

# **Asymmetric Federalism: the case of Canadian Inuit and the Mizos in India**

**A Dissertation submitted to the Jawaharlal Nehru University  
in partial fulfillment for the Award of the Degree of**

**MASTER OF PHILOSOPHY**

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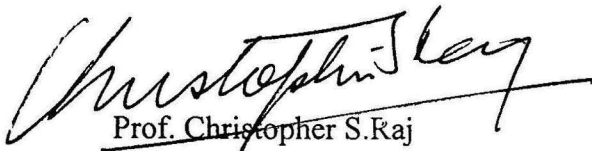
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**CERTIFICATE**

Certified that this dissertation entitled "*Asymmetric federalism: the case of Canadian Inuit and the Mizos in India*," submitted by me in partial fulfillment of the requirements for the award of the degree of **MASTER OF PHILOSOPHY** has not been previously submitted for any other degree in this or any other university and is my own work.

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We recommend that this dissertation may be placed before the examiners for evaluation.

  
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## Preface

Federalism was devised to handle the problems of diversity. Efforts to deny or suppress the multiple identities within a diverse society have almost invariably led to contention, secession or civil war. An essential element therefore, in any federation encompassing a diverse society has been the acceptance of the value of diversity and of the possibility of multiple loyalties expressed through the establishment of constituent units of government with genuine autonomous self-rule over those matters most important to their distinct identity. At the same time, equally important has been the recognition of the benefits within even a diverse society derived from shared purposes and objectives providing the basis for parallel processes of shared-rule.

In terms of the representative institutions of federal government, Canada and India belongs among those countries which have combined federation with parliamentary institutions. This has facilitated the processes for generating federal cohesion, inclusion of minority views in federal decision making and the executive-dominated nature of inter-governmental relations.

This comparative study has made clear that within the general category of federal political systems and indeed within the more specific category of federations there has been a considerable variety in the patterns of social conditions accommodated and an enormous range in the institutional arrangement and political processes adopted.

While political asymmetry amongst the constituent units has been typical of all federations, Canada and India are amongst the minority of federations wherein some

degree of constitutional asymmetry has been incorporated in order to reconcile varying regional pressures for autonomy.

The provision of the Charter of Rights and Freedoms in the Canadian Constitution of 1982 includes not only individual rights but some specified group rights. This is similar to a federation like India, marked by sharp internal linguistic and cultural diversity. The Indian Constitution adopted in 1950, recognized group rights for weaker sections of its citizens such as the Scheduled Castes and the Scheduled Tribes. W.S.Livingston, writing in 1956, talked about how federal systems were a function not of constitutions but of societies. He said :

The essential nature of federalism is to be sought for, not in the shadings of legal and constitutional terminology, but in the forces—economic, social, political, cultural—that have made the outward forms of federalism necessary....The essence of federalism lies not in the constitutional or institutional structure but in the society itself. Federal government is a device by which the federal qualities of the society are articulated and protected.

In view of the importance of social forces in moulding federal political institutions and their operation, the present study attempts to trace the socio-historical context which necessitates an asymmetric federal arrangement for the Inuit and the Mizos in Canada and India respectively.

**A. Asymmetric Federalism as an answer in incorporating various categories of citizens within the wider modern nation state:**

This study examines the way in which two groups, namely the Inuit and the Mizo, are incorporated in the institutional structure of Canada and India. Both these countries are *multi-nation* and *multi-ethnic* federations, whereby self-rule is combined with shared rule. Asymmetric federal arrangement is introduced to enable the

incorporation of distinct categories of citizens into the constitutional framework to meet specific needs. The experimentation with asymmetry can be viewed as an extended discovery of the minimum degree of uniformity necessary for maintaining a coherent Union.

Attempt would be made to answer questions such as whether the Inuit and the Mizos shared some similarities and differences. Is identity formation for both the groups propelled by contact with outside forces? Are the political and developmental demands made by both groups best realized within the nation-state which they found themselves in? Is asymmetrical federalism an answer to nation-states plagued by various demands from different sections of its population? Is the awareness shown by the Inuit and the Mizos shaped by International factors? How far does the creation of Nunavut in Canada and Mizoram in India contribute to the fulfillment of the aspirations of the Inuit and the Mizos?

