differed from the recommendations of the Government of Assam. The Governor was to take the responsibility of administrating these 'backward tracts'. He was to answer directly to the Governor General and through him, to the Secretary of State, and His Majesty's Government.²¹³ Therefore the Governor was to act as an agent to the Governor-General in Council. Again the suggestion of North Cachar to be under the total exclusion by the Government of Assam, was put to question by the Secretary of State. It was because the North Cachar Hills was much closer to the plains which give them the advantage to have closer contact or influences from their surroundings. Moreover, most of the population had been exposed to Hinduism and were ardent followers. The Secretary of State regarded the Frontier Tracts, the Naga Hill districts, and the Lushai Hill district to be of entirely different problem from the other 'backward tracts'.²¹⁴ Their social custom was entirely different from the plains and they were loosely administered by the European officers. Therefore, any attempt to put these hills under the new constitution would only create conflicts and isolate them from proper representation.

The White Paper or the Command Paper committee agreed more or less on the terms of the Simon Commission. In fact, the White Paper had a broad scheme

²¹¹ Political-B, Nos. 1138-1189, Letter from the India Office, No. P. & J. (c), 1896, dated the 1st July 1932, No. 1144. File No. 455.

²¹² Political-B, Nos. 1138-1189, From Yeats, Esq., I.C.S., Deputy Secretary to the Government of India, Reform Office; To the Chief Secretary to the Government of Assam, No-1140. NO.F. 103/32-R., dated Simla, the 21st July 1932. File No. 455. Also in, Political-B, Nos. 1138-1189, Letter from the India Office, No. P. & J. (c), 1896, dated the 1st July 1932, No. 1144, Ibid.

²¹³ Ibid.

²¹⁴ Ibid.

for the constitutional reform of India.²¹⁵ It agreed on dividing the backward tracts into 'excluded' and 'partially excluded' areas, and these areas were to be under the Governor. In matters of finance, it suggested that case of financial expenditure was non-votable for the excluded areas, but for the 'partially excluded' areas it was to be put into vote in the legislative council.

In the Joint Committee, A.W.H. James²¹⁶ advocated that the hills people had to been protected in the past, and must be protected. In his proposal, the 'wholly excluded' areas should comprise of a majority aboriginals, with sufficient size for administration either by themselves or with the neighbouring areas. Moreover he was of the view that, for the "wholly excluded" areas, "Primitive Forest Areas" should be designated. And it should be administered by the Chief Commissioner, acting under the Governor-General. For efficient and economical administration, he proposed to establish "Forestal [sic] Administration Service".²¹⁷ And in areas which are small in size or too isolated, "economic administrative units" were to be brought under the "partially excluded" areas. In these areas, the Governor was to take responsibility and the "Forestal Administrative Service" was to take charge for administration. However, James failed to bring the integral problems of the hills communities, as his proposal he did not consider or specify any region.

Whereas J.H. Hutton was more systemic in his memorandum²¹⁸ during the Joint Indian Committee. In his opening argument, he agreed to the proposal of the "total excluded" areas but was unsatisfactory with the provision of the "partially excluded" areas as proposed both in the Simon Commission and the White Paper. He understood the differences of all the tribes across India, and he was of the opinion that these areas cannot be brought under the same system. In his words:

²¹⁵ Proceedings, Joint Select Committee on Indian Constitutional Reforms (Session 1933-34) Vol. 1 (part II), published by His Majesty's Stationary Office, London, 1934, P. 21.

²¹⁶ Memorandum 85 by Wing Commander A. W. H. James, M.P., *on the Future Administration of the 'Reserved' and 'Excluded'*. Joint Select Committee on Indian Constitutional Reforms (Session 1932-33), Vol. II C, Minutes of Evidence, published by His Majesty's Stationary Office, London, 1934, p. 2362-2363.

²¹⁷ Ibid, in this new Service, he wanted the recruitment ratio to be 75 percent for the European and 25 percent for the Indian., p. 2363

²¹⁸ Ibid, Memorandum 86 by J. H. Hutton, C.I.E, I.C.S., pp. 2367-2374.

“Their interests are commonly alien if not actually antagonistic to the interests of their more civilized neighbours..., the aborigines themselves, although unvocal, are in several cases conscious of the dangers to themselves of inclusion... and are definitely wishful for the self-determination and for the preservation of their traditional culture and manner of life.”

In this memorandum, Hutton highlighted the various conflicts among the plains, the foreigners and the hills people. For instances, he wrote about the different practices between the hills and plains on the matters of land resources including the forests and minerals, and in the administration of justice which includes the police. In his opinion, the “failure to give some protection is likely to lead to the very rapid disintegration of tribal life”. On the ‘partially excluded’ areas, Hutton raised concern on the issues of administration. In his view, the Governor might be in a difficult position as he had to take the views of both the legislatures and his Council. On such ground, his proposal was to bring all aborigines under the “total excluded” rather than in “partial exclusion” under their own provisional Governors.

In the first round table conference, Mr. Barooah represented and spoke on behalf of the Assam provisional government.²¹⁹ In his speech, he failed to mention the existing problems of the ‘backward tracts’. In fact, he did not even talk on it. In the second and the third Round Table Conference, there was no representative from the province of Assam, and thereby in such critical juncture the situation of the hill areas were completely ignored. In fact, the Joint Secretary to the Government of India, anticipated that the ‘backward tracts’ problem would be discussed during the Second Round Table Conference since it failed to address on the previous conference. And since it did not happen as anticipated, the problems

²¹⁹ Indian Round Table Conference Proceedings, 1930-31, Government of India Central Publication Branch, 1931. Pp. 460-463.

of the backward tracts had to be included in the agenda list of the Consultative Committee.²²⁰

As discussed above, there was a clear division of opinions on the recommendation of the Simon Commission for the administration of 'backward tracts'. The debate for the administration and on financial matters for the tribal areas had been the major issues for the Government of India. Until the Act 1919, these tribal areas were protected under a special law with simple form of administration. Though in the Act of 1919 there was any hardly change in simple law, it created more complications for the government with the introduction of the 'backward tracts'. The Indian government failed to understand the hill people mostly due to lack of knowledge about them. Therefore, they instituted various Committees to study the life of the hill people in order to provide the best possible administration for them. However, the diverse nature of the hill communities had created more difficulty to bring any conclusive decision for the administration of the hill areas. After collecting reports from the Simon Commission, the White Paper, the Joint Select Committee and the discussion from the Round Table Conference, the Government of India finally decided to introduce a new constitution for India and Burma. The British Parliament passed the Government of India Act of 1935 in August, and it was the longest Act in which many constitutional changes were provided for the Indian Union. Under Article 91 (1) and 92 (2), the categorisation of 'excluded' and 'partially excluded' areas were created from the earlier 'backward tracts'. It cannot be denied that the Government of India Act 1919 was the forerunner for this new constitution. In Assam, the Government of India introduced excluded and partially excluded order in 1936 and it was sanctioned by His majesty in Council, thus dividing the North-East Frontier hills into two parts. In part-I, the areas of the North-East Frontier Tracts (Sadiya, Balipara and Lakhimpur), the Naga Hills district, the Lushai Hills district and the North Cachar Hills subdivision of the Cachar district were brought under 'excluded

²²⁰ Political- B, Nos., 1138-1189, No 16/F.71/31-R. From- W.E. Lewis, Esq., C.I.E., I.C.S., Joint Secretary to the Government of India, Reform Office. To His Majesty's Under-Secretary of the State of India, India Office, London, S.W. 1, No. 1143, Dated Simla, the 12th May 1932. File No. 455.

areas'. And in Part-II, the Garo Hills district, the Mikir Hills (Nowgong and Sibsagar district) and the British portion of the Khasi and Jaintia Hills district other than the Shillong Municipality and Cantonment were brought under 'partially excluded areas'.²²¹

Conclusion

As discussed in this chapter, much of the British interest was vested in the plains of Assam. Some hill areas which were annexed by the colonial authority, were administered through separate regulations. There was the entry of empowered colonial bureaucracy in the more developed urban spaces, and these urban spaces saw major spurts of economic exchange over ownership of land property and individual notion of land ownership. But all these annexed territories were guided by the paternal school, thus recognising the traditional institutions. Accepting the indigenous institutions, the colonial rulers from the initial contact directly established cordial relationships with the ethnic chiefs. This relation between the chiefs and the administrators became the integral point of the Anglo-hill people connection. However, the gradual expansion of British territories systematically changed the approach of the colonial government in the hill areas.

Separate regulations were repealed and uniform regulations were formulated to administer the hill districts. Although the regulations were constantly changed and revised, the hill districts of Assam were isolated from the ordinary law. For efficient control of the hill people, colonial ideologies were infused with modern techniques of governance through a different bureaucracy, military, courts, and revenue system.

The new technique of governance created centres and peripheries, and thus transforming the worldly aspects of the ethnic communities. To concur this argument on the impact of colonial culture, I quote Douglas V. Davidson, "The

²²¹ Assam Secretariat, Political- A Nos. 1-30, No. 346-Fr., dated Shillong, the 15th April 1936. No. 29.

colonial society demonstrates in rather dramatic terms man's ability to create a cultural system and in turn altered or re-created himself as a result of the demands of that system.”²²² The following chapters of this thesis focuses on the conditions and changes in the hill districts particularly on the Naga Hills through colonial governance.

²²² Op. cit., Douglas V. Davidson, *The Sociology of oppressed cultures: An analysis of the socio cultural dynamics of Colonialism*, p. 420.

Chapter- II

Formation of Administrative Governance in the Naga Hills

The treaty of Yandaboo provided a platform for the colonial state to negotiate space in North-East frontier to protect British India from the external threats like Burma and China. Therefore the colonial state adopted a distinct frontier policy. This policy created a 'buffer' state, and thus military and political strategies became the central themes of North-East colonial frontier.¹ Taking account the importance of military and political strategies is one of the themes of this chapter with particular reference to the Naga Hills. This chapter also studies the development of the colonial bureaucratic hierarchy in the Naga Hills. The colonial bureaucracy became the most important institution to govern the ethnic people. It was the bureaucrats who negotiated with the traditional institutions. This study seeks to understand the working of the colonial laws which were imperative in reconfiguring the indigenous world-view and in changing their perceived notions of authority, power, justice, punishment, and property rights. Prior to colonial intervention, the Naga Hills was not familiar with modern statecraft as represented by colonial power networks.

As mentioned in the previous chapter, Assam was an experimental geo-political region, where the economics of Assam was integrated to the global market through tea plantation. It defined the colonial state administration and its socio-political conditions as 'developed', vis-à-vis, the rest of the North-East. The plain districts of Assam became a productive territory for the colonial state with the introduction of tea. The Government Act of 1833 ended the East India Company's monopoly on tea trade with China. It resulted in the need for the government to find

¹ Kekhriesituo Yhome, *The Making of the Modern Naga Identity: A Historico-Geographical Dimension*, Ph. D. Thesis, University of Hyderabad, 2007, p. 116.

other alternatives to produce tea in India. The experimental tea plantation was carried out in their newly annexed territory of North-East Frontier. By the mid-nineteenth century, most of the upper areas of Assam were transformed into tea plantation, thus making Assam a resourceful market. However, the constant raids in the plain districts by the hill people had forced the government to review their policy of 'non-interference' with the hill communities. In other words, the hill areas were occupied to provide security and protection to the administrated areas in Assam. The acceptance of British sovereignty followed with the introduction of a 'simple law' for administrative governance as described in the previous chapter. This chapter brings the governmentality of the colonial state by studying the role of the political officers and their governance in the Naga Hills.

Creation of administrative centre in Naga Hills

The North-East Frontier was experiencing the consolidation and expansion of colonial power and authority when the British first made contact with the Nagas in 1832. The colonial administrative machinery entered the region through Assam and Manipur. Here, there was an apparent colonial intervention to rearrange the indigenous structures to its advantage. The proposal for restoring Ahom monarchy in Upper Assam and the relation with the British protectorate state of Manipur forced the colonial government to find a direct route between the two regional kingdoms. To link the two kingdoms, the colonial state had to enter the territory of the Naga Hills which was deemed unfriendly by the outsiders. In January 1832, Captain Jenkins and Pemberton escorted by 700 troops and 800 coolies from Manipur marched towards Upper Assam via the Angami Naga territory exploring the route which was once taken by the Manipur raja in 1794. Soon after the first survey, Raja Gambhir Singh of Manipur, accompanied by Lieutenant Gordon explored another route, which was 15 to 25 miles to the east from the earlier search route through the Naga Hills.² To defend the possible threat of the outsiders, the

² R. Boileau Pemberton, *Report on the Eastern Frontier of British India*, Printed by Order of the Supreme Government of India, Printed at the Baptist Mission Press, Calcutta, 1835, p. 62.

Kacha Naga and the Angami Naga resisted the foreigners on both occasions. However, the expedition succeeded in finding favourable route between Assam and Manipur.

The frequent and hostile raids in the administered plain areas had posed a series of questions regarding the future discourse of the Naga Hills. To counter the raids, the colonial government undertook punitive expeditions to punish the raiding ethnic groups. From 1835 to 1851, the government undertook ten expeditions in the Naga Hills with the motive to punish the offending Naga villages rather than to administer the hills. The British acted as an agent to 'discipline' the 'unfriendly' Naga people. The expeditions usually resulted in burning down the offending villages, destroying crops, granaries, and imprisoning the Nagas. Such punishments were meted out to the raiding Naga ethnic groups because it was not in accordance to the colonial logic of 'civilization'. After the completion of the tenth expedition, in 1851, the government reviewed the policy to be followed in the Naga Hills. After an elaborate debate with the officials in 1851, the government in Calcutta decided to follow a non-interference policy in the entire Naga Hill.³

With the implementation of the non-interference policy, the British immediately withdrew their troops stationed in the Naga Hills. For the colonial government, the raids carried out by the hill people was 'savagery' in nature. The colonial state presented itself as the agent of 'peace' and 'order' while the ethnic groups were projected as 'murderous' and 'marauding incursion'.⁴ The British colonial expansion was romanticised as a civilizing project. This project was to bring peace and order in the chaotic hills plagued by raids and lack of law and order. Thus the colonial military expedition was regarded 'civilize', and 'modern', but ethnic raids as acts of 'barbarity'. Therefore, in order to check raids, the colonial state established outposts between Asalu and Barpathar, and in the Nambor

³ *Reports on the Administration of the North East India 1921-22*, Mittal Publication, New Delhi, 1984, p. 43

⁴ John Butler considered himself to be obedient servant as he faithfully carry out the orders of the government though his views were different from the government. John Butler, *Travels and Adventures in the Province of Assam: During a Residence of Fourteen years*, Munshiram Manoharlal, New Delhi, 2004 (First published 1855), p. 12.

forest. But again, these outposts were reduced in 1857 and gradually withdrawn from operation.⁵ During the non-interference period, the British government dissuaded military expeditions and overlooked the ethnic raids. The absence of British interference gave rise to the number of raids by the Nagas in the areas administered by the British. Between 1853 and 1865, two hundred and thirty-two British subjects were killed, wounded or captured.⁶ The government in Calcutta paid little attention to the raiders and were hesitant to formulate any new policy to regulate the Naga Hills. It created havoc in the administered areas of British Assam, and as a result, the natives and some officers of the North Cachar proposed for the abandonment of the outposts. The government was unable to provide security to the plain districts of Assam because of the continuous raids conducted by the Nagas.

For almost two decades (1853-1866), the government followed the non-interference policy with the Nagas. The rise in the number of raids by the Nagas on the plains of Assam was due to expansion of tea planation in the foothills as the tracts were encroached by the British subjects without the consent of the Nagas.⁷ The raids continued without any counter response from the British until the casualties and losses forced the colonial state to review its non-interference policy in 1866.⁸ Assam as an emerging economic zone needed protection. The colonial officials demanded and supported punitive military actions against the raiders. Lieutenant Governor Sir Cecil Beadon who had earlier in 1862 proposed to take control over Nagas, once again raised the same proposal to the government. In reply, Commissioner Hopkinson proposed to depute a European officer in the Naga Hills. Both Beadon and Hopkinson had a similar opinion for the administrative control in the Naga Hills. They opined that “to re-assert our authority over the Nagas, and bring them under a system of administration suited to their

⁵ Ibid., p. 43

⁶ Ibid., p. 43

⁷ Elaborate discussion in Chapter-III.

⁸ Alexander Mackenzie, *The North-East Frontier of India*, New Delhi, Mittal Publication, Reproduced 2011, p. 117.

circumstances, and gradually to reclaim them from habits of lawlessness to those of order and civilization.”⁹

Lieutenant Gregory also wrote to the Secretary of the Government of India to review the colonial state policy in the Naga Hills. He wrote, “If we are ever to make any way in that country, it is essential that we should commence in a very different manner to that in which we began in North Cachar... It would be my endeavour at Samoogooting (Samaguting) to eradicate this impression by showing the surrounding villages the people of Samoogooting enjoying the blessings of good government and living in peace, and not being driven as coolies, and force to supply russud to counterbalance these advantages.”¹⁰ Like his contemporaries Beadon and Hopkinson, Gregory also proposed for the gradual expansion of colonial rule in the Naga Hills, which would eventually protect the administered plain districts of Assam. These continuous pressures from the colonial officials to the British government forced the colonial state to review its policy towards the Nagas.

Following the instructions of the British officers, the colonial state adopted differently policies to administer its subjects more effectively. In 1866, the colonial government established a head-quarter at Samaguting, Naga Hills to control the raids of the Nagas, and to provide security for the administered areas of Assam and Cachar. The government sanctioned “the deputation of an officer to effect a permanent lodgement in the Naga country, who was to settle in Samaguting.”¹¹ The establishment of the head-quarter in Samaguting had opened a new space for the colonial government to control the hostile activities of the Angami Nagas. This move by the colonial state did not only give security to the plain districts of Assam

⁹ Extracts on Nagas from Assam Administrative Report 1882-83.

¹⁰ Foreign Department, Political-A, No. 30T, Proceedings, June 1866. From the Secretary to Government of Bengal, to the Secretary to the Government of India. Foreign Department, - No. 30T. Dated Darjeeling, the 24th April 1866.

¹¹ Proceedings, Foreign Department, Political A., No. 154-159, August 1871, From Bengal Government No. 1716 dated 16th April 1871, File No. 144.

and Cachar, but it also opened the prospect for the future expansion of administration in the Naga Hills.¹²

The expansion of British authority in the Naga Hills with the establishment of Samaguting as its headquarter effected the political boundaries of other British administered districts in Assam.¹³ Lieutenant Gregory, who was in charge of the North Cachar became the first Deputy-Commissioner of the Naga Hills. But the government was clear of continuing the policy of non-interference with the Nagas. This was primarily because the government asserted that the administration of the Naga Hills was not for expanding their rule in the interior of the Naga Hills but to protect the lowlands from the raids of the Nagas.¹⁴ Thus, the occupation of Samaguting was an effort to stop the Angami Nagas from raiding the British administered areas. However, the policy of non-interference was soon replaced with the 'direct' approach of annexation. The appointment of Captain Butler as a Political Officer in 1869 made the presence of the British authority in the Naga Hills more pronounced. Butler wanted to bring the Naga Hills under the direct suzerainty of the British. Initially, like any officers in the hill regions of North-East Frontier, his 'forward' policy was discouraged by the British Indian government. But in this case, Lieutenant Governor Sir George Campbell intervened in favour of Butler's proposal. Campbell was of the view that:

“The only satisfactory plan of dealing with Naga tribes was to bring about gradually the establishment of political control and influence over them without any assertion of actual government... The Political Agent was to be removed to a more central site and authorized to keep the peace of the hills by the exercise of his influence, and if need be by the display of force... The weaker villages very soon began to show a desire to place

¹² Proceedings, Foreign Department, Political-A., No. 120-122, August 1877.

¹³ Asalu being abolished as a subdivision, North Cachar being divided between the Khasi and Jaintia Hills, South Cachar and Nowgong, that portion lying to the west of the Dhansiri and the country on both banks of the Doyang forming, with the Angami Naga Hills, the new district. Op. cit. Extracts on Nagas from Assam Administrative Report 1882-83. Also see, Op. Cit., Report on the administration of North East India, p. 43.

¹⁴Op. cit. Extracts on Nagas from Assam Administrative Report 1882-83.

themselves our protection, and although raids by one clan upon another continued to be reported, no hostility to the British officers was anywhere manifested.”¹⁵

Considering the rapid progress of colonial intervention in the Naga Hills, the British Indian government decided to transfer its power to the Chief Commissioner of Assam in February 1874. The establishment of colonial authority in the Naga Hills demanded a better understanding of the Naga Hills topography. Several survey parties were sent beyond the Angami Naga Hills for mapping topography and to limit the British civil jurisdiction. A survey party under Major Lance requested the government to continue the boundary demarcation for civil jurisdiction as opposed to the recommendation of the Chief Commissioner of Assam.¹⁶ Major Lance wanted to conduct a separate survey to demarcate the boundaries of the lowlands from the hills immediately. However, the Chief Commissioner was against such immediate demarcation, and therefore he suggested merging the boundaries of south and east of Sibsagar and Lakhimpur only at the time of the general survey. The Chief Commissioner first desired to demarcate the boundaries of the known tracts instead of the unknown terrain of the Naga Hills. However, the government gave approval to conduct a separate survey for demarcating the boundaries. Thus two survey parties were formed: one party to survey from the south-west of Jaipur (Jeypore), and the other to the north-east from Samaguting. Captain Butler and Lieutenant Woodthorpe led the north-east survey party, and Captain Badgley and Lieutenant Holcombe led the survey party in the south-west.¹⁷ On 23rd December 1874, Captain Butler and his team marched to Wokha from Samaguting. The Chief Commissioner warned Butler to proceed with caution after being attacked by the Lotha Nagas. However, in December 1875 the survey party was ambushed at Pangti village killing Captain Butler. As a counter response, Woodthorpe took punitive actions by burning down the whole village. Following this event, the Lothas were subjugated and the British posted a European

¹⁵ Op. Cit., Alexander Mackenzie, *The North-East Frontier of India*, p. 125

¹⁶ Ibid, p. 126.

¹⁷ Ibid, pp. 126-127.

officer in Wokha. The colonial state imposed punishment to the aggressive Naga ethnic communities through ordered military expeditions.

Establishment of colonial power and authority

Captain Johnstone took the first step to formally annex the Naga Hills in 1874. He took three villages under the British protection, and the subjugated villages agreed to pay revenue (house-tax) to the government.¹⁸ The policy of 'submission and protection' paved the way for colonization in the Naga Hills. The colonial state gradually began to exert its power first towards the 'weaker' Naga villages by providing 'protection' from the 'stronger' Naga villages. Throughout history, the various Naga communities or villages were engaged in feuds with each other. This was primarily due to mutual distrust between the communities and disputes over lands. Wars resulting from feuds also brought economic prospect to the victorious party as they plunder the defeated village. And also there was the absence of a sovereign governing body that could regulate the various groups through a unified law system. Therefore, the policy of 'submission and protection' came as a kind of assistance for the 'weaker' villagers who often found themselves in the periphery from the 'stronger' villagers. In 1874, Captain James Johnstone in his memoir recorded that the weaker villages approached him requesting for aid and protection with the promise to pay the annual tributes to the government.¹⁹

Nevertheless, the colonial government did not proceed with this policy to directly control all the Naga villages. Villages that refused to submit to the colonial rule were to maintain peace with the government and with the British protectorate villages.²⁰ By 1878, sixteen Naga villages had accepted the British protection, and of the sixteen villages, thirteen villages paid revenue of Rs. 1,032 to the colonial government.²¹ The British government informed the Chief Commissioner of Assam

¹⁸ Neivetso Venuh, *British Colonization and Restructuring of Naga Polity*, p. 38.

¹⁹ Op. cit., James Johnstone, *Manipur and the Naga Hills*, Pp. 39-40.

²⁰ Proceedings, Foreign Department, Political A., No. 154-158, August 1871.

²¹ Op. cit., Alexander Mackenzie, *The North-East Frontier of India*, 132.

to enforce the 'forward' policy advocated by Col. Keatinge to bring the Nagas into complete submission.²² The colonial state also acknowledged that without a strong interference of the government, it was not possible to control the constant raids and village feuds.²³

The Chief Commissioner of Assam, Sir S. C. Bayley, after his personal inspecting Kohima in March 1878, decided to make it as the headquarter for the Naga Hills. It gave advantage not only to check the raids of Angami Nagas but it was also in close proximity with the Manipur Frontier line. Finally in November 1878, the headquarter for the Naga Hills was transferred from Samaguting to Kohima without any opposition.²⁴ During this interim period, the colonial government assigned several parties and expeditions into the deep terrain of the Naga Hills to acquire 'knowledge'. However, the strong influence of the colonial state created insecurity for some of the independent villages in the Naga Hills. It would consequently lead to the battle of Khonoma, which was the toughest battle the British had fought in the Naga Hills.

The battle of Khonoma in 1879 was the result of insecurities among the Naga ethnic groups with the expansion of the colonial state authority in the Naga Hills. The political officer, Mr. Dammant, set out for an expedition in the three independent Angami Naga villages- Jotsoma, Khonoma and Mezoma. However, his expedition resulted in an attack by Khonoma village on reaching the village gate. In the attack Mr. Dammant was killed along with thirty five escorts and the attack also wounded nineteen others.²⁵ In response, the colonial government sent joint military police of Kohima, Wokha and Imphal.²⁶ To counter the invading British force, the Khonoma village successfully united its thirteen neighbouring villages. They attacked Kohima headquarter and surrounded the British garrison from 17th to 27th October, which reduced the supply of food and water. This was the biggest attempt to remove the British from the Angami Nagas territory. In counter response,

²² Op. cit., Asoso Yonuo, *The Rising Nagas: A Historical and Political Study*, p.100.

²³ Proceedings, Foreign Department, Political A., No. 120 to 132, October 1877.

²⁴ Op. cit., Alexander Mackenzie, *The North-East Frontier of India*, p. 136.

²⁵ Op. cit., Neivetso Venuh, *British Colonization and Restructuring of Naga Polity*, p. 40.

²⁶ Op. cit., Asoso Yonuo, *The Rising Nagas: A Historical and Political Study*, p. 101.

Brigadier General Nation personally decided to lead the expedition against the offending villages. He was assisted by strong forces consisting of the 44th Sylhet Light Infantry under Colonel Nuttall, a detachment of the 43rd Assam Light Infantry, under Major Evans and two mountain guns under Lieutenant Mansel.²⁷ The British troops defeated five of the thirteen villages without much difficulty. On 22nd November 1879, the strong force of the British reached Khonoma and isolated it by blocking important routes for resources which considerably weakened the village.

The weakened Khonoma village continued to resist the British authority by using guerrilla warfare from their stronghold position- Chakka Fort. The shortage of food and starvation like condition finally forced the people of Khonoma to submit themselves to the British on 27th March 1880, and withdrew from the Chakka Fort on 28th March. The British burned down the houses and stored food grains, and took fines in grains and cash as war reparations. After the battle ended, the Political Officer reported that “the punishment inflicted by our troops had been far more severe in its results than was at first supposed.”²⁸ The other villages who took part in the siege of Kohima were easily sieged and subdued after the fall of Khonoma village.

The resistance carried out by the thirteen villages had a significant impact on the future discourse of the Naga Hills. It became imperative for the colonial authorities to reassert their position in the Naga Hills.²⁹ It led to the formation of new political boundaries for a new administration. Therefore, after the colonization of Khonoma, the British finally decided to permanently annex the Naga Hills as a part of Assam district in 1881.³⁰ The logic behind the annexation of the Naga Hills is well summed up in B. C. Allen’s words:

²⁷ Ibid., Pp. 136-137.

²⁸ Op. cit., Alexander Mackenzie, p. *The North-East Frontier of India*, 139

²⁹ Priyam Goswami, *The History of Assam From Yandabo to Partition, 1826-1947*, Orient BlackSwan, Hyderabad, 2012, p. 146

³⁰ Robert Reid, *History of the Frontier Areas Bordering on Assam From 1883-1841*, Spectrum Publication, Guwahati, Reprint 1997, p. 99.

"It should first be premised that for the annexation of their territory the Nagas are themselves responsible. The cost of the administration of the district is out of all proportion to the revenue that is obtained, and we only occupied the hills after a bitter experience extending over many years, which clearly showed that annexation was the only way of preventing raids upon our village. Had the Angami Nagas consented to respect our frontiers, they might have remained as an independent."³¹

Before the colonial rule, the various Naga ethnic groups did not have a sovereign ruler to assert authority. As a matter of fact, the Nagas distanced themselves from the regional kingdoms of Assam and Manipur, and remained independent ethnic groups. The Nagas had their own polity to govern themselves in every village. It was through raiding and counter raiding that the Nagas organised and shaped their lives, power, and authority.³² When the colonial state made contact with the Nagas, the practice of raid was considered lawless and barbaric. It was only with the successive contacts and establishment of an administrative centre, a sense of political unity was forged. The colonial government whose aim was to normalize the colonized from their decadent institutions slowly intervened and transformed the natives culturally, socially, politically, and economically. These changes also pushed the Nagas to the realization of a modern state.

Empowerment of executive officers

In Max Weber words, the bureaucrats were the actual rulers in modern states as he exercised his power through administration.³³ The bureaucrats were responsible for the implementation of the rules and regulations laid down by the

³¹ B.C. Allen, *Naga Hills and Manipur, Volume IX*, Calcutta: Printed at the Baptist Mission Press, 1905, Pp. 9-10.

³² Neeladri Bhattacharya, *The Great Conquest: The colonial reshaping of a rural world*, Permanent Black, New Delhi, 2019, p. 343.

³³ Max Weber, *Bureaucracy and Political Leadership*, in Reinhard Bendix (Ed), *State and Society*, University of California, Berkely, 1973. Pp. 296-297.

higher authority. Weber considered that the mechanism of the bureaucratic state was similar to the modern capitalist development as it “rests primarily on calculation and presupposes a legal and administrative system”.³⁴ The bureaucrats received professional training before he was assigned for the future course of the states. These trained professionals were given the task for decision makings based on the “rational, scientific and secular techniques”.³⁵ Therefore, these professional trained officers were ‘pure empiricists’ and upon receiving the power, he become ‘indestructible’.³⁶ This eventually forced the people to accept the rules of administration regardless of how slow the process may be.

The officials ‘mediated’ between the ruling class and the subordinate, and not as ‘immediate’ according to Antonio Gramsci.³⁷ He further argued that the ‘officers’ are intellectuals who exercised their powers for social hegemony. These officials are “... constituted for the whole of society in anticipation of moments of crisis in command and direction when spontaneous consent diminishes”.³⁸ However, Rosane Rocher observes that the colonial officials “... behaved like bees in garden, come to collect honey from the bush to bush, with little sense of responsibility towards their surroundings, save for their determination to preserve optimal conditions for their harvest.”³⁹

³⁴ Ibid, Pp. 297-298.

³⁵ This professional trained officers were to tackle the social problems through systematic and scientific manners. S P Aiyar, *Modernization of Traditional Society and other essays*, Macmillan India, Madras, 1973, p. 5.

³⁶ By indestructible Weber says that the bureaucrat is “corresponding to the rational technology of modern life and since the whole organisation of elementary want satisfaction has been tailored to his mode of operation.” He brings the example of a steel frame machine which is considered to be indestructible. Op. cit., Max Weber, *Bureaucracy and Political Leadership*, p. 301.

³⁷ Antonio Gramsci, *On Hegemony and Direct Rule*, in A.L. Macfie, *Orientalism A Reader* (Ed.), Edinburgh University Press 2000, p. 39.

³⁸ Ibid, p. 40.

³⁹ Rosane Rocher, *British Orientalism in the Eighteenth Century: The Dialectics of Knowledge and Government*, in Carol A. Breckenridge and Peter Van der Veer (Ed.), *Orientalism and the Postcolonial Predicament- Perspectives on South Asia*, Oxford University Press, New Delhi, 1994, p.217.

The process to professional train civil servants in India began during the eighteenth century and it reached its peak during the nineteenth century. These civil servants received proper training before entering the bureaucracy. They were to learn the oriental languages apart from the knowledge acquired by the colonial officers' on duties.⁴⁰ Bradford Spangenberg was critical of the British bureaucrats. He writes the bureaucrats "were not as select or well educated as has been imagined."⁴¹

The colonial government admirably bridged the gap of the indigenous people by developing the network of communication which was instrumental in legitimizing its rule. One such network of communication was by introducing 'specialised' laws for the indigenous people which was blended from their ancient customs. To put these specialised laws in practice, the government appointed 'specialised officers'. Thus the responsibility to implement specialised laws was entrusted to a few well trained professional civil servants in the hills districts and they were authorised with different powers and functions.

Although the executive officers were liable to the Government of India, his power on the hill districts was valued highly by the indigenous people. As mentioned in the last chapter, the executive officials were guided by the 'special laws' specifically for the administration of justice and police. These special laws were based loosely on the Indian Code of Criminal and Civil justice and police. It was the executive officers of the hill districts who acted as magistrate or judge, revenue collectors, head of the police, and all branches of the government. Therefore, the separation of power did not exist in the frontier hill districts of Assam. As pointed out in the introduction of the thesis, the modern Indian state bureaucracy developed very differently from the Weberian bureaucratic state. Perhaps there were some elements of overlap with Western liberal political language of entitlement and shared power structures of ethnic communities – which the colonial state did not modify greatly.

⁴⁰ Ibid, Pp. 217-218.

⁴¹ Bradford Spangenberg, *British Bureaucracy in India, Status, Policy and the I.C.S., in the Late 19th Century*, Manohar, New Delhi, 1976, p. ix.

The following report gives the account of the role of the European officials in the hills districts of Assam:

“The Deputy Commissioner and the Political Officers exercise the combined powers of District and Session judge and magistrate of a district, and the Assistant Commissioners and Extra Commissioners the powers of magistrate and munsifs. The judicial administration in all petty civil and criminal cases is usually carried on by village tribunals, presided over by the headmen chosen from among themselves. Their procedure is completely free from legal technicalities and their proceedings are not reduced to writing.”⁴²

The designation and the position of the colonial officials in the Naga Hills changed throughout the nineteenth century according to the need for effective administration. The colonial state gathered knowledge of the native inhabitants and subsequently annex them, following which the executive officers were designated as Deputy Commissioner, the head of the district, and sub-divisional officer to look after the affairs of the sub-division of the district. The colonial officials in the Naga Hills also held both executive and judicial powers. Their positions and powers were well-defined once they gained the legitimate authority. As discussed earlier, the objective of the British policy in the hill districts was to provide ‘self-governance’ and thus the colonial officials were guided by certain rules and regulations.⁴³

All administrative units of the district came under the Deputy Commissioner. The most important duty of the Deputy Commissioner was to undertake district tours in the administered areas of the Naga Hills. Neeladri Bhattacharya points out that the colonial officials operated as an ethnographer and a bureaucrat. By this, the colonial officials were continually investigating and exploring the cultural phenomena with “question relevant to governance” which eventually allowed the

⁴² Op. cit., Alexander Mackenzie, *The North-East Frontier of India*, p. 249.

