

# **BUILDING EQUITABLE JUSTICE: THE ROLE OF COMMUNITY IN THE ADMINISTRATION OF JUSTICE IN MIZORAM AND THE NORTH EAST**

*Irwin Lalmuanpuii Hnamte\**

## **I. INTRODUCTION: DEFINING EQUITABLE JUSTICE AND THE NORTHEAST INDIAN CONTEXT**

Equitable justice represents a foundational principle that seeks to ensure all individuals can access and receive a fair hearing in legal matters, irrespective of their socio-economic standing, racial background, gender, or any other characteristic. This principle underscores the necessity of a legal system that is universally accessible, affordable, and just for everyone. It is a vital component for fostering a just society where individuals are empowered to defend their rights and have their voices acknowledged. Equitable justice is a cornerstone of the Indian Constitution, primarily enshrined through the Right to Equality (articles 14-18), and the Directive Principles of State Policy (DPSP), particularly article 39A, which mandates equal justice and free legal aid for all citizens. The Constitution aims to ensure social, economic, and political fairness, with article 14 guaranteeing equality before the law and equal protection of laws, while articles 15 and 16 address discrimination and promote equal opportunity in specific areas.

The Northeast Indian region presents a compelling landscape for examining equitable justice due to its profound legal pluralism.<sup>1</sup> This area is characterized by a rich tapestry of indigenous justice systems, deeply embedded in the collective traditions, beliefs, and customs of its numerous tribal communities. These customary laws, predominantly transmitted orally through generations by community elders, embody indigenous knowledge and ways of life.<sup>2</sup> They serve as critical mechanisms for dispute resolution, family law, social interactions, and the protection of communal lands. A notable characteristic of these tribal communities is their general preference for customary courts over formal legal systems, largely owing to the former's simplicity, affordability, and local accessibility. This preference highlights a significant contrast with the often complex and cost-prohibitive nature of the formal judiciary. Customary laws are not merely legal codes; they are integral to the socio-cultural identity of these tribal communities, cherished as inherent to their unique heritage.<sup>3</sup> Mizoram holds a distinctive position within this regional context. Its unique historical trajectory, marked by a strong tradition of self-governance and specific constitutional safeguards, makes it an invaluable case study for understanding the complexities and inherent potential of community-led justice.<sup>4</sup> The state's

---

\* Assistant Professor (Selection Grade), Faculty of Law, University of Delhi, Delhi, India.

<sup>1</sup> Faizan Mustafa, "Legal pluralism in Personal law uniformity in civil law can only be achieved in a piecemeal manner" *The Hindu*, Oct. 30, 2019, available at: <https://www.thehindu.com/opinion/op-ed/legal-pluralism-in-personal-law/article29825335.ece> (last visited on July 14, 2025).

<sup>2</sup> *Ibid.*

<sup>3</sup> Sanjib Goswami, MA, LLB, IVLP Advocate, Supreme Court of India *Legal Pluralism and the Administration of Justice in North East India*, Conference on Non-Adversarial Justice: Implications for the Legal System and Society Organized by A.I.J.A. and Faculty of Law, (Monash University, May 4–7, 2010), available at: <https://aija.org.au/wp-content/uploads/2017/08/Goswami.pdf> (last visited on July 14, 2025).

<sup>4</sup> Lalremruata Chhakchhuak, *Special Status of Mizoram under Article 371(G) of Constitution of India*, National Workshop on Laws relating to Indigenous/Tribal Peoples' Homeland, (New Delhi, Oct. 21–23, 2019), available at:

experience illustrates how traditional mechanisms have adapted and continue to play a crucial part in the administration of justice alongside the formal legal framework.<sup>5</sup>

A critical observation in the pursuit of equitable justice in regions like Northeast India is the inherent tension that can arise between universal principles of equity and the specificities of customary practices.<sup>6</sup> While equitable justice champions non-discrimination and equal access for all irrespective of identity, traditional customary laws, though community- centric and accessible, it may contain elements that could be perceived as discriminatory from a modern human rights perspective. For instance, traditional systems are often lauded for being “more fair, more pro-poor and easier for local people to access”. However, these same systems have faced criticism for issues such as “unfair and overly fines” and instances where “women also have sometimes complained situations where their suggestions and input is not given the same weight as suggestions/input from men”.<sup>7</sup> Further examination reveals patriarchal biases within these customary laws, particularly concerning women’s inheritance rights.<sup>8</sup> This juxtaposition illustrates that building equitable justice in this context is not a straight- forward task of imposing formal laws, but rather a complex process of navigating and potentially reforming deeply ingrained social and cultural norms.<sup>9</sup>

Despite the established and constitutionally recognized formal legal systems, tribal communities in Northeast India consistently demonstrate a pronounced preference for and reliance on their customary courts for dispute resolution.<sup>10</sup> This preference is primarily driven by the accessibility, simplicity, and cost-effectiveness that these traditional systems offer. The formal Indian justice system, while structured and independent, often falls short in meeting the immediate needs of these communities due to its perceived inaccessibility, high costs and procedural complexities. The continued reliance on customary courts, which are often “located near the public and the justice is available at the door-step of the people” underscores their profound legitimacy and deep integration within community life.<sup>11</sup> This enduring preference highlights the indispensable role of local, community- based mechanisms in the administration of justice, even as they operate in conjunction with or sometimes in contrast to the mainstream legal framework.<sup>12</sup>

---

[https://www.academia.edu/40835365/Special\\_Status\\_of\\_Mizoram\\_Under\\_Article\\_371\\_G\\_of\\_Constitution\\_of\\_India](https://www.academia.edu/40835365/Special_Status_of_Mizoram_Under_Article_371_G_of_Constitution_of_India) (last visited on July 14, 2025).

<sup>5</sup> *Ibid.*

<sup>6</sup> N.K. Das, “Indigenous Feminism and Women Resistance: Customary Law, Codification Issue and Legal Pluralism in North East India” 1(2) *Journal of Cultural and Social Anthropology* 19-27 (2019), available at: <https://sryahwapublications.com/article/abstract/2642-8237.0102004> (last visited on July 14, 2025).

<sup>7</sup> Maria Backstrom, Jeremy Ironside, *et.al.*, “Case Study on Indigenous Traditional Legal Systems and Conflict Resolution in Ratanakiri and Monduliri Provinces, Cambodia” Published by United Nations Development Programme, available at: <https://www.un-redd.org/sites/default/files/2021-10/CaseStudy-03-Cambodia.pdf> (last visited on July 14, 2025).

<sup>8</sup> *Ibid.*

<sup>9</sup> *Supra* note 3.

<sup>10</sup> Shubhankar Dam, “Legal Systems as Cultural Rights: A Rights Based Approach to Traditional Legal Systems” 16 (2) *Indiana International & Comparative Law Review* 295-335 (2006), available at: SSRN: <https://ssrn.com/abstract=976501> (last visited on July 18, 2025).

<sup>11</sup> Sarah Murray and Tamara Tulich, “Community justice centres mainstreamed? Making the impossible possible” 24 *Contemporary Justice Review* 40-53 (2024), available at: <https://doi.org/10.1080/10282580.2024.2344775> (last visited on July 18, 2025).