### **B. Scope of the Study:**

The framework of the study covers a wide time-span. This is necessitated by the fact that in order to have a better perspective of the present, there is a need to look back in time. Attempt therefore is made to introduce the known origin of the two groups under study, i.e., the Inuit of Canada and the Mizos of India. The Inuit case goes further down in history, to thousands of years when they began to settle in the present area of Arctic Canada. The history of the Mizos is relatively recent due to lack of proper written records. The study goes back five centuries earlier from the present time, when the Mizos began entering the territory of what is now known as Mizoram. The political processes that resulted in the realization of a form of self-rule for the Inuit in Canada began in the late 1970s. However, the first contact the Inuit had with out-group members began in the early eighteenth century. Attempt is made to examine how all these years of contact with out-group members shaped the Inuit of



today. The Chin-Lushai Expedition of the British to the Mizo Hills in 1890 represents a watershed development in the history of the Mizos. Abiding changes marked the socio-economic and political development of the Mizos. The present study tries to trace these developments and the repercussions it had in shaping the present condition of the Mizos. The violent political strife of the 1960s is also examined as it marked a turning point in the evolution of the Mizos as a distinct ethnic group, aware of its distinctiveness in the wider Indian socio-cultural milieu.

### **1.5 Structure of the study:**

#### **Chapter-1:**

This chapter traces the evolution of federalism as a concept right from the sixteenth-century roots of political federalism, starting with Heinrich Bullinger. The fuller development of these ideas in the seventeenth-century by Johannes Althusius, Thomas Hobbes, John Locke, and the modern understanding of federalism represented in the adoption by the United States of America as a form of government in 1787 is also examined. The nature of Parliamentary federal government adopted by Canada in 1867 and by India in 1947 is also discussed. Finally, the characteristics of the innovative asymmetric federal arrangement are elaborated.

#### **Chapter-2:**

This chapter examines the historical evolution of both the Inuit and the Mizos. The traditional religion, the social structure, the economy and pre-contact collective identity of both the groups are examined. In the latter part of the chapter, the policy of Canada and India towards the Inuit and the Mizos is dealt with.

#### **Chapter-3:**

This chapter examines the outside contacts the two hitherto isolated communities of the Inuit and the Mizos have had. The resultant wide-ranging transformation of the

two groups due to this contact is also examined. Care is taken to stress the evolution of ethnic identity consciousness for the two groups and the resultant repercussions.

#### **Chapter-4:**

This chapter deals with the historical evolution of political processes for the Inuit and the Mizos. The development and evolution of the identification mark for the two groups namely, 'indigenous' for the Inuit and 'tribal' for the Mizos is also traced. How these two groups utilized this distinctive marker to realize a form of self-rule, while still being a part of the larger Canadian and Indian nation-state is elaborated.

#### **C. Methodology:**

This research work mainly deals with federalism as a form of government. Specifically, the ways in which two groups, namely, the Inuit of Canada and the Mizos of India are incorporated in the constitutional arrangements of both the countries are examined. This way, self-rule for the two groups is innovatively combined with shared-rule by remaining as a legitimate component part of the Canadian and Indian nation-state respectively.

Journals and published books which dealt with the topic are extensively consulted. Materials for the research is obtained from a number of sources such as— Shastri Indo-Canadian Library ( New Delhi), JNU Central Library (New Delhi), Tribal Research Institute (Aizawl) and North Eastern University Library ( Shillong).

#### **Conclusion**

The conclusion essentially highlights how asymmetric federal arrangement as it exists in both Canada and India facilitated the socio-economic and political aspirations of the Inuit and the Mizos respectively. The similarities and differences between the Inuit of Canada and the Mizos in India are also enumerated in the concluding observation.