⁴³ Proceedings, June 1872, *Rules for the Administration of the Naga and Khasi and Jynthah Hills*, From-Colonial H. Hopkinson, Agent to the Governor General, To- The Offg. Secy., to the Government of Bengal, Judicial Department, the 6th October 1871, p. 47.

officials to be imperative and comprehensive in administration.⁴⁴ The tour also imparted the colonial officials as ethnographers that were “decisive in constructing and freezing the identities of individuals and communities.”⁴⁵ For the colonial government, the constant district tours by the executive officers were considered as the greatest importance in securing their relationship with the Nagas.⁴⁶ Therefore, the importance of the district tours was to maintain a strong relationship with the native inhabitants, and also to act as the civilizing agent. The constant tour of the colonial officials in his district had “an excellent effect in putting a stop to murderous raids within the area to which it applies”.⁴⁷ His main duty was to maintain law and order and to ensure smooth coordination with the hill people.

As a collector, he was accountable for the revenue collection and was also authorised to assess the revenue rates especially in house tax and land revenue. It was the responsibility of the Deputy Commissioner to submit details about the district administration to the colonial state. He was also authorised to tour in some of the politically controlled areas. For example, the report of 1901-02 stated that the Deputy Commissioner of the Naga Hills could tour within the defined areas to settle inter-tribal disputes.⁴⁸ Thus the Deputy Commissioner was expected to learn the traditional customary laws as he was required to settle disputes during his tours.

⁴⁴ Neeladri Bhattacharya, *The Great Conquest: The colonial reshaping of a rural world*, Permanent Black, New Delhi, 2019, pp. 179-182.

⁴⁵ Kamlesh Mohan, *The Colonial Ethnography: Imperial pursuit of Knowledge for Hegemony in British India (Late 19th to Early 20th Century)*, Proceedings of the Indian History Congress, Vol. 63, (2002), p. 827.

⁴⁶ In 1882, C.A. Elliot, the Chief Commissioner of Assam noted the importance of district tours by the executive officers in the hill districts of Assam. Also in, Piketo Sema, *British Policy and Administration in Nagaland 1881-1947*, Scholar Publishing House, New Delhi, 1992 (Second Edition), p. 37.

⁴⁷ Extracts on Nagas From Assam Administrative Report 1901-1902.

⁴⁸ The Deputy Commissioner of the Naga Hills could tour over the Eastern Angamis and Semas beyond the boundaries of his district, within an area defined by the Dikhu Zeal or Nanga river from the limits of the Mokokchang subdivision up to the northern source of the river in the range west of the village of Yehim, thence by the Patkoi range, and the southern spur of that range as far as the junction of the Tiju and Thejir rivers thence by the Tiju river as far as its junction with the Lanier, and from the point to the Manipur frontier by the Lanier river. Extract on Nagas from Assam Administrative Report 1901-1902.

His other activities included issuing inner-line pass, inspection of schools, dispensaries, constructing modern infrastructures like roads, etc.

The Naga Hills was hardly introduced to the modern electoral process and they remained unrepresented during the colonial period. The indigenous people could not raise their problems for themselves as they were deprived of participating in the Legislative Council. Though the Government Act of 1919 and 1935 did tried to provide representation from the hill communities, it was limited only in the Khasi and Jaintia Hills. The representation of the hills in the Legislative Council proved to be a failure as they could not raise the problem for the whole hill districts. In such a segregated society, the idea of representation from one particular district was a fiasco in itself. Thus, it was the Deputy Commissioner of the district that represented the voice of the indigenous people to the government.

As discussed in the last chapter, the Regulation Tract of 1880 with the sanction of the Governor-in General Council empowered the Chief Commissioner of Assam to extend or remove any law pertaining to the hill districts. However, in actual practice the hill district officers were often consulted when any law or regulation was to be passed in the hill areas. Usually after receiving the consent and views of the concerned officer, the colonial government amended changes in the hill districts. For instance in 1897, the Chief Commissioner of Assam extended the Indian Stamp Act, 1879 (1 of 179), and the Court fee Act, 1870 (VII of 1870), to the districts of Garo Hills, the Khasi and Jaintia Hills, the Naga Hills, the North Cachar, the Mikir Hills tract and the Dibrugarh frontier tract.⁴⁹ However, it was not effected to all the hill districts as it contained certain provisions to extend the rules:

“Provided that the said Acts shall not apply to any persons being natives of any of the said areas who are assessed to house-tax instead of land revenue, except in such localities or classes of cases as the Deputy

⁴⁹ Assam Secretariat, Home-A, July 1898, Nos. 94-110, *Extension of the Stamp and Court-fees Act to the hill districts and frontier tracts in Assam*. No. 1141, dated the 21st August 1887; also see No. 96, No. 992J, dated Shillong, 13th September/1887, Notification by the Chief Commissioner of Assam, File No. 619, p. 9.

Commissioner, with the sanction of the Chief Commissioner, may, from time to time, withdraw from the operation of the proviso.”⁵⁰

Though the extension of court fee was notified, it required the approval and proposal of the Deputy Commissioners for sanctioning the rule in the district. The notification was accepted by all Deputy Commissioners, except the Naga Hills district, North Cachar district and Khasi and Jaintia Hills district. In the Naga Hills, the Chief Commissioner Captain Cole, suggested for “certain verbal alteration” and in the Khasi and Jaintia Hills, the Deputy Commissioner J.C. Arbuthnott, proposed to sanction the rule only in Shillong and not to the semi-independent villages.⁵¹ Therefore in a separate letter, the Chief Commissioner of Assam withdrew the sanctioned proposal from the operation of the proviso in the Naga Hills,⁵² and in the Khasi and Jaintia Hills except in Shillong.⁵³

The colonial state endorsed and developed diverse policies to control the Indians. The colonial state accumulated indigenous knowledge and information to introduce institutions suitable to the Indians. Accordingly, the colonial power developed different logics which created distinct styles of governance.⁵⁴ In the North-East, particularly in the Naga Hills, the colonial authority was represented through bureaucrats. The colonial officials were empowered with various powers such as to execute orders, to legislate laws, and to administer justice. It was through the colonial bureaucrats that the indigenous institutions of power endured transformation. Therefore, we find very different models of modernity ushered in the Naga Hills through the colonial state.

⁵⁰ Assam Secretariat, Home-A, July 1898, No. 96. No. 992J, dated Shillong, 13th September/1887, Notification by the Chief Commissioner of Assam, p. 9.

⁵¹ Assam Secretariat, Home-A, July 1898, Nos. 94-110, 17th May 1898, p. 8.

⁵² Assam Secretariat, Home-A, July 1898, No. 108, From the Office Secy.- to the Chief Commissioner of Assam; to the Deputy Commissioner of Naga Hills, No. 18L & L- 2174J, dated the 30th May 1898, p. 14.

⁵³ Assam Secretariat, Home-A, July 1898, No. 110, to the Chief Commissioner of Assam; to the Deputy Commissioner of Khasi and Jaintia Hills, No. 69L & L-3078J, dated the 30th July 1898, p. 9..

⁵⁴ Sudipta Kaviraj, *The trajectories of the Indian State: Politics and ideas*, Permanent Black, p. 22-23.

Legitimising authority through local networks

The paternalist approach of the colonial state eventually legitimised the indigenous institutions in the Naga Hills. As Stokes pointed out, the paternalists sought the protection of the indigenous institutions and govern the people through simple code and laws.⁵⁵ However, the establishment of new power networks transformed and created a hybrid institution. The colonial rulers established a completely new institution called the *dobashi* in the Naga Hills, an institution which did not exist in the Naga society. At the same time, they also transformed the old traditional authorial institution of the Nagas by instituting the *gaonbura*. In connection with these, Kaviraj asserts the problems of the binary distinction of what was not 'modern' and what was 'traditional'.⁵⁶ He also argues that the colonial transformation did not resemble the western form of politics, and as a result, it only spread modernity in 'pluralism'.

The colonial state restructured the traditional notion of power and authority in the Naga Hills. To provide an effective administration, the British transformed and created local administrative units- *gaonburas* and *dobashis*. The institution of *gaonburas* or the village headmen worked at the village level. The *gaonbura* were authorized to try petty cases within his jurisdiction. This institution was based on the traditional political structure of the pre-colonial period but the power delegated by the British government changed their functions. The primary duty of a *gaonbura* was to maintain law and order within his jurisdiction. The *gaonbura* was also responsible for policing and reporting all the crimes in the village to the colonial state.⁵⁷ The *gaonbura* institution was used by the colonial state to provide justice but within the colonial frame of judicial administration. He was also responsible for collecting revenues (house tax). In this way, the institution of *gaonbura* characterised the traditional authority but their functions were altered

⁵⁵ Eric Stokes, *The English Utilitarians and India*, Oxford University Press, Delhi, Third Impression 1992, p. 149.

⁵⁶ Sudipta Kaviraj, *An Outline of Revisionist Theory of Modernity*, Cambridge University Press, European Journal of Sociology, Vol. 46, No. 3 (2005), p. 501.

⁵⁷ Annual Report on the Administration of the Bengal Presidency for 1866-67, printed at the Bengal Secretariat Office, Calcutta, p. 162.

by the colonial state. In other words, the institution was retained but its power and functions were modified.⁵⁸ The institution of the *gaonbura* was legitimised but it was at the lowest level in the colonial power hierarchy.

The institution of *dobashi* was created by the colonial government. This institution did not exist before the colonial rule. To become a *dobashi*, one has to understand at least two languages. The role of the *dobashi* was to act as an interpreter for the colonial officials during the tour. They were instrumental to check village feuds and to establish peaceful relationships with the diverse ethnic groups in the Naga Hills.⁵⁹ Gradually, the *dobashi* was also empowered to settle disputes in accordance to the customary laws. They were recognised as arbitrators for their knowledge as they constantly accompanied the colonial officers during tours to settle cases.

The *gaonbura* and *dobashi* institutions were integral parts of the colonial administration in the Naga Hills. They became the guardians of the customary laws. They were given stipends for their service to the government. The legitimisation of the indigenous institution enabled the colonial government to assimilate and alter the institution. As Neeladri Bhattacharya pointed out, “governance required institutions”⁶⁰ and therefore, through indigenous networks the colonial government consolidated its authority in the Naga Hills. With the help of the indigenous networks, the colonial state identified how the social life of the ethnic Nagas was to be ordered. These hybrid institutions created and ushered the development of the modern institution through the colonial political frame.

Colonial military force: From the general region to particular locality

It was necessary for the colonizers to maintain a strong military force in order to control the natives. Therefore a proper system of military organisation was

⁵⁸ Op. cit., Neeladri Bhattacharya, *The Great Agrarian Conquest*, p. 144.

⁵⁹ Piketo Sema, *The institution of 'dobashi system' in colonial Naga Hills*, Proceedings of the Indian History Congress, Vol. 46 (1985), pp. 470-475, Indian History Congress, Pp. 470-471.

⁶⁰ Op. cit., Neeladri Bhattacharya, *The Great Agrarian Conquest*, p. 142.

required that would effectively consolidate the colonial state authority over the natives. In Paul R Reinsch's "*Colonial Administration*" the colonial military was categorised into three characters to give effective means of administration.⁶¹ The purpose was to defend the external threat, suppress the native outburst and to develop the colony by engaging public works. Based on these principles, the colonial state maintained strong military forces in the colonies. The European used various policies to strengthen their forces and to recruit their troops- the French troops were generally Europeans, whereas the British recruited mostly the natives.⁶² However, it was the Europeans who held higher ranks compared to the natives. The British government adopted a similar method in India, and after the revolt of 1857, the British army was significantly reorganised. The British government maintained a ratio of 1:2 (European/Natives) where the European held the artillery.⁶³ This section will briefly describe the formation of British military and police force in North-East India, and their strategic importance for the colonial power to control the hill regions like the Naga Hills.

Dilip K. Das and Arvind Verma in their essay "The armed police in the British colonial tradition" argue that the colonial state developed armed police in India to maintain order, and not to prevent or detect crime. Das and Verma asserted that the armed police emerged differently from the Metropolitan model of police in London.⁶⁴ Although the British had initially established a small military force in India, there was no "satisfactory police system". With the expansion of colonial rule in the Indian sub-continent, there was a dire need to strengthen the system of policing in India to protect the Company's trades and profits. They also asserted that the police system in India developed similarly to the Royal Irish Constabulary (RIC). The RIC system of police was "military in style", and the central

⁶¹ Paul S. Reinsch, *Colonial Administration*, The Macmillan Company, 1912, p. 392.

⁶² Ibid, p. 393.

⁶³ Ibid, p. 395.

⁶⁴ The Metropolitan police were developed to prevent crime, seek the cooperation and trust of the people, and restrain the use of force. Dilip K. Das and Arvind Verma, *The armed police in the British colonial tradition: The Indian perspective*, Policing: An International Journal of Police Strategies & Management, Vol. 21 No. 2, 1998, pp. 354-367.

government-controlled it.⁶⁵ As the RIC gained the reputation as a peace-keeping force, the British government adopted the model, and it became the "ideal choice for other commonwealth countries."⁶⁶ In India, it was important for the colonial government to separate the police from the native people as the government demanded total submission. Thus, it was the small British officers who supervised and controlled the large Indian population. It was a strategic deployment of the colonial state to control the Indian people as the armed police developed in India was for 'order' and not for 'law'.⁶⁷ However, the revolt of 1857 drastically transformed the attitude of the colonial government in India.

Along with several other changes, the government also reorganised the police system in India with the implementation of the Police Act of 1861. The Act was created to subjugate the Indian people through repressive forces to exert authority and to instil fear and discipline.⁶⁸ The Act also distinguished "between policing and military functions." The military army was relieved from all non-military duties, and the civil police was to preserve peace and order in the society. However, in India, there was no clear distinction between the colonial military army and civil police.⁶⁹

The development of colonial army in North-East India began with the Burmese invasion of the Ahom kingdom in Assam. During the late eighteenth and the early nineteenth centuries, the Ahom monarchy had an internal conflict in the royal family. This internal conflict weakened the law and order of the state. It resulted in a series of invasions from the neighbouring ethnic groups like the Moamoria, Singphos, and Khamtis. The royal family also invited foreign forces such as the Burmese and British to settle the internal conflict. Consequently, the problem of the Ahom royal family led to the first Anglo-Burmese war. The war between the two external forces proved to be the turning point in the history of the North-East Frontier. The internal conflict of the Ahom royal family was side-lined,

⁶⁵ Ibid, p. 355.

⁶⁶ Ibid, p. 356.

⁶⁷ Ibid, p. 354.

⁶⁸ Ibid, p. 360.

⁶⁹ Ibid, p. 362.

and the victorious party of the war was to decide the fate of Assam. The natives encountered highly organized military systems whose armies were trained in superior warfare techniques. The defeat of Burmese gave the British East India Company an opportunity to exploit the abundant resources of Assam.

From 1824-28, the Assam frontier was under the 'martial law' of the Bengal government. It was the military authorities who were responsible for protecting the Assam frontier.⁷⁰ The subjugated natives were given full protection by the new government. The colonial state also studied their customs, and acted as an agent of civilization by engaging in public works.⁷¹ Even before the British consolidated their rule in Assam, David Scott had proposed to collect revenue in Western or Lower Assam in 1824. He studied the revenue documents of the former government, which was similar to the Bengal system.⁷² In 1828, after the recommendation of Scott, the East India Company annexed Lower Assam permanently. However in Upper Assam, the case was different as the territory was still yet to be extensively explored. Moreover, the annexation required man-power and financial expenditures. And the same time the royal family of the Ahom started to agitate for the restoration of the old monarchy. Therefore, the EIC restored the Ahom monarchy in Upper Assam (1833-38) excluding Sadiya and Matak as caretakers. But the discovery of natural resources and tea gardens changed the stand of the EIC.

The occupation of lower Assam had induced the British to establish a permanent administration. But this move also demanded more protection on the

⁷⁰ Op. cit., E. A. Gait, *A History of Assam*, p. 336.

⁷¹ This concept of the military was built on General Gallieni's programs. Op. cit., Paul S. Reinsch, *Colonial Administration*, pp. 402-405.

⁷² The Western Assam like the Kamrup was conquered by the Mughals (1612-1627) and introduced the *paragana* system, which continued until the occupation of British. Though the system varied from the regular Bengal system of revenue, it set the foundation for the British to levy taxes. Moreover, the damaged caused by the Burmese war, Scott recommended for a wider range of revenue in western Assam (Goalpara and of the adjoining Company territories) demanding one-fourth of the rate of the land revenue. Nirode K. Barooah, *David Scott in North-East India 1802-1832; A Study on British Paternalism*, Munshiram Manoharial Oriental Publisher, New Delhi, 1970, Pp. 88-106.

settled areas from the constant threats not only from the various ethnic groups but also from the Burmese. While Assam was under martial law, the British government entrusted Scott to carefully examine the most effective form of governance for the natives. And in 1826 Scott recommended for a permanent outpost in remote areas like Sadiya to settle the problems with the hill people. He suggested for a European officer and a European assistant who were experienced in dealing with both civil and military powers.⁷³ This, he believed, would gradually improve the condition of the British in Assam and also increase the military force. And the military would also act as a defence from the external force in the future. In his other plan, he proposed for a strong military force of six hundred in Sadiya mainly to be recruited from Barsenapati, Maomaria, Khamti and Sadiya Khowa Gohain.⁷⁴ The other two British officials, Bedingfield and Neufville, who were also reviewing the situation of Assam, also agreed with Scott's proposal for the recruitment of indigenous people in the colonial military force. Eventually, the Company formed a Sadiya militia in 1827 with the strength of 450 troops.⁷⁵ Scott, therefore, was credited for consolidating the military in Assam in accordance to the 'indigenous institutions'.⁷⁶ Military power restructured and reorganised the social networks. Micheal Mann argues that military offers "a reorganising spurt, a regrouping both of the myriad networks of society and of its dominant power configurations".⁷⁷

However, with the expansion of the Assam frontier and commercial interest, the colonial state felt the necessity to establish a separate force in the region for security and protection. Therefore, Mr Grange in 1835 established Cachar Levy (oldest paramilitary force in India) with seven hundred men as a semi-paramilitary

⁷³ Ibid, p. 120.

⁷⁴ Ibid, p. 121.

⁷⁵ Ibid, p.123.

⁷⁶ M.L. Bose, *Development of Administration in Assam: With Special Reference to Land Revenue Justice and Police 1874-1920*, Concept Publishing Company Pvt. Ltd., New Delhi, Reprint 2010, p. 93.

⁷⁷ Michael Mann, *The Source of Social Power, A History of power from the beginning to A.D. 1700*, Vol. 1, Cambridge University Press, Cambridge, 1986, pp. 19-20.

force.⁷⁸ The Cachar Levy subsequently changed its name in 1883 to Assam Frontier Police and in 1891 to Assam Military Police, before it was permanently changed to Assam Rifles in 1917. This military police was also often known as 'quasi-military' as they were assigned for the protection of the frontier border. The primary purpose of this military police force was to protect the British administered areas from ethnic raids and to gradually expand their rule in North-East India. The duty of the military police was thus confined to patrolling the border areas or the foothills: the Naga Hills up the Dhansiri valley, from Cooch Behar to Sadiya and North Cachar Hills to Silchar and the Lushai borders.⁷⁹ As a semi-paramilitary force, the unarmed force was responsible for civil matters, and the armed force in guarding or escorting the province.⁸⁰ In this connection, the Cachar Levy was often recognised as "Right arm of the civil and left arm of the military."⁸¹

By the end of the nineteenth century, most of the hill regions had come under British sovereignty. Thus a new structure of colonial military in Assam frontier was enforced. In 1879, the military force was reorganised into four regiments to oversee the fourteen outposts apart from the armed police who were patrolling in thirty-five outposts.⁸² But due to the insufficient forces, the Chief Commissioners of Assam proposed to strengthen the armed forces to ensure protection on their newly acquired frontier. The first official to recommend the strengthening of the armed forces was Steuart Bayley. He proposed for three thousand armed police and to reduce the military force in Assam. Before it came into force, Charles Elliott became the Chief Commissioner of Assam, and he took up Bayley's proposal with slight modifications after consulting with the Commander-in-Chief. It resulted in complete separation of civil and armed police, and restructured the organisation of

⁷⁸ The Assam Rifles- Sentinels of the East, <https://web.archive.org/web/20080519152847/http://frontierindia.net/the-assam-rifles-sentinels-of-the-east>.

⁷⁹ L. W. Shakespear, *History of Upper Assam, Upper Burmah and North-Eastern Frontier*, Macmillan and Co., Limited, London, 1914, p. 245.

⁸⁰ Gait, Edward. *A History of Assam*, EBH Publisher, Guwahati, Reprint 2013, p. 336.

⁸¹ History of the Assam Rifles, <https://web.archive.org/web/20090310015024/http://assamrifles.net/site/aboutus.htm>.

⁸² There were about 2,200 armed police in Assam frontier which was entrusted with defending the frontier across ten districts. Op. cit., E. A. Gait, *A History of Assam*, p. 336.

colonial military force. Instead of guarding the ten districts, the armed forces were merged in four centres, and formed into regular military police.⁸³

Along with the reorganisation, modern apparatuses were introduced to improve the role of the military police. The colonial military used scientific methods such as fingerprints, and trained the police to study crime scenes. With the introduction of the colonial military police, the hill people were introduced to the modern law of science for the first time. Three full strength of military police- Lakhimpur Military Police Battalion, the Naga Hills Military Police Battalion at Kohima and the Lushai Hills Military Police Battalion at Aijal were established with their headquarter at Dibrughar.⁸⁴ These military police were to be trained under the commandants of the Regular Army for five years to improve their military duties and discipline. In 1921, there were five Battalions of the Assam Rifles (previous named as Cachar Levy, Assam Frontier Police, and Assam Military Police) with their headquarters at Aijal, Sadiya, Kohima, Imphal, and Lokra.⁸⁵

The duty of the military police was to constantly tour, and to report all events of the border areas.⁸⁶ Therefore, their actual duty was free from the executive of the districts. The military police were under the Government of India and not with the local governments. But with the passage of time, their involvement in punitive columns was often used. The Deputy Commissioner of the district can also order for any assistance from the military police force to assist him. As Shakespear noted, "Military Police Battalions are essentially the eye and not the hand of the executive, which work falls to the Regular troops on a serious matter arising."⁸⁷ He further gave an illustration of the duty performed by the regular police and the military

⁸³ Ibid, pp. 336-337.

⁸⁴ Apart from three full strength of military police, the colonial state also established two battalions of lesser strength in Garo Hills at Tura, and in Cachar at Silchar. Ibid, 246-247.

⁸⁵ Op. cit., Assam Secretariat, General and Judicial Department, Judicial-A December 1921, p. 3.

⁸⁶ Op. cit., L. W. Shakespear, *History of Upper Assam, Upper Burmah and North-Eastern Frontier*, pp. 248-249.

⁸⁷ Ibid, p. 250.

police force in the hill frontier. He added that the work done by the regular police as ‘disappointing’ and praised the military police work.⁸⁸ Shakespear sympathized the military police because they were mainly unrecognized to the public as their works were neither reported in public papers nor advertised.

It was easy for the colonial state to expand the already operational military force to the areas it desired to bring under control. This colonial military force was an integral part of the colonial state machinery in annexing the hill areas. As mentioned, the militia regularly patrolled the infiltration of the hill people in the administered areas. Thus, the colonial history of the hill areas began with several military expeditions. With superior military forces and tactics, the colonial government brought the hill areas under their suzerainty. Initially, before the formation of Naga Hills, it was the military police that managed the hill people through military expeditions. The colonial government established Border Police posts in Asalu, Semkhor, and Linglo under the command of North Cachar Hills to protect the British subjects from the Nagas raids.⁸⁹ To Alexander Mackenzie, this patrolling police were a ‘chain of outposts’ as they stretches from Borpathar to Asalu which was connected only by road. Colonial Hopkinson, the Commissioner of Assam, hoped that there would be little damage in the settled district of Assam after the outposts were established. He noted, “at most, we should be able to keep the raids of savages below a certain maximum, and prevent their extension to settled districts.”⁹⁰ With the non-interference policy, the government abolished the military outpost for the Naga Hills. However, to oversee the raiding situation, the

⁸⁸ The comparison was based on two different places. The expedition on the Mishmi country was conducted by the Regular police consisting of 1,200 troops for about four months with the total cost of two and a half lakhs. Whereas, the military police were given the task on the unmapped country towards the Patkai range consisting of three British officers, two Native officers, 100 rifles with 170 coolies. It took them two months and three weeks to complete the mission, at the cost of Rs. 1,766 only. Thereby Shakespear in his comparison remarked the military police as “truly a remarkable contrast in costliness.” Ibid, pp. 250-251.

⁸⁹ Foreign Department, Political-A, No. 657-663, K.M. No. 2.

⁹⁰ Op. cit., Alexander Mackenzie, *The North East Frontier of India*, p. 118.

colonial government kept small police guard until a road was opened from Dimapur to Samaguting.⁹¹

The General Administration Report of 1919-1920 shows that the military police were spread across the political administered areas of the Naga Hills. Kohima was one of the centres which had the highest number of military distribution in the district. The following table shows the number of Assam Rifles deployed in the Naga Hills.

Halipara	50 Rifles
Mokokchung	50 Rifles
Kohima	25 Rifles
Wakching	25 Rifles
Karami	40 Rifles
Kohima	714 Rifles
Total	904 Rifles

Table 2.1. General Administration Report 1919-20.⁹²

In the administration report of 1936-37, the authorized strength of the battalion was 840 for the Naga Hills. However, the actual number was 848, including two Havildars, compounder, and 14 recruit boys.⁹³ Every year the battalion was inspected by a higher authority such as the Chief Commissioner,

⁹¹ Ibid, p. 120.

⁹² General Department, *Annual Administration of the Naga Hills for the year 1919-20*, File No. G-G-5. 30-32. June 1920, Pp- 18.

⁹³ Excluded Branch, Ex. B Proceedings for December 1937, Nos. 221, p. 14.

Deputy Inspector General or Inspector General of Assam Rifles and other officers and commanders.

The dual institutions of Police

The most evident development with the coming of the colonial administration was the maintenance of law and order in the Naga Hills. To maintain law and order in the society, the colonial government introduced police. According to the revisionist interpretation, the police institution was developed to maintain the dominance of the ruler and to control the subjects.⁹⁴ The police became the heart of the colonial state as they played a significant role in subjugating the Nagas. The police institution persistently maintained its existence in the public domain. It was a visible change on the power networks which would perpetuate the relationship between the colonial state and Nagas. The introduction of police institution was a disciplinary power technique to control the people. It “constructed an image, organisation and strategy”⁹⁵ of the colonial state as the most dominant force. The creation of a police institution was to supplement the legal process of the colonial state.⁹⁶

The Police Act of 1861 was extended to proper Assam (Brahmaputra Valley). When Assam became a province in 1874, the Chief Commissioner initially held the title of Inspector General of Police since there was no separate officer appointed. But the gradual expansion of the Assam frontier had created difficulty to oversee the whole administration of the province. Therefore in 1876, to relieve the extra burden on the Chief Commissioner, an Inspector General of Police was appointed.⁹⁷ The Deputy Commissioner of the district was to aid him for the maintenance of law

⁹⁴ Robert Reiner, *The Politics of the Police*, Harvester Press, Sussex, 1985, pp. 10-11.

⁹⁵ Ibid, p. 4.

⁹⁶ David Arnold, *Police Power and Colonial Rule Madras 1859-1947*, Oxford University Press, Delhi, 1986, p. 3.

⁹⁷ Op. cit., M.L. Bose, *Development of Administration in Assam: With Special Reference to Land Revenue Justice and Police 1874-1920*, pp. 93-94.

and order. In other words, the Deputy Commissioner held the accountability of the district police.

With the establishment of a headquarter for the Naga ethnic groups in 1866 at Samaguting, the colonial state introduced new rules for the administration of Justice and Police in 1872 under Act XXII of 1869. In 1875, there was one police station situated at Samaguting and two outposts, one at the foothill of Samaguting and the other at Dimapur. It consisted of 164 officers of all ranks. It covered a ratio of 1 policeman for every 420 people at the cost of £3494.⁹⁸ The transfer of the Naga Hills headquarter from Samaguting to Kohima happened in 1878. The change in headquarter also moved the police station from Samguting to Kohima, and it was headed by the sub-inspector. The colonial expansion in the Naga Hills too increased the total number of outposts (Nichuguard, Piphima, Zubza, Birreu and Viswema), and their duty was confined mostly in supervising the cart road between Kohima and Manipur.⁹⁹ In the 1910s, the police station was extended to three places- Kohima, Dimapur, and Kongnyu. For many years, the strength of the regular police remained constant which comprised of three sub-inspectors, three head constables and thirty-nine constables.¹⁰⁰ But in 1936-37, the number of outpost was reduced to one which was located at Nichuguard but the number of police station remained the same. During this period, there were two sub-Inspectors, four assistant sub-inspectors, and thirty-five constables.¹⁰¹

However, the duty of the civil police was often considered to be 'light' as their duty was mostly confined to guard duty.¹⁰² And the above figures also indicate the decreasing number of civil police in the Naga Hills as the British strengthen their authority. Moreover, under the Act XXII of 1869, the hill district police was

⁹⁸ The Imperial Gazetteer of India Vol., VII, *Naaf to Rangmagiri*, Director of Statistics to the Government of India, Trubner & Co., London, 1881, p. 22. Also in W.W. Hunter, *A statistical Account of Assam, Vol. II*, Trubner & Co., London 1879, pp. 197-198.

⁹⁹ Op. cit., Imperial Gazetteer of India, *Provincial Series Eastern Bengal and Assam*, p. 479.

¹⁰⁰ See, General Administration Report of Naga Hills from 1915-16 to 1919-20.

¹⁰¹ Excluded Branch, Ex. B Proceedings for December 1937, Nos. 221, General Administration Report of the Naga Hills for 1936-37, No. 688-G, dated 10th May 1937, p. 14.

¹⁰² B.C. Allen, *The Khasi and the Jaintia Hills*; Volume X, Printed at the Pioneer Press, 1906, Allahabad, p 108.

categorised into two- regular or civil police, and rural police for maintaining law and order.

The regular police were confined in the police stations and in guarding the cart-roads. Meanwhile, the establishment of rural police was all about the modification of the indigenous institutions. To avoid confusion on the roles of the two police, the colonial government categorised their power. The rural police could only deal with cases which were considered 'petty', and the regular police were to take charge of the heinous crimes. According to the administration of Justice and Police, the heinous crimes were defined as rebellion, riot, counterfeiting coins or passing counterfeit coins, murder, injury to life, rape, theft, robbery, dacoity, cattle stealing, arson, housebreaking and forgery.¹⁰³ The village headmen were responsible for maintaining peace, and to report every unlawful event in the village. Only those crimes which were considered to be heinous were handed to the regular police.

As mentioned, the duty of the regular police in the hills was generally very light. They were called to act only when a general or special order was passed by the Commissioner (Governor), Deputy Commissioner or sub-ordinate officer who was duly authorized. Only with the special order from the Deputy Commissioner, the civil police were allowed to enter a Naga village or take up Naga case.¹⁰⁴ Thus, the duty of the rural police became more important than the regular police. The rural police or the village authorities were to report all matters of his jurisdiction. His duties were to watch, arrest all criminals, report all crimes irrespective of his jurisdictions, and deliver the offenders to the colonial authority. However, if the offender fled beyond his jurisdiction, he must take the cognizance and co-operate with the concerned jurisdiction authority or request him to make the arrest.¹⁰⁵ They could also take the help of the regular police if they failed to arrest the offender. However, they must request for assistance to the Deputy Commissioner. The

¹⁰³ Proceeding, June 1872, *Rules for the administration of the Naga and Khasi and Jaintia Hills*, p. 53 and p.60.

¹⁰⁴ Op. cit., B.C. Allen, *The Naga Hills and Manipur, Volume IX*, pp. 66-67.

¹⁰⁵ Proceeding, June 1872, *Rules for the administration of the Naga and Khasi and Jaintia Hills*, p. 53 and p.60.

concerned authority of the rural police could also impose fines on drunkards, brawlers, and gamblers within his jurisdiction.¹⁰⁶ In fact, all inhabitants of the hill districts under British domain were given the task for maintaining law and order. They were bound to aid the regular police and if any person failed to co-operate with the colonial state, he was liable to be fine or penalised in a criminal case.¹⁰⁷ If a particular accused was not arrested, then the concerned village authority was held responsible. But if the community was to be blamed, a fine was imposed to the whole community by the Deputy Commissioner only.¹⁰⁸ To be precise, the rural police became a bridge for the colonial state for maintaining law and order in the frontier hill areas. They provided information for all crime reports and also gave valuable insights into their villages by providing all statistics records.¹⁰⁹ In 1907, the colonial state also introduced a new rule to reward private individuals for aiding the government in police administration.

The regular police followed the Act V of 1861, where any misconduct on the part of the police was punished according to the Penal Code. But the revised rules for the administration of Naga Hills 1937 added the punishable offence in accordance to the Assam Rifles Act, and the Penal Code.¹¹⁰ In the case of misconduct by the rural police, the concerned person was punished either by dismissing or imposing a fine not exceeding to Rs. 500. The punishment was decided either by Deputy Commissioner or his subordinate. He could also be imprisoned under the Penal Code like the regular police.¹¹¹ However, the rural police could appeal in police matters to the Deputy Commissioner whose words were final. The new rules of 1937 under Section 3(A), stated that “rural police shall

¹⁰⁶ Ibid, Pp. 53-54 and p. 60.

¹⁰⁷ Ibid, p. 54 and p. 61.

¹⁰⁸ Ibid, p. 54 and p. 61.

¹⁰⁹ Op. cit., M.L. Bose, *Development of Administration in Assam: With Special Reference to Land Revenue Justice and Police 1874-1920*, p. 99.

¹¹⁰ Op. cit., Piketo Sema, *British Policy and Administration in Nagaland 1881-1941*, See Appendix III, *Rules for the administration of Justice and Police in the Naga Hills District, the 25th march, 1937*, p. 180.

¹¹¹ Ibid, p. 180. Also see, Proceeding, June 1872, *Rules for the administration of the Naga and Khasi and Jaintia Hills*, p. 52 and p.59

not be deemed to be police officer for the purpose of Section 26 of the Indian Evidence Act or of Section 162 of the code of Criminal Procedure.”¹¹²

In 1884-85, regular and systematic training was introduced for the first time in the Naga Hills to equip the police with modern techniques.¹¹³ The modern training included instructions based on manual exercise, and battalion and Company drill, musketry, and skirmishing. The colonial state initiated the Inspector of Musketry from Calcutta to train the police.¹¹⁴ The colonial government also encouraged the police to learn Naga languages in order to breach the communication gap. During this period, education provided by the colonial state and the missionary failed to make substantial progress in the Naga Hills. Therefore, in 1884 the colonial government passed a resolution to offer prizes to those who succeeded in passing an examination in the Naga languages. By the following year, fourteen men from different outposts were ready to write the examination.¹¹⁵

The police institution in the hill districts like the Naga Hills was framed on the different parameters. As mentioned earlier, three active forces were used to safeguard the frontier. For the maintenance of law and order, the rural police or the village authority was given the responsible in the Naga Hills. Peter J. Carroll in his essay, “*Administering the city, Policing Commerce*” tries to locate the institution of the modern police as a shift from urban to a municipality as it comprised of multiple administrative duties.¹¹⁶ However, in the case of the hill areas of the North-East Frontier, the police institution was centred more towards rural than urban. Perhaps the colonial state understood the importance of the imprinted rural life of the hill societies. So when the rules for administration were framed, the colonial state imposed several responsibilities to the village authorities.

¹¹² Op. cit., Piketo Sema, *British Policy and Administration in Nagaland 1881-1941*, p. 180.