<sup>12</sup> *Ibid.*

## II. HISTORICAL EVOLUTION OF JUSTICE ADMINISTRATION IN MIZORAM AND THE NORTH EAST

### *A. Pre-Colonial Era: Chieftainship and Customary Law*

Before the emergence of colonial rule, chieftainship served as the pre-dominant traditional governmental structure of various tribes inhabiting the erstwhile Lushai Hills, which is now modern-day Mizoram. This included prominent groups, like the Pawi (Lai), Lakher (Mara), Lusei, Paite communities.<sup>13</sup> Villages under this system were governed by distinct ruling clans, operating as independent entities with fully developed governmental structures, often compared to the autonomous Greek-city states.<sup>14</sup> The historical roots of chieftainship among the Lais, for instance, emanates from the Chin Hills of Myanmar, emerging between 1300 and 1700 A.D. The village of Simpi, established around 1400 A.D with approximately 800 houses, is recognized as the first politically organized Lai village and a pivotal point for emergence of various ruling clans in the Chin Hills.<sup>15</sup>

The position of chief was typically hereditary, traditionally passing to the youngest son, although this practice later evolved. The chief was regarded as an absolute ruler, often imbued with a divine aura as a “deputy of God,” and was not accountable to anyone for his actions. This centralized authority encompassed legislative, executive, and judicial powers. While a council of elders provided advice, the chief was not legally bounded by their counsel. Powerful chiefs could extend their influence establishing chiefdoms that indirectly controlled other autonomous villages and collected tributes and taxes from them.<sup>16</sup>

Justice administration during this period was fundamentally governed by “Mizo Hnam Dan”, the Mizo Customary Law. Village councils, known as Khawtlang Roreltute, were central to dispute resolution, applying these customary laws to a wide array of issues.<sup>17</sup> These included intricate matters of inheritance and property rights, the delineation of village boundaries, and the imposition of sanctions for various offenses. Punishments often involved fines, such as “Salam” and “Sukchin” which were paid to the village council as a form of penalty or compensation.<sup>18</sup>

---

<sup>13</sup> J. Dounge, Mizoram University, *Chieftainship as a traditional, dominant, political institution of the Lais: A Case Study of the Lai Chieftainship of Mizoram*, Conference on Annual North East India Political Science Conference (Society and Politics in North-East India) (Assam, 2019), available at: [https://www.researchgate.net/publication/331951113\\_CHIEFTAINSHIP\\_AS\\_A\\_TRADITIONAL\\_DOMINANT\\_POLITICAL\\_INSTITUTION\\_OF\\_THE\\_LAIS\\_A\\_CASE\\_STUDY\\_OF\\_THE\\_LAI\\_CHIEFTAINSHIP\\_OF\\_MIZORAM](https://www.researchgate.net/publication/331951113_CHIEFTAINSHIP_AS_A_TRADITIONAL_DOMINANT_POLITICAL_INSTITUTION_OF_THE_LAIS_A_CASE_STUDY_OF_THE_LAI_CHIEFTAINSHIP_OF_MIZORAM) (last visited on July 18, 2025).

<sup>14</sup> Onkholun Haokip, “Chieftainship In Transition: The Kuki Tribes' Struggle For Tradition And Modernity In Northeast India” 13(3) *International Journal of Creative Research Thoughts* a808- a818 (2025), available at: <https://www.ijert.org/papers/IJCRT2503096.pdf> (last visited on July 18, 2025).

<sup>15</sup> Prof. L.H. Chhuanawma, “Lai Nation in the Making” 8 (10) *International Journal of Creative Research Thoughts* 1792-1815 (2020), available at: <https://ijert.org/papers/IJCRT2010237.pdf> (last visited on July 18, 2025).

<sup>16</sup> *Supra* note 13 at 3.

<sup>17</sup> Mizo Hnam Dan (Mizo Customary Law), Law and Judicial Department, Government of Mizoram (1<sup>st</sup> edn., 2006), available at: <https://indianculture.gov.in/system/files/digitalFilesICWeb/ICrarebooks/mslrepository/50/Mizo%20Hnam%20Dan%20Ed.%201st.pdf> (last visited on July 18, 2025).

<sup>18</sup> *Id.* at 2.

This system underscored a community-centric approach to justice, deeply integrated with the social fabric and cultural norms of the Mizos.

### ***B. Colonial Influence and Non-Interference Policies***

The arrival of the British in Northeast India introduced a complex dynamic to the existing indigenous justice systems. Initially, the Englishmen embraced a ‘non- interference’ protocol with respect to the traditional administrative structures of tribes like the Lais, allowing chiefs to continue administering their villages according to customary laws.<sup>19</sup> This approach was largely pragmatic, driven by a desire to avoid the substantial financial and military costs associated with direct intervention, as evidenced by the high expenditure of earlier expeditions. It also aimed to maintain a degree of stability and minimize widespread resistance in these remote and challenging terrains.<sup>20</sup>

However, this ‘non-interference’ was far from absolute. British authority gradually curtailed the chiefs' absolute power. While customary laws continued to be applied for internal disputes among tribal members, the British asserted control over key areas. Revenue collection, for instance, was taken over by the colonial administration. Certain customary practices deemed incompatible with British legal and moral standards, such as slavery, were abolished. More serious offenses, particularly those that might challenge colonial authority, were explicitly removed from the jurisdiction of traditional courts and handled by the formal British legal system.<sup>21</sup>

The British also recognized chiefs for administrative convenience, integrating them into the colonial administrative framework. Chiefs were given specific responsibilities, such as abandoning inter-village raids, constructing, and maintaining roads, and attending annual meetings with British officials.<sup>22</sup> The Scheduled District Act of 1874 further aimed to protect Naga culture and laws, granting a limited degree of autonomy while still asserting colonial oversight. Tribal territories were formally labelled as ‘excluded’ or ‘partially excluded areas,’ meaning that provincial laws generally did not apply to them, and these tribes largely governed themselves through their traditional systems.<sup>23</sup> However, this autonomy was conditional, requiring their participation in imperial interests such as taxation and road-building. This approach effectively created a dual legal system, where traditional practices coexisted with, and were subordinate to, the overarching colonial legal framework.<sup>24</sup>

### ***C. Post-Independence: Transition from Chieftainship to Village Councils***

---

<sup>19</sup> Kyoko Inoue, “Integration of the Northeast: the State Formation Process” (16–30), *available at*: [https://www.ide.go.jp/library/English/Publish/Reports/Jrp/pdf/133\\_3.pdf](https://www.ide.go.jp/library/English/Publish/Reports/Jrp/pdf/133_3.pdf) (last visited on July 18, 2025).

<sup>20</sup> *Id.* at 20.

<sup>21</sup> *Ibid.*

<sup>22</sup> Samson Sitalhou, Ningombam Shreema Devi, “Early British Tribal Policy in India with Special Reference to North East Frontier Region” 44(1) *Library Progress International* 610-615 (2024), *available at*: [www.bpasjournals.com](http://www.bpasjournals.com) (last visited on July 18, 2025).

<sup>23</sup> Mao Toshi, Ao, “A Study on the Validity of Autonomy under the Sixth Schedule to the Constitution of India” IV *Delhi Journal of Contemporary Law* (2022), *available at*: <https://lc2.du.ac.in/DJCL/12.%20Dr.%20Mao%20Toshi%20Ao.pdf> (last visited on July 18, 2025).

<sup>24</sup> *Supra* note 22 at 613.

The post-independence era marked a significant transformation in the administration of justice in Mizoram. Chieftainship, the long-standing traditional system, was eventually abolished in the mid-1950s. This abolition was not a top-down imposition but largely a result of a mass movement spearheaded by the Mizo Union, which passionately advocated for democratic self-government at the grassroots level. The Assam Lushai Hills District (Acquisition of Chiefs Rights) Act, 1954, formalized the transition, outlining the legal framework for abolition and providing compensation to the former chiefs.<sup>25</sup>

With the dismantling of chieftainship, the legislative, executive, and judicial powers previously limited to the chiefs were systematically transferred to the newly constituted District and Regional Councils. To fill the void at the local administrative level and to embed democratic principles, Village Councils were established under the Village Council Act of 1953. April 1954 marked the first time people voted for the Village Councils, marking a pivotal shift towards decentralized governance.<sup>26</sup> These Village Councils rapidly became the fundamental grassroots democratic units, assuming a wide range of responsibilities. Their mandate included local governance, coordinating development activities with the state government, collecting local taxes, and maintaining sanitation within their jurisdictions.<sup>27</sup> Crucially, they inherited significant judicial powers, enabling them to resolve small civil disputes and levy fines, effectively functioning as the primary village courts. Even though chieftainship was formally abolished, the families of the former chiefs often retained a degree of social reverence and influence, which continued to have an indirect impact on local politics and community dynamics. This period thus represented a complex blend of democratic aspirations and the enduring legacy of traditional authority.<sup>28</sup>

The transition from chieftainship to Village Councils in Mizoram, while a clear structural move towards democratization, simultaneously demonstrated a strong continuity in the fundamental function of community-level justice, highlighting its deep-seated importance to the Mizo people.<sup>29</sup> The abolition of chieftainship was driven by a desire for ‘democratic self-government’, indicating a clear demand for a change in governance structure.<sup>30</sup> However, the powers, including judicial functions, previously held by chiefs were not eliminated but were instead ‘transferred to the District Council and Regional Council’ and subsequently to the newly established Village Councils.<sup>31</sup> These Village Councils were explicitly created to ‘replace the chief’s role in village administration’ and were endowed with ‘judicial powers to resolve small civil disputes and levy fines,’ effectively operating as ‘grassroots democratic setup and a village

---

<sup>25</sup>Mizoram Legislative Assembly (Ninth Assembly), *available at*: <https://www.mizoramassembly.in/page/history#:~:text=The%20growth%20of%20modern%20parliamentary,effect%20from%20January%201%2C%201953> (last visited on July 18, 2025).