## Chapter 1

### A conceptual and analytical prelude of 'federalism'

#### 1.1 Federalism as a concept and its development—

The term 'federal' is derived from the Latin word *foedus*, which means, covenant. In this context, federalism is meant to rest on the principle that political and social institutions and relationship are established through covenants, compacts, or other contractual arrangements. Federalism has been defined as combining self-rule with shared rule<sup>1</sup>. And it deals with the relationship between two faces of politics—power and justice. Federalism in its most limited form is usually defined as having to do with distribution of power, and in its broadest sense is presented as a form of justice—emphasizing liberty and citizen participation in governance. One of the primary attributes of federalism is that it cannot, by its very nature, abandon the concern for either power or justice but must consider both in relationship to each other; thus letting people to consider the hard realities of political life while at the same time maintaining their aspiration for the best polity<sup>2</sup>.

Daniel J.Elazar, in his writings, shows how the political theology of federalism has had an impact on modern federalism<sup>3</sup>. He traces the sixteenth-century roots of political federalism—in the thought of Heinrich Bullinger and Philippe Duplessis-Mornay—and the fuller development of these ideas in the seventeenth century by Johannes Althusius, Thomas Hobbes, and John Locke. Briefly stated, Bullinger created a powerful concept of the religious covenant in the 1520s and 1530s. Mornay

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<sup>1</sup> Daniel J.Elazar , *Exploring Federalism*, (Tuscaloosa, The University of Alabama Press, 1987), p.5.

<sup>2</sup> Daniel J.Elazar, op cit. 1987, p.84.

<sup>3</sup> --Especially in his *Covenant & Commonwealth :From Christian Separation through the Protestant Reformation. The Covenant Tradition in Politics*, vol.II ( New Brunswick and London: Transaction Publishers, 1996).

built on the idea of the religious covenant when he developed the first expression of a political philosophy of federalism in 1579. In 1603, Althusius used Mornay's incipient federal framework to provide the first systematic, well-developed philosophy of political federalism, which he based on the religious covenant. Therefore, the concept that covenant or compact is the foundation of government was an integral part of the federal tradition prior to Hobbes and Locke.

Each of these faces of federalism shared five common elements. First, federal thinkers agreed that political society was formed by means of covenant or compact. Second, they shared a general view of human nature. Third, federal thinkers placed a high value on the community. Fourth, federalists placed all members of the community under a common law. Finally, federal thinkers held the community and its leader to covenant faithfulness by means of checks and balances.

By the late sixteenth century, the connection between the religious covenant and political federalism was beginning to emerge. Johannes Althusius (1557-1638) was the person most responsible for clarifying this connection. His political philosophy of federalism was the result of a variety of influences. His masterpiece—*Politics Methodically Set Forth*—published in 1603, contains the first fully formed federal political philosophy. His political thought is fundamentally covenantal<sup>4</sup>. The first paragraph of Chapter 1 reads,

Politics is the art of bringing humans together for the purpose of establishing, developing, and conserving social life among them. For this reason it is called

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<sup>4</sup> Charles S. Mc Coy, "The Centrality of Covenant in the Political Philosophy of Johannes Althusius," *Politische Theorie des Johannes Althusius*, eds. Karl-Wilhelm Dahm, Werner Krawietz and Dieter Wyduckd (Berlin: Duncker & Humblot, 1988), pp.187-199.

symbiotics. The content of politics, therefore, is association, by which, in either an explicit or tacit covenant, the symbiotes mutually obligate themselves to a mutual sharing of whatever things are useful and necessary for harmony and productive activity in social life.<sup>5</sup>

At the outset, then, Althusius asserts clearly that this covenantal symbiosis is the basis of his political philosophy.

He goes on to state that such symbiotic, covenantal interdependency is absolutely necessary if humans are to live comfortable, safe lives. No one is self-sufficient; everyone is miserable alone. No individual can provide a comfortable and happy life for himself. Therefore, as Aristotle taught, human beings turn to symbiotic association by necessity<sup>6</sup>. Althusius concludes Chapter 1 by stating, “ Thus, the arrogance and ferocity of man must be restrained by the certain reins of reason and law and political authority, lest he cast himself into the abyss of destruction.”<sup>7</sup> Here, on the matter of human nature, Althusius is a bridge between the sixteenth-century federal thinkers and Hobbes and Locke. While he based his political philosophy on rational principles, he did not divorce it from the theological idea of the covenant or from scriptural principles. The theories of Hobbes and Locke, later in the seventeenth century, were “secularized” versions of sixteenth-century federalism, based on “rational” principles, without any significant appeal to religion.