¹¹³ External-A, Extract from the Proceedings of the Chief Commissioner of Assam, Judicial Department, No. 1067, dated Shillong, 2nd July 1885, *Administration Report of Naga Hills for 1884-85*, Sept. 1885, 36-38.

¹¹⁴ Ibid.

¹¹⁵ Ibid.

¹¹⁶ Peter J. Carroll, *Administering the city, Policing Commerce*, in Huri Islamoglu and Peter C. Perdue (Ed.), *Shared Histories of Modernity- China, India and the Ottoman Empire*, Routledge, 2009, New Delhi, p. 209.

Whipping as punishment for the administration of justice

Sumanta Banerjee in his book “*The wicked city, Crime and Punishment in Colonial India*” gives an account of criminal prosecutions in colonial India that drew its rationality from the English judiciary. He stressed on how colonial justice evolved to satisfy the English liberals and was institutionalised to administer the Indians.¹¹⁷ In doing so, the colonial state focused on “a rigorous investigation, collection of evidence, selection of witness, recording of confessions, substantiation of allegations, and finally, satisfaction of the judges to enable them to announce the sentence.”¹¹⁸ This process eventually created new classes in India- ‘new offenders’ and ‘prosecutors’.¹¹⁹ Ultimately it shaped a uniform law that gave birth to the Indian Penal Code of 1860 and the Indian Evidence Act of 1872 for the administration of justice in India. Here it is important to note again that the most accessible part in North-Eastern frontier was the first to feel partial deployment of different logics of governance.

But these codified uniform laws were not applicable to the hill districts of North-East India. Though the spirit of the Indian Penal Code was maintained, the administration of justice in the hill districts was done separately. The rules for the administration of justice in the Scheduled Districts were different from the plains but the procedures were very similar.¹²⁰ As mentioned in chapter I, the first kind of colonial justice was implemented in the Garo Hills with the Regulation X of 1822 to protect the newly annexed territory in lower Assam. This Regulation became the foundation for the administration of justice for the hill people.

As discussed earlier, colonization in the Naga Hills began with punitive military actions to stop raids. The colonial state initially followed the non-

¹¹⁷ Sumanta Banerjee, *the wicked city, Crime and Punishment in Colonial India*, Orient Blackswan, Hyderabad, 2009, p. 506.

¹¹⁸ Ibid, p. 507.

¹¹⁹ With the new law, people found a way to defy the law which he classified as a new class of offender. The English and the natives who were engaged in disciplining and executing the law occupied a privileged space in the society. Ibid, p. 507.

¹²⁰ K.W. No. 2, Judicial-A, July 1908, Nos. 1-14. *Annual Statements of the administration of Civil and Criminal Justice in Eastern Bengal and Assam*.

interference policy, but the colonial officers pressurized the colonial state to accept the need to subjugate the hills for the protection of the administrative areas from the hostile ethnic communities. This led to military expeditions and the eventual exertion of colonial authority by punishing the villages engaged in raiding the British administered areas. The raiders were punished by imposing fines, imprisonment individually or collectively, and in some instance, the entire offending village was burned down. It was important for the colonial government to display their authority, and the extreme punishments meted out on the people were signs of exertion of sovereign power. But with the establishment of colonial sovereignty, new tactics of punishment were implemented to determine their dominance. This gave a clear indication of who was dominant and who was subordinate, and this characterization was a specific feature of colonial state-making. The imposition of the colonial order provided a specific configuration for a new institutional structure.

The Frontier Tract Regulation II of 1880 empowered the Governor-General of the council to omit or add on the rules and regulations for the hills whenever it was deemed fit. Thereby specific laws from British India were extended to the hill districts for better administration. For instance, the Assam Hill Districts Whipping Regulation, 1875 was extended to the hill districts for matters related to criminal justice. In the revised rule of the civil and criminal justice, the Deputy Commissioner was authorised for whipping.¹²¹ The Indian Penal Code recommended whipping in place of other punishment¹²² (see appendix of the various section liable for whipping).

In the Hill districts of Assam, the colonial government also sanctioned whipping as punishment for the administration of justice. However, there was confusion in the implementation of this law as there was no clear definition of an executioner. The law failed to provide or appoint the executioner for executing the

¹²¹ Excluded Area Records, Government of Eastern Bengal and Assam, Political Department, Political-A, March 1907, *Rules for the Administration of Justice and Police in the Naga Hill District*, the 29th November 1906.

¹²² Legislative Department Proceedings, August, 1875, Assam Hill Districts Whipping Regulation, No. 1193, dated 16th April 1875.

sentence of judicial whipping.¹²³ The Inspector-General of Police employed a different class of people for whipping in different districts. According to the Code of Criminal Procedure Section 391 (2), “the whipping shall be inflicted in the presence of the officer in charge of jail, unless the judge or Magistrate orders it to be inflicted in his presence.”¹²⁴ Adding to that, the Lieutenant Governor of Bengal also passed a judgement stating that whipping was the sole punishment, and the officers were to make arrangements and execute the punishment in the Magistrate’s office. In the Indian provinces, the *chaprasis*, or *kutcherry* (sweepers) were employed for whipping. Some of the colonial officials like J. Donald and F.J. Monahan were in favour of employing constables for carrying out the duty of whipping in the magistrate’s court and to permanently attach them to the office of the court. However, other officials like J. B. Fuller was against the idea of employing constables, peons or warders for whipping, as it ‘degraded’ their positions.¹²⁵ Therefore, instead of employing them for whipping, he proposed for the sweepers to execute whipping with an incentive of a rupee or two in a month. During 1900-02, thirty-eight people were whipped in the Naga Hills district.¹²⁶

Administration of civil and criminal justice

In matters related to the administration of civil and criminal justice in the hills district, the colonial state granted autonomy to the traditional institution. The colonial definition of criminality in the Naga Hills was rooted in the customary laws. The justice system in the Naga Hills was in a tandem, as it referred to both the colonial laws and traditional customary laws for maintaining law and order. In the Naga Hills, the colonial bureaucracy was entangled with the indigenous logic of

¹²³ Assam Secretariat, General Department, Home-A, July 1904, *Execution of Judicial Whippings in Assam*, From- The Inspector General of Jails, Assam, No. 2572, Dated the 22nd September 1903, Note by P.S. Kar, dated 25th September 1903, p.1.

¹²⁴ Ibid, p.1.

¹²⁵ Ibid, Notes on J. B. Fuller, dated 23rd October 1903, p.1.

¹²⁶ Ibid, P.S. Kar, dated 29th October 1903. In the Naga Hills district, the recorded infliction of whipping as per records are- 1900 six persons, 1901 fifteen persons and 1902 seventeenth persons.

power and authority which reconstructed the understanding of crime and punishment. The colonial government created/hybrid institutions for the indigenous Nagas to manage judicial matters in accordance to the customary laws through colonial hierarchical machinery. The administration of justice was set on a different parameter, completely different from the presidencies. In this regard, the colonial process of modernity in the Naga Hills was ‘incomplete’.

In the Naga Hills, the Criminal Code of Procedure, Act X of 1872 was never enforced.¹²⁷ The ruling of Calcutta High Court was not extended in the Naga Hills, and the Chief Commissioner was the highest appellate court for justice. The court fee was obtained only from foreigners in both civil and criminal cases.¹²⁸ However, the actual administration of justice in the hill districts was done by the Deputy Commissioner, his assistants, and recognised village authorities. The Deputy Commissioner was empowered to pass the death sentence, prison sentence, or impose a fine of any amount.¹²⁹ The process of administration of justice in the hill districts can be understood in the following word:

“The Deputy Commissioner and the Political Officers exercise the combined powers of District and Session judge and magistrate of a district, and the Assistant Commissioners and Extra Commissioners the powers of magistrate and munsifs. The judicial administration in all petty civil and criminal cases is usually carried on by village tribunals, presided over by the headmen chosen from among themselves. Their

¹²⁷ Op. cit., The Assam Code in volumes II containing, *The Regulations and Local Acts in Force in the Province of Assam*, p. 244.

¹²⁸ Office of the Commissioner, Surma Valley and Hill Districts, *Annual Report on the Administration of the Lushai Hills District for the year 1912-13*, Memo. by- The Commissioner, Surma and Hill Districts, Submitted to the Chief Secretary to the Hon’ble the Chief Commissioner of Assam. No. 694T., dated Camp Shillong, the 23rd June 1913.

¹²⁹ Proceedings, June 1873, From- Colonel Hopkinson, Agent to the Governor-General and Commissioner of Assam; To- The offg. Secy. to the Government of Bengal, Judicial Department, No. 136, dated Gowhatty, the 6th October 1872. *Rules for the Administration of the Naga and Khasi and Jaintia Hills*, p. 47 and p. 61.

procedure is completely free from legal technicalities and their proceedings are not reduced to writing.”¹³⁰

Therefore, we can see the prevalence of judicial hierarchy in the hill districts of the Assam province. The courts of Deputy Commissioner and the Chief Commissioner were considered as the highest courts to appeal. The traditional judicial institution was legally recognised as the lowest court. In the Naga Hills, the government authorized the natives to preside over the cases related to petty cases in both civil and criminal cases according to their customary rules. Before the British annexed the hill areas, the indigenous court was the highest court of appeal, and the arbitrator's judgement was final. But after the intervention of the colonial state, the authority of the indigenous institution for administering justice to the people was reduced. The colonial state appointed and authorized village authorities to deliver justice according to the village norms. The traditional justice system was no longer the highest court of justice to his people. His decisions could be appealed in the higher courts. And he could no longer give his decisions on heinous crimes as it was directly under the colonial state. He was only allowed to try cases of petty nature within his jurisdiction. The rules also debarred the village authorities in trying suit in which the authority relatives were involved. The reduced power of the traditional court gradually made the people lose their faith in the indigenous court, and they started favouring modern colonial justice.¹³¹

The acceptance of colonial authority by the native people led to the institutionalization of modern rules and regulations. As mentioned above, the colonial state did allow the traditional judicial institution to function according to their traditional norms with some modifications within colonial structure. For making any decision, the village authority had to arrange an open village court or *durbar*. The function of the *durbar* required the presence of certain parties or at least “three respectable witnesses”.¹³² The village authorities were also given the

¹³⁰ Op. cit., Report on the Administration of North-East India, 1921-22, p. 52.

¹³¹ Op. cit., Neeladri Bhattacharya, *The Great Conquest*, p. 147.

¹³² Proceedings, June 1873, From- Colonel Hopkinson, Agent to the Governor-General and Commissioner of Assam; To- The offg. Secy. to the Government of Bengal, Judicial

power to impose fine up to Rs. 50 if the complainant/accused failed to attain the *durbar*. The Durbar also has the authority to impose fine on the complainant if he failed to compensate the “defendants for unfounded or vexations suits brought against them”.¹³³ The Durbar would make decisions only after hearing from both parties and the witnesses. The village authorities conducted the court hearing in their oral tradition. The court did not use modern methods of instead of recording or registering the suits. However, if any person who could write was in the Durbar, he was allowed by the colonial state to provide a brief note of the trial.¹³⁴ But this procedure was also removed when the rules and administration were revised in 1937. The colonial state modified its power but retained the institution. It is important to note that the judicial administration was to work within the colonial structure and not outside. For the colonial state, the preservation of the traditional judicial institution was to delegate the imperial authority to the indigenous society. The adaptation of indigenous justice was considered as a ‘true justice’ for it was rude, rough, quick, simple, and more authentic.¹³⁵

In cases involving property, the village authorities had the power to seize the property but they had no right to sell the property “if the party cast claims to appeal within eight days”.¹³⁶ Gradually, the colonial state extended the appeal date to thirty days to make such claims.¹³⁷ However, within eight days, all notices were to be verbally announced and a court date should be fixed by the recognised village authorities. The Deputy Commissioner and his assistant presided over the cases only when the appeal was made to them. The village authorities were to send both

Department, No. 136, dated Gowhatty, the 6th October 1872. *Rules for the Administration of the Naga and Khasi and Jaintia Hills 1872*, p. 85.

¹³³ Ibid, p. 85.

¹³⁴ Ibid p. 85.

¹³⁵ Op. cit., Neeladri Bhattacharya, *The Great Conquest*, p. 143.

¹³⁶ Op. Cit., Proceedings, June 1873, From- Colonel Hopkinson, Agent to the Governor-General and Commissioner of Assam; To- The offg. Secy. to the Government of Bengal, Judicial Department, No. 136, dated Gowhatty, the 6th October 1872. *Rules for the Administration of the Naga and Khasi and Jaintia Hills 1872*, p. 85.

¹³⁷ Op. cit., Piketo Sema, *British Policy and Administration in Nagaland 1881-1947*, Appendix-III, Rules for the Administration of Justice and Police in the Naga Hills District, the 25th March, 1937, p. 189.

parties and their witnesses to the Deputy Commissioner or his Assistant at once along with a respectable person who was present in the earlier village court proceeding. In most civil cases, the Deputy Commissioner or his assistant usually did not hear any trial of the *darbar*. However, they had the discretion power on the cases where the village authorities had failed to deliver justice. In such cases, the Deputy Commissioner or his assistant could intervene and decide over the case. The trials taken up by the European officers were to be recorded or registered, as the Chief Commissioner directs.¹³⁸

It was also the duty of the Deputy Commissioner and his assistant to try and persuade the hill people to submit their case to the panchayat.¹³⁹ If they agreed, equal number of arbitrators would be selected, and these arbitrators in return elected an umpire. All proceedings were to be recorded including the names and residences of the arbitrators, umpire and the matter in dispute. The court then directed the village authorities to assemble the panchayat and witnesses within eight days. And the umpire would meet both the parties in the court and enforce its decision which would be recorded. Once the final decision was made, both parties cannot appeal again.¹⁴⁰ Cases taken by the village authorities can be appealed in the court. After examining both the parties, the court decides whether it as “*de novo* or refer it to the panchayat”.¹⁴¹ The criminal side dealing with public issues of law and order, took into cognizance the indigenous principles of justice and allowed a communitarian ruling, thereby lending the colonial state’s legitimacy to ethnic judicial and social norms. Having said that there was also an institutional inroad made by the colonial state through colonial bureaucrats that interlocked with the indigenous institutions to give a systematic reorganisation of the power to punish and reconstruct the definition of crime.

¹³⁸ Op. cit., *Rules for the Administration of the Naga and Khasi and Jaintia Hills 1872*, pp. 85-86. In this the register were to be kept in form as the Commissioner direct. Whereas, in the Rules and Regulation of 1937, the word Commissioner was omitted and added High Court. See, Op. cit., Piketo Sema, *British Policy and Administration in Nagaland 1881-1947*, Appendix-III, p. 189.

¹³⁹ Op. cit., *Rules for the Administration of the Naga and Khasi and Jaintia Hills 1872*, p. 86.

¹⁴⁰ Ibid, p. 86.

¹⁴¹ Ibid, p. 86.

The rules regarding debts in the hill district was lenient. Unless the Deputy Commissioner was satisfied that there was a fraud or concealment committed by the debtors, there was no imprisonment for debt. Only in fraudulent cases, the Deputy Commissioner could sentence the debtors into prison for a period not exceeding six months. The hill people were also restricted from acquiring, selling or transferring their belonging like houses, clothes, utensils, or implements in “execution of the decree unless themselves the subject of the suit”.¹⁴² In the previous rules and regulations of the Naga Hills district administration, the colonial state did not specify anything on the landed property. However, in the revised rule of 1937, the colonial state added on the issue of land. The private owner of the land could sell or transfer their land temporarily by following the mandates dictated in the custom.¹⁴³ Here, we find the late appearance of land or property, but a weak deployment of modern colonial legal principles in the Naga Hills. In British India, the colonial state property rights were integral to political forms of liberalism. Kaviraj argues that the introduction of property rights were essential features of the colonial state for legal and juridical categories. Through property, the colonial state regulated revenues and other obligations.¹⁴⁴ Thus, the colonial rule without the implementation of land revenue in the Naga Hills created ‘incomplete modernity’.

In the old rules (1872), the decision of the assistant cannot be appealed unless the Deputy Commissioner deemed it fit after the proper procedure was made. He then presided over the case previously handled by his assistant at the court of the Deputy Commissioner for execution. However in the revised rules (1937), it stated that “an appeal shall lie to the Deputy Commissioner against the decision of his assistant”.¹⁴⁵ The new rules also provide an appeal against the original decision of the Deputy Commissioner to the High Court. However, it was restricted to cases involving suits of Rs. 500 or over, and in regards to the “tribal rights or customs or

¹⁴² Ibid, p. 86.

¹⁴³ Op. cit., Piketo Sema, *British Policy and Administration in Nagaland 1881-1947*, Appendix-III, p. 190.

¹⁴⁴ Sudipta Kaviraj, *The Imaginary Institution of India*, Columbia University Press, New York, pp. 15-16.

¹⁴⁵ Op. cit., Piketo Sema, *British Policy and Administration in Nagaland 1881-1947*, Appendix-III, p. 190.

of right to, or possession of, immovable property”.¹⁴⁶ At the same time, the new rules also empowered the Deputy Commissioner to take cases appealed in the High Court. The High Court and the Deputy Commissioner and his Assistant Court were guided by the spirit of the Code of Civil Procedure.¹⁴⁷

The role of the Deputy Commissioner was crucial in the administration of justice. The commissioner as the magistrate of a district was empowered to give the death sentence, transportation or prison term. The sentence for transportation was added only in the revised rule of criminal justice of 1907. It also added that the punishment to whip the offenders apart from the previous rules of unlimited imprisonment and imposition fine of any amount (1872). However, without the approval of the Lieutenant Governor, and the Chief Commissioner, the Deputy Commissioner cannot pass the death sentence and transportation term of seven years and upwards. He also cannot impose fine on the culprit with values exceeding his existing property worth.¹⁴⁸ In the rule of 1872, it was the Commissioner of Assam who alone had the power to enhance, reduce, or suspend any sentence passed by his subordinates. But in the revised rule of 1907, the Lieutenant-Governor, Commissioner, and the Deputy Commissioner were given the equal status to review any sentence passed by their subordinates. They were to act according to the Indian Penal Code while passing any sentence. In another revised rule of 1937, the term high court was added instead of the Commissioner or Lieutenant Governor for an appeal. Therefore, there was a constant fine-tuning of executive power after going through the reports and committees’ suggestions.

The Deputy Commissioner and his assistant were given the power of the first class magistrate as defined in the Criminal Procedure Code in Act X of 1872. It was the responsibility of the Deputy Commissioner to task the village authorities to try cases of people charged on petty matters like “injury to the property not exceeding

¹⁴⁶ Ibid, p. 190.

¹⁴⁷ In the old rules, it was the court of Chief Commissioner, but under amended rules it changed to High Court. See Rule and Regulation of 1872 and 1937.

¹⁴⁸ Op. cit., *Rules for the Administration of the Naga and Khasi and Jaintia Hills 1872*, p. 84. Also see, Op. cit., *Revised Rules for the Administration of Civil and Criminal Justice in the Hill Districts 1907*, P. 46.

Rs. 50, injury to a person not endangering life or limb, and house trespass and affert of whatever kind”.¹⁴⁹ There was a sharp power hierarchy in the system, where the colonial state retained the superior position. The village authorities were to try cases, and impose fines not exceeding Rs. 50. They also had the power to award compensation, and seize the property of the offender. If the offender failed to pay the fine imposed on him, the case was referred to the Deputy Commissioner. The village authorities were to present the facts and the offender in the court of the Deputy Commissioner. As a magistrate, the Deputy Commissioner could pronounce any punishment. Like in the civil rules, the village authorities were debarred from decision making if the case was related to their close kin and the defendant was from the other jurisdictions. They were also prohibited when the native committed a crime against the state or was a threat to life, robbery, counterfeiting coins or engaged in making fraud documents.¹⁵⁰ Thus, the entry of the colonial state brought a new model of power and authority. The colonial state brought a control mechanism to govern the Nagas.

The decision of the village authorities can be appealed to the Deputy Commissioner or his assistant within eight days after the declaration of a decision. The Deputy Commissioner was also empowered to hear the case if the party involved in the case appeal against the decision of the village authorities, if the appeal was made within sixteen days from the pronouncement of the decision. If the Deputy Commissioner passed a judgement convicting a person for less than three years, the case was not subjected to further appeal. However, the final decision was bestowed on the Chief Commissioner who could reverse or modify the judgement of cases if the Deputy Commissioner had passed a sentence of more than three years. The case could be appealed to the Chief Commissioner within thirty days. And in the cases where the prison term was for seven years or more, the Deputy Commissioner required the approval of the Chief Commissioner and his decision was final. But the Lieutenant Governor could review the decision of the

¹⁴⁹ Op. cit., *Rules for the Administration of the Naga and Khasi and Jaintia Hills 1872*, p. 84. And *Revised Rules for the Administration of Civil and Criminal Justice in the Hill Districts 1907*, p. 46.

¹⁵⁰ Op. cit., *Rules for the Administration of the Naga and Khasi and Jaintia Hills 1872*, p. 84.

proceeding if he deemed it fit.¹⁵¹ Despite all the powers vested on the district officers, they were to interfere as little as possible in the village matters.

The Deputy Commissioner and his assistant were to follow the spirit of the Code of Criminal Procedure as applicable according to the circumstances in the districts. Cases which were decided in accordance with the indigenous law were not required to be recorded in the register. However, in the cases taken under the Indian Code of Procedure, it was mandatory for the district officers to maintain a proper record in the register. In 1908, the British government recommended for a uniform form to maintain annual statements for the administration of civil and criminal justice.¹⁵² The colonial officials used different forms to record statements including the prescribed form by the Government of India, Assam administration and some forms not authorized but modified by the Deputy Commissioners. In the Scheduled Districts, the forms in which the statements were to be recorded were issued under the prescription of the Assam administration. But these forms had caused certain complication while entering statistical data. Two statements on the administration of the civil and criminal justice from the hill districts were submitted to the Director-General of Statistics. Thus while filing forms, errors or defects were reported from the Secretariat office.¹⁵³ Therefore, a suggestion was issued for the adaptation of uniform use of forms issued by the High Court. However, in reply to the recommendation, the High Court forms were considered to be excessively cumbersome and were not necessary for the maintenance of a statistical register. They found the prescribed forms issued by the Assam administration to be more compatible with the records.¹⁵⁴

For notice or order, it was requisite for the village authorities to announce verbally only except in cases when regular police was to aid the case, or the concerned people resided outside of the village jurisdiction or were out of station at the time. The summon date was not to exceed sixteen days from the ordered date.

¹⁵¹ Ibid, pp. 84-85.

¹⁵² K.W. No. 2, Judicial-A, July 1908, Nos. 1-14. *Annual Statements of the administration of Civil and Criminal Justice in Eastern Bengal and Assam.*

¹⁵³ Ibid.

¹⁵⁴ Ibid, p.11.

The summon order was to be made known to the concerned member of the family. It was also necessary to inquire into the whereabouts of the summoned person and issue a time period to appear before the court. All the proceedings of such cases were to be in accordance with Section 228, Act X of 1872. Thus a sentence passed by the Deputy Commissioner and his assistant of three years and more was to be recorded in English only. Meanwhile, the cases taken by the village authorities did not require the proceeding to be recorded in writing. However, all the fines imposed by them were to be paid to the Deputy Commissioner or his assistants or other officers duly authorised by the colonial state within eight days from the date of realisation, unless they had paid compensation to the aggrieved party.¹⁵⁵ False evidences provided by the witnesses were liable to be punished. All the records of criminal cases were to be maintained by the Deputy Commissioner or his assistant. Case records such as fines levied by all authorities including the village authority, and copies of firearm licenses were submitted by the colonial officials to the Commissioner of Assam.

The drawback with the introduction of uniform rules and regulations for the administration of justice was the gradual disintegration of the traditional judicial system. Not all the Naga society had a uniform judicial system as their practice varied from one community to the other.¹⁵⁶ Though the colonial state did allow the traditional customary practice of justice on petty cases, they failed to understand the different styles of justice practiced among the Nagas. The colonial state for their convenience in administrating the hill districts introduced a uniform system. Moreover, the colonial state efficaciously recognised certain people to manage the judicial system. For instance, the *dobashis* who were used as interpreters by the colonial officers later became the custodian of the customary laws.

The study of the rules and regulations in judicial proceeding shows that the judicial system evolved towards the modern method of justice. It restricted

¹⁵⁵ Op. cit., *Rules for the Administration of the Naga and Khasi and Jaintia Hills 1872*, Pp. 55-56 and p. 85. See, Op. cit., Piketo Sema, *British Policy and Administration in Nagaland 1881-1947*, Appendix-III, Pp. 187-188.

¹⁵⁶In some society, the function of the judicial system was placed in the hand of the village chief, some under the village elders and some with the village *durbar*.

traditional punishments, though the recognised village authorities were allowed to take certain cases. The colonial state preferred punishments through fines or whipping. Thus, most of the cases were decided in accordance with the colonial understanding of the law. Moreover, the fines received were to be handed over to the colonial state instead of village welfare. The decisions of the village authorities could be challenged in the higher court if the offenders were not satisfied with their decision. The option to appeal to a higher court had reduced the significance of the customary laws or village authorities. For example, the litigious Angami refused to pay the penalty imposed by the village authorities and they preferred to appeal to the Deputy Commissioner court.¹⁵⁷ The power of the chiefs, who once had the authority to order capital punishment, had been arbitrarily removed.

The consolidation of colonial rule had resulted in a control mechanism of 'civilised' order. The colonial government consistently took expeditions to provide 'order' in the Naga Hills. The colonial state with their superior technology of administration subjugated the hill people and acted as an 'agent of civilization'. In the process, the colonial state defined what was 'legal' and 'illegal', and through these distinctions it controlled the 'aggressive' hill communities. Thus according to the colonial record, the crime rate in the Naga Hills district was generally low. The control of the colonial state on the Nagas was so evident that the only occurrence of a disturbance in the society was mainly during festivals after consumption of liquor.¹⁵⁸ In other words, there were no 'organised crimes', and the offences against person and property were usually small.¹⁵⁹

As discussed, the duty of the police was always considered as 'light' in the frontier hill districts of Assam. Here are some of the details of the trial carried out in the Deputy Commissioner court in the Naga Hills district. In the annual administration record of 1884-85,¹⁶⁰ twenty people (17 only of whom were Nagas)

¹⁵⁷ Keith Cantlie, *Memoir of the Naga Hills as a Deputy Commissioner, 1919-1920*.

¹⁵⁸ External-A, Extract from the Proceedings of the Chief Commissioner of Assam, Judicial Department, No. 1067, dated Shillong, 2nd July 1885, *Administration Report of Naga Hills for 1884-85*, Sept. 1885.

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

were tried under the Penal Code, in which two of these cases were murders committed by Nagas. The first was the murder of a young Sema girl by three Lothas in an act of headhunting. The two accused were apprehended, tried and executed. The two Lothas were the first criminals who were given capital punishment in Kohima. The third accused died in the custody and the cause of his death was due to fright. The second case was the murder of the illegitimate child of two close cousins. The child was killed because of the superstitious belief. It was believed that an illegitimate child brought misfortune to the whole village if the child of such close kin was allowed to live. The father of the child who was convinced to kill the infant was sentenced to seven years of imprisonment.

Judicial oath

The practice of oath-taking was one of the most important forms of indigenous jurisprudence during the pre-colonial period. Every Naga ethnic group practiced certain oath-taking to settle any dispute between different parties or communities. The oath-taking proceeding is a sacred practice among the Nagas. It was through oath-taking that the Naga settled their disputes and conflicts. But it is important to note that not all the Naga ethnic groups give credence to oath-taking. The Angami and Lothas pay due importance to the oath-taking. However, communities like Ao and Sema did not take it too seriously. For the Angami Nagas swearing on the tiger teeth was considered as sacred but among the Ao and Sema Nagas it did not hold the same value. In fact to avoid taking oaths, the Ao Nagas usually deposited cash from both sides to the village council.¹⁶¹ B. C Allen, noted:

“The proceedings are generally a very friendly nature, and if one of the parties can induced to swear to anything, the other side are generally prepared to accept the statement sworn to as correct. The administration of the oath is, however a very solemn business”.¹⁶²

¹⁶¹ Memoir of time in the Naga Hills as a Deputy Commissioner, 1919-1920, Keith Cantlie.

¹⁶² Op. cit., B.C. Allen, *The Naga Hills and Manipur*, Vol. IX, p. 65.

Oath taking was considered to provide merit to the case. Both parties “stand before the seat of justice, separated by one or more interpreters, with whom they engage in the most animated converse”.¹⁶³ If a party lied, the Nagas believed in supernatural punishment. This supernatural punishment would manifest in the form of death, mysterious diseases or misfortunes to the lying party. So in most cases, when the truth was not ascertained, even the closest kin or relatives usually do not take part in oath taking for their fear of misfortune to befall on them.¹⁶⁴ The village council, consisting of village elders, after hearing the case interpreted and delivered justice according to the customary laws. The decision of the council was the final and could not be appealed further.

If the councils failed to come to a solution, the judgement was deferred for some period until there was a positive development in the case. The judgement of the case relied heavily on oath because the people believed in the ‘divine punishment’ if the oath taken was in bad faith. For instance, the Deputy Commissioner of Naga Hills Keith Cantlie recorded in his memoir wrote:

“A fixed period, usually a month, was passed to see whether misfortune such as death, sickness or ill luck would occur. If it did that side lost the case. If both sides had taken oath and no misfortune occurred and the property was divisible, the property in dispute was halved.”¹⁶⁵

The belief among the Nagas that taking oath in bad faith entailed misfortune might sound bizarre but there had been instances which proved the merit of this practice. One such instance of misfortune caused by taking oath in bad faith was recorded by Cantlie. A case was reported for robbing ornaments, dresses, and spears from a grave in a Angami village. The suspected man took an oath on his life and pleaded not guilty. The Deputy Commissioner personally sent a *dobashi* to enquire about the case but no evidence was found. However, six months later the

¹⁶³ Ibid.

¹⁶⁴ Op. cit., Memoir of time in the Naga Hills as a Deputy Commissioner, 1919-1920, Keith Cantlie.

¹⁶⁵ Op. cit., Memoir of time in the Naga Hills as a Deputy Commissioner, 1919-1920, Keith Cantlie.

man suddenly died. Cantlie noted it was “an event possibly unfortunate for him but fortunate for public morality.”¹⁶⁶

However, with the coming of the colonial state the oath-taking was overlooked for a new discourse. The colonial administration deconstructed the natives understanding of their traditional oath-taking process and supernatural beliefs. In the colonial legal system, scientific proof was necessary to validate their judgement. In the new system, the examination of the witnesses and evidence became more important and mandatory. The colonial authorities prioritized the evidence produced by the witnesses for delivering justice to the subjects. False statement during the trial was punishable in accordance to the law. This method was unlike the method practiced by the Nagas that depended on some super-natural intervention. Thus, the colonial state gradually enforced the importance of examination of evidences which were to be produced in the court, and where the “law countered each other”.¹⁶⁷

The Nagas were allowed to try petty cases and oath-taking continued in the Naga Hills while dealing petty cases though its importance among the people was slowly dying. The Deputy Commissioner in his tours usually took cases brought to him. In the cases he took up, some had oath-takings but there were cases where he settled the dispute without the oath-taking. The colonial administrators also constantly used the traditional judicial system of oath-taking to deliver the modern apparatus of justice. However, with the increasing influence of colonial rule in the Naga Hills, the Nagas especially concentrated in the headquarter region began to put more faith in the western-style of jurisprudence.¹⁶⁸ The Nagas instead of accepting the verdict of the village authorities often appealed to the Deputy Commissioner Court. Therefore, a clear shift and acceptance of the colonial modern

¹⁶⁶ Ibid.

¹⁶⁷ Op. cit., Sumanta Banerjee, *The Wicked City: Crime and Punishment in Colonial Calcutta*, Pp. 533-535. These witnesses were required to go through different process where the colonial state examine the characters, psychology, memory, and confession, apart from countering the law.

¹⁶⁸ Op. cit., Memoir of time in the Naga Hills as a Deputy Commissioner, 1919-1920, Keith Cantlie.

jurisprudence can be seen. The Deputy Commissioner Court was constantly preferred by the Nagas over the traditional oath-taking. In the pre-colonial period, the oath-taking was the highest court of appeal, but with the coming of the colonial rule it became the lowest court for appeal.

The oath-taking, which was the ultimate judicial system of the Nagas, was slowly losing its significance. Oath taking as a practice also declined because the colonial officials were less than serious about oath taking. In the last decade of the nineteenth century, A. W. Davis in his tour diary noted on how some Angami Nagas rejected the oath-taking practice.¹⁶⁹ In another case, a dispute between two Sema villages was heard by Mr. Cantlie, where both parties wanted to take an oath of Rs. 30. The Deputy Commissioner considered such oath-taking as not advisable for such small amount.¹⁷⁰ Here it can be observed that though the colonial state allowed the practice of oath-taking among the Nagas, it generally discouraged the practice as they saw the process of oath-taking as superstitious and absurd. Thus, the double standard of the colonial officials to deliver modern justice through the indigenous network has indeed created incomplete modernity in the Naga society.

Conclusion

The introduction of specialised law in the hill districts also introduced the modern administration of governance. This chapter looked at the colonial notions of power and authority, justice and punishment, and discussed the making of modern statecraft. The most noticeable change with the coming of the colonial administration was the development of law and order. The colonial government consistently used force against the raiding Naga groups. The raids conducted by the Nagas were categorized as barbaric and illegal. The military expeditions secured the gradual subjugation of the Naga Hills. However, as pointed out earlier, the colonial state did not bring a drastic transformation in the Naga society. The Naga

¹⁶⁹ Tour Diary of A W Davis, Esq ICS, Deputy Commissioner, Naga Hills, 1891.

¹⁷⁰ Op. cit., Memoir of time in the Naga Hills as a Deputy Commissioner, 1919-1920, Keith Cantlie.

Hills district was loosely administered under the colonial officials who held multiple responsibilities to supervise the indigenous people. The colonial policies were drafted to adapt or change the native networks, which inevitably led to the process of modernisation.

The spread of European model of modernisation happened with colonialization as the colonial state introduced new set of institutions.¹⁷¹ But the modernity that the Naga Hills experienced was an incomplete version of modernity. Although the colonial state did introduced new techniques of governance like organised military force, bureaucratic hierarchy, it also transformed the old institutions like the judicial system. The colonial state recognised and legitimised the traditional institutions, but also they infused certain administration practices of the modern state in them. All these processes led to the emergence of new political order and modern statecraft.

As discussed in the chapter, the coercive side of the state was evident through a control mechanism. There was a certain sense of collaborative effort by the colonial state to define crime and punishment. Although the Naga Hills were loosely administered, the village authorities no longer managed their affairs. The only clear colonial administrative machinery was in the form of the colonial bureaucracy. The Naga villages were then directly under the supervision of the colonial bureaucracy. This machinery indicates a precise control of the indigenous institutions.

¹⁷¹ Sudipta Kaviraj, *An Outline of Revisionist Theory of Modernity*, Cambridge University Press, European Journal of Sociology, Vol. 46, No. No. 3 (2005), p. 517.