<sup>26</sup> *Ibid.*

<sup>27</sup> Sarthak Sengupta (ed.) *Anthropology in North East India* 39 (Gyan Publishing House, New Delhi, 2017).

<sup>28</sup> Job Rothangliana Kawlni, “The Impact of Colonial Administration on the Political Culture of the Mizo community in Mizoram” 10(6) *Quest Journals (Journal of Research in Humanities and Social Science)* 49-54 (2022), *available at*: <https://www.questjournals.org/jrhss/papers/vol10-issue6/Ser-1/H10064954.pdf> (last visited on July 18, 2025).

<sup>29</sup> *Id.* at 52.

<sup>30</sup> *Supra* note 27 at 42.

<sup>31</sup> *Id.* at 39.

court.<sup>32</sup> This continuity in the provision of local justice, even after a radical political restructuring, underscores the enduring value and necessity of community-based dispute resolution for the populace. The continued social respect for the families of former chiefs, which indirectly influenced local politics, further exemplifies this intertwining of tradition and modern governance.<sup>33</sup>

#### ***D. Evolution of Administration of Justice Rules***

Administration of justice in Mizoram has undergone a continuous process of evolution, transitioning from traditional chief-led systems to a structured yet pluralistic legal framework.<sup>34</sup> In the pre-British era, prior to the takeover of the Lushai Hills in 1890, traditional chiefs, often supported by village elders, exercised comprehensive authority over both civil and criminal justice within their respective territories.<sup>35</sup> This system largely persisted even after 1890, with chiefs in power continuing to administer justice in most civil and criminal matters, excluding only the heinous and unnatural offenses, which were directly handled by the British Superintendent and his assistants.<sup>36</sup> Significant legislative milestones marked this evolution. In 1906, the British Government promulgated ‘the Rules for the regulation of the procedure of Officers appointed to administer justice in the Lushai Hills,’ which formalized the administration of civil and criminal justice by the Superintendent and his Assistants. These rules were subsequently revised in 1937, further entrusting the Deputy Commissioner and his Assistants with these judicial responsibilities.<sup>37</sup>

A pivotal shift occurred on April 7, 1953, with the formulation of the Lushai Hills Autonomous District (Administration of Justice) Rules, 1953, enacted under sub-paragraph (4) of paragraph 4 of the Sixth Schedule of the Constitution.<sup>38</sup> These rules were transformative: Rule 59 explicitly ‘barred the Deputy Commissioner and his Assistants from trying cases that were triable by courts established under these new rules.’ This was further reinforced by the Assam Autonomous District Administration of Justice (Miscellaneous Provisions) Act, 1957, which mandated the transfer of any tribal-to-tribal case, at any stage, to courts constituted under paragraph 4 of the above Schedule.<sup>39</sup> This legislative action led to the formal establishment of a distinct three-tiered tribal court system: Village Courts in every recognized village, Subordinate District Council Courts (at Aizawl and Lunglei, with additional courts) hereinafter referred to as SDCCs, and the District Council Court at Aizawl.<sup>40</sup>

---

<sup>32</sup> David Stuligross, “Autonomous Councils in Northeast India: Theory and Practice” 24(4) *Alternatives: Global, Local, Political* 497-525 (1999), available at: <https://www.jstor.org/stable/40644976> (last visited on July 18, 2025).

<sup>33</sup> *Ibid.*

<sup>34</sup> Ramthanpuia Pachuau, “Historical Development and Contemporary Framework of Village Councils in Mizoram” 12(7) *International Journal of Creative Research Thoughts* e249-e257 (2024), available at: <https://ijcrt.org/papers/IJCRT2407493.pdf> (last visited on July 19, 2025).

<sup>35</sup> *Ibid.*

<sup>36</sup> *Supra* note 28 at 54.

<sup>37</sup> *Supra* note 34 at e250.

<sup>38</sup> *Id.* at e251.

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*

Further rules were subsequently promulgated to refine the judicial landscape. These included The Pawi-Lakher Autonomous Region (Administration of Justice) Rules, 1954 (later applied to the Chakma Autonomous District Council), and The Lakher Autonomous District (Administration of Justice) Rules, 1981.<sup>41</sup> The Lakher Rules, for instance, detailed the powers and procedures of Village Courts, authorizing them to try civil and petty criminal cases under customary and tribal legislation, impose fines (up to Rs. 60), and award restitution. Crucially, these courts were explicitly prohibited from imposing sentences of imprisonment. Cases are typically tried in ‘open Darbar’ following customary laws, and appeals from Village Courts are directed to the SDCC.<sup>42</sup> The Chakma Autonomous District Council (CADC) also established a similar three-tier judicial system in 1972 under its own rules.<sup>43</sup>

**Table 1: Evolution of Justice Administration in Mizoram: Key Periods and Systems**

Period	Dominant System	Justice Key Features
Pre- Colonial Era (Pre Re- 1890s)	Chieftainship	Absolute Chiefly Power (legislative, executive, judicial); Customary Law (Mizo Hnam Dan) governs disputes; Village Councils (Khawtlang Roreltute) resolve disputes; Hereditary succession.
Colonial Era (1890s-1947)	Dual System (Chiefs & British Courts)	British non-interference in internal customary law (pragmatic); Revenue collection by British; Abolition of slavery; British handle heinous crimes; "Excluded Areas" policy; Chiefs recognized for administrative convenience.
Early Post-Independence (1947-1954)	Transitioning from Chieftainship	Chiefs continue to administer justice (except heinous crimes); Growing movement for democratic self-government (Mizo Union); Formulation of new justice rules.
Post-Chieftainship Abolition (1954 onwards)	Village Councils & Autonomous District Councils	Chieftainship abolished (1954 Act); Powers transferred to District/Regional Councils; Village Councils established as grassroots democratic and judicial units; Judicial powers for civil/petty criminal cases, fines (no imprisonment); Appeals to higher Council Courts.

<sup>41</sup> J. Dounel, “The Uniqueness of the Erstwhile Pawi- Lakher Regional Council” p.1-7, *available at*: [https://www.researchgate.net/publication/331951393\\_THE\\_UNIQUENESS\\_OF\\_THE\\_ERSTWHILE\\_PAWI-LAKHER\\_REGIONAL\\_COUNCIL\\_PLRC](https://www.researchgate.net/publication/331951393_THE_UNIQUENESS_OF_THE_ERSTWHILE_PAWI-LAKHER_REGIONAL_COUNCIL_PLRC) (last visited on July 18, 2025).

<sup>42</sup> *Ibid.*

<sup>43</sup> J. Dounel, “Evolution of the Chakma Autonomous District Council (CADC) and Its Constitutional Basis” 11(1) *Research Journal of Humanities and Social Sciences* 19-28 (2020), *available at*: [https://rjhssonline.com/ShowPDF\\_Paper.aspx](https://rjhssonline.com/ShowPDF_Paper.aspx) (last visited on July 18, 2025).