Thomas Hobbes explicitly denied the right of resistance, even against a tyrant, for any reason, political or religious. In this respect, he echoed Bullinger<sup>8</sup>, the founder of the reformed federal tradition, more than he did Althusius. However, while Bullinger’s

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<sup>5</sup> Friedrich, *Politica Methodice Digesta*, p.15; Carney, *Politics*,p.17.

<sup>6</sup> Friedrich, *Politica Methodice Digesta.*, pp.15-16,19; Carney, *Politics* ,pp.17-18,24-25.

<sup>7</sup> Friedrich, *Politica Methodice Digesta.*,p.29; Carney, p.26.

<sup>8</sup> He also resembled Bullinger in his affirmation of the sovereignty of the chief magistrate over religious matters as well as civil matters.

covenantal theory simply lacked any practical check on the civil rulers, Hobbes's theory explicitly rejected such a check.

Hobbes in the Introduction to *Leviathan*, explained that the commonwealth is an artifact, made by the art of humans in imitation of the art of God in making and governing the world. Hobbes's political theory thus includes most of the elements of the federalism of the seventeenth century: (1) political society is created by means of a covenant; (2) political society must exist because of the meanness of human nature in the state of nature; (3) this covenant creates a community; and (4) this community is ruled under the common law of the Sovereign, who is absolute and whose authority is not subject to any checks.

Hobbes's rejection of popular sovereignty or any other check on the Sovereign fostered a new, secular conservatism and absolutism in the future. In this sense, Hobbes's theory is the dark face of federalism.

In his *Second Treatise of Government*, Locke describes the state of nature as "a state of perfect Freedom to order their (human) Actions, and dispose of their Possessions and Persons, as they think fit, within the bounds of the Law of Nature, without asking leave, or depending upon the Will of any other Man."<sup>9</sup> It is a state of equality and of liberty. In the state of nature, humans have the right to protect their lives, liberty, and property from anyone who might encroach upon them.<sup>10</sup> The problem is, however, that not everyone will recognize the rule of reason or the law of nature.

Therefore, in order to gain greater security, Locke believed that every person should consent to a social compact which forms political society and government, under common, established laws. The purpose of political society is to preserve life, liberty,

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<sup>9</sup> John Locke, *Two Treatises of Government*, ed. Peter Laslett 2<sup>nd</sup> edition.(Cambridge: At the University Press. 1967). p.287.

<sup>10</sup> *Ibid.*, p.289.

and property.<sup>11</sup> Locke introduces the concept of popular sovereignty at this point. Even though the legislative power is the supreme political power, “yet the Legislative being only a Fiduciary Power to act for certain ends, there remains still *in the People a Supreme Power* to remove or *alter the Legislative*, when they find the *Legislative* act contrary to the trust reposed in them”.<sup>12</sup> In a case where the lives, liberty, and property of the majority of the people are endangered, the people can resist such a tyrant, even to the point of rebellion.

The fiduciary aspect of Locke’s theory is also the key to his understanding of the relationship of the individual and the community. Locke is often presented as teaching that the individual is self-directing and self-sufficient—as the first advocate of liberal individualism.<sup>13</sup> This, however, is not quite true. Individuals are not sovereign. According to the social compact, each individual surrenders his executive power of the state of nature to the community. The community is now governed by a common law. As Locke expressed it, “And thus all private judgment of every particular Member being excluded, the Community comes to be Umpire, by settled standing Rules, indifferent, and the same to all Parties.”<sup>14</sup> Therefore, the individual, by virtue of the social covenant, surrenders his right of judgment and is subject to the common law of the community. Locke’s political theory is usually treated without even a nod toward federalism, but it is, in reality, a face of federalism. His role was to “secularize” the idea, to state it in more “rational” terms, so that it could be further developed in the eighteenth century as social compact theory. Locke’s new face of

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<sup>11</sup> Ibid., 348-351, 368-369, 371.

<sup>12</sup> Ibid., p.385.

<sup>13</sup> C.B. Macpherson, *The Political Theory of Possessive Individualism: Hobbes to Locke* (London: Oxford University Press, 1962); John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971).