Chapter III

Political-Economic Development: Incomplete Colonial Project

As discussed in Chapter I, the western, southern, and northern regions of India experienced a major reordering of land and community relations in traditional political economies (baluetdari and jajmani are clear cases of traditional systems of production based on community hierarchies that a vast range of modern scholarship have explored in order to show how a new legal rationality and global economic networks irreversibly altered the power fields of rural communities). I show that in the hills of North-East, particularly in the Naga Hills, there was no such major reconfiguration of land ownership and inheritance through colonial legal reforms and land settlements, as it was recognized that the political economy of these regions was organized on very different parameters. Henry Maine had theorized on a long perceived difference between civilizations. A long quote is very relevant here, as the North-East as a region was seen to rest on totally different customary/legal parameters, to disturb which would be highly impolitic, as also unnecessary as the region would be incorporated within British India as frontier strategy, not as a revenue –rich zone:

“The movement of the progressive societies has been uniform in one respect. Through all its course it has been distinguished by the gradual dissolution of family dependency and the growth of individual obligation in its place. The Individual is steadily substituted for the family, as the unit of which civil laws take account... not is it difficult to see what is the tie between man and man which replaces...those forms of reciprocity in rights and duties which have their oring in the Family...we may say that

the movement of the progressive societies has hitherto been a movement from *Status to Contract*.’’¹

This chapter shows how a new rising class, out of the community networks, began to share the new rationality of power and authority that the colonial state had created on the traditional hierarchies of power in the Naga Hills. Michael Edwardes in his work “*British in India 1772-1947: A survey of the nature and effects of alien rule*” observes that colonial rule in India ‘improvised regulations’ to satisfy their ‘everyday administrations’.² It was no different in the North-East frontier, as we saw the different kinds of administration for the plains and the hills. As discussed in the previous chapters, the colonial state administered the hills and the plains differently. The hill districts of Assam province were separated from the procedural code of laws. Therefore, we also find a distinct economic policy being introduced in the hill districts. In the early stage of colonial rule in Assam, the British continued with the indigenous machinery of revenue collection called *Khelwaree*.³ But soon the colonial state found difficulties to collect revenues based on the indigenous system. In 1833, the colonial state as an experiment abolished the indigenous system in the district of Darrang and Nowgong, and introduced a new fiscal system called *mouzas*.⁴ It introduced land tenure and brought a new concept of land rights in Assam. The *rayats* could now only sell or transfer his land by regular legal process.⁵

¹ Law in Progressive Societies, Henry Sumner Maine (from Ancient law [1861] London, John Murray (1912) chapters 2, pp. 26-29 and 5, pp. 123-174) in Law and Society, C.M. Campbell, Paul Wiles (eds.), Martin Robertson, Oxford, 1979. (pp. 22-23).

² Michael Edwardes, *British in India 1772-1947; A survey of the nature and effects of alien rule*, Rupa. Co, Calcutta, 1993, p. 76-77.

³ According to Khelwaree system land was held not in the community by the inhabitants of a village but by the members of a khel or guild organised on occupational or territorial bases. See, K. N. Dutta, *Assam in 1885*, Proceedings of the Indian History Congress, Vol. 14 (1951), p. 269.

⁴ Ibid.

⁵ S. D. Goswami, *British Revenue Policy in Assam and its Social Impact, 1826-1900*, in Ed. David Syiemlieh and Manorama Sharma, *Society and Economy in North-East India*, Vol. 3, Regency Publications, New Delhi, 2008, p. 176.

With the expansion of tea gardens from the late 1830s, the colonial state improvised their land settlement constantly. Thus, the first concrete step to change land settlement in Assam was made in 1838. The colonial state introduced the Waste Land Grant Rule of 1838 with the view to benefit the tea planters. To increase the growth of tea in Assam, the colonial state granted revenue-free on one-fourth of cultivated land and revenue-free for twenty years on the remaining land.⁶ However, failing to attract the European planters, the colonial state revised the 1838 rules and introduced Wasteland Settlement Rules in 1854. In these new rules, the colonial state promoted immigration as the land was given a lease for 99 years.⁷ Moreover, the planter can register land up to 500 acres (it was later reduced to 200 acres). The liberal approach of the colonial settlement in Assam significantly increased the number of tea planters, and they became “the biggest landlords in the countryside.”⁸ It resulted in a significant change in the demographic structure of the colonial Assam.

In 1861, the previous Rules were replaced with fee-simple Rules (no authorisation condition was attached).⁹ In 1868 the colonial government introduced Land Revenue Settlement which increased the land rates to almost double. The colonial state wanted the government *ryots* to take a renewable land lease for ten years.¹⁰ Sanjib Baruah argues that the colonial state wanted the Assamese peasants to adapt settled agriculture. But it did not go according to the colonial interest as the Assamese peasants were not fascinated with long term contracts or obligations.¹¹ Therefore, the colonial government again introduced new regulation, the Settlement Rules of 1870. Under this regulation, the colonial state categorised the Assam land for assessment. The first category of land was those lands suitable for settled cultivation, from which the colonial state could generate permanent revenue. The

⁶ Sanjib Baruah, *Clash of resource use regimes in Colonial Assam: A nineteenth-century puzzle revisited*, The Journal of Peasant Studies, 05 Feb 2008, p. 118.

⁷ Ibid.

⁸ Ibid.

⁹ Amalendu Guha, *Planter Raj to Swaraj: Freedom Struggle and Electoral Politics in Assam, 1826-1947*, Tulika books, Delhi, Third Edition 2014, p. 11.

¹⁰ Op. cit., Sanjib Baruah, *Clash of resource use regimes in Colonial Assam*, p. 109.

¹¹ Ibid, pp. 109-111.

second category was lands that were not permanently cultivated and which were to be assessed annually. Thus, in Assam plain districts, we find the arrival of the colonial logic on individual property rights.

Though the Land Settlement Rules was implemented in Assam, it was neither supported fully by the colonial officials nor by the Assamese peasants. In 1883, the colonial state introduced the Decennial Settlement Rules with the view to introduce long term land assessment in Assam. Again it failed to implement its objective, but it resulted in a clear distinction of agricultural land in Assam- cultivatable permanently and cultivatable irregularly.¹² Subsequently, with the enactment of Assam Land and Revenue Regulation of 1886, the colonial state provided a broad legal system for the administration of land revenue in Assam. The regulation was only sanctioned in the plain districts of Assam- Goalpara, Kamurp, Darrang, Nowgong, Sibsagar, and Cachar.¹³

In contrast to the plain land settlement, the hill frontiers were taxed through house tax. This was a strategic deployment of psychological control mechanism that operated from a far-removed power centre. The tax though nominal, yet it had huge importance on the shifting perception of the locus of power. The occupation of the hill areas was also followed with the introduction of a modern mechanism of networks to consolidate the power and authority of the colonial state. While studying the revenue systems of the hill frontiers, it is important to understand the significance of the house tax assessed on the hill people. This new economic policy created a different trajectory in the modernizing process that is incomplete modernity.

The central objective of the chapter is to understand the change in the political-economy of the hill areas after the colonial intervention. It emphasises on the impact of house tax, and how the colonial state categorised the hill people, and the colonial understanding of the differential natures of Naga wealth and the decision to levy different house-tax rates. Was this colonial differentiation the

¹² Ibid, p.11.

¹³ The Assam Land and Revenue Regulation, 1886, Regulation 1 of 1886.

beginning of the emergence of the middle class? It will also look into the transformation of the economy from barter to monetary economy with the implementation of house tax. The demand for labours by colonial government and the need for cash to pay tax created a new network. Thus the question arises again, does the flow of currency in the hill districts changed the outlook of the indigenous society? What was role of the labour corps in the growth of middle class? Finally, this chapter focuses on the improvised political-economic regulations by the colonial government that determined the profitability of colonialism. The improvisation of the colonial state alienated resourceful lands of the Naga Hills. These lands were transferred to the neighbouring plain districts of Assam for land assessment.

Assertion of political authority through house-tax

Neeladri Bhattacharya examines the workings of the colonial states that reshaped the agrarian world. He analyses how the colonial state forced some tribes of the Punjab province to settle in a fixed territory to generate revenue. The colonial state allotted land to the tribes for settled cultivation. In the process, the colonial state recognised the tribes as joint proprietors and imposed revenue.¹⁴ Such radical change completely transformed the rural space. For the colonial government, revenue was the priority, and thus it was important to fix a piece of land as “pastoralists were more difficult to control, govern, and extract revenue.”¹⁵ However, in the Naga Hills, it was the complete opposite of what was happening in other parts of India. The colonial government accepted the pastoralist lifestyle of the Nagas. As mentioned earlier, the annexation of the Naga Hills was only to protect the plain districts of Assam that provided revenue to the colonial government. So after the annexation, as a symbol of authority, the colonial state imposed house-tax. Thus, land as a resource was not reshuffled in the Naga Hills

¹⁴ Neeladri Bhattacharya, *The Great Conquest: The colonial reshaping of a rural world*, Permanent Black, New Delhi, p. 139.

¹⁵ Ibid, p. 69

like in the other regions. In other words, the land was not regulated as part of a new land market. Although the colonial government introduced the civil side (house tax), it was very weak as it was not based on land property rights.

The establishment of headquarter in Samaguting was the beginning of the introduction of modern statecraft in the Naga Hills. The allegiance of the Nagas to the British government introduced 'modern networks' or technologies of governance in the Naga Hills. One such 'modern network' was the collection of annual house-tax. The Naga villages which had accepted the suzerainty of the colonial power paid annual house-tax and in return, the Nagas were protected from the external forces. According to Piketo Sema, house tax represented an extension of imperial influence,¹⁶ because the house-tax payers were distinguished from the non-house-tax payers in the Naga Hills. The house tax payers were considered as British subject whereas the non-tax payers remained independent from the authority of the colonial government. In 1880, writing to the Secretary of the Chief Commissioner, the Political Officer of the Naga Hills, G.H. Damant wrote, "savage who pays revenue considers himself a British subject, bound to carry all orders given to him, while savage who does not pay revenue considers himself independent, and free to obey orders or not as he chooses."¹⁷ Further, Damant considered that the annual payment of house tax was in relation to their political policy rather than economic. In other words, the occupation of Naga Hills was to protect the colonial government economic interest in the administered plains of Assam.

The continuous expeditions (1839-51) in the hills had raised many discussions on how to control the 'subordinate' Nagas. During this period, the Nowgong authorities proposed for a substantive district, whereas the Commissioner, Captain Jenkins, wanted the small tract to be attached to the

¹⁶ Piketo Sema, *British Policy and Administration in Nagaland 1881-1947*, Scholar Publishing House, New Delhi, 1992 (Second Edition), p. 115.

¹⁷ Ibid, p. 122.

Nowgong authorities.¹⁸ Though the opinions were split, there was a common agreement among the authorities that house tax should be levied. Thus, the Rengma Naga community inhabiting the border of Nowgong was taxed in 1847, after a written agreement was signed between Captain Butler and thirty-two Rengma villages.¹⁹ The first Naga village to pay house tax after the establishment of Naga Hills headquarters was Samaguting. The secure and peaceful condition of Samaguting villages, under the British, influenced some of the neighbouring small villages to submit themselves to the colonial authority.²⁰ Another reason for their submission was to seek protection from the colonial power from the hands of the powerful neighbouring villages. In the process, they paid annual house tax and obeyed the orders of the government. The payment of house tax was also seen as an important ‘civilising effect’ on the Nagas because they were allowed to mix freely with the people.²¹ But with the gradual expansion of territorial administration in the Naga Hills, the colonial state repeatedly reviewed the house tax rates. Thus, we see the construction of ‘middle-class’ based on their economy through the imposition of different house tax rates by the colonial state. Furthermore, through house tax the colonial state encouraged the Nagas to preserve the traditional customs and sometimes used it as an apparatus of justice.

The responsibility of collecting house-tax was given to the village headmen or *gaonburas*. And they received a commission of twelve and a half percent of the collection.²² The *gaonburas* were to maintain the records of the houses which paid tax or were exempted from paying tax. During the annual tour of the Deputy Commissioner or by his subordinates, the records maintained by the *gaonburas*

¹⁸ The Nowgong authorities proposed to make the hills a substantive district, under separate officer whereas Captain Jenkins, proposed to attach the tract to Nowgong giving an extra Assistant. Alexander Mackenzie, *The North-East Frontier of India*, New Delhi, Mittal Publication, Reproduced 2011, p. 105.

¹⁹ John Butler, *Travels and Adventures in the Province of Assam: During a Residence of Fourteen years*, Munshiram Manoharlal, New Delhi, 2004 (First published 1855), pp. 121-122.

²⁰ Op. cit., W.W. Hunter, *Statistical Account of Assam Vol. II*, p. 192.

²¹ Ibid.

²² B.C. Allen, *Naga Hills and Manipur, Volume IX*, Calcutta: Printed at the Baptist Mission Press, p. 61.

were assessed. If there was tax fraud, the *gaonburas* had to pay half of the fine amount fined on the fraudulent persons.²³

As mentioned earlier, the Nagas initially paid the annual house tax to the government for protection. As the government gradually extended its authority in the Naga Hills, this revenue policy was continued and it became the major source of revenue (see table 3.2). Originally, the house tax for all Naga villages was fixed at Rs. 1, one *maund* of rice and 15 days labour to the government.²⁴ However with the expansion of administrative areas, the attitude of the colonial government also changed. The government fixed different house tax rates according to the wealth of the region. In the places where wet cultivation was practice, the rate of the house tax was higher compared to the areas where shifting (*jhum*) cultivation was practiced. This strategy of the colonial state indicates a weak civil side of the colonial legislation in the Naga Hills. The colonial state did not introduce proprietary rights over land but allowed communitarian landholdings. In other parts of India, proprietary rights over land and individual land rights were decided by the colonial courts of law. The idea to tie an individual to property was introduced very late and only partially in the Naga Hills. Therefore, it is argued here that the colonial process in the Naga Hills was incomplete.

The Nagas paid their annual house tax ranging from Rs. 1 to Rs. 2. But when Naga Hills became a full-fledged district of the British Assam province, the house-tax was revised again. In 1881, the Chief Commissioner of Assam, Steuart Bayley, suggested for assessment of different house tax rates in proportion to the wealth of the individual householder.²⁵ In his justification, he proposed that the rate of house tax was to be fixed in accordance with their cultivation practices. Thus, he recommended house-tax of the Angami Naga varying from Rs. 1 to Rs. 3 and for other Nagas like the Rengma and Lotha to Rs. 1.²⁶ This was solely because of the

²³ Op. cit., Piketo Sema, *British Policy and Administration in Nagaland, 1881-1947*, p. 123.

²⁴ Assam Secretariat, General Department, Revenue- A, Revision of the Rate of Assessment of House-Tax in some of the Angami, Sema, and Kacha Naga villages in the Naga Hills District, 1904, p. 2. No. 38-44.

²⁵ Ibid.

²⁶ Ibid.

superior technique of cultivation (terrace) practiced by most Angami Naga villages. Thus, the British considered the Angami Naga richer than the other Nagas. Meanwhile, for the other Nagas he suggested for the continuation of one maund of rice in addition to the house tax.²⁷ Subsequently, the rate of the Angami Nagas was fixed at Rs. 2 whereas the other Nagas paid Rs. 1 and one maund of rice. The maund of rice was supplied to “the military police station at Kohima at a fixed rate per maund below its market price in lieu of cash.”²⁸

In 1884 the British government introduced a uniform rate of house tax throughout Assam province. The government fixed the rate at Rs. 2 to “abolish deferential rates which among an ignorant and timid people easily become a means of extortion.”²⁹ But Charles Elliott, Chief Commissioner of Assam, expressed his opinion to not change the rate of house tax in the Naga Hills.³⁰ Thus, the Nagas and the Kukis who resided in the Naga Hills continued to pay the old rate of Rs. 2. The following table shows the amount paid by the different Naga groups and other communities living in the Naga Hills for the year 1884-85.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Extract from the Proceedings of the Lieutenant-Governor of Eastern Bengal and Assam in the Revenue Department, No. 8075C., dated Shillong, the 13th August 1906; Note by the Commissioner, Surma Valley and Hill Districts, on the enhancement of house-tax in the Khasi and Jaintia Hills, No. 103, p. 12.

³⁰ Assam Secretariat, General Department, Revenue- A, Revision of the Rate of Assessment of House-Tax in some of the Angami, Sema, and Kacha Naga villages in the Naga Hills District, 1904, p. 2. No. 38-44.

Tribes	No. of Villages	No. of Houses	Rate in Rs	Amount in Rs	Commission to the headmen in Rs.
Angami	60	6,316	2	12,632	2,626
Kacha Naga	27	1,182	2	2,364	473
Sema	7	1,417	2&1	1,717	343
Lotha	54	6,308	1	6,308	1,261
Rengma	8	1,328	1	1,328	266
Miscellaneous (7 mauzas in the north-west of district)	8	1,716	2	3,432	335
Kuki	8	516	2	1,032	206
Total	172	18,783	-	28,813	5,590

Table- 3.1. Source: Administration Report, Naga Hills, 1884-85³¹

House tax: A incomplete colonial modernity

Although house tax was levied after the occupation of the hills, a proper form of regulation was only implemented in the year 1886. Under Section 47 and 64 of the Assam Land and Revenue Regulation 1886, house tax was to be collected from a male person who was eighteen years and above, and had land for cultivation at the time of assessment.³² The colonial state collected house tax on two conditions: (a)

³¹ External-A, Foreign Department, Administration Report of Nagas Hills for 1884-85, September 1885, 36-38.

³² Revenue Department, Assam Secretariat, Revenue-A, Assessment of House-Tax at higher rates on the Nagas who adopt a foreign style of living, No. 92-100, August 1931, p. 2.

rice land under British administration and (b) building sites at headquarters stations.³³

As mentioned, the British extended this annual house tax to all Naga villages that came under their administration. After the colonization of the Ao Nagas territory in 1889, the house tax was fixed to Rs. 2 per house.³⁴ In the first decade of the twentieth century, there were certain areas which were under the political control of the British but they did not pay house tax to the government. This anomalous state of affair had created a sort of resentment among the tax-paying Nagas.³⁵ Thus, on the recommendation of the Chief Commissioner, the political controlled areas were permanently annexed and imposed moderate house tax.

The house tax in the Naga Hills was again revised for certain communities at the end of the nineteenth century. In Wokha tahsil (revenue subdivision which includes Lotha, Rengma and Sema community but was abolished in 1903), the house tax was raised from Rs. 1 to Rs. 2 effectively on 1st April 1894. Similarly in 1895, the house tax for the Angami Naga was raised to Rs. 3 from the previous rate of Rs. 2. The colonial government increased the house tax but it stopped the practice of collecting rice with house-tax for the next ten years.³⁶ This shows that the Angami Nagas continued to pay higher house tax compared to the other Naga groups. The reason behind this imposition of higher tax rates for the Angami Naga was because they practice a different kind of cultivation which yielded more production. Unlike the Angami Naga, the other Naga groups did not practice terrace cultivation, so the other groups' financial status was lower than the Angamis.³⁷

³³ The Assam Land Revenue Manual, Vol. 1, Sixth Edition, Printed at the Assam Government Press, Shillong, 1963, p. 173.

³⁴ Assam Secretariat, General Department, Revenue- A, Revision of the Rate of Assessment of House-Tax in some of the Angami, Sema, and Kacha Naga villages in the Naga Hills District, 1904, p. 2. No. 38-44.

³⁵ Extracts on the Nagas from Assam Administrative Report, 1903-04.

³⁶ Assam Secretariat, General Department, Revenue- A, Revision of the Rate of Assessment of House-Tax in some of the Angami, Sema, and Kacha Naga villages in the Naga Hills District, 1904, Pp. 3-4. No. 38-44. (NSA).

³⁷ Assam Secretariat, General Department, Revenue- A, From- Major Howell, Deputy Commissioner Naga Hills; To- The Secretary to the Chief Commissioner of Assam; Revision of

However, there were eight Angami villages which practiced *jhum* cultivation and therefore there was a proposal for reduction of house tax on those villages.³⁸ The only other Naga village that paid equal to the Angami Nagas was the Lozema village of the Sema community, though they did not practice terrace cultivation. The Deputy Commissioner, Mr. Howell, recommended for the reduction of house tax for the eight Angami villages and the Lozema village. His recommendation was sanctioned by the Secretary to the Chief Commissioner of Assam, and the house tax rate was revised and reduced to Rs. 2.³⁹ Meanwhile, the foreigners in the Naga Hills paid Rs. 5 house tax.⁴⁰

However, the new Deputy Commissioner was critical of Howell's house tax policy and the commissioner recommended for a review for certain villages in the Naga Hills. The Deputy Commissioner proposed for the tax reduction of four small Angami villages-Pherima, Mezephima, Razaphima, and Setekema owing to the poor state of agricultural production and sickness.⁴¹ At the same time, he was severely critical of the tax reduction in Lozema village. To him, the people of Lozema were economically better. In terms of trade, they were second only to Khonoma (Angami village), and the natives had no objection to if the house tax was raised.⁴² Consequently, as per the recommendation of the Deputy Commissioner, the government reduced the rate of house tax from Rs. 3 to Rs. 2 in

the Rate of Assessment of House-Tax in some of the Angami, Sema, and Kacha Naga villages in the Naga Hills District, 1904, p. 6. No. 42.

³⁸ A total of eight Angami Naga villages practiced *jhuming* cultivation and thereby the rate of Rs. 3 for all Angami Nagas had created a burden for some villages. Major Howell, in this regard proposed for the reduction of house tax in some certain Angami villages to Rs. 2 equivalent to other Nagas. Ibid, p. 6.

³⁹ Assam Secretariat, General Department, Revenue- A, From- The Secretary to the Chief Commissioner of Assam; To- The Deputy Commissioner Naga Hills, dated Shillong the 17th May 1904, No. 22Sett-209R.

⁴⁰ Imperial Gazetteer of India, *Provisional Series Eastern Bengal and Assam*, Superintendent of Government Printing Calcutta, 1909, p. 479.

⁴¹ Revenue A, Government of Eastern Bengal and Assam, Revenue Department. From- The Deputy Commissioner, Naga Hills; To- The Commissioner, Surma Valley and Hill Districts, dated Kohima, the 18th January 1906, No. 1633G. No. 72. *Revision of the rate of house-tax in certain villages in the Naga Hills districts.*

⁴² Ibid.

the case of the four Angami villages, and the house tax for Lozema village was increased from Rs. 2 to Rs. 3.⁴³ Thus, we see that house tax was raised not only based on the methods of cultivation but also on the economic prospect of the successful trading villages.

Principal heads	1890-91	1900-01	1901-02	1902-03	1903-04
Land Revenue (ordinary)	1,557	10	10	10	10
House Tax	48,428	59,708	60,558	69,944	64,650
Judicial stamps	826	1,376	1,399	2,289	2,439
Non-Judicial Stamps	239	282	314	310	361
Opium	6,916	2,263	2,178	2,208	3,306
Country Spirit	750	556	420	1,163	1,142
Ganja	517	441	706	749	687
Other heads of excise	263	880	543	568	769
Assessed taxes	2,308	2,834	2,349	2,125	2,176
No of assessesees per 1,000	1	1	1	-	-
Total in Rs.	61,804	68,350	68,477	99,942	75,540

Table: 3.2. Source- B.C. Allen.⁴⁴

⁴³ Revenue A, Government of Eastern Bengal and Assam, Revenue Department. From- The Chief Secretary to the Government of Eastern Bengal and Assam; To- The Commissioner, Surma Valley and Hill Districts, dated Shillong, the 21st March 1906, No. 3046C., No. 73. *Revision of the rate of house-tax in certain villages in the Naga Hills districts.*

⁴⁴ Op. cit., B.C. Allen, *The Naga Hills and Manipur*, Vol. IX, Table VI (Finance), p. 80.

As discussed, the house tax played a crucial role in subjugating the Naga Hills. It provided a political space to the British government in extending their power and authority. The gradual territorial expansion and the administration of the hill areas empowered the colonial government to change its policy through house tax. It was 'local', it was 'penetrating', in the sense it touched all Nagas, and it declared the presence of alien authority. It was also an indicator as to how incomplete the colonial regime in the North-East, especially in the Naga Hills was as house-tax had no link of the reorganisation of land property rules. Thus, a new modern network was used to administer the Nagas. The house tax policy was decisive in the emergence of the middle class in the Naga Hills. In the late nineteenth century, the British divided the Nagas on the pretext of house tax based on their wealth (and the house tax). The rich Nagas were to pay a higher rate of tax to the government. In 1885, the Deputy Commissioner, Mr. McCabe remarked:

“Prior to the introduction of British administration, a great difference existed between the wealthy owners or terraced cultivation and those who had to eke out an existence by jhuming or working on the fields of their more opulent neighbours. Wealth was power; and as might was right, no poor man could rest secure, even in the possession of his small property. The slightest pretext was sufficient, and the weaker party found himself deprived of his land and reduced to a condition little superior to that of a slave.”⁴⁵

Further, McCabe argued that the Angami Nagas living in the capital received all facilities like security to life, improved communications, and trades compared to other Nagas.⁴⁶ The British continued the approach of identifying the wealthy Nagas and based on their wealth the rate of house tax was fixed and collected. Although the division was created mostly on spatial location, yet the colonial government identified the wealthy hill people which led to the emergence of the middle class.

⁴⁵ External A, Administration Report, Naga Hills District, 1884-85 September 1885. From: E. Stack, Esq, Officiating Secretary to the Chief Commissioner of Assam; To- H.M. Durand, Esq, C.S.I. Secretary to the Government of India, Foreign Department, No. 36.

⁴⁶ Ibid.

The wealthy or middle class Nagas by the twentieth century began to build houses with “corrugated iron roofs”.⁴⁷ The colonial officials termed it as forging “foreign style” and the Nagas commonly called the houses as ‘bungalows’. The contact with colonial civilizing force also influenced the middle class to wear foreign cloths. This rapid transformation of the middle class Nagas caused distress to some of the colonial officials. In 1926, the Deputy Commissioner, J.H. Hutton proposed to raise the house tax of the middle class Nagas by Rs. 5. He argued that the increase in house tax would discourage extravagance and at the same time increase the district revenue.⁴⁸

However, the Commissioner of Surma Valley and Hills Division, Mr. Webster rejected the proposal. He described the proposal as “novel principle of individual discrimination” and “entirely novel criterion”.⁴⁹ Further, he asserted that the improved financial condition should not encourage the government to implement different house tax rates in the Naga Hills district because such increase in house tax was against the “principle of taxation in civil life”, and it was “encroaching on the individual liberty”.⁵⁰ Therefore, Webster refused to send the proposal to the government. In 1928, the Deputy Commissioner again reviewed the house tax rate of the middle class Nagas living in ‘foreign style’. The new Commissioner, A.J. Laine, upheld the opinion of his predecessor and noted that the Nagas were already discriminated in collection of house tax. Discussion was held with the other hill district officers in 1929 on the matter to increase the house tax, which the Commissioner failed to find any valid reason to put forth to government.

⁴⁷ Revenue Department, Assam Secretariat, Revenue-A, Assessment of House-Tax at higher rates on the Nagas who adopt a foreign style of living, No. 92-100, August 1931, p. 2.

⁴⁸ Revenue Department, Assam Secretariat, Revenue-A, From- J.H. Hutton, Esq., C.I.E., D.Sc., Deputy Commissioner, Naga Hills, to- the Commissioner, Surma Valley and Hill Division, Assessment of House-Tax at higher rates on the Nagas who adopt a foreign style of living, Copy letter No. 1555G., dated Kohima, the 2nd August 1926, No. 93, p. 7-8.

⁴⁹ Revenue Department, Assam Secretariat, Revenue-A, From- J.E. Webster, Esq., C.I.E. I.C.S., Commissioner, Surma Valley and Hill Division, to- the Deputy Commissioner, Naga Hills, Assessment of House-Tax at higher rates on the Nagas who adopt a foreign style of living, No. 94, Copy of letter No. 690T., dated the 25th September 1926, p. 8.

⁵⁰ Revenue Department, Assam Secretariat, Revenue-A, Assessment of House-Tax at higher rates on the Nagas who adopt a foreign style of living, No. 92-100, August 1931, p. 2.

But in 1931, the new Deputy Commissioner of the Naga Hills, J.P. Mills again forwarded the same proposal to improve the financial constraints in the hills. Mills in his letter proposed to increase the house tax to Rs. 5 for the Nagas who habitually wore foreign cloths and lived in 'foreign style'.⁵¹ J. Hezlett, the Commissioner of Surma Valley and Hill Division, took a different stand from his earlier predecessors and recommended the Deputy Commissioner of the Naga Hills, Mr. Mills, to tentatively work for three years with the view to increase the house tax rate for the Nagas living in the foreign style. In his defence, the Commissioner noted the financial position of the hills and saw "no practical difficulty in determining who should be so assessed".⁵² A. V. Jones, Assistant Secretary, also echoed the view of Hezlett, in the official letter. Though he doubted whether the proposal would be accepted, he welcomed any change or increase in revenue in the deficit district like the Naga Hills. Similarly, L.H. Ammond favoured the proposal to increase the house tax which he believed would discourage the Nagas to live in extravagances.⁵³ In his view, the Naga Hills had already been discriminated when it came to the house-tax, as some groups were already paying more than the other groups. However, the common view of all the officers regarding the proposal to increase the house tax was based on the final assurance of the Deputy Commissioner of the Naga Hills. The Deputy Commissioner was to ascertain whether the increase in house tax would bring any repercussion. S.P. Desai in his reply to Mills's letter clearly stated:

"If Mr. Mills can give an assurance that there would not be any civil disturbance or organised refusal to pay the increased tax, Government would agree to try it as an experiment. As it would be desirable to lay

⁵¹ Revenue Department, Assam Secretariat, Revenue-A, From J.P. Mills, Esq., I.C.S., Deputy Commissioner Naga Hills, To the Commissioner, Surma Valley and Hill Division, Assessment of House-Tax at higher rates on the Nagas who adopt a foreign style of living, No. 99, copy of letter No. 2241G., dated Kohima, the 10th September, 1931, Pp. 10.

⁵² Revenue Department, Assam Secretariat, Revenue-A, From, J. Hezlett, Esq., C.I.E. I.C.S., Commissioner, Surma Valley and Hill Division, To, The Revenue Secretary to the Government of Assam, Assessment of House-Tax at higher rates on the Nagas who adopt a foreign style of living, No. 92, No. 487T., 11th July 1931, p. 7.

⁵³ Revenue Department, Assam Secretariat, Revenue-A, Assessment of House-Tax at higher rates on the Nagas who adopt a foreign style of living, No. 92-100, August 1931, p. 2.

down, if it could be done, the criterion which decides the “foreign style of living”. I am not ask that suggestions to effect this may be submitted to Government.”⁵⁴

Though the proposal was never sanctioned by the government, it was clear that the middle class was coming up from the wealthy Nagas. A clear evidence of the emergence of the middle class can be seen with the imposition of house tax. The labour market which was also part of house tax regulation played a crucial role in accumulating wealth. This is further discussed in the later part of the chapter.

The British also used the house-tax as a tool to preserve the ancient customs of Nagas. As noted above, the colonial officials in the Naga Hills were critical of the Nagas living in foreign lifestyle. To stop the influences of other civilization, the Deputy Commissioners proposed to increase the rate of house tax. In another case, the government exempted the house tax of pastors of two villages- Assangma and Keelingmen under the Mokokchung sub-division, when they agreed to wear traditional clothes instead of foreign clothes.⁵⁵

The logic of the colonial government to impose house tax was to maintain a peaceful state of affair in the Naga Hills. The British creatively imposed and exempted house tax on some Naga villages as an act of punishment or reward. When the people of Lozema village refused to accept the British authority in the 1880s, the government imposed a house tax of Rs. 2 instead of Rs. 1, which was the tax amount normally collected outside the Angami Naga territory.⁵⁶ Likewise, the government also raised the tax of the Kacha Naga during the agitation of Gaidinliu in early the 1930s. However, the government also promised remission of house tax

⁵⁴ Revenue Department, Assam Secretariat, Revenue-A, From S.P. Desai, Esq., I.C.S., Offg. Secretary to the Government of Assam, Revenue Department, To the Commissioner, Surma Valley and Hil Division, Assessment of House-Tax at higher rates on the Nagas who adopt a foreign style of living, No. 96, No. 2551R, dated Shillong, the 14th August 1931, p. 9.

⁵⁵ Op. cit., Piketo Sema, *British Policy and Administration in Nagaland, 1881-1947*, p. 124.

⁵⁶ Ibid, p. 124.

for a period of 10 years as a reward to any person who provided information on Gaidinliu.⁵⁷

Colonial labour market: The emergence of working-class

According to Charles Tylor 'acultural' modernity leads to "a loss of traditional beliefs and allegiance".⁵⁸ The new colonial administration system transformed the 'static' Naga society. The colonial state introduced a secular outlook and mobility, which forced the change on the Naga traditional equation.⁵⁹ The new colonial administration system transformed the 'static' Naga society. The colonial state introduced a secular outlook and mobility, which forced the change on the Naga traditional equation.⁶⁰ The coming of the colonial state in the Naga Hills gave rise to the working labour class. This gave a new modern identity defined through the global market. It introduced money as a standard medium of exchange. In other words, the local economy was incorporated into global capitalism. It constructed a new set of socio-economic stratification in the Nagas society giving a new colonial 'modern outlook'.

India was a key resource of labour and the labour market was a well-developed market system.⁶¹ The demand for labours or coolies in the North-East frontier emerged mainly due to two factor- 'tea plantation' and 'public works'. The fast growing tea industry in Assam demanded a huge number of coolies not only from the frontier but also from other parts of British India. Amalendu Guha argues that tea the industry was rapidly growing because of the high demand for Indian tea in England. The increase of tea import in England from India grew almost twenty

⁵⁷ Extracts on Nagas from Assam Administrative Report 1931-32.

⁵⁸ Ibid, p. 175.

⁵⁹ Charles Taylor, Two Theories of Modernity, in Dilip Gaonkar (ed.), *Alternative Modernities*, Duke University Press, Durham, London, 2001, pp. 172-173.

⁶⁰ Alberto Martinelli, *Global Modernization: Rethinking the Project of Modernity*, Sage Publication, London, 2005, pp. 8-12.

⁶¹ Bernard S. Cohn, *Colonialism and Its Forms of Knowledge: The British in India*, see foreword by Nicholas B. Dirks, p. 58.

times from 4 percent in 1866 to 59 percent in 1903.⁶² Here the central focus of the study will be on colonial labour market. The labourers were recruited for public works to construct road, bridges, tour along with the European officials and to work in various other government departments.

The practice of recruiting labourers for manual works can be traced back before the annexation of the Naga Hills. Captain Vincent who conducted the eight expeditions⁶³ in the Naga Hills wrote in his diary that he hired the Nagas for six annas.⁶⁴ The rough and unknown terrain of the Naga Hills compelled the British officers to take the help of the hill people to assist them mainly in carrying loads during their expeditions and surveys. With the establishment of Samaguting as the headquarter for the Nagas, the colonial government implemented certain policy to meet their labour demand in the Naga Hills. The Nagas along with the house tax was made to provide labour for 15 days a year to the government.

The colonial officials often took the labourers from the plains working in the tea plantation into the hills as the supply of labour from the native people was inadequate in labour supply. This agitated the tea planters. In 1873, to overcome this crisis, Alexander Mackenzie recommended for a permanent establishment of labour corps in North-East frontier to meet the demand of labour works.⁶⁵ The introduction of inner-line further deteriorated the situation of the labour market in the hill areas. The difficulty to get labour supply from the native people effected the market wages. In 1875, the Political Agent Captain Butler noted that “the Nagas are a very roving disposition and have an intense dislike for manual labour and anything like continuous work.”⁶⁶ The government paid Rs. 9 to Rs. 10 a month to the coolies. Therefore, the assistant political agent, Jack Needham, attempted to

⁶² Op. cit., Amalendu Guha, *Planter Raj to Swaraj: Freedom Struggle and Electoral Politics in Assam, 1826-1947*, p. 28.