Contemporary Era (Ongoing)	Legal Pluralism (Formal Courts, ADCs, Village Councils, Special Courts)	Constitutional safeguards (Sixth Schedule, Article 371G); Ongoing legislative reforms (e.g., Mizoram Village Councils Bill 2025 with women's reservation); Interface and occasional conflicts between customary and formal laws; Role of NGOs in reform and empowerment.
----------------------------	--	--

### III. CONSTITUTIONAL FRAMEWORKS AND AUTONOMY: PILLARS OF COMMUNITY JUSTICE

#### *A. The Sixth Schedule of the Indian Constitution: Provisions for Autonomous Districts and Regions*

The Sixth Schedule, articulated in articles 244(2) and 275(1), establishes a distinct constitutional framework for administering of tribal regions in Assam, Meghalaya, Tripura, and Mizoram. These provisions enable the creation of autonomous entities within these states. This constitutional scheme was designed to perpetuate the traditional modes of self-governance that were prevalent during the British Raj, a period when many tribal regions were designated as ‘excluded areas’ and largely managed their internal affairs through their own systems.<sup>44</sup> Dr. B.R. Ambedkar, justified this unique arrangement by noting that, unlike tribal communities in other parts of India who had largely assimilated into the broader Hindu culture, those in Assam (including Mizoram) had largely retained their distinct civilization, culture, and unique laws pertaining to inheritance and marriage.<sup>45</sup>

Under the schedule’s provisions, the State Governor holds the power to determine, establish, or modify the territorial jurisdiction of Autonomous Districts and territories. These autonomous areas are governed by Autonomous District Councils hereinafter referred to as ADCs and, where applicable, Regional Councils. These councils have been infused with substantial law making, executive, judicial, and monetary authority, enabling them to legislate on issues of land, forests, shifting cultivation, village administration, inheritance, marriage, divorce, and social customs.<sup>46</sup>

The schedule has conferred judicial powers upon these District and Regional Councils whereby they can constitute Village and District Council Courts specifically for trying those matters where all parties are Scheduled Tribes residing within the district. These operate with a significant degree of autonomy, as no other courts, apart from the High Courts and the Apex

<sup>44</sup> Kundan Pandey, [Explainer] “What is the Sixth Schedule? Why is Ladakh demanding to be brought under it”, available at: <https://india.mongabay.com/2024/05/what-is-the-sixth-schedule-why-is-ladakh-demanding-to-be-broughtit/#:~:text=The%20Sixth%20Schedule%20of%20the%20Indian%20Constitution%20includes%20provisions%20for,Mizoram%20and%20one%20in%20Tripura> (last visited on July 21, 2025).

<sup>45</sup> M Sampathkumar, “Indian Constitution the Vision of B.R. Ambedkar” 17 *Historical Research Letter* 66-69 (2015) available at: [www.iiste.org](http://www.iiste.org) (last visited on July 21, 2025).

<sup>46</sup> The Sixth Schedule of the Indian Constitution is like a special rulebook for certain tribal areas in Assam, Mizoram, Meghalaya, and Tripura.



Court, possess original jurisdiction over their cases.<sup>47</sup> However, the judicial authority of these Council Courts is circumscribed to the adjudication of cases that involve offenses not punishable by death or imprisonment for five or more years under the Indian Penal Code. In Mizoram, three such ADCs were established in 1972: the Chakma ADC (headquartered in Kamalanagar), the Lai ADC (Lawngtlai), and the Mara ADC (Siaha).<sup>48</sup>

### ***B. Articles 371A (Nagaland) and 371G (Mizoram): Special Provisions for Customary Law and Justice***

In addition to the Sixth Schedule, articles 371A and 371G provide further specialized constitutional safeguards for Nagaland and Mizoram respectively. These articles grant these states substantial independence with respect to critical domains, including customary law, land ownership, resource management, and the administering civil and criminal justice in accordance with customary legislations. A key stipulation of these provisions is that Acts enacted by the parliament will not be applicable to these specific matters unless the respective State Legislative Assembly explicitly decides otherwise through a resolution.<sup>49</sup> Article 371A, pertaining to Nagaland, originated directly from the 16-Point Agreement of 1960, which laid the groundwork for Nagaland's statehood in 1963. This provision was fundamentally intended to preserve Naga traditions and their unique system of self-governance. Similarly, article 371G extends comparable autonomy to Mizoram, covering Mizo religious or social practices, customary legislations and procedures, coupled with the ownership and transfer of land and its resources. These customary laws of both the states received specific constitutional recognition through the 13th Amendment in 1963 and the 53rd Amendment in 1986, respectively.<sup>50</sup>

Despite their crucial role in cultural preservation, the broad language and lack of detailed implementation mechanisms within articles 371A and 371G often lead to significant jurisdictional complexities and potential conflicts with central laws, particularly those listed in the Union and Concurrent Lists. A prominent example is Nagaland's attempt to independently regulate petroleum and natural gas exploration based on its article 371A powers, which was subsequently invalidated by the Union government asserting its authority over mineral resources.<sup>51</sup> Furthermore, customary laws recognized by these articles can sometimes clash with fundamental constitutional principles, such as gender equality. For instance, Naga female's inheritance rights, traditionally governed by customary practices, very often find themselves in conflict with the constitutional provisions guaranteeing gender equality. While the Supreme Court has upheld the validity of customary law (*State of Nagaland v. Ratan Singh*), it has also emphasized the need for simplicity and accessibility in these laws for people in backward tracts, implicitly suggesting a need for balance and adaptation.<sup>52</sup> Unlike the potential ambiguities of

---

<sup>47</sup> E-Gyangosh, Regional and District Councils p. 57–67, available at: [https://egyankosh.ac.in/bitstream/123456789/78964/1/Unit6.pdf#:~:text=With%20Mizoram%20\(%20state%20of%20Mizoram%20\),Mizoram%20District%20Councils%20\(Miscellaneous%20Provisions\)%20Order%2C%201972](https://egyankosh.ac.in/bitstream/123456789/78964/1/Unit6.pdf#:~:text=With%20Mizoram%20(%20state%20of%20Mizoram%20),Mizoram%20District%20Councils%20(Miscellaneous%20Provisions)%20Order%2C%201972) (last visited on July 21, 2025).

<sup>48</sup> *Id.* at 61.

<sup>49</sup> *Ibid.*

<sup>50</sup> Metsheteo Chiezou and Dr. Sumedh Anil Lokhande, “Article 371 and Regional Autonomy in Nagaland” 7(2) *International Journal for Multidisciplinary Research* 1-10 (2025), available at: <https://www.ijfmr.com/papers/2025/2/41184.pdf> (last visited on July 21, 2025).

<sup>51</sup> *Ibid.*

<sup>52</sup> *Supra* note 23.

articles 371A and 371G, the Sixth Schedule generally provides a more structured framework for tribal governance through ADCs, offering clearer delineations of powers that can help mitigate conflicts with state and Union governments.<sup>53</sup>

The Indian Constitution's approach to tribal governance, characterized by both the Sixth Schedule (for ADCs) and articles 371A/G (for states), creates a multi-layered system of autonomy. While this system is designed to be empowering, it inherently generates jurisdictional ambiguities and potential conflicts with central laws, particularly in areas of resource management and human rights.<sup>54</sup> The Schedule grants ADCs considerable legislative, executive, and judicial powers over tribal areas. Simultaneously, the said articles extend similar autonomy, but at the state level, encompassing customary law, land ownership, and justice administration.<sup>55</sup> Nevertheless, the broad language of articles 371A/G and the non-existence of comprehensive enforcement mechanisms have demonstrably led to disputes. Examples include Nagaland's resource management policies clashing with the Union List and Naga women's inheritance rights conflicting with constitutional gender equality provisions. This is notably different from the Sixth Schedule, which is recognized for its 'clear delineation of ADC powers, reducing conflicts'.<sup>56</sup> This indicates a systemic challenge: while the intent is to protect tribal autonomy, the overlapping and sometimes vaguely defined jurisdictions between central laws, state-level special provisions, and autonomous district council powers create a complex legal landscape prone to disputes. This layering, though intended to empower, simultaneously creates friction points that can undermine the very equitable justice it seeks to foster, especially when modern constitutional principles, such as equality, are brought to bear on traditional practices.<sup>57</sup>

Constitutional recognition of customary laws, while serving to preserve tribal identity, simultaneously subjects these traditional practices to the scrutiny of modern constitutional principles, thereby acting as a catalyst for internal reforms, particularly concerning gender equality.<sup>58</sup> The customary laws of Nagaland and Mizoram are explicitly 'constitutionally recognized' through articles 371A and 371G. This recognition grants them legal legitimacy within the broader Indian legal framework. However, this integration also brings them into direct interaction with the overarching principles of the Constitution, including fundamental rights. For instance, it is explicitly noted that 'Naga women's inheritance rights, governed by customary practices, frequently clash with gender equality provisions enshrined in the Constitution.' Similarly, Mizo customary law has been detailed as patriarchal, disfavoring women in inheritance and decision-making, where women had 'virtually no say in any decision making'.<sup>59</sup> The Supreme Court, in upholding the validity of customary law, also acknowledges the 'dynamic nature of tribal customs' and the need for 'legal interpretations that are culturally sensitive and

---

<sup>53</sup> *Supra* note 50.