<sup>14</sup> Locke, *Two Treatises*, p. 342.

federalism carried forward the fully developed federal philosophy, including the concept of popular sovereignty, into a new era.

THE AMERICAN FACE OF FEDERALISM: In the American experience, we witness two early instances of the concept of covenant being used to lay the basis for political society. In 1620, while still aboard the *Mayflower*, the Pilgrims made a covenant, a religious one. Ten years later, in 1630, John Winthrop preached a sermon using a rudimentary theory of social compact to build a political community on the basis of the religious covenant. One-hundred-fifty years later, a more sophisticated theory—the new American face of federalism—is evident in Thomas Jefferson's Declaration of Independence. Finally, in 1789, after a period of loose union under the Articles of Confederation, the founders formed a new government of the United States under the Constitution. The connections between the new Constitution and the old covenant theology are succinctly stated by Daniel Elazar:

By 1787 the theological stream of covenant ideas and the philosophic stream of compactual ideas had become so intermingled in the concept of constitutionalism that it is difficult to separate their effects. Albeit, given that the federal system established by the framers bears a much greater similarity to the political systems proposed by the federal theologians and implemented in their church polities than to the political systems proposed by Hobbes or Locke, and given the Americans were already covenanting into civil societies well before the speculative philosophers adopted the idea, it is difficult to avoid the conclusion that covenant ideas had, in the final analysis, a more decisive influence than those of the new political science.<sup>15</sup>

The founders formed a federal community based on the covenant among the people. The Constitution itself is the basic law under which this covenanted community exists. Although no mention is made about the human condition, the Constitution does

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<sup>15</sup> Daniel Elazar, *The Covenant Tradition in Politics*, vol.3, *Covenant and Constitutionalism: The Great Frontier and the Matrix of Federal Democracy* (New Brunswick and London: Transaction Publishers, 1988), 78.



contain a variety of checks and balances, including the separation of powers. Finally, while no provision is made for the overthrow of this government if it breaks the compact, the principle of popular sovereignty assures a continuing federal revolution in the form of the ballot box.

Such a republican form of government was far from the minds of Bullinger and Mornay, but it was their federal framework that formed the roots of American federalism and made possible the modern federal republic.

The American term “federalism” is an important concept; yet scholars disagree in their interpretation of the term. However, federalism is different from the other “isms” in two important respects. First, unlike the others, which originated in Europe after the French Revolution, modern federalism was invented by the framers of the U.S. Constitution in Philadelphia in 1787. Second, instead of becoming the province of political theorists, it was until recently left to be studied largely by those who examined the actual institutions of government.<sup>16</sup> Traditionally, therefore, the study of “federalism” has meant not so much the analysis of a concept as the study of federative systems, and those among them that are federations. “Federalism” is often treated as synonymous with “federation”. One common example is the use of “federal” to describe actual federations like the United States and Canada, and to distinguish these federations from those that are “unitary”, like France and the United Kingdom.<sup>17</sup> Whereas in federations like Canada and India, the emphasis is on the distribution of powers between a national government and several constituent governments, in the United States the distribution of powers is only one of a set of

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<sup>16</sup> Thomas J. Anton, *American Federalism and Public Policy* (Philadelphia: Temple University Press, 1989), p.2.

<sup>17</sup> Ronald Watts, for example, uses “federal system” where Douglas V. Verney uses “federative system”.

principles, such as limited government, checks and balances, the separation of powers, and what, after the French Revolution, became known as liberalism. American federalism comprises this set of principles.

Following the American Revolution the newly independent states established a confederation in 1781. Its deficiencies, however, led to its transformation in 1789, following the Philadelphia Convention of 1787, into the first modern federation. Switzerland, after a brief civil war, transformed its confederation into a federation in 1848. Canada became the third modern federation in 1867. The second half of the twentieth century has seen a proliferation of federations as well as other federal forms to unite multi-ethnic communities in former colonial areas and in Europe. New federations or quasi-federations, not all of which survived, were founded in Asia, for example, in Indochina(1945), Burma(1948), Indonesia(1949), India(1950), Pakistan(1956).