⁶³ Op. cit., John Butler, *Travels and Adventures in the Province of Assam*, p. 179.

⁶⁴ Annual Administration Report of the Naga Hills Political Agency 1875-76, From- P. J. Carnegie, Esq, Political Agent, Naga Hills, To- S.O.B. Ridsdale, Esq, Secy. to the Chief Commissioner of Assam. Dated Samaguting, 1st May 1876, No. 27.

⁶⁵ Lipokmar Dzuvichu, *Empire on their Backs: Coolies in the Eastern Borderlands of the British Raj*, IRSH 59, Internationaal Instituut voor Sociale Geschiedenis, 2014, p. 92.

⁶⁶ Foreign Department, Industrial School in the Naga Hill, September 1875, No. 192.

reduce the rate and increase the working days from three to four days. But this reduction of rate and increase of working days failed utterly as the Nagas stopped working.⁶⁷ At the same time, the labourers brought from outside the hills were slowly decreasing because of the inner line regulation. The official reports of 1876-78 noted the difficulty of keeping the Bildar corps in the Naga Hills.⁶⁸ The restriction on the foreigners to enter beyond the line had created the need for more labour supply from the natives. Most of colonial officials supported for setting up native labour corps in the hills. The strongest of all to advocate for native labour corps was Johnstone. He argued that employing the labourers from the plains would only make the hills people lazy.⁶⁹ Thus to meet the demand for labour, the colonial policy towards the hill people also changed.

The change of administration from a 'political control' to 'direct' (district) also changed the political economy of the Naga Hills. In the new regulation, the British villages were required to work for the government for fifteen days a year. The high wage demand of the Naga coolies had been the subject of discussion as it hindered development even after the aforesaid law on house tax. The Chief Commissioner in 1883 recommended the Deputy Commissioner to lower the exorbitant demand of wages by the Naga coolies. Mr. C. A. Elliot, Chief Commissioner of Assam, was concerned of a "very unequal way, causing extreme dissatisfaction"⁷⁰ to the colonial government. Acknowledging the high demand, McCabe noted the situation was akin to the "natural laws of supply and demand".⁷¹ The demand for coolies was high during road construction because there was demand for labour by both the government and the transport department which

⁶⁷ Annual Administration Report of the Naga Hills Political Agency 1875-76, From- P. J. Carnegy, Esq, Political Agent, Naga Hills, To- S.O.B. Ridsdale, Esq, Secy. to the Chief Commissioner of Assam. Dated Samaguting, 1st May 1876, No. 27.

⁶⁸ Ibid. Also see Political-A, Naga Hills Administration report, 1877-78. From: Lieut. H. Maxwell, Officiating Political Officer, Naga Hills; To- S.O.B. Ridsdale, Esq, C.S., Secretary to the Chief Commissioner of Assam, No. 122, dated Wokha, 25th May 1878, No. 59.

⁶⁹ Op. cit., Lipokmar Dzuvichu, *Empire on their Backs: Coolies in the Eastern Borderlands of the British Raj*, p. 95.

⁷⁰ Robert Reid, History of the Frontier Areas bordering on Assam From 1883-1941, Spectrum Publication, Guwahati: Delhi, Reprint 1997, p. 101.

⁷¹ External-A, Administration Report of Nagas Hills for 1884-85, September 1885, 36-38.

enhanced the labour price.⁷² The villages under the British were now required to supply labour to the government when demanded. Until 1895, the native labourers and porters were intensively used for constructing roads where they earned a lot of money.⁷³ But with the completion of road construction, the demand for labour also decreased drastically. The following two tables illustrate the number of labourers employed in the Naga Hills in different departments:

Name of Dept.	1889-90	1890-91	1891-92	1892-93	1893-94
Civil Department	686	1,566	1,070	764	1,016
Police	1,235	2,179	2,054	3,713	2,150
Military	626	701	4,191	9,201	5,535
Telegraph and stamp; Postal Departments	20		2,149	224	45
Commissariat	678	379	8,651		
Public Works Department	184	4,541	2,392	20,574	77,697
Total	3,429	9,386	20,507	34,476	86,443

Table 3.3. Source: Extracts on Nagas From Assam Administrative Report 1893-94.

⁷² Ibid.

⁷³ Revenue- A, Assam Secretariat Proceedings, June 1904, From- The Secretary to the Chief Commissioner of Assam; To- The Deputy Commissioner Naga Hills, No. 26Sett-250R, dated Shillong the 16th January 1904, No. 38.

Name of Dept.	1893-94	1894-95	1895-96	1896-97	1897-98
Civil	1,016	1,008	1,009	592	1,456
Police	2,150	1,737	2,664	1,521	2,140
Military	5,535	3,778	309	9	75
Telegraph and Postal Departments	45	1,099	631	752	4
Public Work Department	77,697	80,268	5,414	2,762	12,905
Survey Party		3,626			
Total	86,443	91,516	10,027	5,636	16,580

Table: 3.4. Source: Extracts on Nagas From Assam Administrative Report 1897-98.

The introduction of house tax and labour market shifted the economy of the Nagas from a cashless to a cash economy. The money earned through labour works were usually used to pay house tax. Consequently, when there was less labour demand in the Naga Hills, the natives experienced difficulty in paying house-tax.⁷⁴ The demand for cash to pay house tax also forced the Nagas to volunteer and work not only in 'public works' but also in tea plantations. A considerable number of Nagas mainly in the bordering tea plantation areas went down to the plains to work as labourers.⁷⁵ However, there was no policy for the hill people to work in the tea plantation. They solely worked to earn cash and pay the house tax. The Nagas who frequented as labourers in the same tea gardens were paid well and regularly.⁷⁶ The

⁷⁴ Ibid.

⁷⁵ Extracts on Nagas from Assam Administrative Report, 1901-1902.

⁷⁶ J.P. Mills, Notes on the effect on some primitive tribes of Assam of contacts with civilization, 1931, File No. 204.

labour work was not only limited to men. Women too worked as labourers but they were comparatively fewer than men. Records also show the involvement of women working as coolies.⁷⁷ The dependence on labour wages to pay house tax had induced the colonial government to come up with a more flexible policy. Thus, the colonial government did not engage the Nagas for labour during the agricultural circle-sowing and harvesting.⁷⁸

At the same time, the colonial government strategically used labour to discipline the Nagas. Usually, the government imposed fines and forced free labour as modes to discipline the Nagas. For instance, the offending villages that took part in the battle Khonoma in 1878 were forced to provide free labour other than the fines.⁷⁹ Similarly in the inter-khel fight at Jakhama, the Deputy Commissioner fined the feuding parties of Rs. 600 and they were further punished to work without pay in the Jakhama to Manipur road construction.⁸⁰

The labourers and the porters were the first to be employed by the colonial government in the Naga Hills. Initially, the demand for labours was mainly during expeditions and surveys to carry baggage and supplies of the political officials. However, with the introduction of colonial administration, the coolies were employed in public works and other infrastructural development such as constructing roads. The military police and the regular police too required a large number of porters for carrying baggage and supplies. The tables 3.3 and 3.4 demonstrate the steady use of Naga labourers by the imperial army. The labourers employed under the Deputy Commissioner or with the imperial army often travelled with the touring parties to different places of Naga Hills. The commissioner tours or military expeditions were usually beyond the administered areas of the British. Therefore, the workloads of the labours were comparatively

⁷⁷ Ibid. Also see, A coolie woman of Powai garden was kidnapped by two Nagas of the Saru Lungchang village. Keith Cantlie, *Memoir of time in the Naga Hills as a Deputy Commissioner, 1919-1920*.

⁷⁸ Op. cit., Lipokmar Dzuvichu, *Empire on their Backs: Coolies in the Eastern Borderlands of the British Raj*, p. 96.

⁷⁹ Op. cit., Alexander Mackenzie, *The North-East Frontier of India*, p. 138.

⁸⁰ External-A, Administration Report of Nagas Hills for 1884-85, September 1885, 36-38.

heavy. Due to the lack of modern infrastructure, tours were mostly carried on foot and they spent a longer number of days and sometimes even months.⁸¹ Thus the Naga labourers were the first to be exposed extensively to other cultures and civilizations which broaden their world view.

The First World War provided the right opportunity for the Naga labourers to earn hefty money. Around 2000 Nagas were recruited as labour corps by the British government, and they were sent to France. The Naga labour corps earned high wages of about Rs. 20 per month and remission of Rs. 2 on house tax.⁸² After returning from the war, the labour crops received a warm welcome from the Nagas. A grand ritual dance was performed for them on their return. Keith Cantlie in his memoir wrote:

“All the tribes were represented... The Angamis marched onto the parade ground with deep sounding rhythmic cries of “How How”. The smaller statured Semas danced in a quick and lively way. I gave out quantities of rupees provided by Government and a number of buffaloes were presented to them and killed and eaten that night.”⁸³

The labour crops were also honoured in different ways. The Sema chief, of Sakhai village, was rewarded with a red blanket by the Deputy Commissioner Keith Cantlie which was worn only by the *dobashis*.⁸⁴

The first political organization in British India was formed by traders, urban professionals, landowners and taxpayers.⁸⁵ But in the Naga Hills, many scholars

⁸¹ In the un-administered areas, there were no proper roads and neither modern means of transports. Therefore, the Naga labours not only carried the baggage and supplies but they were so responsibility in clearing a path while on tour or expedition beyond administered areas. Op. cit., Lipokmar Dzuvichu, *Empire on their Backs: Coolies in the Eastern Borderlands of the British Raj*, p. 101.

⁸² The Pioneers (WW-I Naga Labour Corps 1917-18), Post Mortem, Nagaland Post, Published date 24/11/2018, <http://www.nagalandpost.com/the-pioneers-ww-i-naga-labour-corps-1917-1918/185792.html>, retrieved on 29-04-2019.

⁸³ Op. cit., Keith Cantlie, Memoir of time in the Naga Hills as a Deputy Commissioner, 1919-1920.

⁸⁴ Ibid.

believe that it was the labour corps which founded the Naga Club in 1918. They are of the view that it was the direct outcome of the experience of nationalism in Europe during the First World War. They understood the need for a common platform that could foster their social and political desires. However, the formation of the Naga Club is contested even today. Some scholars observe that it was formed by the educated Nagas and government servant.⁸⁶ With regard to the vagueness and uncertainty behind the formation of the Naga Club, Charles Chasie observes that “the truth, most likely, lay somewhere”.⁸⁷ Despite the differences among the post-colonial writers, it cannot be denied that colonial experience produced two classes in the Naga society- educated and labour.

In the formative years, the Naga Club was more of a social club for the elite Nagas than as a political party. It was a platform where people would regular meet to discuss and exchange ideas.⁸⁸ But the club also slowly started to develop political consciousness. This is evident from their effort to submit a memorandum to the Simon Commission in 1929. The Naga Club fearing that the constitutional reforms of India might push them into deplorable condition submitted a memorandum as the representative of the Nagas stating their anxieties and their desire to be excluded from the constitutional reforms of British India.

From the above discussion, it is clear that the colonization in the Naga Hills brought immense transformation in the traditional institutions. The colonial state in the process of consolidating its rule constructed a new set of a modern phenomenon. The utilisation of indigenous networks because of the rising demand for native labour produced a new working class in the Naga Hills — thus paving the way for the construction of modern identity and society. In a way, it also

⁸⁵ Peter Robb, *Empire, Identity, and India: Peasants, Political Economy, and Law*, Oxford University Press, New Delhi, 2007, p. 3.

⁸⁶ Naga Club formed on Jan 7, 1918, says Kohima Village Council, The Naga Republic, published 17 December 2018, <https://www.thenagarepublic.com/files/naga-club-formed-on-jan-7-1918-says-kohima-village-council-on-its-history/>, retrieved on 29-04-2019.

⁸⁷ Charles Chasie, *The Naga Memorandum to The Simon Commission, 1929*, Standard Printers & Publishers, Kohima, 2017, p. 79.

⁸⁸ Ibid.

reflects the second concept of universal civilization as propounded by Huntington.⁸⁹ The construction of the working class in the Naga Hills manifested in the improvement of roads, communications, and introduction of cash currency, and western knowledge, which broke the pre-colonial traditions.⁹⁰

Land revenue: An incomplete colonial project

This section will demonstrate how the colonial state conceptualised the vast tract of ethnic lands, and reshaped to create a new order. The colonial state imposed taxation through house tax and in certain areas land settlement was implemented to assert colonial power in the Naga Hills. But as discussed, the majority of the hill areas were outside the preview of the land settlement, this provides a unique experience of colonialization. In that way, the Naga Hills bypassed the major modernising process that other regions of British India experienced. At the level of legal transformation of land rights, land usage and proprietorship were not categorically specified for the Naga Hills. Thus, I argue that the civil side of colonial legislative was weak, as the proprietary rights over land and individual land rights were not decided in colonial courts of law.

Land was the most important source for livelihood for the ethnic communities and thus the land basically belonged to clans or villages. Though some had private land ownership, it was given less importance compared to the clan or village lands. The traditional ethnic land ownership varied but there was a communal practice among the various groups. Perhaps to introduce land revenue system it would break the socio-economic fabric of the hills people, and it would also demand a new system for land-assessment. Moreover, the government was afraid of any rebellion from the indigenous people if additional taxation was introduced in the hill areas. They feared that if any trouble broke out, they could spend more on suppressing the revolt. Therefore instead of land revenue for the

⁸⁹ Samuel P. Huntington, *The Clash of Civilizations and The Making of World Order*, Penguin Books, Gurgaon, 1996, see chapter 3.

⁹⁰ *Ibid*, pp. 57- 67.

cultivation of land, house tax was levied.⁹¹ However, there were certain tracts where land assessment was levied in the Naga Hills.

The question of land acquisition was a puzzling procedure which raised an open debate among the colonial officials of the hill districts. Under Rule 107 of the Assam Executive Manual, the land acquired from the hill districts for public purposes was settled between the Deputy Commissioner and the occupiers through private arrangement but not under the Act I of 1894 (Land Acquisition Act).⁹² Meanwhile, the Land Acquisition Act was put in force in “Garo Hills, the Naga Hills, the North Cachar Hills, the Sibsagar and Nowgong Mikir Hills Tracts, and the British portion of the Khasi and Jaintia Hills”, including Shillong, but not in the Lushai Hills, the Likhimpur Frontier Tract, the Central and Eastern, and Western Sections of the North-East Frontier Tracts. This contradiction between the Rule 10, and the Act I of 1894 had raised a serious gap in dealing with the land holding of the hill districts. In reply to this unbalanced procedure of law, the Chief Secretary of India stated:

“It is therefore open to the local officers in the case of the areas mentioned in which the Act is in force to have recourse to its provisions if in any case they find it necessary to do so. I am, however to add that the existing procedure of taking up extra judicially by private arrangement may continue whenever this method of acquisition is feasible and there is no need for the powers conferred by the Land Acquisitions Act. Rule 107 will be expunged from the Executive Manual and the corresponding note of rule 2 Chapter (1) (b) Section I of page 119 of the Land Acquisition Manual which in its present form is very misleading, is being revised in the sense of these orders.”⁹³

⁹¹ Revenue Department, Assam Secretariat, Revenue-A, To Hon'ble Member Revenue, From S.P. Desai, Assessment of House-Tax at higher rates on the Nagas who adopt a foreign style of living, No. 92-100, August 1931, p. 3.

⁹² From the Chief Secretary to the Hon'ble the Chief Commissioner, to the Commissioner, Surma Valley and Hill Districts., No. 1210-13 R dated Shillong, the 19th March 1918.

⁹³ Ibid.

Though land revenue was assessed only in the small portions of the hill districts, there were a lot of estate holders where the colonial state drew its revenue. These estates were held by the government directly under special conditions and they were yet to be assessed or settled under the Ordinary Settlement Rules.⁹⁴ These estates of special status could be removed and be brought under the Ordinary Rules. The colonial state could impose an assessment on land in any frontier districts of Assam. However for imposing such settlement, the colonial state must look into nine different conditions before it could levy land revenue. The nine conditions for the Assam Land Revenue Assessment Bill of 1926 were:⁹⁵

- “1. The existing assessment,
2. The economic condition of the people,
3. The effect of any increase of population or of the development of the country in increasing its resources,
4. The effect of any improvement in communications,
5. The course of prices and its result upon agricultural values,
6. The rates of rent paid by tenants where land is sublet to any considerable extent,
7. In the case of an assessment group, the value of the gross produce,
8. The liability of the crops of any village to damage by natural cause, and
9. The extent of the improvement or deterioration in the fertility of the soil due to natural causes.”

The local government was to appoint a settlement officer, and his duty was to act within the local limits. The settlement officer stayed in the office so long as the local government may direct. His main duty was to classify the villages of an area under four categories: (1) established, (2) new, (3) fluctuating, and (4) immature.⁹⁶

⁹⁴ The Assam Land Revenue Manual Vol. 1, p. ix.

⁹⁵ Assam Secretariat Proceedings, Revenue Department, Revenue-A, June 1926, *The Assam Land Revenue Reassessment Bill, 1926*. No. 104, From G. T. Lloyd, Esq., I.C.S., Secretary to the Government of Assam, To (1) Mauhri Faizpur Ali, M.L.C., Dibrugarh, (2) Srijot Kamakhyaaram Bura, M.L.C., Gauhati, and 7 other member of Land Committee, No. 2744-33R. Dated Shillong, the 20th October 1925, p. 4.

⁹⁶ Ibid, p. 5.

The matured villages were assessed for land revenue for a period of 30 years whereas in the other three village categories, land revenue be may fixed for a short period by the government. However, the settlement officers were restricted from leasing lands for special cultivation under the ordinary law. If there was a need to settle any land, the settlement officers were required to carefully examine those mentioned nine points.

The Assam Land and Revenue Regulation of 1886, was in forced initially in the plain districts of Assam province. It “contains all the necessary provisions of revenue law of Bengal.”⁹⁷ The Regulation was implemented very late in the hill districts. It was implemented in the districts of the Khasi and Jaintia Hills, the Naga Hills and the Lushai Hills only in 16th March, 1929. However, the regulation with the exception of section 3-68, 69A-93, 95-144 and 115-159 was effective in these districts.⁹⁸ It failed to deal with any land settlement of the hill districts and only in some isolated tracts were assessed.⁹⁹ In accordance with the Assam Land and Revenue Regulation 1886, the revenue officers were the Commissioner of the Division, Deputy Commissioner and sub-divisional officers.¹⁰⁰ The colonial state also appointed native people to assist the officers and they received a certain commission from the revenue collected. However, the Assam Land Revenue Regulation was not in force to the full extent and therefore only the spirit of the regulation was followed.¹⁰¹

In the headquarters of the Naga Hills, majority of the villages were assessed through house tax and in only one instance a petty *mouzah* of Barpathar paid land revenue to the government. As mention earlier in the chapter, the colonial state introduced the *mouzah* in Assam which was also implemented in some parts of the

⁹⁷ E. A. Gait, *A History of Assam*, Thacker, Spink & Co., Calcutta, 1906, p. 340.

⁹⁸ The Assam Land and Revenue Regulation, 1886, Regulation 1 of 1886 (As Amended), Retrieved on 23-03-2017.

⁹⁹ Report on the Administration of North-East India, 1921-22, p. 64.

¹⁰⁰ Office of the Principal Accountant General (AUDIT), Revenue Audit Manual on Assam Land Revenue, Assam, Guwhati-29, 2007, p. 6.

¹⁰¹ Government of Assam, Revenue Department, *Classification of hali land*, 1938, To- D.C., Through S.D.O, From- Mr. Wiscott, Sub-Deputy Collector, Jowai, dated 17/3/1938.

Naga Hills. The amount collected from the land revenue in the Naga Hills did not contribute much to the revenue department. In fact in the administration report of 1870-71, Deputy Commissioner of the Naga Hills stated that the practice of land revenue would be extra work for the colonial officials as it was located far from the plains and the hills were covered in dense jungle. Therefore, he advocated for the abolition as it barely brought any significant loss to the government. He wanted to bring that petty *mouzah* under the same footing as in the other hill villages.¹⁰² However, by 1870s the British government was slowly expanding their political authority in the Naga Hills which resulted in the addition of a village under land assessment. The government introduced a simple form of *ryotwari* on the two villages and the tenure of the land was hereditary and transferable.¹⁰³ W.W. Hunter in his statistical report:

“Only two villages in the whole district pay a land tax according to the extent of land under cultivation. The rate of rent for the different varieties of land in these two villages are very low, as follow- Bastu, or homestead land, 1 shelling 8 denar an acre; rupit, or low-lying moist soil, 2s 1d an acre; and pharingati, or dry land 1s 8d an acre. In other parts of the district in which the land is not assessed, a house tax of four shillings per annum upon each homestead is levied.”¹⁰⁴

The up-gradation of the Naga Hills as a district accorded with the raise of house tax and the land revenue. The estates that paid revenue to the government increased many fold by 1880-81. A total of 170 estates were now paying revenue which amounted to Rs. 1,787 for the said year. Ordinary Land Revenue was

¹⁰² Judicial Department, Colonial H. Hopkinson, Commissioner of Assam, to the Secretary to the Government of Bengal, No. 333T, dated Debroogbur, the 9th May 1871.

¹⁰³ Op. cit., W.W. Hunter, *A Statistical Account of Assam*, Vol. II, pp. 192-193.

¹⁰⁴ *Bastu*, or homestead land includes, besides the ground on which the house itself stands, the surrounding grove of jack, mango, or betel nut trees. *Rupit*, or low-lying land, requires but little labour to bring it under cultivation. *Pharingati*, or dry land, however, requires a great deal of attention, but the coarser kind of rice is grown, as well as mustard-seed and pluses. Ibid, Pp. 194-195.

practiced on those lands which were under the land assessment and thus according to *bighas* the tax was realised.

During this period the American Baptist mission also began to settle in the Naga Hills. They started building their mission centres in the Naga Hills district which was liable for land revenue to the colonial government. At the beginning of the twentieth century, the mission compound in Kohima was the only estate that paid revenue to the government in the Naga Hills. The boundary of the mission compound was altered in 1904 which revoked the old leased and issued a new leased for the same rate of Rs. 10.¹⁰⁵

Meanwhile, a large portion of the Naga Hills district was transferred to Sibsagar and Nowgong in 1898. The reason behind this transfer was the construction of the railway line from Nambar forest to Lakhimpur, and it also provided the colonial government to administer easily on the Dhansiri and the Mikhir Hills from Nowgong and Golaghat which was previously administered from Kohima.¹⁰⁶ This transfer of land from the Naga Hills had effected the number of people paying land tax to the government. As shown in table 3.2, the annual land revenue collected in 1890-91 was Rs. 1,557, but from the beginning of the twentieth century it was reduced to Rs. 10 only. This Rs. 10 was collected from the American Baptist mission or mission compound at Kohima.

Although this trend of single estate payment continued for some years, the colonial government in 1908 included the Merapani Cotton Factory for land assessment. Likewise in 1915, the first American Baptist mission compound to set up in Naga Hills, the Impur Mission Compound under Mokochung sub-division was included and by early 1920s the Wokha mission centre was also brought under the land revenue. The land estates gradually started to increase in the Naga Hill district but it was confined mostly in the plains of Dimapur and its adjoining

¹⁰⁵ From W.J. Reid, Esq., I.S.C. Deputy Commissioner, Naga Hills, To the Secretary to the Commissioner of Assam, Dated Kohima May 1905.

¹⁰⁶ B.C. Allen, *Gazetteer of Naga Hills and Manipur* Vo. IX, p. 30.

hamlets.¹⁰⁷ This indicates a clear incomplete modification project of the colonial state in the Naga Hills. The colonial state only partially introduced taxation on land property rights, as the land use and community rights over land remained unchanged.

It was only in the latter part of the colonial rule that the colonial state tried to introduce proper land settlement in the Naga Hills district. However, it has to be noted that the attempt to introduce land settlement was only in the plain segment and not in the hill area. Though it was to be settled in a small tract, it was a significant move by the colonial to introduce the colonial logic of individual property rights in the Naga Hills district. But before the settlement was implemented the colonial state embarked for “regular survey, looked for guiding principles and farming categories.”¹⁰⁸ In 1923, the Commissioner of Surma Valley and Hill Division, J. Hezlett, proposed for the assessment of land revenue on the cultivated land inhabitant by the Dimapur and Padam Phukuri people. Hezlett observed that the implementation of land tenure in 1923 was mainly to stop the people from getting too much of land.¹⁰⁹ He discussed this proposal with Mr. Hutton, the Deputy Commissioner of the Naga Hills in Shillong. Hezlett suggested for special land settlement viz. the villages occupied by the foreigners to be assessed for land revenue and for the hills people the system of house tax to be retained.¹¹⁰ To introduce such assessment, the government was required to conduct survey on the land. However, if the government failed to bring any categorization, Hezlett proposed to include all persons holding 20 *bighas* or more under the land revenue assessment at the rate 0-8-0 *bigha* subject to a minimum assessment of the amount of house tax.¹¹¹ The proposal for land assessment was to introduce in the *rupit* land at the rate of 0-8-0 per *bigha*.

¹⁰⁷ Op. Cit., Piketo Sema, *British Policy and administration in Nagaland, 1881-1847*.

¹⁰⁸ Op. cit., Neeladeri Bhattacharya, *The Great Agrarian conquest*, p. 116.

¹⁰⁹ Revenue Department, Revenue Branch, No. 1820R. From- J Hezlett, Esq. I.C.S. Offg. Commissioner, Surma Valley and Hill Division, To The Second Secretary to the Government of Assam, dated Silchar, the 4th August 1923, p. 2.

¹¹⁰ Ibid, p. 2.

¹¹¹ Ibid, p.2.

In reply, the Deputy Commissioner proposed and suggested a rate of 0-4-0 a *bigha* and the indigenous population cultivating land was to pay a minimum of Rs. 3, and Rs. 5 for the foreigners.¹¹² This proposal for land assessment was accepted by the government. The rate was fixed as suggested by the Deputy Commissioner in his proposal. Thus, the land was assessed at the rate of 0-4-0 annas per *bigha* on land cultivated by the inhabitants of Dimapur and Padam Phukuri, subjects to a minimum of Rs. 3 for the indigenous population and Rs. 5 for foreigners.¹¹³ Thereby, the plains of Dimapur in the Naga Hills district became the only site that came under the ordinary land revenue assessment other than the estates held by different groups or individuals in the hills.

The colonial state though introduced land revenue in the plains of Dimapur, they could not implement to the whole region. Initially, the Commissioner of Surma Valley and Hill Division proposed to assess land revenue on the villages chiefly occupied by the foreigners.¹¹⁴ However, the real limitation was on what basis they were to assess owing to the poor living condition of the people. The Deputy Commissioner Mr. Hutton highlighted the problem of landholding in this region as only very few people were holding large tract of lands. There were only one or two individuals who owned more than 100 *bighas* of land and paid only Rs. 5 as house tax instead of land revenue though the land was classified as *rupit* land which was considered to be of good quality.¹¹⁵ However, Mr. Hutton questioned the problem of categorizing land assessment as they were already paying house tax. He also lamented on the problem of distinguishing the rate of the person paying house tax and the person paying land revenue. He was of the opinion that if 20 *bighas* were to be taken for land assessment, then only a dozen were liable. And in this dozen, one

¹¹² Ibid, p.2.

¹¹³ Revenue Department, Revenue Branch, *The Governor in Council*, From Second Secretary to the Government of Assam, To the Commissioner, Surma Valley and Hill Division, Shillong the 22nd August 1923, p. 3.

¹¹⁴ From- J. Hezlett, Esq, I.C.S., Offg. Commissioner, Surma Valley and Hill Division, To- The Second Secretary to the Government of Assam, No. 1820R., dated Silchar, the 4th August 1923, p.3.

¹¹⁵ Revenue Department, Copy of letter No. 229-G, dated the 5th May 1923, from the Deputy Commissioner, Naga Hills, to the Commissioner, Surma Valley and Hill Division, p.3.

was *mauzadar* who was ought to be exempted from the revenue. If the land holding was further increased to 50 *bighas*, there were only two people and of the two, one was the *mauzadar*.¹¹⁶ Again if the land holding was decreased to 10 *bighas* for land revenue assessment, there were around thirty people liable for payment. However, the major problem was that these people would have to pay more than the house tax rate if land assessment was introduced. And Mr. Hutton had sympathy for these land holders because most of the fields were being destroyed by the wild animals. Therefore, he suggested that if land assessment was to be introduced, he suggested the land size of 20, 25 or 50 *bighas* for consideration as the maximum amount of land to be held by any person paying house tax.¹¹⁷ Finally, the colonial government accepted the proposal of the Deputy Commissioner, and the indigenous people were taxed Rs.3 and the foreigners were taxed Rs. 5. This shows how the colonial government had diverted from the initial proposal of the Commissioner as land assessment became inclusive of both indigenous and foreigners.

In 1928-29, the estate paying land revenue to the government had increased to 220 estates and a sum of Rs. 1,962 was collected as revenue. During this period, the total revenue (including all miscellaneous) received by the colonial state was Rs. 95,074 of which Rs. 81,940 was through house-tax.¹¹⁸ The report of 1936-37 highlights the drastic change and increase of revenue especially in the areas in Dimapur. For example, it collected Rs. 1,951 only from the Fullerganj bazar and *rupit* land. But it was still a deficit as the provisional demand for that year was Rs. 2,222.¹¹⁹ In less than two decades, the estates' lease increased to 375 and the revenue collected received was Rs. 2,325. The revenue was collected by the *mauzadars* and they received a 15 percent as commission. Despite the number of increasing estates, the revenue received decreased during the mid-1940s. It was

¹¹⁶ As per the record, both this men hold land of more than 100 *bighas*. But if they were to assess than only one man was liable for land revenue as the other was the *mauzadars* himself. Ibid, p. 3.

¹¹⁷ Ibid, p. 3.

¹¹⁸ The Assam Land Revenue Manual Vol 1, Pp. cxxvi.

¹¹⁹ Excluded Branch, Governor's Secretariat, Copy of letter No. 688 G. from the Deputy Commissioner of Naga Hills, submitting General Administration Report of the Naga Hills district for the year 1936-37. Dated the 10th May 1937. Memo No. 251 T.

mainly because of the Second World War which had effected a large section of the Naga Hills district. In the period 1944-45, the government collected an amount of Rs. 61,636 of which Rs. 61,187 was house tax.¹²⁰

Reordering rights and alienation of Land

The consolidation of the colonial state in the North-East frontier drastically transformed the boundaries of ethnic communities to harness economic benefits. The vast tracts (scrubland) of the North-East was still unexplored. The colonial state saw these lands as possible areas to explore and exploit for their commercial interest. Neeladri Bhattacharya argues that it was essential for the colonial state to control such lands and transformed them into a new agrarian order.¹²¹ To control the vast scrubland, the colonial state introduced colonial law (Inner Line) to regulate the movement of the ethnic communities. The favourable sites for cultivating tea was located in the foothills which were traditionally the reserved forest (resources) of the ethnic communities. For the colonial state, it was only wild open spaces which should be allocated and cultivated.¹²² With the rapid growth of tea plantation, the planters encroached lands and cultivated tea. This unsettled the ethnic communities, and in response, they began to disturb the colonial order in the administered districts of Assam.

The alienation of land exposed the ‘imperial design’¹²³ of the colonial state in the hills frontiers of Assam. The foothills of the Naga Hills were transferred to the districts of Assam because they were suitable for tea plantation and railway line. And Tea plantation and the railway were already growing in Assam and adding the Naga territory will only enhance the economy. The growth of the tea industry in Assam had opened a new market for the colonial state and by the end of the

¹²⁰ The Assam Land Revenue Manual Vol 1, Pp. cxxvi.

¹²¹ Op. cit., Neeladri Bhattacharya, *The Great Agrarian Conquest*, p. 340.

¹²² Ibid.

¹²³ Lanusahi Longkumer and Toshimenla Jamir, *Land Alienation: Dynamics of Colonialism, Security and Development*, Status of Adivasis/Indigenous People Land Series- 6 Nagaland, Aakar Books, Delhi, 2012, p. 42.

nineteenth century, this industry has flourished remarkably. The establishment of tea plantation in Assam had a great influence on the occupation of the Naga Hills and Lushai Hills. In the foothills, the tea planters upon finding the suitability for the new industry exposed the tribal people to a new culture. The tea plantation had caused anxiety to the independent hill communities of the Assam frontiers. For the hill people, “no quarrels have been more enduring or more bitter among these people than those relating to land”.¹²⁴ James Johnstone noted in his memoir, “*My Experience in Manipur and the Naga Hills*”, when the British tea planters were cultivating tea for the British officials near the Manipur valley, the Maharaja of Manipur conceived it as an attempt to annex Manipur.¹²⁵ The country of Muttuk was occupied upon the plantation of tea and therefore this fear was implanted to the independent indigenous people. The tea planters, who were the subjects of the British, began to encroach into the hill territories. It affected the Nagas living near the districts of Lakhimpur and Sibsagar, and the Lushais who shares boundaries with Cachar and Sylhet. The steady increase of tea garden had led to the conflicts among the tribal people and the plains. The approach of tea planters created panic among the hill people and the hill communities resorted to raid the tea garden to avert any encroachment into their territories.

The office of the Governor General in Calcutta in 1873 issued a notice to annex the foothills of Naga Hills as a British territory where there was suitable for tea plantation.¹²⁶ During this period the Naga Hills was yet to be a full-fledged district of the Assam province and only a small portion was under the political administration. The constant confrontations between the planters and the Nagas led the colonial government to frame new legal categories. The colonial government brought the Naga Hills under the Inner Line Regulation of 1873, which marked the jurisdictional boundary of the Naga Hills for administration. In accordance with the

¹²⁴ Op. cit., Report on the Administration of North East India, p. 64.

¹²⁵ James Johnstone, *My Experience with Manipur and Naga Hills*, Sampson Low, Marston and Company, London, 1896, p. 42.

¹²⁶ Dolly Kikon, *Ethnography of the Nagaland- Assam Foothills in Northeast India*; in Walter Fernandes and Sanjay Barbora (Ed.), *Land, People and Politics: Contest Over Tribal Land in North East India*, North Eastern Social Research Centre, International Workgroup for Indigenous Affairs, 2008, p. 61.

commercial interest, the colonial state purposely excluded the tea gardens that were cultivated in the Naga Hills.¹²⁷ Subsequently, the colonial government introduced the Scheduled District Act of 1874, which excluded the Nagas from the preview of the colonial law.

However, these policies of protection highlighted the true nature of colonialism in the hill areas. The protection was designed to create a different space and power for the colonial government. The hill areas were considered to be wild and rough terrain and therefore it was practically difficult for the colonial state to strictly administer. Moreover, the cost of administration was exceedingly higher than the revenue collected from the hills. From the economic perspective, the best policy for the colonial state was to introduce a limited form of administration which would check the hill people from creating disturbances in the economically prosperous areas. The policy might be on the surface level to protect the ethnic people from the rampant exploitation during colonialism. But nevertheless, exploitation did happen in the form of land alienation. The lands which had the potential for economic benefits were transferred to other districts that would give the colonial state an unlimited power to exploit the lands.