<sup>54</sup> *Supra* note 47 at 58.

<sup>55</sup> *Id.* at 61.

<sup>56</sup> *Ibid.*

<sup>57</sup> *Supra* note 50 at 2.

<sup>58</sup> *Id.* at 53.

<sup>59</sup> Tadup Tana Tara, "Comparative Analysis of articles 371A, 371G and 371H: Understanding the trade" *Arunachal Times*, Jul. 18, 2025, available at: <https://arunachaltimes.in/index.php/2025/07/18/comparative-analysis-of-articles-371a-371g-and-371h-understanding-the-trade/> (last visited on July 21, 2025).

adaptable.<sup>60</sup> This dynamic interaction inevitably pressures customary systems to evolve and reform, particularly in areas like gender equality, to align with broader constitutional values. Thus, constitutional recognition is not merely a passive acceptance of tradition but creates a legal interface that drives internal adaptation and reform towards a more equitable justice system.

**Table 2: Autonomous District Councils in Mizoram and Northeast India (Sixth Schedule)**

State	Autonomous District Council (ADC)	Headquarters	Year of Formation
Mizoram	Chakma ADC	Kamalanagar	1972
Mizoram	Lai ADC	Lawngtlai	1972
Mizoram	Mara ADC	Siaha	1972
Assam	Bodoland Territorial Council	Kokrajhar	2003
Assam	North Cachar Hills Autonomous Council	Haflong	1951
Assam	Karbi Anglong Autonomous Council	Diphu	1952
Meghalaya	Garo Hills ADC	Tura	1973
Meghalaya	Khasi Hills ADC	Shillong	1973
Tripura	Tripura Tribal Areas ADC	Khumulwng	1982 (granted Sixth Schedule status 1984)

#### IV. COMMUNITY-BASED JUSTICE SYSTEMS: STRUCTURE, FUNCTIONING, AND CUSTOMARY LAW

##### *A. Village Councils in Mizoram: Structure and Composition*

Village Councils in Mizoram represent the bedrock of local governance and justice administration, having been established under the Village Council Act of 1953. These councils were instituted to replace the traditional chieftainship system, serving as the most basic administrative units at the village level. Their composition typically consists of elected members, with numbers ranging from 3 to 11.<sup>61</sup> More recent legislative proposals, such as The Mizoram (Village Councils) Bill, 2025, aim to further democratic decentralization and public participation. This proposed bill outlines a membership range of 3 to 9 members, depending on the village population, and notably introduces specific reservations for women: one woman for populations below 1,000, two for populations between 1,000 and 2,000, and three for populations exceeding 2,000. Earlier amendments, like the 2014 Act, also introduced women's reservations based on the number of households.<sup>62</sup> Elections for Village Councils are overseen by the State Election

<sup>60</sup> *Ram Charan & Ors. v. Sukhram & Ors.*, decided by the Supreme Court on July 17, 2025, available at: <https://indiankanoon.org/doc/198095418/> (last visited on July 21, 2025).

<sup>61</sup> Lallianchhunga, "A Comparative Study of Village Councils in Mizoram and Panchayati Raj Institutions" 3(2) *Senhri Journal of Multidisciplinary Studies* 33–44 (2018), available at: <https://senhri-journal.pucollege.edu.in/storage/articles/a-comparative-study-of-village-councils-in-mizoram-and-panchayati-raj-institutions-a-critical-appraisal-0oHL.pdf> (last visited on July 21, 2025).

<sup>62</sup> H.C. Vanlalruata, "Mizoram House passes 2 bills on village council and devpt" *Times of India* (Guwahati), Mar. 06, 2025, available at: <https://timesofindia.indiatimes.com/city/guwahati/mizoram-house-passes-2-bills-on-village-councils-devpt/articleshow/118767650.cms> (last visited on July 21, 2025).

Commission, ensuring a standardized electoral process. Eligibility criteria for members include being a Scheduled Tribe member, at least 25 years of age, an elector in the village of election, and not holding any office of profit under any government be it the Central or State. The council's executive functions vest in a President, a Vice President, a Treasurer, and Secretary, with the Secretary typically being a non-elected official.<sup>63</sup>

### ***B. Judicial Powers and Procedures***

The Village Councils in Mizoram function as integral Village Courts, primarily responsible for adjudicating civil cases and petty criminal offenses that fall within the purview of customary and tribal laws.<sup>64</sup> Their judicial authority allows them to impose fines, such as the Rs. 60 limit specified under The Lakher Autonomous District (Administration of Justice) Rules, 1981, or up to Rs. 500 as noted in a study covering the 2015-2020 period.<sup>65</sup> They can also award restitution or compensation to aggrieved parties, with enforcement mechanisms including the distraint of the offender's property. A crucial limitation, however, is their explicit lack of competence to pass sentences of imprisonment in criminal cases.

The procedural aspects of these Village Courts are characterized by simplicity and community engagement. Cases are typically tried in an "open Darbar," ensuring transparency and allowing for the attendance of the complainant, accused, and their witnesses. Decisions are reached by a simple majority vote and are pronounced as swiftly as possible. The process generally requires only verbal notice to parties and witnesses, further emphasizing its informal and accessible nature. While comprehensive written records of proceedings may not always be maintained, registers of disposed cases are kept. More serious cases, or those requiring penalties beyond the Village Court's jurisdiction, are referred to higher judicial bodies, and appeals from Village Court decisions can be made to the SDCC.

### ***C. Mizo Hnam Dan (Mizo Customary Law): Key Aspects and Dispute Resolution***

Mizo Hnam Dan forms the underlying legal and social framework for village administration and dispute resolution in Mizoram. This body of customary law governs a wide spectrum of community life, including critical aspects such as inheritance and property rights, the demarcation and management of village boundaries, and the imposition of sanctions for various offenses.<sup>66</sup> Disputes are primarily resolved by the Village Councils (Khawtlang Roreltute) through the application and interpretation of these customary laws. The system of fines, such as 'Salam' and 'Sukchin,' serves as a traditional mechanism for punishment or compensation, reinforcing community norms and social order.<sup>67</sup> While deeply rooted in tradition and community consensus, the process of codifying customary law, as has occurred in some instances, can introduce a degree of rigidity that may conflict with the dynamic and evolving

---

<sup>63</sup> *Ibid.*

<sup>64</sup> The Mizoram Village Councils Bill, 2025, available at: [https://prsindia.org/files/bills\\_acts/bills\\_states/mizoram/2025/Bill23of2025MZ.pdf](https://prsindia.org/files/bills_acts/bills_states/mizoram/2025/Bill23of2025MZ.pdf) (last visited on July 21, 2025).

<sup>65</sup> A Compilation of Acts, Regulations and Rules under Lai Autonomous District Council, Art & Culture Department, Lawngtlai, Mizoram (2013), available at: <https://ladc.mizoram.gov.in/uploads/attachments/6b96029dc7ca4c6f84b154319573ee34/ladc-acts-rules-and-regulations.pdf> (last visited on July 21, 2025).

<sup>66</sup> *Supra* note 17.