Between 1960 and the late 1980s, however, it became increasingly clear that federal systems were not the panacea that many had imagined them to be. Many of the post-war federal experiments experienced difficulties and a number of them were temporarily suspended or abandoned outright. These experiences suggested that, even when undertaken with the best of motives there are limits to the appropriateness of federal solutions or particular federal forms in certain circumstances.

Despite these developments there has been a revival of interest in federal political solutions in the 1990s. Political leaders, leading intellectuals and even some journalists increasingly refer to federalism as a liberating and positive form of political organization. There are, at present among the approximately 180 politically sovereign states in the world, 24 federations containing about 480 constituent or

federated states. In addition to these federations, there have emerged new variants in the application of the federal idea.

There are a number of reasons for this international trend to increased pooling of sovereignty among states in various federal forms. First, modern developments in transportation, social communications, technology and industrial organization have produced pressures at one and the same time for larger political organizations and for smaller ones. Given these dual pressures throughout the world, more and more peoples have come to see some form of federalism, combining a shared government for specified common purposes with autonomous action by constituent units of government for purposes related to maintaining their regional distinctiveness, as allowing the closest institutional approximation to the multinational reality of the contemporary world.

Second, and closely related, is the recognition that an increasingly global economy has itself unleashed economic and political forces strengthening both international *and* local pressures at the expense of the traditional nation-state. Governments have been faced increasingly with the desires of their people to be both *global* consumers and *local* citizens at the same time. Tom Courchene has labelled this "glocalization".<sup>18</sup> In such a context federalism with its different interacting levels of government has provided a way of mediating the variety of global and local citizen preferences.

Third, the spread of market-based economies is creating socioeconomic conditions conducive to support for the federal idea. Among these are the emphasis on contractual relationships; the recognition of the non-centralized character of a market-

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<sup>18</sup> Thomas J. Courchene, "Glocalization: The Regional / International Interface," *Canadian Journal of Regional Science*, 18:1 (Spring 1995):1-20.

based economy; entrepreneurial self-governance and consumer rights consciousness; markets that thrive on diversity rather than homogeneity etc.

Fourth, changes in technology have been generating new and more federal models of industrial organization with decentralized and “flattened hierarchies” involving non-centralized interactive networks. This in turn has produced more favourable attitudes towards non-centralized political organization.

Fifth is the popularity of the “subsidiary principle”, especially in Europe which thrive on the principle that a “higher” political body should take up only those tasks that cannot be accomplished by the “lower” political bodies themselves. The decentralist thrust of the subsidiary principle has been instrumental in encouraging wider interest in a “citizen-oriented federalism”.

Yet another factor has been the resilience of the classical federations in the face of changing conditions. The constitutions of the United States(1789), Switzerland(1848), Canada(1867) etc, in spite of problems which they faced, displayed a degree of flexibility and adaptability and are placed high in international rankings of the most desirable countries in which to live.

For all these reasons, the federal idea is now more popular internationally than at any time in history. A distinctive feature about the current popularity of federalism in the world is that the application of the federal idea has taken a great variety of forms. The degrees of centralization or decentralization differ across federations as do their financial arrangements, the character of their federal legislative and executive institutions, institutional arrangements for facilitating intergovernmental relations, judicial arrangements for umpiring internal conflicts, and procedures for constitutional amendment. Among interesting recent developments and innovations

has been the acceptance in an increasingly number of instances of some degree of asymmetry in the relationship of member units to federations or to supranational organizations. Examples in practice include Belgium, Malaysia, Russia, Spain and, following the Maastrich treaty, the European Union. Another has been the trend for federations themselves to become constituent members of even wider federations or supranational organizations. Examples are Germany, Belgium and Austria within the European Union.<sup>19</sup> Thus, there has been an emerging trend towards three or even four (not just two) levels of federal organization to reconcile supranational, national, regional and local impulses in order to maximize the realization of citizen preference.

While in federations like Canada and India, the federation was treated simply as a means of making government more manageable in a large state, for several of the American framers, federalism was an end in itself. The American Constitution, more than other constitution, came to be treated as a covenant. Canada and India did not base their constitutions on federalism as a concept. Instead, they retained the Westminster parliamentary tradition, which they had inherited from the United Kingdom. However, British parliamentary government was designed for a unitary state, not for a federation. The Canadians thought they had resolved this problem by claiming to have invented a new form of government in 1867, which they called "parliamentary federalism". Later, Australia in 1900, and India in 1950, adopted this form of federation.