To fit their economic interest, artificial boundaries were mapped which restricted the free movement of the hill people. It resulted in many land disputes among the British subjects and the indigenous people. The districts of Lakhimpur and Sibsagar adjoining Naga Hills became the focal point of land conflicts. Before the establishment of the headquarters in the Naga Hills, the tea plantation had already been exposed in the foot hills. The lands that belonged to the Nagas were encroached by the plains for tea plantation and as a result, as many as 40 Assam Tea Company were set up by the early 1860s.¹²⁸ The earlier settlers of tea planters had conciliated themselves with the Nagas. But with the gradual expansion of industry and with the instigation of colonial law, the planters sought for

¹²⁷ Op. cit., Lanusahi Longkumer and Toshimenla Jamir, *Land Alienation: Dynamics of Colonialism, Security and Development*, p. 44.

¹²⁸ Sajal Nag, *Contesting Marginality: Ethnicity, Insurgency and Subnationalism in North-East India*, Manohar Publisher, New Delhi, 2002, p. 46.

government protection. In this connection, Mackenzie notes “Although the government claimed as British territory the whole country up to the boundaries of Manipur and Burma, it had hitherto treated as outside Assam for all civil purposes.”¹²⁹

The landowners became apprehensive of the expansion of tea plantation in the foothills of the Naga Hills bordering Lakhimpur and Sibsagar district. The planters moved to the south of the revenue line as the demand for tea and lands intensified. The Naga whinged to the planters and foresaw them as trespassers.¹³⁰ In late the 1860s, the Naga chief approached the colonial state to intervene on the encroachment of their land by the plain tea planters. In response, Lieutenant Colonel Angwe, proposed to stop any fresh grant in the South of the Ladoigarh road which was marked as a traditional boundary line.¹³¹ The government countered by sending several survey teams to settle the problem of land conflicts by marking new borders. Thus, the Inner Line Regulation served two proposed for the colonial state. The colonial government believed that the line would not only stop the raids from the Nagas in the tea gardens but would also restrict the plains from further encroachment of land in the hill areas. In other words, as far as possible the demarcation of the line would enable the authorities to exercise reasonable control over the ‘tribes’.¹³² Secondly, Takhur expounded that the Inner Line was more of economic measures because the colonial state demarcates the boundaries “on the needs of the new political economy”.¹³³

Colonialism was always been driven by the exploitation of the colonies and the colonial state gave little importance to the encroachment of lands for tea plantation. As a matter of fact, before the political authority was established in the

¹²⁹ Op. Cit., Alexander Mackenzie, *The North-East Frontier of India*, p. 98.

¹³⁰ Raj Kumar Thakur, *Whose Hills? Whose Plains? The Politics of Border*, Indian Historical Review, 43 (1) 83-101, ICHR, SAGE Publication, 2016, p. 89.

¹³¹ Bengal Judicial Proceeding, From- Lt. Col. W. Agnwe, offg. Commissioner of Assam and Secretary to the Government of Bengal, Judicial Department No. 185, dated 10th June 1869.

¹³² Letter No. 4. From, Offg. Deputy Commissioner of Sebsaugor, to the Chief Commissioner of Assam, dated Sebsaugar, 6th May, 1874.

¹³³ Op. cit., Raj Kumar Thakur, *Whose Hills? Whose Plains? The Politics of Border*, p. 89.

Naga Hills, the colonial state had already decided to turn the open lands of the Nagas for cultivating tea as part of British Assam territory. With the consolidation of colonial rule, open land disappeared. The colonial state took over the forest and other resources, and established new ownership which had to be purchased or leased in.¹³⁴ The process of creating spaces for tea plantation in the foothills of the Naga Hills led to confrontations between the planters and the natives. Thus, we see a strong presence of colonialism in the Naga Hills that created an imagination and reordered landscape.

The complaints raised by the planters were heard by the colonial state and the government took necessary steps to control the threats of the hill people. The conflicts between the plain planters and the hill people had given the perfect opportunity for the colonial state to initiate policies to administer the hill areas. In 1874, the southern boundary of the Sibsagar district was laid down which demarcated the civil jurisdiction (revenue line) from the Naga territory which was not subjected to land revenue nor completely subjugated.¹³⁵ However, the Chief Commissioner of Assam was unsatisfied with the demarcation of the boundary line and wanted the boundary between the civil and political jurisdiction with the Inner Line to be identical.¹³⁶ After consulting the local officials, the Chief Commissioner proposed to draw the line nearer to or in the hills as a boundary of the ordinary jurisdiction of the British Courts which would benefit the British subjects.¹³⁷ Through this, the colonial government intended to include all tea gardens for ordinary revenue. If the Assam Tea Company employees wanted to move beyond the revenue boundary, they apply for passes from the Local officials.¹³⁸

¹³⁴ Op. cit., Neeladri Bhattacharya, *The Great Agrarian Conquest*, pp. 291-292.

¹³⁵ Op. Cit., Alexander Mackenzie, *The North-East Frontier of India*, p. 126. Also see, Letter No. 4. From, Offg. Deputy Commissioner of Sebsaugor, to the Chief Commissioner of Assam, dated Sebsaugor, 6th May, 1874.

¹³⁶ Notes on Correspondences regarding issue of Inner-Line Regulation between Southern District of Sebsaugor and the Naga Territory, 1874. From, the Secretary to the Chief Commissioner of Assam to the Government of India, Foreign Department, in letter No. 142 dated 30th May, 1874.

¹³⁷ Ibid.

¹³⁸ Op. Cit., Letter No. 4. From, Offg. Deputy Commissioner of Sebsaugor, to the Chief Commissioner of Assam, dated Sebsaugor, 6th May, 1874.

Though the necessity for the identical boundary was not required, the British government issued a notification vide No. 142, dated 20th May 1874, accepting the proposal of the Chief Commissioner. The letter from the Secretary to the Government of India wrote,

“Although there is no absolute necessity for the ‘inner line’ of the regulation coinciding with boundary line, which is to separate our jurisdiction from the country to be managed only politically, still as a matter of fact the two lines will politically coincide, and it is intended they should do so.”¹³⁹

Additionally, the Government of India also ordered that all grants of waste lands existing were to be transferred in the British territory. In 1880, a new proposal was again placed for the extension of the Inner Line by the Deputy Commissioner of Sibsagar. Here, the line of south Sibsagar district was to be pushed further on the existing Inner Line towards the Naga Hills which would enable the colonial state to claim all the lands suitable for cultivation of tea, cereals and valuable forest resources etc.¹⁴⁰ The Commissioner of Assam Valley District did not accept the proposal but suggested that the inner line be declared as “frontier tract”. This would extend the British hold on the land beyond the inner line.¹⁴¹ The government accepted the proposal of the Deputy Commissioner and thus the inner line was once again to be altered for their economic benefits. Fully aware of the difficulty for the boundary alteration, the Government of India cautioned the Chief Commissioner to take care of any apprehension from the Nagas claiming the land as their right.¹⁴²

The Deputy Commissioner of Cachar, Mr. Edgar, wrote that the operation of survey had created a feeling of distrust amongst the hill people and they viewed it

¹³⁹ From Secretary to the Government of India, Foreign Department to the Chief Commissioner of Assam, Letter No. 186R, dated Fort William, 4th August, 1874.

¹⁴⁰ From- Offg. Secretary to the Chief Commissioner of Assam, To- the Commissioner of Assam Valley District, Letter No. 1203 dated Shillong, 28th July 1880.

¹⁴¹ From- Offg. Commissioner of the Assam Valley District to the Chief Commissioner of Assam, Letter No. 358, dated, Gauhati, 24th January 1881.

¹⁴² Letter No. 331 E. P dated Fort William, 24th February, 1882.

as an encroachment of their lands for tea plantation.¹⁴³ The 'ignorant' Nagas who were yet to fully understand the power of colonial authority resorted to raids. Reports of constant raids were reported in the tea plantation disturbing not only the planters but also the economy of the British. The lack of inconsistent (a comprehensive) policy and methods to resolve the land conflict during 1853-1862, resulted in nineteen raids carried out by the Nagas in which two hundred British subjects died.¹⁴⁴ To counter the issue, the government instead of solving the land conflicts sent several military and survey expeditions. This resulted in the establishment of a headquarter in 1866 at Samaguting and several police-outposts to check the advancement of the Nagas. The raiders were punished individually or collectively through imposing fines, imprisonment and in some instance, the whole offending village was burnt down. These tactics of punishments to the Nagas was a favoured form of colonial subjugation.

The tea plantation which was set up in the Naga territory by the plain planters was now under the protection by the colonial government. The colonial perceptive of the Assam frontier conflict was that the British subjects were the victims of raids conducted by the Nagas who had no understanding of law and order.¹⁴⁵ This categorization was necessary for the colonial state to meet the demand for tea as well as to improve their economic profit. This step was taken to give protection to the planters and the labourers and their policy would also give peace and economic benefits to the hill people. The colonial state exploited every opportunity they got from the hill areas of the Assam frontiers for their interest as they could gather more information on the unsuitable terrain of the hills through surveys. The plantation became a huge profit for the colonial state in the period 1874-1905. The

¹⁴³ S. K. Barpujari, *Survey Operation in the Naga Hills in the Nineteenth Century and Naga Opposition towards Survey*, Proceedings of the Indian History Congress, Vol. 39, Volume II (1978), Published by Indian History Congress, p. 669.

¹⁴⁴ Op. Cit., Piketo Sema, *British Policy and Administration in Nagaland 1881-1947*, p. 9.

¹⁴⁵ Op. Cit., Raj Kumar Thakur, *Whose Hills? Whose Plains? The Politics of Border*, p. 90.

British invested only a part of the capital from their treasury but gained treble from tea.¹⁴⁶

However, the colonial government also took the blame for raids committed by the hill people in the tea gardens. The Government of India understood the importance of land to the Nagas and raids were happening as responses for their land encroachments. In the official letter, Mr. Aitchison, Secretary to the Government of India wrote,

“... the Government of India are in any way responsible for its occurrence. The restitution of lands is stated by the Deputy Commissioner of Sebsaugor [sic] to be looked upon by Nagas as the most ample redress they can make, and there is nothing to show that the failure on the part of the Kamsingias to fulfil their promise has resulted from recusancy, or that the efforts of the local officers will eventually fail in effecting a peaceful settlement.”¹⁴⁷

Meanwhile in some cases, the colonial planters were required to pay a certain amount of payment to the Naga landowners for using their lands. The land that was alienated for tea plantation from the Naga Hills were compensated by the tea planters.¹⁴⁸ The tea planters would term it as ‘extortion’ by the Nagas, and they demanded the colonial government to extend the tea land under the legal jurisdiction of the colonial law.¹⁴⁹ The planters sought for police protection to settle the conflicts. However, the colonial government criticized the planters for such demand.¹⁵⁰ The records showed twenty three Naga villages received annual tax

¹⁴⁶ Op. cit., Amalendu Guha, *Planter Raj to Swaraj Freedom Struggle and Electoral Politics in Assam, 1826-1947*, Pp.28-29.

¹⁴⁷ Political Department, Political Relations with the Naga tribes, From- C. U. Aitchison, Esq, C.S.I., Secretary of India, Foreign Department, To- The offg., Secretary to the Government of Bengal, No. 1861P, dated Simla, the 24th July 1873.

¹⁴⁸ Op. cit., Alexander Mackenzie, *The North-East Frontier of India*, p.99.

¹⁴⁹ Op. Cit., Dolly Kikon, *Ethnography of the Nagaland- Assam Foothills in Northeast India*, p. 61.

¹⁵⁰ Judicial Department, No. 90, Proceedings of the Hon’ble the Lieutenant-Governor of Bengal, Judicial Department, September 1881.

from the tea planters who used their land for tea cultivation.¹⁵¹ Similarly in the district of Lakhimpur, the planters also paid the annual tax to the Namsang chief in accordance to the Agreement signed in 1875 and to some Ao Nagas villages (land using in Naga Khat). The plantation of tea also saw a shift of new demographic in the hill areas as the colonial planters brought a large number of labourers from British India and settled nearby the plantation.

In the last decade of the nineteenth century, the colonial state introduced the railway line to capitalise on the fast growing tea plantation of the Assam frontier. This resulted in a loss for the Nagas and their lands were transferred to Assam districts for the construction of railway line. According to Hokishe Sema, the expansion of colonial authority in the Naga Hills had led to “some rethinking so as to effectively administer these areas”.¹⁵² Initially, the traditional boundary between the Nagas and the Assam areas were recognised by the colonial state as the political boundary. After successfully relocating the headquarters of the Naga Hills from Samaguting to Kohima, the problem of administration in some of the Naga Hills tracts were questioned by the colonial officers. For example, the Mikir Hills and the whole portion of the Nambor forest reserve were technically under the jurisdiction of the Naga Hills district. But it could not be administered properly because it was located far from the newly established headquarters.¹⁵³ The colonial officials complained and opined that the tracts were becoming ‘impossible to exercise an efficient control’.¹⁵⁴ However, upon the development of the tea industry in the Assam plains and in the foothills of the Naga areas, the colonial state strategically shaped the boundaries for their economic benefits. Therefore, they proposed and suggested to transfer those hill tracts that were assessable to be transferred and administered by the plain districts of Assam. The colonial government meanwhile,

¹⁵¹ The land was mostly used by the Sibsagar district people, where the continued to pay the annual tax to the Nagas until the Assam Government discontinued in 1972. Op. cit., Lanusahi Longkumer and Toshimenla Jamir, *Land Alienation: Dynamics of Colonialism, Security and Development*, p. 44.

¹⁵² Hokishe Sema, *Emergence of Nagaland, Socio-Economic and Political transformation and the future*, Vikas Publishing House, New Delhi, 1986, p. 67.

¹⁵³ Ibid, p. 68.

¹⁵⁴ Ibid, Pp. 68-69.

had encouraged tea planters to cultivate tea in Nambor forest and the progress of the railway line had fostered the desire to transfer it permanently to the Nowgong district. In 1899, the plains land which was under the Mokokchung subdivision were transferred to the Sibsagar district. Approximately about 67 square miles, running from Desoi River up to the south corner of grant No. 22 Sibsagar which was suitable for tea and other cultivation was transferred to Assam.¹⁵⁵

Other valuable resource such as coal was found in the foothills after careful examination by the Mining Engineer of the Assam Railway Trading Company.¹⁵⁶ It ultimately urged the colonial government to transfer those tracts away from the inner line as it was not the political boundary of the British territory, but merely an administrative line. The commercial interest of the colonial state in the foothills had further risen due to the presence of the rich resources in the foothills. This demanded more direct control over the hill people and thus a number of police outposts were created to check the activities of the ethnic communities in the foothills. The policy of the colonial state towards the hill communities was aimed to protect the economy of the Assam valley.¹⁵⁷ The opportunity to transfer these tracts arrived when a railway line was constructed from Nambor forest up to Lakhimpur. This railway line was introduced to meet their increasing demand for tea and other resources. The Mikhir Hills and Dhansiri which were closer to the Nowgong District were becoming ideal to be integrated to the district for the swift political and economic administration. This was a clear indication that the colonial state was more interested in economic prospect rather than political control in the hill areas. Hence, in 1898 a large portion of the Naga Hills district was transferred to Sibsagar and Nowgong to obtain land revenue.¹⁵⁸ This drastically reduced the amount of

¹⁵⁵ From- The Offg. Secretary to the Chief Commissioner of Assam, to- The Secretary to the Government of India, Foreign Department, Letter No 603206 For P, dated Shillong, the 18th January 1898.

¹⁵⁶ Government of Nagaland, file No. 115, 1874, Notification of Lakhimpur District Inner Line Boundary.

¹⁵⁷ Op. cit., Sanghamitra Misra, *The Nature of Colonial Intervention in the Naga Hills*, pp. 3273-3274.

¹⁵⁸ Op. cit., B.C. Allen, *The Naga Hills and Manipur*, Vol. IX, p. 30, also see, Piketo Sema, *British Policy and Administration in Nagaland 1881-1941*, p. 108.

land revenue collected from the Naga Hills district by the end of the nineteenth century (see, table 3.2). This was not the only time when the colonial state transferred the hill areas of the Nagas for their economic interest. In 1901, 1903 and 1923-24, the colonial state again transferred some tracts of Naga Hills to the neighbouring districts of Assam.¹⁵⁹

In 1849, the British detected two coal mines situated in the unadministered territories of Namsang Kongon and Jaktung in Naga Hills. Initially, because of the unstable relationship with the Nagas, the colonial state did not issue any lease. But with the consolidation of political authority over the Nagas in the 1880s, these coal mines were leased out to Assam Company for a period of ten years.¹⁶⁰ Originally this Company was incorporated by Special Act of Parliament to engage mainly in tea cultivation. But at the same time, the colonial government authorized them to venture into other enterprises in Assam. The lease agreement dictated the company to pay a royalty of four *annas* a ton to government.¹⁶¹ The lease was renewed twice in 1891 and 1901 but the royalty rate remained unchanged. The colonial state appropriated the mines in 1913 and claimed it as British territory. The mines were also transferred from Assam Company to the Nazira Coal Company Limited, and all the mine lands were leased out for a period of thirty years.¹⁶² The colonial state took full charge of the mines though the lease was issued to the private enterprise. For instance, the government assumed the responsibility of paying money to the Nagas which was to be paid annually in a lump sum and the royalty to the government was paid in the Sibsagar Treasury.¹⁶³ B.C. Allen, a British official, noted that the boundaries of the Naga Hills experienced more changes than any other areas as a result of coal mining, tea plantation and railway.¹⁶⁴

¹⁵⁹ Op. cit., The Assam Regulation 1886.

¹⁶⁰ The Assam Land Revenue Manual, Vol. 1, p. cxxvi.

¹⁶¹ Ibid.

¹⁶² Ibid, Pp. cxxvi-cxxvii.

¹⁶³ Ibid, p. cxxvii.

¹⁶⁴ Op. cit., B.C. Allen, Assam District, *The Naga Hills and Manipur*, Vol. IX, p. 29.

For the hill people, the “resources lie within their limited areas”¹⁶⁵ and they used it for their subsistence needs. But the colonial state regarded the resources as marketable products to enhance commercial business. The lands which were fit to enrich their capitalist approach were transferred to the districts which were administered through ‘regulated laws’. The lands which were unutilised in the hills by the hill people were considered to be ‘unfit for cultivation’ by the colonial state.¹⁶⁶ It was significant for the colonial state to transfer profitable tracts unused by the Nagas to be transferred to ‘regulated areas’ from the ‘non-regulated’ areas as it enables them to control the market without any restrictions. As a result, most of the traditional boundaries of the hill people were altered and new boundaries were laid down. As K. N Panikkar has pointed out, it deprived the people of their ‘cultural rights’ and ‘identity’.¹⁶⁷ It also led to the creation of a ‘new identity’ with the transfers of lands. The original landowners were denied of using their land and were rented to the private enterprises. Most of the tea planters employed a large number of labourers to work for their industries which would gradually new identities such as ‘tea workers’ or miners. Thus the shifting of boundaries brought ‘new identities’ as the new settlers in the foothills were mostly the immigrants. Consequently, it brought “a loss of identity and the formation of a new one, a forced identity” in these transferred lands.¹⁶⁸ This alienation of land for the colonial economic interest had caused a major shift of socio-economic change in the Naga Hills.

Conclusion

The nineteenth-century rules and regulations were exclusively based on the civil and criminal justice and police for the administration of the hill districts. It

¹⁶⁵ S.E. Peal, Esq, Notes on a visit to the Tribes inhabiting the Hills South of Sibsagar Assam, 1872, p. 9.

¹⁶⁶ Op. cit., B.C. Allen, Assam District, *The Naga Hills and Manipur*, Vol. IX, p. 30.

¹⁶⁷ P. N. Panikkar, *Colonialism, Culture, and Resistance*, Oxford University Press, New Delhi, 2007, pp. 20-22.

¹⁶⁸ Ibid, p. 21.

failed to deal with any land settlement of the hill districts and thus only in exception of the isolated tracts were assessed.¹⁶⁹ However owing to the occupation of the hill district, the colonial state improvised on the revenue system. Instead of ordinary land settlement, the colonial government introduced the house tax. In the initial period, house tax was paid by the weak villages for protection. But the gradual expansion of the Naga administered areas, the colonial state changed their strategy. Thus, the collection of house tax distinguishes the Nagas living in the administered areas from those outsiders. Further, the government exploited by demanding impressed labour along with house tax. The political-economy policy resulted in the flow currency as the house tax was to be paid in cash to the government. This forced the Nagas to earn money through work labour for the colonial state. In return, it created a new class of wage-labour in the Naga Hills.

Meanwhile, the expansion of tea market in Assam formulated a new colonial policy on the Naga Hills. The colonial state categorised and reclassified space to extract maximum profit. In this way, the colonial state identified open spaces of the Naga communities which were leased to the planters to enhance their market. Thus, mass territories of the Nagas were transferred to the plain districts of Assam. As discussed, the colonial state did not bring a major transformation of property rights in the Naga Hills. The colonial state only partially introduced the idea to tie an individual to private property. Therefore, the Naga Hills was indeed an exceptional region in the way modernity was ushered in through the colonial state. This is because the man-land relationship which is the use of land and community rights over the land remained unchanged. On this reasoning, the colonial configurations in the Naga Hills was an incomplete modernization project. Thus, my argument is that the civil side of British administration- the civil courts, especially in relation to land surveys, and assessments of land reforms for taxation was weak.

¹⁶⁹ Report on the Administration of North-East India, 1921-22, p. 64.

Chapter IV

Social Policies and Reformation in Naga Hills

As mentioned in the preceding chapters, the colonial state adopted the paternalistic approach by allowing the traditional Nagas institutions to function according to their customs. The colonial state controlled and maintained law and order in the Naga Hills but the government thought it was inadvisable to radically change with the traditional institutions of the Nagas.¹ The colonial government throughout its rule utilised the indigenous institutions to acquire public legitimacy for the introduction of modernity. In their efforts, the colonial state incorporated the indigenous leaders in their administrative structure to govern the people. In this way, the colonial machinery seamlessly integrated the indigenous structures to modern forms of networks and powers.

The paternalist approach ensured the continuity of local customs and traditions. However, the colonial state as the agent of development to the indigenous institutions made inroads into the society and transformed many cultural features of the Nagas. The cultural transformation produced new hybrid cultures, which were distinct from the indigenous pre-colonial past. In other words, it produced new socio-cultural configurations. Charles Taylor in his essay “Two Theories of Modernity” argues that this transformation creates cultural plurality as each culture has a distinct character.² However, one has to consider that these cultural transformations occurred mainly because of the encounter of Christianity undertaken by the American missionary in the Naga Hills.

¹ Christoph Von Furer Haimendorf, *The Naked Nagas: Headhunters in Peace and War*, Spectrum Publication, Guwahati: Delhi, Reprint 2004, p. 50.

² Charles Taylor, Two Theories of Modernity, in Dilip Gaonkar (ed.), *Alternative Modernities*, Duke University Press, Durham, London, 2001, p. 182.

The spread of Christianity was often supported by the British colonial government. The colonial administrator and the Christian missionaries frequently corresponded with each other. The former was more concerned with the maintenance of law and order, whereas the latter focused mainly on 'moral' and 'ethics'. The coming of Christianity challenged not only the social customs of the Nagas but also the principles of the colonial state. The missionaries brutally attacked the ancient traditions which were not in accordance with the teaching of Christianity. For instance, the feast of merit which the Christian missionaries and Naga converts completely abolished was an integral part of the Naga traditional customs. It broke the 'awful monotony' life of the Naga villages.³ They also banned the traditional institution like the *morung* and other 'animist' rituals. Thus, it was Christianity that took on Naga cultures and customs.

However, this chapter will focus on the institutional inroads of the colonial state in the Naga Hills. The colonial state pushed for a coherent administration through organised bureaucracy to interact with the local institutions and produce hybrid institutions. As discussed, the colonial state introduced the hybrid/created institutions such as the offices of *goanbura* and *dobashi*. In this way, the colonial administrators utilised the traditional institutions in the colonial administrative framework. The interaction with the indigenous institution led to the restructuring of power and authority. It also reconceptualised the notions of crime and punishment.

The colonial administrators as mentioned earlier were profoundly involved in the maintenance of law and order. Therefore, the colonial government took stern measures against the natives for the activities which were considered not to be according to the rationale of the colonial state law and order. The prevention of raids through warnings during military expeditions in the Naga Hills was the first measure taken by the colonial state to ensure the maintenance of law and order. The colonial government had no hesitation in using force to suppress the hostile villages engaging in raids in the British protected areas. Once the colonial state established

³ J.P. Mills, *Notes on the effect on some primitive tribes of Assam on contacts with civilization*, file No. 204.

their suzerainty, they took administrative measures which were considered not harmonious to the Naga society because the colonial government attacked various ancient cultural practices. For instance, the colonial administration abolished headhunting and animal sacrifice.⁴ In the Naga society, the practice of headhunting, slave trade and human sacrifice were intertwined, and they were crucial for the prosperity of the village. But in the eyes of the colonial state, they were barbaric acts. The abolition of one practice compromised the values of other cultural practices. The colonial government substituted the practice of mithun sacrifice with more humane methods of killing.⁵

This chapter will look into the interventionist approach of the colonial government and the role of the government as a ‘preserver’ of the ancient traditional institutions. Here the interventionist approach means the abolition of slavery in the Naga Hills both in administered and un-administered areas. As a ‘preserver’, the colonial government believed in the gradual development of the society rather than through drastic changes. The chapter will also emphasize on reverential politics of the colonial state by modifying some of the Naga customs and cultural practices. In other words, the colonial state assumed the role of the moderator and arbitrator to settle conflicts and disputes.

Pre-colonial slavery institution

The practice of slavery is also old as the history of humankind civilization. It was prevalent in all the major societies and civilizations.⁶ The institution of slavery did not have any particular region or race. In this connection, James O’Brien tried to theorize the origin of slavery in the form of ‘absolute parental authority’ in

⁴ Ibid.

⁵ Ibid.

⁶ James Bronterre O’Brien, *The Rise, Progress, and Phases of Human Slavery*, William Reeves, 185, Fleet Street, London, 1885, p. 9.

aboriginal societies where the father had the supreme authority on his household.⁷ Here slavery was practiced in the form of personal slavery through the authorial dominance over the wife and children. This absolute parental authority continued under the sovereign authority, which later developed into a well-defined system of law for the institution of slave. O'Brien's theory argues that the origin of human slaves did not originate in positive laws but it originated through the natural process.

The historical survey into human civilizations shows that there are two distinct classes- the possessor or the master class, and the possessed or the slave class.⁸ Ancient philosophers such as Plato and Aristotle acknowledged the relationship between the masters and the slaves based on the theory of evolution of the natural process. In ancient society, most slaves were treated kindly and they remained devoted to their masters. They accepted the role of the slaves and the institution. But this accepted role and position does not mean that the slaves did not revolt if their masters mistreated them. Often there have been revolts in the history of mankind against the institution of slavery.⁹

The League of Nations' Convention of 1926 in Geneva defined the slavery as "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised".¹⁰ Slavery as an institution existed both in the hills and the plains frontier of North-East. The slaves were mostly prisoners of war and criminals sentenced to death who were forced to work in the king's estate¹¹ or in the house of the chief in the case of the hill people. The hill people also kept

⁷ Ibid, pp. 10-17. The absolute authority of fathers continued till the end of the third century. Laws were amended whereby the sale of children, in cases of great poverty or destitution, was made legally permissible." However, later around the second century, the fourth book of the Justinian Code prohibited this absolute right of the father and with the embraces of the Christianity it further deepened these laws.

⁸ Ibid, p. 8.

⁹ Ibid, pp. 31-33.

¹⁰ G. E. M. de Ste. Croix, *Slavery and other forms of Unfree Labour*, in Leonie Archer (Ed) *Slavery and other forms of Unfree Labour*, Routledge, London, 1988, p. 22.

¹¹ H. K. Barpujari, *The Comprehensive History of Assam*, Vol. V, publication board Assam, Guwahati, 3rd Edition 2007, p, 209.

slaves to perform socio-religious rituals or for ‘human sacrifice’. However, most slaves were domestic servants and they live in the household of their masters. Verrier Elwin described the slave institution of North-East Frontier as:

“It is somewhat different from what once was practiced in the west. In the first place, it is on a comparatively on a small scale... Secondly, there is no racism in slavery... Slaves often win a good position in their masters’ homes, and naturally, after a period of years, come to be accepted as members of the family.”¹²

The division between the masters and the slaves was a “perfectly natural division”.¹³ This meant that the mutual relationship between the masters and the slaves was not considered as inhuman. Slaves were treated as ‘personal property’ and they were no more inferior to the paid labourers in the other part of the world. The slaves belong to his master, and it was his duty to protect and help his master. Thus, in this case, the slaves barely sought for freedom. And in some cases, slaves continued to live with his master even though he had been granted freedom. It was mostly because of the good treatment that he received from his master. However, if the master treated his slave in “harsh and cruel” manner, the slave sought for a new master.¹⁴ Here the slave as a member of the family and a property to the master resonates O’Brien’s theory on the origin of slavery as a natural process rather than a positive law development.

The hill people usually captured slaves through raids in the neighbouring areas. Most slaves were captured from the plain areas and during the inter-ethnic wars. The inter-ethnic war was not based on land but about capturing subjects and slaves.¹⁵ In the hills areas of Manipur, G. Walt wrote:

¹² Verrier Elwin, *A Philosophy for NEFA (North East Frontier Agency)*, Vishal Kaushik Printers, Delhi, Reprinted 2009, p, 100.

¹³ Op. cit., James Bronterre O’Brien, *The Rise, Progress, and Phases of Human Slavery*, p. 17.

¹⁴ Ibid, p. 18.

¹⁵ Sanjib Baruah, *Post Frontier Blues: Towards a New Policy Framework for North East India*, East-West Center Washington, 2007, p. 23

“The capturing of slaves must in time have exercised a powerful influence in modifying tribal characteristics, for the slaves were often well cared for, the younger ones being allowed to take wives, or were given in marriage to their captors.”¹⁶

The captive slaves were at the mercy of the captors. They were either sold or kept as labourers. Thus, the slaves in the hill areas were primarily kept for manual labours. It was a common customary practice of the majority of the people in the hills, but the slaves were not kept in bondage by force.¹⁷

There was no uniformity in the institution of slave in the North-East Frontier. In the Sadiya Frontier Tract, a slave was tattooed. But for the Ao Nagas, a female without tattoo were categorized as a slave.¹⁸ In some regions, slaves were treated like ‘adopted children’, but in some parts, slaves were denied such rights. For instance, the Ao Naga slaves were not allowed to marry nor allowed to possess any property, and the children borne by slaves were put to death.¹⁹ But in the western Rengma Naga, a female slave was allowed to address her master as ‘father’ if he had kept her for an extended period. This relation naturally made her an ‘adopted daughter’.²⁰ Among the Lotha Nagas, slaves were considered as the members of the master’s clan.²¹

¹⁶ George Walt, *The Aboriginal tribes of Manipur*, The Journal of the Anthropological Institute of Great Britain and Ireland, Vol. 16 (1887), pp. 346-370, p. 349.

¹⁷ Subas Chatterjee, *Frontier Officers in Colonial North East (Compiled reports of British officers)*, Akansha Publishing, New Delhi, 2009; Op. cit., T. H. Lewin, *Wild Race of South Eastern India*, p. 67.

¹⁸ For the Ao Naga, the girls were tattooed at a young age (adolescent) and were considered ‘pure’. Gertrude M. Godden, *Naga and the other Frontier Tribes of North East India*, The Journal of the Anthropological Institute of Great Britain and Ireland, Vol. 26 (1887), pp. 161-201, p. 184.

¹⁹ Robert Reid, *History of the Frontier Areas Bordering on Assam From 1883-1841*, Spectrum Publication, Guwahati, Reprint 1997, p. 124.

²⁰ J.P. Mills, *The Rengma Naga*, Second Edition by the Directorate of Art and Culture, Government of Nagaland, 1982, p.161.

²¹ Op. cit., J.P. Mills, *The Lotha Naga*, p.161.

Slave trade generated wealth and was one of the lucrative markets in Europe.²² In the context of the North-East frontier, the slave was also a valuable economic commodity. Although the slave market was not that big as it was in Europe, it provided a meeting point for the plains and hills. Slaves were sold and bartered like any other commodities. It acted like cash currency in the hills as the slaves were passed hand to hand like a banknote in the more civilized region.²³ After the slave was bought or taken as captives he was bound to serve his master. The slave was the personal property of the master and the king or chief.²⁴ The slave could be sold with the consent or against the wish of the slave. It was a profitable trade and it was carried across the frontier. A British report on North-East Frontier of 1809 mentioned that the slaves were imported for an estimated value of two thousand rupees.²⁵ Slave was an important item in Hamilton's list of exports from Assam in 1809.²⁶ The cost of the slaves varied from region to region and they were traded either paid in cash or kind. Children and female were usually paid less compared to men, but in some cases, the price of the female was higher than male.

Prior to colonialism, the Angami Nagas carried slaves to trade with Bengalis in Sylhet.²⁷ The male slaves were bartered for one cow and three conches of shells, while the female was traded for three cows, and three to five conch of shells.²⁸ A boy was sold to the Yankhao Village (Phom Naga) for a pair of hathi dant (elephant

²² Drescher Seymour. *History's Engines: British Mobilization in the Age of Revolution*. The William and Mary Quarterly, vol. 66, no. 4, 2009, pp. 737-756.

²³ James C. Scott, *The Art of Not Being Governed*, Orient BlackSwan, Hyderabad, 2014, p, 88.

²⁴ Meena Sharma Barkataki, *British Administration in North East India 1826-1874*, Mittal, New Delhi, 1985, p. 137.

²⁵ N. N. Acharyya, *Historical Documents of Assam and Neighbouring States*, Omsons Publication, New Delhi, 1983, p- 42.

²⁶ Walter Hamilton, *East-India Gazetteer; containing Particular Description of the Empires, Kingdom, Principalities, Provinces, Cities, Towns, District, Fortresses, Harbor, River of Hindostan*, Vol. 1, R.R. Publishing Corporation, Delhi, Reprint 1984, pp. 65-73. Also in, John Owen, *The Naga Tribes, in Communication with Assam*, 1844, W.H. Carrey and Co., Cossitollah, Calcutta, 1844, p-90. Also in, Op. cit., H. K. Barpujari, *The Comprehensive History of Assam*, Vol. V, p. 211.

²⁷ Op. cit., John Owen, *The Naga Tribes, Communication with Assam*, p., 90.

²⁸ Op. cit., H.K. Barpujari, *The Comprehensive History of Assam*, Vol. V, p. 211.

tusk) and one mithun (gayal).²⁹ In the Lotha Naga region, slaves were worth two or three cows. Gordon Means in *“Human Sacrifice and Slavery in the Un-administered Areas of Upper Burma During the Colonial Era”* wrote on the political and economic significance of slave trade among the Nagas. He wrote:

“Blood feuds and lines of conflict continued for generations. Headhunting and the capture of slaves for labour as well as the sale and exchange of both slaves and produce were part of an elaborate tribute system of political control and economic transitions between powerful patron villages and less powerful client villages.”³⁰

Slaves were also bought to fulfil the ritual ceremonies to please the spirits for the well-being of the village. These slaves become victims of human sacrifice. The practise of human sacrifice was common among the hill people. To please the spirits, human sacrifice was fundamentally important. Some of the hill communities believed that human sacrifices would bring fortune to the villages or clans and cure sickness or banish evil spirit. Some groups practiced human sacrifice with the belief that the slave would accompany the deceased member of the master’s family in the other world. Slaves were also sacrificed when the villagers could not take a human head.