<sup>67</sup> *Ibid.*

nature of customary principles.<sup>68</sup> This poses considerable challenges for administrators and judges who are tasked with applying these laws in contemporary contexts.<sup>69</sup> The interplay between the oral tradition of customary law and the demands of formal codification highlights a complex adaptive process within the Mizo justice system.<sup>70</sup>

#### ***D. Other Northeast Indian Models***

##### ***(i) Nagaland's Village Courts: Accessibility, Simplicity, and Reconciliation***

Nagaland's Village Courts, often referred to as Gaon Bora courts, stand out as unique institutions of community justice, not only within India but globally. They represent the lowest tier of the justice system under Naga customary law and are prevalent across virtually all villages in Nagaland, ensuring that justice is available 'at the doorstep' of the tribal populace.<sup>71</sup> These courts administer justice primarily by applying orally transmitted customary laws and norms, which are readily understandable even by individuals without formal legal training.<sup>72</sup> The procedures are characterized by their simplicity, flexibility, and expeditiousness, fostering an environment where parties feel at ease and are willing to seek resolution through the court. A distinctive feature is the exclusion of legal practitioners from proceedings, which is believed to preserve the intrinsic nature of customary laws and encourage broader community involvement. Furthermore, these tribal courts levy minimal fees, which can be paid in cash or in kind, making them highly affordable.<sup>73</sup> The jurisdiction of Nagaland's Village Courts extends to civil and criminal matters within their territorial limits, provided both disputants are village inhabitants. While they can impose fines (up to Rs. 500) and order compensation or restitution to aggrieved parties, they are not empowered to pass sentences of imprisonment in criminal cases.<sup>74</sup> A core tenet of their dispute resolution philosophy is a strong emphasis on reconciliation and mutual consent over adversarial litigation. Decisions are made following basic principles of natural justice, such as providing an impartial hearing coupled with prompt declaration in open court, with majority decisions prevailing. Serious cases or those warranting heavier penalties are referred to the state's formal judicial machinery.<sup>75</sup>

##### ***(ii) Meghalaya (Khasi, Garo): Traditional Courts and Evolution***

Meghalaya also exhibits a robust system of traditional justice. In the Khasi Hills, ADC (KHADC) operates a three-tiered court system under The United Khasi-Jaintia Hills District

---

<sup>68</sup> Editorial, "Codifying Customary Law the need for a Naga jurisprudence" *Morung Express*, May 15, 2018, available at: <https://morungexpress.com/codifying-customary-laws> (last visited on July 21, 2025).

<sup>69</sup> *Ibid.*

<sup>70</sup> *Supra* note 11.

<sup>71</sup> *Supra* note 23

<sup>72</sup> *Ibid.*

<sup>73</sup> *Supra* note 68.

<sup>74</sup> The Rules for Administration of Justice and Police in Nagaland (Third Amendment), Act, 1984, rule 28, available at: [https://www.indiacode.nic.in/bitstream/123456789/11689/1/the\\_rules\\_for\\_administration\\_of\\_justice\\_and\\_police\\_in\\_nagaland\\_third\\_amendment\\_act\\_1984.pdf](https://www.indiacode.nic.in/bitstream/123456789/11689/1/the_rules_for_administration_of_justice_and_police_in_nagaland_third_amendment_act_1984.pdf) (last visited on July 21, 2025).

<sup>75</sup> *Ibid.*

(Administration of Justice) Rules, 1953.<sup>76</sup> This system comprises Village Courts, SDCCs, and the apex District Council Courts. These courts are designed to deliver justice swiftly, simply, and affordably, adhering closely to traditional customs and usages. A notable institutional feature is the separation of the judiciary from the executive, ensuring judicial independence.<sup>77</sup> While Village Courts handle petty offenses and can award costs, they lack the authority to impose imprisonment. District Council Courts, however, possess significant powers, including the trial of offenses for which death penalty or life imprisonment has been provided under the IPC, and are supervised by the Meghalaya High Court.<sup>78</sup>

Among the Garo tribe, justice administration in the pre-British period was the sole responsibility of village headmen (NOKMA) and their councils. ‘Wrongful acts’ were broadly defined as actions that caused harm to a person's esteem or sentiments.<sup>79</sup> During the English reign, the brits intervened to prohibit practices like retaliatory killing and transferred some of the NOKMA's judicial powers to newly established district officers (LASKERs). Post decolonization, the Garo Hills was labelled a ‘Tribal Area,’ empowering its district council to formulate legislations that formalized existing customs.<sup>80</sup> Consequently, villages continue to address customary law violations and minor crimes, while major offenses are referred to the district council courts.<sup>81</sup> The comprehensive documentation of Garo customary laws, including inheritance, marriage, and village administration, is found in “The Garo Law” by Jobang D. Marak (1952), which also includes illustrative case studies.<sup>82</sup>

### ***(iii) Arunachal Pradesh (Nyishi, Shertukpen): Village Authority and Customary Practices***

In Arunachal Pradesh, community-based justice systems are also deeply ingrained. The Nyishi tribe's Village Authority, comprising Head Gaon Buras (HGB) and Gaon Buras (GB), plays a pivotal role in resolving civil and criminal disputes at the village level. Operating under the Assam Frontier (Administration of Justice) Regulation Act of 1945, these authorities function as representatives of the government, maintaining peace and ensuring a sense of security within the village.<sup>83</sup> They are valued for providing speedy and low-cost justice, which often makes their system preferable to the formal courts for minor cases. While they primarily adhere to unwritten

---

<sup>76</sup> Chaitali Guha Sinha and Savvy Lyngdoh, “The role of autonomous district councils in Meghalaya” 11(2) *International Journal of Home Science* 235–240 (2025), available at: <https://www.homesciencejournal.com/archives/2025/vol11issue2/PartD/11121.pdf> (last visited on July 21, 2025).

<sup>77</sup> *Ibid.*

<sup>78</sup> Chapter II and II, United Khasi-Jaintia Hills District (Administration of Justice) Rules, 1953, available at: [https://khadc.nic.in/acts\\_rules\\_regulations\\_bills/Acts\\_Rules\\_arranged/Administration\\_Rule\\_1953.pdf](https://khadc.nic.in/acts_rules_regulations_bills/Acts_Rules_arranged/Administration_Rule_1953.pdf) (last visited on July 21, 2025).

<sup>79</sup> Julius Marak, *The Garo customary laws and the application of general laws in Garo Hills In Hill Societies, Their Modernization: A Study of North East with Special Reference to Garo Hills* 61–68 (Omson's Publication, New Delhi, 1995), available at: <https://ehrafworldcultures.yale.edu/cultures/ar05/documents/024> (last visited on July 22, 2025).

<sup>80</sup> *Ibid.*

<sup>81</sup> *Id.* at 64.

<sup>82</sup> Jobang D. Marak, *The Garo Law* 1–78 (Jayanti Art Press, 1952), available at: <https://digital.library.unt.edu/ark:/67531/metadc2137829/> (last visited on July 22, 2025).