Ronald Watts, having reviewed the works of Wheare, Preston King, Ivo Duchanek, and Daniel Elazar, has summarized the characteristics of federations with a number of propositions. Like the other writers, he has defined a federation in largely American terms. " The term ' federation' would refer to the specific form of federal political

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<sup>19</sup> To complicate the picture further, Benelux, one of whose members is itself a federation ( Belgium), represents a confederation within the wider confederal European Union.

system first invented by the founding fathers of the United States at Philadelphia in 1787, a form whose characteristics involve the following: (1) Two orders (not levels) of government; (2) A national government that deals directly with individual citizens; (3) A formal distribution of legislative and executive authority; (4) Revenue resources allocated between the two orders of government; (5) Some autonomy for each order; (6) Provision for the representation of regional views within the national policy-making institutions; (7) A written constitution; (8) A constitution not unilaterally amendable and requiring the consent of all or a majority of the constituent units; (9) An umpire ( courts of referenda) to rule on disputes between governments; and (10)Processes to facilitate intergovernmental relations.<sup>20</sup> Unlike “federalism”, a “federation” is a political institution; it is not a subject for political theory. The adoption of the concept of federalism as a set of interlocking principles based on the liberty of the individual made the United States unique. Most other federations were reluctant to go beyond the propositions listed by Watts. They did not subscribe to the American set of principles, which became known as embodying the “American Creed” or “civil religion”. Nor did they elaborate a concept of their own.

Theories of federalism have been formulated with diverse facets of the federal phenomenon in mind. Theorists have approached the phenomenon of federalism broadly from three angles: institutionalist or neo-institutionalist, socio-cultural, and economic. The institutionalists basically theorize on the basis of the nature of the constitution and laws and the behavioural dynamics of the structure of the federal government. The important institutionalists include K.C.Wheare, Daniel Elazar, Ronald Watts, Donald Smiley, Rufus Davis, Preston King, Geoffery Sawyer, and others. One particular aspect of the institutional working of federal systems is the role

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<sup>20</sup> Ronald Watts, “Contemporary Views on Federalism” ( Paper presented at the Centre for Constitutional Analysis, Republic of South Africa, 2-6 August 1993), p.11.

of inter-governmental agencies that facilitate a common policy-making by the federal and regional governments. Such a joint approach to policy-making and implementation is required not only in areas of shared constitutional jurisdictions but also in exclusive jurisdictions where the two orders of government undertake co-operative schemes on the basis of agreements.

The British North America Act (now Constitution Act) of 1867, product of an age when the doctrine of dual sovereignty reigned supreme, did not make any provisions for any forum for federal-provincial policy-making in Canada. But informal deputy ministerial meetings from the two levels of government started within a year of the founding of the federation and the first ministers' conferences (FMCs) since 1906 have become a regular feature of the Canadian federal system.. The Indian Constitution, a product of the era of cooperative federalism when functional inter-dependence between the federal and regional governments had become the fact of life, the Indian Constitution provided for an Inter-State Council (ISC) under Article 263 in 1990, under the National Front government headed by V.P.Singh. The Nehru government preferred to establish the National Development Council (NDC) outside the framework of the constitutional provision in 1952.

The socio-cultural approach to federalism seeks to explain the origins of the federal political option and the ways in which its working is influenced by the societal context in which the federal political system is embedded. To the theorists of socio-cultural persuasion the essence of federalism lies in a particular pattern of social formation that produce a federal-political constitution. The latter is only a reflection of deeper socio-cultural forces. Federalism originates in a society that is marked both by features of unity as well as diversities. The unity-diversity continuum can be sketched on a scale at one end of which is overwhelming unity and the other end

represents extreme diversity. On the two polar opposites federal political solution is ruled out; in a condition of overwhelming national unity, a unitary or parliamentary government would be formed, whereas in a situation of absolute diversity, separation would be the most likely outcome. It is only in the intermediate zone of the scale that federal bargains are struck, the nature of the federal union in terms of centralization or decentralization depending on the degrees of unity in diversity characteristic in a specific society. The important protagonists of these theories include William Livingston, Karl Deutsch, Carl J. Friedrich, Aaron Wildavsky, William Riker, Ramesh Dikshit, and others. Over the years, liberal nationalists in multi-ethnic societies have used federalism as an important political strategy for nation-building.