Human sacrifice was one of the most important religious ceremonies for the Nagas. Most of the ceremonies required the human body or parts of the body to be offered as an offering. Human sacrifice was considered to be the ‘greatest offering’ a Naga can offer to the spirit. The Nagas generally sacrificed a human for the purification of village sites and houses for a bountiful harvest, and protection from epidemic and common diseases.³¹ For the Ao Nagas, slaves brought from other village were considered to be a bad omen, and so they were often offered to spirits

²⁹ General Department, file No. 363.

³⁰ Means, P. Gordon, *Human Sacrifice and Slavery in the “Un-administered” Areas of Upper Burma During the Colonial Era*, published by Institute of Southeast Asian Studies, 2000, p. 187.

³¹ Confidential, Expedition Department, T.P. Dewar, *Report on the Naga Hills (Upper Chindwin) Expedition for the Release of Slaves and the Abolition of Human Sacrifice* (20th December to 26th March 1931), 20 September 1931, File No. 493, p. 11.

to accompany those men who had been killed in the inter-village war.³² The importance of human sacrifice among the Nagas can be summarized in Christoph Von Furer Haimendorf words:

“The tribes on the Patkoi mountains behead a slave at their Feasts of Merit. The only humane trait in these cruel ceremonies is perhaps the custom of making the victim so drunk before slaughter that he goes to his death only half conscious. At the erecting of a men’s house, the sacrifice of a human being strengthens the new building; the trussed slave is thrown into the hole, and is crushed as the main post comes smashing down. But the worse fate awaits those slaves who are sacrificed on a newly cleared field, for it is said that the victim is bound to a stake, from where he must watch the flames creeping up the dry felled jungle, roaring as the wind fans them. The spirit which leaves the poor charred body is believed to have a fertilizing influence on the crops.”³³

The above discussion was on the institution of slavery in the North-East frontier, particularly of the Nagas prior to British colonialism. However, the expansion of colonialism in nineteenth-century broke down the slave institution. The following section will discuss the policies of the colonial government to abolish the practice of slavery.

Abolition of slavery in the administered areas

In India, Lord Cornwallis prohibited the exportation of human as slaves to different parts of India or elsewhere in 1789.³⁴ When this regulation was passed, the North-East Frontier was yet to be under the British colonial rule. In 1811, the Bengal Regulation X prohibited the importation of slave from foreign countries. But it was legalized to trade internally within British India. The slave trade was

³² Verrier Elwin, *The Nagas in the Nineteenth Century*, p. 326.

³³ Op. cit., Christoph Von Furer Haimendorf, *The Naked Nagas: Headhunters in Peace and War*, pp. 127-128.

³⁴ Op. cit., H. K. Barpujari, *The Comprehensive History of Assam*, Vol. V, p, 212.

permitted till Goalpara (Assam-Bengal border) but it was not permitted to cross beyond the North-East frontier.³⁵ This regulation created confusion among the British officers as this regulation separated the North-East Frontier from India. Therefore, Scott demanded a separate fund for the North-East if it was considered as a foreign country and if not, he demanded proper clarification on it.

But back in Britain, the anti-slavery party became hugely successful. They began to pressurize the government to abolish slavery in the British colonies. The abolition of slavery in India was “conducted on distressingly superficial grounds.”³⁶ Cassels noted that the form of slavery in India was mild and not as severe as in the West Indian. Therefore, the EIC officials were initially reluctant to abolish slavery in India. It was the Evangelicals that pressurised the Board of Control to abolish slavery in India. This also effected the newly annexed territory of Assam. The immediate impact of the Anglo-Burmese war was the liberation of 6000 Assamese slaves who were taken as captives in Burma.³⁷ In the administered plains of Assam, the Governor-General, Lord Auckland declared all sales of persons as slaves to be deemed illegal, and it came into effect from August 1837.³⁸ But due to strong bondage between the masters and slaves, the Act had little impact. Therefore, the Crown in London recommended the British India Society to review the position of slaves in Assam.³⁹ Consequently, steps were quickly taken for the new law to be enacted. In 1843, Act V of the Regulation was passed, and slavery was abolished in the whole territory of East India Company.⁴⁰ It enforced the indigenous Assam people to surrender their slaves as the right to hold slaves was abolished. The introduction of the Indian Penal Code in 1860 abolished all the slave trades and the

³⁵ Ibid, pp, 141-142.

³⁶ Op. cit., Nancy Gardner Cassels, *Social Legislation of the East India Company*, p. 173.

³⁷ R. M. Lahiri, *The Annexation of Assam (1824-1854)*, Firma KLM Private Limited, Calcutta, 1994, p-27.

³⁸ Op. cit., H. K. Barpujari, *The Comprehensive History of Assam*, Vol. V, p, 214

³⁹ Charles Swaisland, *Slavery and Abolition: The Aborigines Protection Society, 1837-1909*, A journal of Slave and Post-Slave Studies, 21:2, 265-280, 2008, p- 265.

⁴⁰ Op. cit., H. K. Barpujari, *The Comprehensive History of Assam*, Vol. V, p, 214.

possession of slaves was declared a criminal offence.⁴¹ The regulation was implemented in British Assam or the Brahmaputra valley, and the defaulters were liable to be tried in the English court.

When the colonial government extended its power and authority in the hills, the government worked on the abolition of slavery. Initially, with the non-interference policy, the government had little impact on the hill people. The only contact with the Nagas before the establishment of a headquarter was through military expeditions. In connection to this Gordon wrote that “the British officials were content to leave these hill tribes to their own ‘barbaric’ social practices so long as these hill tribes avoided raiding under direct British administration.”⁴² But once the British took over the Naga Hills, only a few accounts of slavery had been reported from the administered areas. The slaves were mainly runaway slaves from the unadministered areas. In the nineteenth century, the colonial government immediately did not enforce rules for the eradication of slavery in the Naga Hills, although the government restricted the Nagas from keeping slaves in the administered areas.⁴³ In this way, the government sought to gradually remove the practice of slavery. After the First World War, the attitude of the British government changed, and strict regulations were implemented for the abolition of slavery. Extensive military expeditions were carried out in the unmapped frontiers of Assam and Burma to stop slavery. Here it is important to note that the legal reforms initiated by the colonial state changed the ethnic groups’ worldview.

The abolition of slavery had a negative impact on the practice of headhunting and human sacrifice in the administered Naga Hills. The abolition of slavery by the colonial authority denied the people to follow their beliefs and their old traditions of worshipping the spirit or nature which required making sacrifices. Christianity at that time had hardly reached to the native people. The traditional religious rituals were always associated with sacrifices. Therefore, the natives had to find another

⁴¹ Sajal Nag, *The Uprising, colonial state, Christian Missionaries and Anti- Slavery Movement in North East India 1908-1954*, p, xvii.

⁴² Op. cit., MEANS, P. Gordon, *Human Sacrifice and Slavery in the “Un-administered” Areas of Upper Burma During the Colonial Era*, p. 188.

⁴³ Op. cit., Piketo Sema, *British Policy and Administration in Nagaland, 1881-1947*, p. 62

alternative in order to perform their ancestral rituals. A case of slavery and human sacrifice was reported from Akuk Village (Lotha village), a British administered village. Following the prohibition of slavery and raids, the Akuk Village had not taken a human head for a long time and the village had arranged to buy a slave for sacrifice from Nankam village (present day Yikhum village).⁴⁴ This slave was killed and his body parts were distributed among the other villages for the necessary sacrifices.

The law introduced by the British in the Naga Hills to prohibit slavery was largely successful in the administered areas, as the practice was hardly recorded by the British officials except for some few rare incidents. The practice of slavery also decreased due to the influence of the Christian missionaries who along with the colonial state introduced the natives to western education and western values. The missionaries who took upon themselves to civilize the natives branded the traditional culture of the Nagas as 'evil'. The only reported cases of slavery in the administered Naga Hills were those of run-away slaves from the un-administered areas. In order to check the practice of slavery in the unadministered of trans-Dikhu areas, the colonial government established a sub-division at Mokokchung in 1889. In 1893, five Naga slaves ran away from their master due to ill-treatment. The Deputy Commissioner of Lakhimpur warned the chief who came in search of his slaves and ordered the Political officer at Jaipur (Jeypore) to not return the slaves.⁴⁵ The run-away slaves were granted permission to live in Bamunikoria village, which was under the administration of the British territory. The government accepted the run-away slaves from the unadministered areas as its subjects and protected them from their master. The colonial state also took every opportunity to abolish slavery in the North-East Frontier. In 1915, the Chief Commissioners of Assam B.C. Allen wrote about the run-away slaves in the British territory. Allen wrote:

“In such districts, the only connection which Government has with slavery is due to the occasional arrival in the British territory of slaves from un-

⁴⁴ Op. cit., J.P. Mills, *Lotha Naga*, pp. 109-110.

⁴⁵ Foreign- A, May 1894, No. 16, From- The Deputy Commissioner of Lakhimpur, To- the Secretary to the Chief of Assam, File No. 377.

administered areas. The only two regularly administered districts into which slaves come are the Naga Hills and the Lushai Hills, but their arrival in those districts does not lead to any complications. On reaching British territory they become free and are absorbed into the general population. The authority of the District Officer in these two districts is complete, the tribes on our frontier have acquired by stern experience a very wholesome respect for the long arm of Government and the owners of the slaves would never dare to enter our territory and endeavour to recapture them by force.”⁴⁶

From the above statement, it is clear that total abolition of slavery in the administered Naga Hills was evident by the twentieth century. Slavery existed only in the unadministered areas of the North-East Frontier. However, the British officials were advised not to enter the unadministered area without escorts. The British government accepted the run-away slaves from the unadministered areas their subjects. Therefore, even without the control of the unadministered areas, the government regulated the antislavery law on the run-away slaves and free them from slavery.

Abolition of slavery outside British administered areas

The British officials in their reports and writings acknowledged the prevailing practice of slavery, head-hunting and human sacrifices in the unadministered areas. The British government wanted to extend the anti-slavery law in all the hill areas. The repeated pressures from the Home Government (England) and the Anti-Slavery and Aborigines Protection Society forced the government to settle the issue of slavery at the earliest. During this period, the First World War had already taken place in Europe, and it had drained both manpower and money exceedingly. The shortage of manpower and money had delayed the proposed agenda to abolish

⁴⁶ Foreign and Political Department, From- The Hon’ble Mr. B.C Allen, Chief Secretary to the Chief Commissioner of Assam To- The Secretary to the Government of India, 15th August 1916, No. 4902P. File No. 128.

slavery in the unadministered areas. The Chief Commissioner of Assam B.C. Allen understood that unless the government occupied the unadministered territory permanently, it would be difficult to abolish slavery. Therefore, he advised the political officers to distance themselves from occupying any territories during the war. In 1916, the local officials echoed the views of the Chief Commissioner of Assam. They wrote a letter to the Secretary of India regarding their decision to stop an expedition in the unadministered areas. They wrote:

“While we cannot hope at present to be able to interfere with domestic life in the unadministered areas without resort to actual occupation, we agree with the Chief Commissioner that, on the conclusion of the war, our policy both as regards slaves who run away from unadministered into administered areas, and also as regards slaves still to be found in the small areas recently brought under partial administration should be submitted to be very careful examination. You may be assured that, as soon as normal conditions are re-established, this matter will engage our most serious attention.”⁴⁷

It was only after the First World War that the British made intense tours in the interior parts of North-East Frontier to abolish slavery. Several political and military expeditions were undertaken to obtain some knowledge of the unadministered areas. The colonial state had already faced several hostile approaches from the hill people. Thus, it was vital for them to acquire sufficient knowledge of the unknown communities before attempting to change any of their social customs. Thereby, any expedition in the unadministered areas was carried out as a good-will mission to create a friendlier relationship. Slavery and human sacrifice were extensively practised by most of the Naga in the unadministered areas of both Assam and Burma. Therefore, the Government of India and the Government of Burma began to send expeditions in their respective territories to eradicate the practice of slavery and human sacrifice.

⁴⁷ Foreign and Political Department, To- Right Honourable Austen Chamberlain, His Majesty's Secretary of State for India, From- Chelmsford, Beauchamp Duff, W.S. Meyer, C.H.A. Hill, C.S. Nair, G.R. Lowndes and G.S. Barnes. 15th September 1916, No. 82 of 1916. File No. 128.

In 1923, J.H. Hutton gave an account of his two tours in the unadministered eastern the Naga Hills.⁴⁸ In the first tour, the expedition was carried out in the Yungya village inhabited by Konyak Nagas, and its surrounding villages (including some Phom Naga villages) in April. The expedition area was not entirely unknown to them as General Woodthorpe had already visited the Konyak and the Phom Nagas during a survey in 1876. The second tour was held in October, and Hutton was accompanied by C. R. Pawsey. Unlike in the first tour, the areas to be covered in the second expedition were not surveyed by any of the colonial officials. In both the tours, the colonial government wanted to survey the areas and study the social customs of the Naga tribes living in the eastern part of the Naga Hills. Hutton not only wrote on some of the distinctive cultural practices of the communities but also compared the communities to that of the administered communities of the Naga Hills. In his report, head-hunting was recorded in most of the villages he toured, but he did not mention the practice of slavery. But in 1927, the government received information of a boy sold to the Yankhao village (one of the toured village) for a pair of hathi dant and one mithun.⁴⁹

In 1926, the Governor of Burma visited the Hukawng valley and articulated plans for the eradication of slavery in the Burma frontier. Simultaneously, the Burmese government took expedition in the west of the Hukawng valley inhabited by the Naga ethnic group which had also been visited in the previous season.⁵⁰ In the earlier visit, the government released slaves and established new villages for them. In their current visit, they oversaw the condition of the liberated slaves and settled village feuds. They also cautioned the Naga chiefs to refrain from human sacrifice or supply victims.⁵¹

In 1930-31, the government proposed to revisit the unadministered Naga Hills areas in Upper Chindwin Burma which they had covered in their earlier expedition

⁴⁸ J. H. Hutton, *Diaries of the Two Tours in the Un-administered area of the Naga Hills*, Mittal Publications, New Delhi, Reproduce, 2002.

⁴⁹ General Department, No. 68487, 13th April 1927, File No.36.

⁵⁰ Government of India, Foreign and Political Department, External. Nos. 1-81. League of Nations Slavery Convention. Memorandum on Slavery in Remote Parts of India.

⁵¹ Ibid.

(Mr Mitchell's expedition in 1930). The objectives of the re-visit were to enquire on the release of slaves and to discourage the custom of selling slaves for sacrificial purposes. The officer in charge of the expedition was Mr T.P. Dewar. He reported a satisfactory result stating that the colonial approach to develop a friendly relationship with the villages was shaping as desired. He released several slaves but held the opinion that slavery does not appear to be of great importance in the Naga Hills. He also pointed out that human sacrifice had practically become non-existent. But he also mentioned that the practice of head-hunting might continue unless these areas were directly administered.⁵² The released slaves were granted freedom, and their economic condition was as good as that of the poorer freemen in their country.⁵³ In the 1930 expedition, the number of slaves released in the Naga Hills was ninety-five, and T.P. Dewar in 1931 recorded the status of forty-five slaves out of the ninety-five slaves in his tour. He reported that only one slave died, and the freed slaves were faring better. Some of the slaves even got married to the free-born people. As per the customary practice, a female slave could not marry in this part of the country, but since their release, some got married.⁵⁴ Dewar also recorded that some freed slaves also changed their villages. However, the practice of slavery was still prevalent in some Naga villages in the Upper Chindwin. T.P Dewar reported:

“In the course of the enquiries conducted while in the hills information was received that slaves existed in certain villages. Further enquires were made and proceedings opened. It was not possible to release all those in slavery. There are still 23 unreleased slaves known to exist in the area. Nine slaves were released.”⁵⁵

⁵² Home and Political Department, From- C.R.P. Cooper, Commissioner, Sagaing Division, To- the Chief Secretary to the Government of Burma, No. 632-5P-52, 18th May 1931, File No. 493.

⁵³ General Department, From- the Deputy Commissioner, Mawlaik, To- the Commissioner, Sagaing Division, No. 4590-2P-20, 19th May 1931, File No. 493.

⁵⁴ Confidential, Expedition Department, T.P. Dewar, Report on the Naga Hills (Upper Chindwin) Expedition for the Release of Slaves and the Abolition of Human Sacrifice (20th December to 26th March 1931), 20 September 1931, File No. 493, p. 11 (hereafter T.P. Dewar, Report on the Naga Hills (Upper Chindwin).

⁵⁵ T.P. Dewar, Report on the Naga Hills (Upper Chindwin), p. 11.

The table gives an account of the released slaves as reported by T. P. Dewar after the expedition.

Name of the village	Name of the Owner	Serial No of slaves	Name of slaves	Age	Sex	Race
Kuku	Hangang	96	Hanraw (alias) Hallo	16	Male	Naga
Tonche	Lok Pe	97	Pan Ne	30	Do	Do
Do	Do	98	Wang Am	7	Do`	Do
Do	Nok Shi Hawn	99	Ngwm Kya	30	Do	Do
Do	Hoklai	100	Shawang	50	Do	Do
Do	Do	101	Ya Tawng	20	Do	20
Chawang Nawkbaw	Ownerless	102	Wang Nga	35	Do	Do
Do	Do	103	Ang Gai	25	Do	Do
Do	Do	104	Naw Am	28	Do	Do

Table 4.1. List of liberated Slaves, 1930-31 (source: T. P. Dewar)⁵⁶

The colonial state again proposed for a tour in the unadministered areas (Assam) of the Naga Hills after receiving information on the slavery practice. The tour was to be in the eastern part of the Naga Hills bordering Burma. No European

⁵⁶ T. P. Dewar, Report on the Naga Hills (Upper Chindwin), p. 17.

had ever entered this part of the world. In 1936, J. P. Mills, the then Deputy Commissioner of Naga Hills, accompanied by an anthropologist, Christoph Von Furer-Haimendorf marched towards the eastern part. This expedition was to be carried out in the area inhabited by the Kalyo Kengyus community (presently known by Khiamniungan). Slave trade was an 'extremely profitable business' for the Kalyo Kengyus community. The slaves were kept under rigid rules and were not realised easily.⁵⁷ Under such circumstances, the government did not have any option but to intervene and release the slaves. The targeted expedition was Pangsha Village, a large village which was unmarked in the government map. The government mission was to release slaves who had been taken as captives from the British administered villages of Saochu and Kejok. Christoph Von Furer-Haimendorf lamented that he had "never seen more miserable creatures than these slaves: a young woman, a youth of about twenty, two small boys and a small girl."⁵⁸ When the tour team reached nearby the Pangsha village, the warriors of the village became aggressive and attacked the touring team. After a great struggle, the touring team finally subdued the Pangsha village and abolished the practice of head-hunting and slave trade. After Pangsha Village was overpowered, Sanglao, an un-administered village returned the captive slaves to the British as per the government order.

The colonial government revisited the villages of Nokhu and Pesu the following year.⁵⁹ These two villages had not heeded to the warning of the colonial state and kept the slaves with them. On reaching Pesu, the expedition team freed seven slaves, and both villages were punished severely for disobeying the order of the government. Mr. Pawsey and Hari Blah along with 174 officers and soldiers marched to Nokhu village to free the slaves. The colonial state enforced the anti-slavery law in the un-administered area of the Naga Hills where slavery was practiced strongly. Most of the hill areas were now under the Anti-Slavery Law, and any offender was brought to trial. The run-away slaves from unadministered

⁵⁷ Op. cit., Furer-Haimendorf, Von Christoph, *The Naked Nagas: Head-hunters of Assam in peace and War*, p. 112.

⁵⁸ Ibid, p. 127.

⁵⁹ Assam Administration Report, p. 344.

territories to the administered areas were freed and were assimilated in the general population without any complication.⁶⁰

Despite the success in the administered areas, the British were mindful of the vast territories which were still beyond their jurisdiction. The British were also aware of the impossibility to enforce anti-slavery Act where they had no control over the territory.⁶¹ But after the First World War, as a member of the Slavery Convention (1926), the British began to take several expeditions beyond the administered areas to eradicate slavery. The Indian government agreed to abolish slavery in any form.⁶² Colonial officials were sent to the unadministered areas of Assam and Burma with the joint effort from both governments to abolish slavery.

The colonial state, apart from abolishing slavery in the unadministered areas, did not interfere in any of their social customs. In fact, the government did not extend their administrative logic of governance in the unadministered areas. The colonial state only checked on the practice of slavery and warned them of stern punishment if the ethnic groups defile the government order. This indicates the transformation of some of the socio-cultural practices of the ethnic communities by the colonial government, and thus it did not drastically develop the indigenous societies. Here it is evident that modernity introduced by the colonial state was an incomplete one, and as a result, the indigenous societies have to come up alternative modernity.⁶³

Colonial rehabilitation policy of the released slaves

As a part of the rehabilitation programme, the colonial government emancipated the slaves through various policies. The Law Commission emphasized

⁶⁰ Foreign and Political Department, From- The Hon'ble Mr. B.C Allen, Chief Secretary to the Chief Commissioner of Assam, To- The Secretary to the Government of India, 15th August 1916, No. 4902P. File No. 128.

⁶¹ Op. cit., Verrier Elwin, *A philosophy for NEFA*, pp., 99-100.

⁶² Ibid, p, 99.

⁶³ Op. cit., Charles Taylor, *Two Theories of Modernity*, p. 184.

on education in order to inculcate the sense of independence among the slaves and to change their views on life.⁶⁴ The government believed that such a measure would benefit every subject that had been affected by the new anti-slavery law in their land. Through the spread of Christianity, the government also hoped to disseminate the message that everyone was equal. Some of the native chiefs felt that education and Christianity freed the people from the burden of slavery and other compulsory traditional dues.⁶⁵ The colonial state advocated a resolute policy to emancipate slavery from their territories. Subsequently, the colonial rule widely declared that keeping slaves was unlawful. The colonial officials constantly warned the ethnic communities of the consequences for keeping slaves. Those villages that violated the colonial orders were punished.

The introduction of anti-slavery law also gave the British government the opportunity to develop trades that fostered an economic relationship with the hill communities. Trades also opened up markets for the people to buy and sell goods.⁶⁶ In most of the hill areas, the use of currency was yet to be introduced. Their trading system was based on barter. The colonial state also felt responsible to introduce cash currency to enhance trade and prevent the practice of the slave trade. Thus, Mr Bentinck in 1912 reported that “it should, therefore, be our endeavour to introduce a currency as soon as possible and to foster the growth of a labouring class”.⁶⁷

The establishment of colonial rule degraded the traditional institutions and practices which had far-reaching implications. The colonial conquest created a sharp discontinuity in the Naga society. The radical transformation through colonial legislation eventually collapsed the conventional beliefs.⁶⁸ In this way, the colonial

⁶⁴ Op. cit., Meena Sharma Barkataki, *British Administration in North East India 1826-1874*, p. 187.

⁶⁵ Pum Khan Pau, Visva Bharati, Santiniketan, *Rethinking Religious Conversion: Missionary Endeavor and Indigenous Response among the Zo (Chin) of the Inida-Burma Borderland*, The Journal of Religion and Society, Vol. 14 (2012), pp. 7-8.

⁶⁶ G. R. Elton, *Politics and The Public Conscience- Slave Emancipation and the Abolitionist Movement in Britain*, p, 28.

⁶⁷ Op. cit., Robert Reid, *History of the Frontier Areas Bordering on Assam From 1883-1941*, p, 235.

⁶⁸ Op. cit., Charles Taylor, *Two Theories of Modernity*, p. 175.

state imparted their methods of governance and continued to control and legislate Naga Hills through the intricate designs. Thus, colonial intervention in the Naga Hills produced hybrid modernity or civilization.⁶⁹

Opium revenue in North-East Frontier

In the eighteenth century, Warren Hasting, one of the earliest EIC officials advocated to monopolize opium trade in India. He wanted to establish opium cultivation in the province of Bengal which was to be controlled by the government. He argued that opium was “a pernicious Article of Luxury”, and therefore proposed to cultivate opium only for foreign trade and not for domestic consumption.⁷⁰ He further asserted that the “regulation of the monopoly was less hazardous than abolition.” However, the Revenue Council overruled Hasting’s proposal on the ground of ‘evil consequences’ to the country, and the idea of monopoly was considered ‘clandestine’ though prohibition was hardly considered.⁷¹ Thus, opium trade continued without regulation, and the opium farmers were coerced by the corrupt contractors. Since the EIC received immense profit from the opium trade, the Cornwallis government proposed legislation to protect the farmers. Consequently, the Bengal Regulation of 1793 replaced private agencies with government-regulated agencies in the opium trade, and license system was introduced for all producers and providers of drugs.⁷² In the nineteenth century, the government began to enforce strict policies for opium cultivation and trades.

In Assam, the use of opium and cultivation was introduced in the seventeenth century during the Mughal invasion. However, the consumption of opium was

⁶⁹ Kaviraj, *An Outline of Revisionist Theory of modernity*, p. 503.

⁷⁰ Nancy Gardner Cassels, *Social Legislation of the East India Company: Public Justice versus Public Instruction*, Sage Law, New Delhi, 2010, p. 299.

⁷¹ Ibid, p. 300.

⁷² Ibid, p. 302.

confined mostly to the *nouveau riche* of the Assamese society.⁷³ In 1794, Thomas Welsh while reporting to the Secretary to Government wrote, “poopy grows in luxuriance in most of the Lower Provinces. The natives, however, are as yet unacquainted with the manufacture of merchantable opium, which might be procured in considerable quantity.”⁷⁴ David Scott also noted that opium was produced at large quantity, and the natives consumed opium though the preparations for consumption differed.⁷⁵ In his assessment, the opium quality obtained from Assam was similar to Patna or Benares. In other words, the opium cultivated in Assam was of fine quality. Meanwhile, the flow of illegal trade was carried out from the Bengal district of Rangpore, neighbouring Assam. The government did not regulate the opium trade in Rangpore because of the inferior quality.⁷⁶ Thus, the cultivators in Rangpore ignored the government monopoly and traded without a license in Assam.⁷⁷ The cultivation of opium in Assam began to grow gradually before the annexation in 1826. This restricted the government to impose any strict regulation as it did in India.

With the annexation of Assam in 1826, the government recorded that around 2000 *puras* were cultivated by the people of Assam.⁷⁸ Therefore, the government thought of regulating the *Abkari*, but David Scott was not in favour of it, and he recommended for a deterrent tax.⁷⁹ The government followed the policy of ‘non-interference’ with the indigenous Assamese for the production and consumption of opium. Moreover, the private cultivators were outside the government monopoly, and the sale of government opium became cheaper with a hope to restrict extreme

⁷³ Amalendu Guha, *Imperialism of Opium: Its Ugly Face in Assam (1773-1921)*, proceedings of the Indian History Congress, Vol. 37 (1976), p. 338.

⁷⁴ Welsh’s Report on Assam, 1794, From Captain Welsh to Edward Hay, Esq, Secretary to Government, dated 6th February 1794. Op. cit., Alexander Mackenzie, *The North-East Frontier of India*, p. 388.

⁷⁵ See, Notes by David Scott. Ibid.

⁷⁶ Op. cit., Amalendu Guha, *Imperialism of Opium: Its Ugly Face in Assam (1773-1921)*, p. 339.

⁷⁷ Gunnel Cederlof, *Poor Man’s Crop: Evading opium monopoly*, *Modern Asian Studies* 53, 2 (2019), first published 2018, p. 634.

⁷⁸ Op. cit., Amalendu Guha, *Imperialism of Opium: Its Ugly Face in Assam (1773-1921)*, p. 339.

⁷⁹ A tax of Rs. 20 per pura of local opium cultivation. Ibid, 339.

use once it will be regulated strictly.⁸⁰ By the mid-nineteenth century, most of the Assamese began to plant and consume opium. It was believed that three-fourth of the population in 1853 consumed opium.⁸¹ The loose policy effected most of the native people, and thus from 1860, the opium regulation became more stringent. As a result, the government abolished opium cultivation in Assam. For the consumption of opium, the indigenous people depended on the government supply, but there was no restriction on the quantity of opium that one could purchase from the license vendors.⁸² The main objective to abolish the cultivation of opium in Assam was to set up a monopoly in the opium trade and to collect maximum revenue and reduce consumption. In addition to that, the government also felt that the use of opium had made the Assamese people lazy which resulted in an acute shortage of labour supply for tea plantation.

In 1874, when Assam became a province, the government introduced a 'fixed license fee system' and it was later replaced by '*mahal* system' in 1877. In the fixed system, anybody could sell drugs at any place after paying the fixed sum of money. Whereas in the *mahal* system, the government divided the *mahals* in each district and the *mahals* were put up for auction to sell opium.⁸³ But in the *mahal* system, there were many reports of smuggling, as the government had little control over the *mahal* holders. Thus in 1884, the government reinstated the system of licensing, which gave them more control over the shop owners.

Colonial regulation on opium in the Naga Hills

Opium was introduced to the hill communities by the plainsmen of Assam. In the pre-colonial period, opium was initially used for the treatment of diseases like

⁸⁰ Shrutidev Goswami, *The Nature and Effects of Opium Monopoly in Assam, 1860-1919*, Proceedings of the Indian History Congress, Vol. 47, Vol I (1986), p. 622.

⁸¹ Sanjib Kumar Chetry, *Opium: Popularity and Consequences in Colonial Assam, India*, International Research Journal of Social Science, Vol. 5 (2), 41-45, February 2016, p. 41.

⁸² Op. cit., Shrutidev Goswami, *The Nature and Effects of Opium Monopoly in Assam, 1860-1919*, p. 623.

⁸³ Ibid, p. 624.

cholera by some Nagas.⁸⁴ Opium cultivation was unknown to the hill people. The only source of opium was through trade with the plainsmen. The Assamese plain traders bartered food grains and opium to obtain salt from the Nagas.⁸⁵ Though little was known of the Nagas, an effort was made to spread the awareness on the consumption of opium to the hill people. The colonial government proselytised the notion of ‘good’ and ‘bad’ and ‘heaven’ and ‘hell’. John Owen wrote:

“You must not drink rum, nor eat opium. If you drink rum, and eat opium, when you have grown up, you will be bad man. A bad man who steals, tells lies, and disobeys God, will go to hell.”⁸⁶

However, the extension of colonial territories further in the hills brought the hill people and the plains more close than ever. This gave rise to many cultural exchanges among the various groups. By 1870s, many of the Nagas squandered their money on opium particularly the Sibsagar Nagas.⁸⁷ Since opium was grown only in some places, it was insufficient for consumption, and most of the Nagas bought opium from government vendors. But in the interior of Naga Hills, opium was still an unknown commodity. In 1875, John Butler noted the use of local brew ‘dzu’ instead of opium. Butler mentioned that “this (*dzu*) is the Angami Naga’s greatest solace, for strange to say never indulging in either opium or tobacco.”⁸⁸

According to J.P. Mills, there were two factors for the increasing number of opium users in the Nagas Hills. The two factors are close contact with the plainsmen who were habituated with the use of opium, and the opium was used as a substitution for alcohol by the newly converted Naga Christians.⁸⁹ The colonial government also increased the use of opium in the Naga Hills. As mentioned, most

⁸⁴ Op. cit., John Owen, *The Naga tribe, in Communication with Assam*, p. 6.

⁸⁵ Ibid, p. 10.

⁸⁶ Ibid, p.1 37.

⁸⁷ The Seesaugor Nagas in 1873. From- P.T. Carnegie, Esq, Assistant Commissioner of Jorehaut, To- the Deputy Commissioner of Seesaugor, No. 415, dated Jorehaut, the 10th July 1873.

⁸⁸ Op. cit., John Butler, *Rough Notes on the Angami Nagas*, J.A.S., 1875 Vol. XLIV, No. 4, pp. 307-27, in Verrier Elwin (Edited), *The Nagas in the Nineteenth Century*, p. 301.

⁸⁹ J.P. Mills, *Notes on the effect on some primitive tribes of Assam of contacts with civilization*.

of the Nagas did not use opium, but the government opened opium shops in their administrative centre. In 1883-84, there were seven opium shops in Kohima. In the same year, the government sold 5 maunds and 19 seers of opium to the Kohima *mahaldars* as it fetched higher prices in auction.⁹⁰ This supply was actually meant to be sold at Golaghat, but because of high demand it was sold at Kohima. Before colonial rule, opium was not sold in the Naga Hills and it was purchased only from the neighbouring plain areas like Nowgong and Golaghat.⁹¹ The sales of opium grew in the Naga Hills as the consumption level increased. And remarkably the revenue collected from opium was second to the house tax in the Naga Hills (see table 3.2).

In the twentieth century, the colonial state tried to take some measures to control the consumption of opium control. The government reduced the number of shops in the Naga Hills, and the colonial rulers also limited the supply of opium to the license holders. In 1919-20, a special license was issued to sell opium at a fixed rate to the Diger Mouzadar and selected shopkeepers in Kohima. The government also fixed the monthly issue of opium, and it was limited to 7 and 4 seers respectively.⁹² And opium was sold only to the registered opium consumers.⁹³ But the irony was that although the colonial government was putting efforts to check the use of opium, they also opened more opium shops in other parts of Naga Hills. The Wacking (Konyak area) under Mokokchung sub-division was issued a license for selling opium.

Prohibition and rehabilitation of opium consumers

At the beginning of the twentieth century, the Assam Association demanded the government for the total prohibition of opium in Assam. Various conferences

⁹⁰ External-A, Administration Report of Nagas Hills for 1884-85, September 1885, 36-38.

⁹¹ Ibid.

⁹² General Department, *General Administration Report of the Naga Hills for the year 1919-20*, File No. G 5-G of 1920. From- J. H. Hutton, Esq, I.C.S., Deputy Commissioner, Naga Hills, To- The Commissioner, Sruma Valley and Hill Districts, Silchar, dated Kohima, the 9th May 1920.

⁹³ Ibid.

were held, and a Committee was set up to study the uses and effects of opium in Assam.⁹⁴ Subsequently, the Assam Legislative Council passed Opium Smoking Bill on 3rd March 1927. Though total prohibition was not implemented, it prohibited the smoking of opium in plain Assam. Smoking of opium became punishable under the Act (see Appendix).⁹⁵ But this bill did not have any impact on the hill district as it was protected under a special law.

The Government of Assam wanted the opium bill to be extended on certain 'backward tracts' viz., the Khasi and Jaintia Hills district and the Naga Hills district. However, the Secretary to the Government of Assam was of the opinion that before the Act was introduced in the hill districts, he wanted proper observation in Assam for a year or two.⁹⁶ The secretary was of the opinion that if opium use should be prohibited in the hill districts, the Deputy Commissioners should be empowered to take due course of action.⁹⁷ But this act could not be implemented without increasing the preventive staff. And without the preventive staff, the Act could not be strictly enforced in the Hill districts, and the extension might just provoke trouble in the hill areas.⁹⁸ The financial strain that this act will put on the colonial state forced the government not to extend the Act in the Naga Hills. But the government over the course of time did develop and implement some measures to control the consumption of opium.