<sup>83</sup> Mizum Nyodu, “Legal Pluralism in North East India: The Dynamics in Adjudication of Criminal Justice System with a Focus on the state of Arunachal Pradesh” 8 (11) *International Journal of Novel Research and Development* 721-735 (2023), available at: <https://www.ijnrd.org/papers/IJNRD2311193.pdf> (last visited on July 14, 2025).

traditional laws and precedents, they are obligated to report heinous crimes to the nearest police station, although instances of exceeding this jurisdiction have been observed.<sup>84</sup>

The Shertukpen tribe similarly relies on traditional, unwritten customary laws, which govern a wide array of socio-cultural aspects, including marriage, inheritance, and dispute resolution.<sup>85</sup> Their justice system is administered through a village council known as ‘bulu,’ composed of elders (thug-bo) and local members (thumi), which settles all village disputes and imposes fines.<sup>86</sup> Beyond this local level, the Shertukpen community has a supreme ‘Tukpen Village Council’ (TVC), which serves as the premier tribal institution. It handles complex cases and appeals from the village councils, emphasizing consensus-based judgments and traditional ‘chatpu-nesey’ conferences for unresolved disputes.<sup>87</sup> While the Shertukpen maintain strong faith in their traditional system, serious crimes like murder and rape are consistently referred to modern statutory law courts.<sup>88</sup>

**Table 3: A Comparison: Customary vs. Formal Justice Systems in Northeast India**

Feature	Customary Justice System	Formal Justice System
<b>Accessibility</b>	Highly accessible, local, "at the doorstep".	Often distant, requires travel, can have geographic limitations.
<b>Cost</b>	Cheaper, minimal fees (cash or kind).	High legal costs, can be prohibitively expensive.
<b>Procedure</b>	Simple, flexible, expeditious, oral, informal.	Complex, adversarial, formalistic, written procedures.
<b>Focus</b>	Reconciliation, community harmony, victim compensation.	Punishment, adherence to codified law, legal precedent.
<b>Legal Representation</b>	Lawyers generally not permitted.	Access to counsel is crucial for better outcomes.
<b>Jurisdiction (Criminal)</b>	Petty offenses, fines (no imprisonment).	Serious offenses, imprisonment, death penalty.
<b>Legal Basis</b>	Oral traditions, customs, community consensus.	Codified statutes, constitutional provisions.
<b>Record Keeping</b>	Registers maintained; full proceedings not always written.	Detailed written records of proceedings.

## V. CHALLENGES AND LIMITATIONS OF COMMUNITY JUSTICE SYSTEMS

<sup>84</sup> *Ibid.*

<sup>85</sup> Arifur Zaman & Bodhprakash Upadhaya, “Administration of Justice and Customary law among the Shertukpen of Arunachal” 2(2) *Indian Journal of Research in Anthropology* 135-142 (2016), available at: [https://rfppl.co.in/subscription/upload\\_pdf/ra8\\_4109.pdf](https://rfppl.co.in/subscription/upload_pdf/ra8_4109.pdf) (last visited on July 22, 2025).

<sup>86</sup> *Id.* at 138.

<sup>87</sup> *Ibid.*

<sup>88</sup> *Id.* at 141.

Despite their inherent strengths in accessibility and cultural resonance, community justice systems in Mizoram and the broader Northeast Indian region face significant challenges and limitations. These issues often stem from their traditional foundations, their interface with modern legal frameworks, and the socio-economic realities of communities they serve.

### ***A. Gender Inequality and Patriarchal Norms***

A prominent challenge within customary justice systems is the perpetuation of gender inequality and patriarchal norms. Traditional Mizo society, for instance, was fundamentally patriarchal, with the eldest male member or husband exercising dominant authority within the family. This structure marginalized women in nearly all aspects of life, including crucial matters of property inheritance and decision-making.<sup>89</sup> Traditional Mizo customary law explicitly disfavored women from inheriting property, with inheritance typically favoring male heirs due to the patrilineal nature of the society. Daughters would only be considered for inheritance in the absence of a son. Furthermore, women had ‘virtually no say in any decision-making’ within the home or public domain, a reality underscored by traditional sayings implying limitations on women's wisdom and the value of their opinions.<sup>90</sup>

In matters of divorce, Mizo customary law allowed a man to divorce his wife with a simple statement of intent, without the woman having any say or share in jointly acquired family property.<sup>91</sup> Conditions for a matriarch inheriting family property were often stringent, requiring her to be ‘chaste’, capable, faithful, and righteous, implicitly setting moral and behavioral requirements not applied to men. While some families have recently considered sharing inheritance with daughters, the traditional practice remains prevalent, especially in rural areas. This systemic bias, where women are often treated as inferior and subordinate to men across various spheres of life, highlights a significant barrier to achieving equitable justice within these traditional frameworks.<sup>92</sup>

### ***B. Elite Capture and Power Imbalances***

Informal dispute resolution mechanisms within customary justice systems can be susceptible to ‘elite capture’. This phenomenon occurs when local elites or religious leaders exert undue influence, leading to situations where women, the poor, and ethnic minorities are unlikely to receive equal access or fair treatment.<sup>93</sup> Instances of ‘more powerful people paying off the

---

<sup>89</sup> Lalrinsangi Nghinglova and K.C. Lalthlamuani, “Exploring the Mizo Women’s Property and Inheritance Rights” 8(1) *Zeichen Journal* 77-83 (2022), available at: [https://mzu.edu.in/NAAC\\_DVV\\_2024/3.4.4/English/2438.pdf](https://mzu.edu.in/NAAC_DVV_2024/3.4.4/English/2438.pdf) (last visited on July 22, 2025).

<sup>90</sup> V. Sawmveli, “Mizo customary laws and the discourse of women’s rights” in Melvil Pereira, Bitopi Dutta, *et.al.* (eds.), *Legal Pluralism and Indian Democracy Tribal Conflict Resolution Systems in Northeast India* 149-167 (Routledge, 2018).

<sup>91</sup> *Ibid.*

<sup>92</sup> Tannvi Tannvi & Sharmila Narayana, “The challenge of gender stereotyping in Indian courts” 8(1) *Cogent Social Sciences* 1-13 (2022), available at: <https://doi.org/10.1080/23311886.2022.2116815> (last visited on July 22, 2025).

<sup>93</sup> Centre for Policy Alternatives (Commissioned by UNHCR), “Informal Dispute Resolution in the North East and Puttalam” 11 (2007), available at: [https://cpalanka.org/wp-content/uploads/2007/8/Informal\\_Dispute\\_Resolution.pdf](https://cpalanka.org/wp-content/uploads/2007/8/Informal_Dispute_Resolution.pdf) (last visited on July 22, 2025).



adjudicators' have been reported, undermining the impartiality and fairness of traditional systems.<sup>94</sup> This subversion of justice by influential individuals or groups can lead to increasing impoverishment of already vulnerable populations, as expropriated individuals may find themselves without traditional forms of mutual aid or redress. The lack of neutrality in mediation, where trust and confidence in negotiators are paramount, can also be exploited if not carefully managed.<sup>95</sup>

### ***C. Conflicts with Formal Laws and Constitutional Principles***

The concurrence of customary laws and the formal Indian legal system often leads to legal ambiguities and conflicts.<sup>96</sup> In some instances, customary laws may directly contradict provisions of the Indian Constitution or other formal laws, posing significant implementation challenges. For example, articles 371A (Nagaland) and 371G (Mizoram) grant autonomy over customary law, but their broad language can lead to jurisdictional disputes, as seen in Nagaland's attempts to regulate petroleum and natural gas exploration, which clashed with the Union List.<sup>97</sup> The most prominent area of conflict arises when customary practices, particularly those related to inheritance and family relations, perpetuate gender inequality and discrimination against women, directly clashing with constitutional provisions for gender equality. While the Supreme Court<sup>98</sup> has upheld the validity of customary law, it has also implicitly called for adaptations to align with modern standards, particularly concerning human rights. The challenge lies in reconciling traditional practices, which are intrinsic to tribal identity and culture, with the progressive principles of the Indian Constitution.<sup>99</sup>

### ***D. Impact of Modernization and Codification***

Modernization and urbanization pose a significant threat to traditional ways of life and customary laws in the Northeast. The shift towards a monetized market-oriented economy and increased integration with the 'modern state' can weaken traditional social bonds and community ownership, which are central to tribal culture.<sup>100</sup> The unwritten nature of many customary laws, while allowing for flexibility, also makes them susceptible to misinterpretation and poses challenges for formal codification. Attempts to codify customary laws, while providing clarity, can inadvertently introduce rigidity that deviates from the fluid, context-dependent nature of traditional principles. This can create difficulties for administrators and judges who must apply these codified rules.<sup>101</sup> The declining reverence for customary laws among the younger, educated generation due to modernization also presents a limitation. As traditional clan-based social structures weaken and individualism increases, the acceptance and enforceability of customary

---

<sup>94</sup> *Ibid.*

<sup>95</sup> *Id.* at 5.

<sup>96</sup> Jus Corpus Law Journal Blogs, "Customary laws in India: Tradition and Modernity" (2024), *available at*: <https://www.juscorpus.com/customary-laws-in-india-tradition-and-modernity/#page> (last visited on July 22, 2025).