By the 1930s there were only two opium shops in Naga Hills- Dimapur and Wakching. The Dimapur shop was controlled by the excise department of Sibsagar district, and most of the consumers were from outside the administered Naga

⁹⁴ The first conference was held in 1907 at Dibrugarh, and again in 1912 in the same venue. In the second meeting, a committee was set up headed by A.W. Botham

⁹⁵ The Assam Opium Smoking Bill, 1927. Copy of letter No. Ex- 192/2331 G.J., dated the 16th March 1927, from G.S. Guha, Esq, M.A. B.L., F.R.E.S., (Lond), Off: Under Secretary to the Government of Assam, to the Commissioner, Surma Valley and Hill Division.

⁹⁶ Education Department, Separate Revenue Branch. From R. Friel, Esq. I.C.S. Secretary to the Government of Assam in the Transferred Departments, To- The Commissioner, Surma Valley and Hill Division, Shillong the 2nd March 1928.

⁹⁷ Ibid.

⁹⁸ Ibid.

Hills.⁹⁹ The Nagas consuming opium were mostly inhabitants of the Mikir Hills and Golaghat sub-division which were not part of the Naga Hills District. The low level of consumption of opium the Nagas made the Deputy Commissioner consider that the prohibition of opium was not required in the administered Naga Hills.¹⁰⁰ However, for the opium shop in Wakching, he proposed for certain restrictions to check the rate of opium consumption by the Nagas. He recommended 50 tolas of opium to be supplied to the shop, opium passes of people below the age of 50 were to be cancelled, and no new passes were to be issued.¹⁰¹ And each pass holder has sanctioned only two tolas of opium. He also proposed that no surplus opium was to be sold in the plains district as it would be easily assessable to the hill people. In Kohima, opium was sold in the Deputy Commissioner office. In the official record, there were only eleven consumers who required only 19 tolas per month. All the consumers were Nepalis, except for one Naga.¹⁰² At the same time, Pawsey recommended for the gradual prohibition instead of total prohibition in the administered Naga Hills. In the administered areas, the only consumers were old people, and the Deputy Commissioner contemplated their death within the next ten years. With their death, he thought that there would be no demand for drugs. The deputy commissioner was wary that if the government introduce total abolition, it would cause probable 'surreptitious consumption' among the Hill people.¹⁰³ Other officials agreed with his view as the administrative condition was different from the non-excluded areas.¹⁰⁴

⁹⁹ Excluded A, Governor's Secretariat Proceedings, September 1940, *Prohibition of Opium in the Naga hills and the Tribal areas adjacent to it*. From- C.R. Pawsey, Esq. M.C. I.S.S., Deputy Commissioner, Naga Hills; To- The Commissioner, Surma Valley and Hill Division, Silchar, No. 1 Confidential, No. 163-C., dated Kohima, the 3rd March 1939.

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Ibid, No. 3. From C.R. Pawsey, Esq. M.C., I.C.S., Deputy Commissioner; To- The Commissioner of Division, Gauhati, No. 96-G., dated Kohima, the 3rd/4th April 1939.

¹⁰⁴ Ibid, See, No. 7. No. 452-G; No.8. No. 200-B and No. 9. No. 401-Ex.

The Deputy Commissioner reported that there was no information in his office regarding any scheme for the prohibition of opium in Naga Hills.¹⁰⁵ However, the Deputy Commissioner requested the Commissioner of Excise to sanction a sum of Rs. 140 to purchase special drug as a part of the anti-opium campaign.¹⁰⁶ This anti-opium campaign was a rehabilitation programme by the government, and the Deputy Commissioner intended to start working at Wakching dispensary from October 1939. The government wanted the reduction of opium consumption in the Naga Hills, and therefore treatment was required on those people whose passes had been cancelled.¹⁰⁷ Therefore the government introduced an alternate policy to reduce the habit of opium consumption in the Naga Hills, instead of enforcing total abolition.

For the anti-opium campaign, the Commissioner of Excise deputed a trained sub-assistant surgeon to Wakching dispensary. He was to assist and train the sub-assistant surgeon. As per the report, there were 100 young consumers who required special treatment, and they were divided into two batches.¹⁰⁸ The anti-opium campaign finally began on the 1st November 1939, and special drugs were made available in the dispensary. The government also maintained staffs to observe the discharged patients for sometimes.¹⁰⁹

Colonial bureaucrats as moderators and standing orders

The study of colonialism is incomplete without understanding the impact of Christianity in the hill districts of Assam frontier. The colonial government was oriented towards the bureaucratic regulations as they were essentially “influential

¹⁰⁵ Ibid, No. 18. From- J.P. Mills, Esq. I.C.S., Secretary to the Government of Assam; To- The Commissioner of Excise, Assam, No. 3737-G.S., dated Shillong, the 30th October 1939.

¹⁰⁶ Ibid. Copy of letter No. 4397-G., dated the 18th September 1939. From the Deputy Commissioner, Naga Hills; To-The Commissioner of Excise, Assam.

¹⁰⁷ Ibid, Copy of letter No. 5466-G., dated the 28th November 1939, from the Deputy Commissioner of Excise, Assam, Shillong.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

only at the policy-making”.¹¹⁰ But the Christian missionaries took charge on transforming the local inhabitants “morally and culturally”.¹¹¹ Although the British government and the missionaries worked separately; they were dependent on each other for the transforming and reforming the cultures of the hill people. The colonial government interfered with the social institutions of the Naga people only when required. It was the Christian missionaries that radically challenged the traditional institutions which led to major conflict among the converts and non-converts Nagas. But it was the colonial administrators who often settled the cases between the converts and non-converts Nagas. The colonial administrators often assumed the role of a moderator. The British courts¹¹² in the Naga Hills mostly functioned in accordance with the customary laws. Therefore Sajal Nag argues that “the former looked after peace, law and order, while the other established new social and cultural institutions”.¹¹³ The intervention of the missionaries on the traditional practices of the Nagas had destroyed them. The missionaries imparted western morals and values to the natives through a secular frame of modernity. However, this is not the point the thesis looks at. There is a twist to the story of the advent of modernity. In other words, the thesis focuses on Charles Taylor’s theory of ‘acultural’. Therefore, in this section, I shall look into the confrontations between the newly converted Christian Nagas and the indigenous Nagas, and how the colonial officials settled such cases. In addition, it will also study the colonial intervention on the Naga traditional customs by the administrative officers by issuing standing orders against certain practices.

Most of the Naga cultural practices were in stark contrast to Christian beliefs and values. So when the Christian missionaries settled in the Naga Hills, they

¹¹⁰ Op. cit., Hoineilhing Sitlhou, *Deconstructing Colonial Ethnography: An Analysis of Missionary Writings on North East India*, Ruby Press & Co., New Delhi, 2017, p. 43.

¹¹¹ Sajal Nag, *Rescuing Imagined Slaves: Colonial State, Missionary and Slavery Debate in North East India (1908-1920)*, Indian Historical Review, Sage Publication, 2012, p. 57. Also cited in Op. cit., Hoineilhing Sitlhou, *Deconstructing Colonial Ethnography: An Analysis of Missionary Writings on North East India*,

¹¹² British courts refers to the Deputy Commissioner and Sub-divisional courts.

¹¹³ Op. cit., Sajal Nag, *Rescuing Imagined Slaves: Colonial State, Missionary and Slavery Debate in North East India (1908-1920)*, p. 57.

radically transform the cultural habits of the Nagas and banned many practices such as headhunting, the feast of merit, the institution *morung*, etc. They introduced new institutions such as church and school to the converted Nagas. However, this attitude of the missionaries affected the indigenous Nagas who did not convert into Christianity. The non-converts felt that the new religion broke down the communal life as the converted Nagas undermined their traditional institutions.¹¹⁴ Mary Clark also noted that the non-converts resisted against the new religion which caused division in the village council.¹¹⁵ The non-converts Naga tried to impose their way of life to the few converted Nagas, and they exiled them from the village. They forced the converts to practice the traditional beliefs and rites which instigated a major confrontation. The non-converts also tried to intimidate the missionaries, and some young Nagas hunted head for a week in hope to send them back from the Naga Hills.¹¹⁶ This strong resistance against the new religion finally drove the converted Ao Nagas to establish a Christian village Molungyimsen in 1876.

The division among the converts and non-converts was beginning to take its toll on the colonial administrators. The Christian missionaries did not have authority over the people like the colonial officers. In 1899, Mr Clark wrote a petition to the government to impose abolition of certain practices which were against Christian values. In his petition, he demanded the abolition of *Aksu* feast among the converted Ao Nagas. During *Aksu* feast, it was customary practice for the people to contribute to the feast. However, the Chief Commissioner did not accept the petition and expressed his view that:

“It would be impolite to abolish an ancient custom to which the people appear to be attached, or to exempt the Ao Naga Christian residing in

¹¹⁴ A.C. Bowers, *Under Hunter Eyes*, Philadelphia Press, Philadelphia, 1929, p. 200.

¹¹⁵ Mary Mead Clark, *A Corner in India*, American Baptist Publication Society, Philadelphia, 1907, p. 17.

¹¹⁶ *Ibid*, p. 18.

villages where the custom is in force, from abolishing their share of the cost of these entrainments.”¹¹⁷

In the twentieth century, the confrontations between the converts and non-converts Nagas continued, and cases were often referred to the Deputy Commissioner or Sub-divisional court. The confrontations were mainly related to traditional customs. As noted earlier, the non-converts tried to impose their ancient customs to the converted Christians. One such instance was for the observation of *Amung*, which was equivalent to the Christian Sabbath day. According to the ancient Ao custom, certain days were considered sacred, and the sacred days were called *Amung*. But the converted Nagas did not follow this sacred calendar. This compelled the non-converts to settle the case through the Sub-divisional court of Mokokchung. They accused the Christian Ao Nagas of breaking the traditional custom by not observing *Lichaba mong*.¹¹⁸ The judgement of the Sub-divisional officer (S.D.O) was in favour of the non-converts. He fined the Christian Nagas to pay a pig and asked the converts to observe four *Amungs*.¹¹⁹ On the flipside, J.P. Mills noted that, in Christian majority village, the non-converts were to observe the Christian calendar.¹²⁰

It was clear that the colonial rulers often ruled against the converted Nagas in most disputes. The colonial state was strong on their principles to preserve the traditional institutions of the Naga Hills. They also understood the importance of pleasing the majority, to avoid any rebellion by going against their ancient customs. However, this does not mean that the colonial rulers always favoured the Nagas who were not Christians. There were some instances in which the colonial rulers reformed their customs by altering some of the traditional Naga practices.

¹¹⁷ Petitions For the Abolition Aksu (Feast) by the certain Ao Naga Christian 1899, From: The Office Secretary, to the Chief Commissioner of Assam; To: The Deputy Commissioner, Naga Hills, dated, Shillong, the 20th February 1899

¹¹⁸ In ancient Ao belief, it was Lichaba who created the world.

¹¹⁹ The four Amungs were- Tsungrem mong, Motsu mong, Takung Kulem mong and Lichaba mong. Heathens vs Christians of Aliba village, dated 22/1/1928.

¹²⁰ Op. cit., J.P. Mills, *The Ao Nagas*, p. 417.

In the Naga Hills district, the government did not extend the Christian Marriage Act of 1872. In other words, the Nagas were allowed to practice in accordance with their ancient customary practices on marriage and divorce. Most Nagas practice exogamous marriage, and so marriage within the same clan was considered to be taboo. The Nagas strongly disapproved endogamy, and they believed that this kind of marriage would bring serious repercussions such as mental disorder and ailing children.¹²¹ Every Naga group maintained their distinct norms and ethos for marriage. However, dowry was unknown, but most Nagas paid bride-price. Among the Sema Naga, the bride-price is known as *ame*. The price of a bride varied according to social status and the bride's personality. In other words, "the finer the girls, the higher the price" and if she had any bad reputation, the bride price was considerably low.¹²² Normally the bride-price was high, and if the groom's family was unable to pay the bride-price or *ame*, then either the chief or a wealthy person paid the price. In return, the groom's family was bonded under the *Aqha axe* system.¹²³

The British took the matter of the Sema Naga bride's price and issued a standing order in 1926. According to the order, "no party will take cognizance of prices paid or demanded above not fixed, and no marriage contract shall be held invalid or cancelled because a higher price than that now fixed had been agreed on but not paid."¹²⁴ The government fixed the maximum bride's price that is *Aphi-Athome* at one mithun for any girl. Above this price, mithun or money was to be paid only in proportion to the beads and ornaments given by the bride's father. The maximum amount included *Aphi-Athome* and other ornaments, in particular, those

¹²¹ Op. cit., J.H. Hutton, *The Angami Nagas*, p. 114.

¹²² Loina Shohe, *The price of the Naga bride*, Tetso Editor, April 22, 2014, <http://degreeofthought.dottalks.in/the-price-of-naga-bride-loina-shohe/> retrieved on 14-12-2018.

¹²³ Under *Aqha axe* system, a person social status was reduced and he, along with his decedents, had to serve the chief. Lovitoli Jimo, *Marriage and "Ame" Bride wealth in the Sumi Naga Society*, *Indian Anthropological Association*, Vol. 38, No. 2 (July-Dec. 2008), pp. 45-47.

¹²⁴ Standing Order issue by Deputy Commissioner Naga Hills for marriage price of Sema Naga, 1926, Office of the Deputy Commissioner, Naga Hills. Standing Order No. 13.

known as *Amini Kimiji Xe*, and sixteen mithuns.¹²⁵ Another standing order was issued in 1934, when the government appraised the value of a mithun to Rs. 30 instead of Rs. 40 for all payment of bride's price.¹²⁶ This standing order was applied to all unrealised decrees and to all undecreed suits.

Similarly Lotha Nagas also practice the bride's price. The bride's price is known as *oman*. The marriage ceremonies demanded a lot of rituals and expenditures from the groom's family. Due to this the Lotha Nagas usually keep one wife. But the rich Lotha Naga could keep more than one wife if he could pay all the expenses of his marriages. In the precolonial period, divorce was exceptionally low; this was due to heavy expenses involved in a divorce. However, if a man wanted a divorce, he paid certain fines which are known as *losü-man*. In case, if a woman leaves her husband without his fault and goes back to her parent's house, the bride's price was paid back by her parents to the husband. But if she runs off to another man, he was responsible for paying the full bride's price to her husband.¹²⁷

The Deputy Commissioner issued a standing order to check the increasing divorce cases among the Lotha Naga in 1933. The growing practice of deserting the old wives by simply paying *losü-man* was taken into great concern by the colonial administrators. The Deputy Commissioner decided to cease such practice. In the standing order, it was notified that this practice must cease. The notice dictated that "in future it will be optional for Deputy Commissioner or sub-divisional officer, in cases of hardship where a woman is divorced merely on the ground of old age, to order the husband to build a house for her and give her such proportion of his property as he thinks fair."¹²⁸ In another standing order, the government warned the Lotha Nagas against the practice of child marriage. A warning was served to the

¹²⁵ *Ami Kimiji Xe* is the unsurpassed, the highest and the most prestigious one. Ibid.

¹²⁶ Standing Order No. 4 of 1934.

¹²⁷ Op. cit., J.P. Mills, *The Lotha Naga*, p. 156.

¹²⁸ Standing Order given by the Deputy Commissioner Naga Hills for divorce case for the Lotha Nagas, Standing Order No. 9 of 20.6.1933. Copy forwarded to Rev. B.I. Anderson, Impur for Information and Sub-divisional officer, Mokokchung, No. 529G, dated Mokokchung, the 21st July 1936.

Lothas, stating that the government will penalise the parents of the child and that the government will not intervene in the divorce settlement involving minors.¹²⁹ Thus, the presence of the colonial state brought new transformation in the traditional society of the Nagas. It produced scientific cognisance, secular appearances, improved mobility and concentration of population in the Naga Hills. It was the colonial state that also brought modern forms of governance and a rationalised bureaucracy.

Conclusion

In British India, the Bengal Presidency had seen the birth of the Asiatic Society of Bengal founded by Sir William Jones in 1784 at Calcutta, which debated the historicity of indigenous knowledge systems, traditional intellectual space, time, the humanities, the arts, the fine arts and the sciences. It undertook the work of editing, and translating many Indian manuscripts. By the beginning of the nineteenth century, many Indian elites were enlightened and as a result, many reformists were intellectual hybrids, influenced by Western intellectual traditions while being located within their own. The Indian reformists were a foil against British policies that directly impacted their social customs. However, in the context of the Naga Hill, the indigenous people did not have any such social reformers or influential figures from within their own. It was the British government and the missionaries who took the responsibilities to abolish any 'evil practice' in society. One such 'evil practice' was slavery which was practiced all over the North-East regions.

The British also acted as a moderator for the Naga ancient traditional practices. The government was determined to protect their ancient cultural practices from outside foreign cultural influences. The government also modified some of the traditional customs which were considered to be irrational for society. As explained in this chapter, the British court mostly sided with the non-Christian Nagas while

¹²⁹ Standing Order No. 1, Kohima, April 1925.

settling disputes with the converted Christian Nagas. This was mainly to preserve the ancient customary practices of the hill people. In this way, the government expressed their motives for gradual cultural changes in the Naga society. However, the colonial state intervention in the Naga traditional institutions had developed the phenomena of modernity in the Naga Hills. There was clear evidence of transition and progress through the mediation of the colonial state in the Naga Hills. The colonial state altered the traditional institutions of the Nagas by instituting a new market economy, bureaucracy, and mode of rules. In this way, the indigenous Naga was forged into the new institutions created by the colonial government. The transformation of traditional institutions led to the “loss of traditional beliefs and allegiance”¹³⁰ which was substituted with an imaginary of modernity in the minds of the Nagas.

¹³⁰ Op. cit., Charles Taylor, *Two Theories of Modernity*, p. 125.

Conclusion

This thesis was an attempt to understand the power relationship between the colonial state and the Nagas. It has explored different policies that the colonial state implemented to subjugate the Naga Hills, though these were already introduced in the larger territorial unit that was the North-East. As discussed in the thesis, the colonial state entered the Naga Hills to secure its frontier territories in Assam and Manipur from the external forces. The colonial state perceived the Nagas as barbaric who had no sense of the rule of law. The colonial state projected itself as the civilizing force to bring the savage Nagas to the level of the modern state. The colonial state initiated this civilizing program through colonial surveys and military expeditions. The colonial state stressed more on disciplinary actions and through political coercion because of the unlawful manner in which raids happened in the Naga Hills. But with the emergence of a new market in Assam, the colonial state changed its policies towards with the ethnic groups. The colonial state justified the subjugation of the Nagas by asserting the need to protect its subjects and the new tea market. To prevent raids on its territories, the colonial state occupied the Naga territories, and enforced governance. However, the colonial rule in the Naga Hills was completely different from the experience of colonialism in other parts of India. The colonial state implemented new power networks in the Naga Hills but it also restricted the radical transformations and developments in the Naga Hills.

The thesis examined the colonial state's take on policing, criminal and civil justice to establish its political authority, protect its economic prospect in the frontiers and govern the Nagas through the English legal framework. It also emphasised on the institutional transformation with the intervention of the colonial state by establishing a hierarchy in which the colonial state machinery was at the pedestal and the indigenous institutions in the lowest rung. The study of the rationality of the colonial state in the Naga Hills demonstrates that the colonial state-making in the Naga Hills was incomplete. The state bureaucracy was

effective and authorial over the Nagas as the implementation of criminal laws greatly reduced the supposedly hostile and barbaric Nagas to obedient subjects of the state. But it was lacking in civil laws for the state could not reorder the society especially in relation to land and revenue like it did effectively in most of the British India territories.

The major transformation in the Naga Hills by the colonial state was in the administrative system. Here, we find a strong administrative presence- there is a bureaucratic. The colonial bureaucracy as an institution controlled the major power mechanism in the Naga Hills. The colonial bureaucrats were responsible for maintaining law and order in the district. The colonial bureaucrats held the fusion of power for administration. The colonial bureaucrats were mandated to legislate, execute and judge in cases that were of importance to the colonial state. It allowed the colonial officials to penetrate throughout the administered areas. Besides, the colonial state created hybrid institutions to enhance their control through the medium of traditional institutions like the *goanburas* and *dobashis*. These institutions were visible control centres empowered by the colonial government. Thus, the bureaucratic, which was the most visible part of the colonial state, not only operated as an external force but it also regulated the everyday life of the people in the various institutions from inside. The bureaucratic hierarchical machinery was placed strategically in the Naga Hills to provide effective administration, judicial efficiency, and collection of revenue through taxes, fines, etc.

The colonial rule in the Naga Hills brought a sense of modern criminal law. The coercive side of the state is evident in the control mechanism. The colonial state introduced law-enforcement agencies such as the police and military force. In fact even before colonialism started in the Naga Hills, there was a strong presence of military force in the hills. The military was handed the responsibility to maintain law and order, and punish the offenders who were threats to the peace and security of the British administered areas. With the establishment of colonial rule, the concept of crime and punishment became pronounced in the hills, although the Indian Penal Code was not fully introduced. The colonial state

regulated the Nagas through modern concept of crime and punishment, a practice which was familiar to the Nagas but without a sovereign authority under whom all the people submit for peace and security. Though the British established itself as the authorial head in the administration of crime and punishment, the definition of crime and punishment was still understood through the customary take on criminality. This thesis examined the ruptures and continuities of criminality with the consolidation of the colonial rule. The traditional institution and the modern institution worked in tandem as the village authorities could try petty cases and the colonial state could review the petty cases on appeal and adjudicate criminal cases of serious nature. This thesis therefore introduces the understanding of an “incomplete transformation” of the legal rationality that left substantial domains of community life – land and proprietary rights over it, everyday customs which regulated behaviour that might be “criminal” from the point of view of western jurisprudence, but were seen as a cultural practice in the Naga Hills.

In other parts of India, the colonial state introduced private property rights. In this administrative system, the colonial state extracted revenues by reshuffling land and also gave security to the landowners. Thus in India, we find a very robust presence of civil law which was not visible in the hills districts. In the North-East, particularly in the Naga Hills district, there was no such reshuffling of land reform. The colonial government also did not regulate land as private property. The land was not regulated as a part of the new land market. In British administered areas, civil law operated only in house tax except for few areas where land revenue system was introduced. The imposition of house-tax was only to justify the colonial sovereignty in the Naga Hills.

The colonial state did not intervene in the community land ownership. This enabled the traditional practice of the Naga community to have a sense of continuity. This also strengthened the sense of collective community as the land was not subjected to private property laws or any contractual obligations. It was the Naga community that constantly defined and redefined the land and man relationship according to their customary practices. Here it is important to note that modernity in other parts of India was channelized through land reforms but in

the Naga Hills, land was not part of the colonial legal frame. This further establishes that colonial modernity was incomplete in the hills.

In the Naga Hills, there was a direct move towards the global market system that created economic differentiation without disturbing the land-man relationship. Modernisation in the Naga Hills came with incorporation of the hills in the colonial economy which was part of the world economy. With the consolidation of the colonial rule, the Nagas were introduced to the British Indian currency. It became a standard medium of exchange, and it infused local market with the global market. In the Naga Hills, we see the emergence of two middle classes- the labour class and educated Nagas. The middle class emerged with the Nagas engagement with the colonial knowledge system. The Nagas who received Western education began to hold important government jobs in the various institutions created by the state. The extensive use of labours by the colonial state for war or infrastructural development purposes created the emergence of the working-class. Perhaps this was where the Naga Hills entered into the entrepreneurship not through private property but business dealings with the larger global market or network.

This thesis also encountered questions which remain unanswered. In the case of land holding system, there were instances where the colonial state introduced land settlement system in the hill districts. This raises the question about the framework used for land holding system in the Naga Hills. This development could have had infringe the traditional land holding system. Questions such as whether this was implemented through proper legislation? Did it changed the trend of shared community system? What does it do with the political-economy? Where does economic status come from when the basic understanding of the Naga is not based on private property? The thesis could not address all these questions because these questions require different assessment of legal court cases, archival records and extensive fieldwork. But these questions open up areas for further research in the field.

Appendix- A

LEGISLATIVE DEPARTMENT PROCEEDINGS, AUGUST, 1875.

ASSAM HILL DISTRICTS WHIPPING REGULATION¹

Appendix B.

*A Regulation to authorize the punishment of Whipping in certain Hill District of
Assam.*

Whereas by resolutions passed by the Secretary of State for India in Council on the 19th day of September 1872 and 4th day of June 1874, respectively, the provisions of the thirty-third of Victoria, chapter three, section one, were declared applicable to the territories under the administration of the Chief Commissioner of Assam:

And whereas the Chief Commissioner of Assam has proposed to the Governor in Council a draft of the following Regulation, together with the reasons for proposing the same;

And whereas the Governor General in Council has taken such draft and reasons into consideration and has approved of such draft, and the same has received the Governor General assent;

In pursuance of the direction contained in the said section, the said Regulation is now published in the Gazette of India, and will be published in the Assam Gazette.

¹ Legislative Department Proceedings, August, 1875, Assam Hill Districts Whipping Regulation, No. 1193, dated 16th April 1875.

Short Title. 1. This Regulation may be called “The Assam Hill District Whipping Regulation, 1875;”

Local extend. It extends to the following districts, namely (local extent),-

The Garo Hills,

The Khasi and Jaintia Hills, and

The Naga Hills:

Commencement. And it shall come into force on the of

Offences punishable with whipping in lieu of other punishment. 2. Whoever commits any of the following offences may be punished with whipping in lieu of any punishment to which he may for such offence be liable under the Rules made by the Governor General in Council in exercise of the power conferred by section five of the Garo Hills Act, 1869: (Act VI of 1864, Section 2., Offences punishable with whipping in lieu of other punishment.)

- a- Theft as defined in section 378 of the Indian Penal Code.
- b- Theft in a building, tent or vessel, as defined in section 380 of the said code.
- c- Theft by a clerk or servant, as defined in section 381 of the said code.
- d- Theft after preparation for causing death or hurt, as defined in section 382 of the said code.
- e- Extortion by threat, as defined in section 388 of the said Code.
- f- Putting a person in fear of accusation in order to commit extortion, as defined in section 389 of the said Code.
- g- Dishonesty receiving stolen property, as defined in section 411 of the said Code.
- h- Dishonesty receiving property stolen in the commission of a dacoity, as defined in section 412 of the said code.
- i- Lurking house trespass or house-breaking as defined in section 443 and 445 of the said code, in order to the committing of any offence punishable with whipping under this section.

j- Lurking house trespass by night or house-trespass by night, as defined in section 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section.

1. Whoever, having been previously convicted of any one of the offences specified in the last preceding section, shall again be convicted of the same offence may be punished with whipping in lieu of, or in addition to, any other punishment to which he may be liable under the said Rules. (Act VI of 1864, section 3. On second offence mentioned in the last section, whipping may be added to other punishment.)

On second conviction of any offence mentioned in last section, whipping may be added to other punishment. 3. Whoever, having been previously convicted of any one of the following offences, shall again be convicted of the same offence may be punished with whipping in addition to any other punishment to which he may be liable under the said Rules,

Second conviction whipping to other punishment. 4. Whoever, having been previously convicted of any one of the following offences, shall again be convicted of the same offence may be punished with whipping in addition to any other punishment to which he may be liable under the said Rules, that is to say: (Act VI of 1864, section 4.)

- a. Giving or fabricating false evidence in such manner as to be punishable under section 193 of the Indian Penal Code.
- b. Giving or fabricating false evidence with intent to procure conviction of capital offence, as defined in section 194 of the said Code.
- c. Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment, as defined in section 195 of the said Code.
- d. Falsely charging any person with having committed an unnatural offence, as defined in sections 211 and 377 of the said Code.
- e. Assaulting or using criminal force to any woman with intent to outrage her modesty, as defined in section 354 of the said Code.

- f. Rape, as defined in section 375 of the said Code.
- g. Unnatural offences, as defined in section 377 of the said Code.
- h. Robbery or dacoity, as defined in sections 390 and 391 of the said Code.
- i. Attempting to commit robbery, as defined in section 393 of the said Code.
- j. Voluntarily causing hurt in committing robbery, as defined in section 394 of the said Code.
- k. Habitually receiving or dealing in stolen property, as defined in section 413 of the said Code.
- l. Forgery, as defined in section 463 of the said Code.
- m. Forgery of a document, as defined in section 466 of the said Code.
- n. Forgery of a document, as defined in section 467 of the said Code.
- o. Forgery for the purpose of cheating, as defined in section 468 of the said Code.
- p. Forgery for the purpose of harming the reputation of any person, as defined in section 469 of the said Code.
- q. Lurking house-trespass or house-breaking, as defined in sections 394 of the said Code.
- r. Lurking House-trespass by night or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section.

Juvenile Offenders punishable with whipping for offences not punished with death. 5. Any juvenile offender who commits any offence which is not by the said Rules punishable with death, may, whether for a first or any offence, be punished with whipping in lieu of any other punishment to which he may for such offence be liable under the said Rules (Act VI of 1864, Section 5).

Exemption of female. 6. No female shall be punished with whipping, nor shall any person who may be sentenced to death, or to imprisonment for more than five years, be punished with whipping (Act VI of 1864, section 7).

Officers empowered to pass sentences of whipping. 7. The Deputy Commissioner of the Garo Hills and the Khasi and Jaintia Hills and the Political Agent for the Naga

Hills may pass sentences of whipping. No other officer shall pass such sentences unless he is specifically empowered to do so by the Chief Commissioner.

Mode of inflicting the punishment. 8. In the case of a person or over sixteen years of age, the punishment of whipping shall be inflicted with such instrument, in such mode, mode, and on such part of the person, as the Chief Commissioner directs; and, in the case of a person under sixteen years of age, it shall be inflicted in the way of school discipline with a light ratan. (Criminal Procedure Code, section 311.)

In no case, if the cat-of-nine-tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or, if the ratan be employed, shall the punishment exceed thirty stripes.

The punishment shall be inflicted in the presence of a Magistrate or a Superintendent of a Jail, and also, unless the Court which passed the sentence otherwise orders, in the presence of a Medical Officer.

Punishment not to be inflicted if offender not in fit state of health. 9. No sentence of whipping shall be carried into execution unless a Medical Officer, if present, certifies, or, if there is not a Medical Officer present, unless it appears to the Magistrate or Superintendent present, that the offender is a fit state of health to undergo the punishment. (Criminal Procedure Code, section 312.)

(Stay of execution) If during the execution of a sentence of whipping, a Medical Officer certifies, or it appears to the Magistrate of Superintendent present, that the offender is not in fit state of health to undergo the remainder of the punishment, the whipping shall be finally stopped.

(Not to be executed by instalments) No sentence of whipping shall be executed by instalments.

Procedure if punishment cannot be inflicted under the last section. 10. In any case in which, under section nine of this Regulation, a sentence of whipping is, wholly or partially, prevented from being carried into execution, the offender shall be kept in custody till the Court may, at its discretion, either order the discharge of such offender, or sentence him in lieu of whipping, or in lieu of so much of the sentence of

whipping as was not carried out, to imprisonment for any period, which he may have been sentenced for the same offence. (Criminal Procedure Code section 313.)

Provided that the whole period of imprisonment to which such offender is sentenced shall not exceed that to which he is liable by law, or that which the said Court is competent to award.

Appendix- B

The Assam Opium Smoking Bill, 1927.¹

A Bill to provide for the prohibition of Opium Smoking.

Whereas it is expedient to prohibit the smoking of opium;

And whereas the previous sanction of the Governor General to the passing of this Act, as required by sub-section (3) of section 80A of the Government of India Act, has been obtained;

It is hereby enacted as follows:-

Short titles and extent. 1. (1) This Act may be called the Assam Opium Smoking Act, 1927.

(2) It extends to the whole of Assam, excluding the territories declared to be “backward tracts” under section 52A of the Government of India Act:

Provided that the Local Government may by notification may extend the Act to the aforesaid territories or any parts thereof with effect from such date or dates as may be specified in the notification.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,-

(a) “Opium” including *chandu*, *madaka* and every other preparation or admixture of opium which may be used for smoking;

¹ The Assam Opium Smoking Bill, 1927. Copy of letter No. Ex- 192/2331 G.J., dated the 16th March 1927, from G.S. Guha, Esq, M.A. B.L., F.R.E.S., (Lond), Off: Under Secretary to the Government of Assam, to the Commissioner, Surma Valley and Hill Division.

(b)“Place” includes a building, house, shop, booth, tent, vessels, raft and vehicle, and any part thereof;

(c)“Collector” means the chief officer in charge of the revenue administration of a district, and includes any officer whom the Local Government may by notification, declare or appoint to be a Collector for the purposes of this Act.

Penalty for smoking opium. 3. It shall be unlawful for any person to smoke opium or any preparation of opium. Any person smoking opium or any preparation thereof shall be punishable, in the case of a first conviction, with fine which may extend to fifty rupees and, in the case of a second or subsequent conviction, shall be liable to imprisonment of either description for a term which may extend to one month, in addition to fine which may extend to fifty rupees.

Penalty for smoking opium in company. 4. If two or more persons smoke opium in company, each of them shall, irrespective of their common object, be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

Explanation- A man and his wife smoking opium together shall not be deemed to be smoking in company within the meaning of this section.

Opium-smoking assembly. 5. An assembly of two or more persons is designated an opium-smoking assembly if the common object of the persons composing that assembly is to smoke opium or to prepare opium for smoking purposes.

Explanation. 1. An assembly which was not an opium-smoking assembly when it assembled may subsequently become such an assembly.

Explanation 2. A man and his wife shall not be deemed to be an opium-smoking assembly within the meaning of this section, even if their common object be to smoke opium or to prepare opium for smoking purposes.

Member of opium-smoking assembly. 6. Whoever being aware of facts which render assembly an opium-smoking assembly intentionally joins the assembly for the

purpose of smoking, or continues therein for that purpose is said to be member of that assembly.

Presumption raised by presence of opium-smoking apparatus. 7. The presence of any opium and of any pipes or apparatus used in the preparation of opium in any place where two or more persons are assembled shall be held sufficient to raise a presumption that such persons have assembled at such place for the purpose of smoking opium or of preparing opium purposes.

Penalty for being member of Opium-smoking assembly. 8. Whoever is a member of an opium-smoking assembly shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Penalty for opening, keeping or having charge of place used for such assembly. 9. Whoever opens, keeps or uses any place or permits any place to be opened, kept or used for the purpose of an opium-smoking assembly, or has the care or management of, or in any way assists in conducting the business of, any place used or kept for the purposes aforesaid shall be punished with imprisonment of either description for a term which may extend to one thousand rupees, or with both.

Enhancement of punishment on second convict. 10. Whoever having been previously convicted of an offence under section 8 or 9 is again convicted of an offence under either of these sections, shall be liable to twice the punishment which might be imposed on a first conviction.

Search warrants and power to search. 11. If a magistrate of the first class upon information received and after such inquiry (if any) as he considers necessary has reason to believe that the smoking of opium is going on or is permitted in any place or that any place is used for the purposes of an opium-smoking assembly, he may issue a warrant to an officer of the Excise department not below the rank of an Inspector or of the Police department not below the rank of a sub-inspector or officer in charge of a police station authorising him:-

- a) to enter such place by day or night with any persons whose assistance such officer may consider necessary;
- b) to search all parts of such place in which such officer has reason to believe that any opium or any apparatus for the preparation of opium-smoking is concealed and all or any persons whom he may find in such place;
- c) to arrest any person found in such place whom he has reason to believe to be guilty of an offence under this Act;
- d) to seize all opium and apparatus for opium-smoking or for the preparation of opium which may be found in such place.

Power to make rules. 21. (1) The Local Government may make rules to carry out the objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may-

- (a) regulate the disposal of things confiscated under this Act; and
- (b) prescribe and regulate the payment of rewards out of fines imposed under this Act.

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