<sup>97</sup> *Supra* note 59.

<sup>98</sup> *State of Nagaland v. Ratan Singh*, AIR 1967 SC 212; 1967 CriLJ 265.

<sup>99</sup> Subhash Chandra Singh, "Recognition of Naga Customary Law and Practices in Northeast India: Convergence or Conflict" 8(2) *International Journal of Law and Society* 83-102 (2025), *available at*: <https://doi.org/10.11648/j.ijls.20250802.13> (last visited on July 24, 2025).

<sup>100</sup> *Supra* note 96.

<sup>101</sup> *Supra* note 99.

laws may diminish. This erosion of traditional practices can lead to a loss of cultural heritage and identity, creating a mixed sentiment about the overall impact of modernization.<sup>102</sup>

## **VI. STRENGTHENING EQUITABLE JUSTICE: INNOVATIONS AND THE PATH FORWARD**

The pursuit of equitable justice in Mizoram and the broader Northeast India necessitates a multi-faceted approach that acknowledges the strengths of community-based systems while addressing their limitations. This involves strategic innovations, collaborative efforts, and a continuous dialogue between traditional practices and modern legal principles.

### ***A. Codification and Documentation Efforts***

Given the largely unwritten nature of customary laws, efforts towards their systematic codification and documentation are crucial for their preservation and enhanced integration into the formal legal framework. The Law Research Institute of the Gauhati High Court, for instance, has played a significant role in compiling customary laws and practices from various societies across Northeast India. Such documentation can provide clarity, reduce ambiguities, and facilitate a more consistent application of customary law. However, it is imperative that codification processes are sensitive to the dynamic and evolving nature of customary law, avoiding the imposition of rigid interpretations that might strip away its cultural essence. The aim should be to create a documented framework that respects the spirit of traditional practices while making them more accessible and predictable.<sup>103</sup>

### ***B. Sensitization and Capacity Building for Formal and Informal Systems***

A critical step towards fostering equitable justice is to bridge the understanding gap between the formal and informal justice systems. This requires comprehensive training and sensitization programs for judges and legal professionals within the formal judiciary to enhance their understanding and appreciation of the nuances of customary laws and tribal justice systems. Similarly, strengthening the capacity of village councils and other tribal institutions is vital to enhance their ability to administer justice effectively and resolve disputes. This includes providing training on principles of due process, human rights, and modern administrative practices, while respecting their traditional methods.

### ***C. Role of NGOs and Civil Society***

Non-Governmental Organizations (NGOs) and civil society organizations play a prominent part in strengthening community justice alongwith promoting equitable outcomes in Mizoram and the Northeast. These organizations often operate at the grassroots level, bridging governance gaps and fostering social cohesion. In Mizoram, NGOs have been instrumental in various sectors, including social welfare, education, healthcare, and environmental conservation. Crucially, they have served as mediators and advocates during periods of insurgency and ethnic conflict, facilitating negotiations and promoting communal harmony.<sup>104</sup> NGOs like the Mizo

---

<sup>102</sup> *Id.* at 96.

<sup>103</sup> *Supra* note 99.

<sup>104</sup> *Supra* note 27.

Hmeichhe Insuihkhawm Pawl actively advocate for women's rights, domestic violence prevention, and empowerment through skill development, directly addressing gender inequalities within society, including those perpetuated by customary laws.<sup>105</sup> They also collaborate with government agencies, offering capacity-building initiatives for local governing bodies like Village Councils and assisting in the implementation of government schemes. Their role as watchdogs, monitoring corruption and advocating for tribal rights against exploitation, is also significant. The Young Mizo Association is amongst the largest NGOs. It is deeply involved in social welfare, environmental conservation, and cultural preservation, further underscoring the broad impact of civil society on community well-being and justice.<sup>106</sup>

#### ***D. Reforms for Gender Equality and Human Rights Integration***

Addressing gender inequality within customary laws is paramount for building truly equitable justice. This involves a concerted effort to identify and reform discriminatory provisions, particularly those related to inheritance and family relations, to align them with constitutional principles of gender equality.<sup>107</sup> The Mizo Marriage, Divorce and Inheritance of Property Act, 2014, represents a significant step in this direction, aiming to modernize aspects of Mizo customary law that previously marginalized women. However, legislative changes alone may not suffice; community-led dialogues and awareness campaigns are essential to foster acceptance and ensure effective implementation of such reforms at the grassroots level. Empowering women through education, economic opportunities, and increased participation in decision-making processes within both traditional and formal institutions can contribute significantly to this transformation.<sup>108</sup>

#### ***E. Successful Community Mediation and Conflict Resolution Models***

The emphasis on reconciliation and community harmony inherent in traditional justice systems offers valuable lessons for modern dispute resolution. Mizoram itself is considered a case study where mediation and negotiation emanated primarily from within the society in conflict, leading to successful peace accords. This 'insider-partial model' of mediation, where authority is vested in a third party through personal relationships, trust, and respect, is particularly relevant in traditional societies.<sup>109</sup> Community mediation initiatives, often supported by NGOs, can resolve small-scale disputes regarding land, assaults, or loans, which are crucial in conflict-affected communities. These processes prioritize restoring relationships and building connections, encouraging parties to work together for mutual betterment. Mediators, often familiar faces from the community, foster comfort and increase the likelihood of settlement. This restorative justice approach focuses on repairing harm and restoring the original status, rather than solely on punishment. Leveraging such models, adapting them to contemporary challenges, and integrating them with formal legal aid services can enhance access to justice and promote peaceful co-existence.<sup>110</sup>

---

<sup>105</sup> *Supra* note 90.

<sup>106</sup> *Ibid.*

<sup>107</sup> *Supra* note 89.

<sup>108</sup> *Ibid.*

<sup>109</sup> *Supra* note 93.

<sup>110</sup> *Ibid.*

## VII. CONCLUSION

The pursuit of equitable justice in Mizoram and the broader Northeast Indian region is a complex yet imperative endeavor, deeply intertwined with the historical evolution and contemporary dynamics of community-based justice systems. The analysis reveals a rich tapestry of legal pluralism, where traditional customary laws and institutions, such as chieftainship and later Village Councils, have historically served as the primary arbiters of justice at the grassroots level. This community-centric approach has been characterized by its accessibility, affordability, and a strong emphasis on reconciliation and social harmony, often preferred by tribal populations over the more formal, adversarial state legal system.

The constitutional frameworks, particularly the sixth schedule and articles 371A and G, have played a pivotal role in recognizing and safeguarding these indigenous justice systems, granting significant autonomy to tribal areas. This constitutional recognition, while affirming tribal identity and self-governance, has simultaneously created a dynamic interface where customary laws are increasingly subject to the scrutiny of modern constitutional principles, particularly concerning human rights and gender equality. This interaction acts as a powerful catalyst for internal reforms within traditional practices.

However, the path to equitable justice is fraught with challenges. The inherent patriarchal biases within many customary laws, particularly regarding women's inheritance and decision-making rights, represent a significant barrier to true equality. The potential for elite capture within informal systems can also undermine fairness and disproportionately affect vulnerable groups. Furthermore, the largely unwritten nature of customary laws, while fostering flexibility, can lead to inconsistencies and complexities when interfacing with codified formal laws. The ongoing forces of modernization and urbanization also exert pressure, leading to the erosion of some traditional practices and a shift in social structures.

Building truly equitable justice in this unique socio-legal landscape requires a nuanced and multi-pronged approach. This includes carefully considered efforts towards codification and documentation of customary laws, ensuring that such processes enhance clarity without sacrificing the adaptive spirit of tradition. Crucially, there is a need for continuous sensitization and capacity-building initiatives for both formal legal professionals and community leaders, fostering mutual understanding and collaboration between the two systems. Empowering local institutions, particularly Village Councils, and supporting the vital role of NGOs in advocating for entitlements, mediating disputes, and driving social reforms is indispensable. Ultimately, the future of equitable justice in Mizoram and the Northeast lies in a harmonious integration of traditional wisdom with universal human rights standards, ensuring that community participation not only maintains social order but also champions fairness, equality, and dignity for all its members.