Economic interpretation of federalism is addressed to explaining the origins of federalism in terms of economic interests of the major classes and elites that variously seek to promote their interests by the authorities of federal or regional governments. The formation of the American federal union is attributed primarily to the conflict and cooperation between merchant capitalists and farmers by Charles Beard. Another dimension of this approach is the burgeoning literature on fiscal federalism that refers to the principles and patterns of revenue sharing between the federal and regional governments. From this perspective, federalism is not only a system of governance but also an economic mechanism of equalization aimed at the reduction of economic disparities as well as instituting social securities for citizens, especially the poor, the old and the children.

In the post-colonial and globalizing world, federalism has become a popular form of political organization, both at the national and international levels. Practically in all continents, the larger political systems are all federal. Even multi-ethnic smaller nations either already are or are moving towards federalism. At the supranational



level, regional integration among nations typically takes some kind of federal form, the most developed among them in terms of integration being the European Union with a common parliament and a common currency. In the world today, there are at least two major trends mainly on the economic plane. These are regionalism and globalism which may be contradictory or complementary. The impact of globalism on national federal political systems encourages forces of decentralization and localization.

**1.1.1 The Political Theory of federalism:** What has always distinguished the United States has been its commitment to the concept of federalism, and that even though Canada and India are now federations, they are not federations on the American federal model. The framers of the U.S. Constitution were imbued with a concept of government quite different from that of the parliamentary system. The Americans not only invented the modern federation, but, in doing so, they were inspired by a theory of government that would later be intimately associated with the liberal state. This American theory was based on the liberty of the individual and its corollary, the market economy.

The political theory of federalism must be distinguished from the constitutional law and practice of federations. It is true that when scholars discuss the “theory” of American government, they often refer to the law of the U.S. Constitution as the “theory”, contrasting it with the actual practice of government. However, constitutional law is not theory. The political theory of federalism has often been confused with the law of the Constitution because the concept of federalism first appeared in the debates of the Constitutional Convention, debates that were dominated by lawyers, not by political philosophers. As a result, the significance of the concept of federalism as the basic set of assumptions (political theory) on which

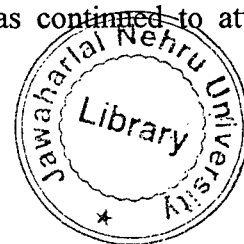
the framers built American constitutional law has often been underestimated, especially by European political philosophers.

So long as the term “federalism” was confused with “federation” and identified with the U.S. Constitution( as it was by Wheare), it was difficult for scholars outside the United States to theorize about federalism in general. Indeed, only in recent years, as more and more countries like Canada and India have slowly become more like true federations ( and as some of their constituent governments have wanted even more autonomy), has it become necessary to treat federalism as part of political theory. Therefore, the study of federalism has to be disentangled from the analysis of the U.S. Constitution and *The Federalist*.<sup>21</sup>

The American concept of federalism is intertwined with what later came to be called the liberal state. While the various modern “isms”- conservatism, liberalism, socialism, and nationalism- came into use only after the French Revolution, federalism dates from the period prior to that revolution. At the time, it was of course an exclusively American phenomenon. Because the Americans were a practical people, trying to escape from the perils of confederacy, they thought of themselves as inventing a new mode of government, not a new political theory. Yet they were putting together a theory of popular government that has continued to attract the oppressed ( and to offend elites) throughout the world.<sup>22</sup>

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<sup>21</sup> As an example of scholars' dependence on the American model, see the first page in all four editions of Wheare's classic text: "The modern idea of what federal government is has been determined by the United States of America." K.C. Wheare, *Federal Government* ( London: Oxford University Press, 1946-1963).

<sup>22</sup> A few years ago, it became fashionable among the more radical social thinkers ( e.g., Theda Skocpol) to consider only the French, Russian, and Chinese revolutions as “real”(i.e., social) revolutions. The two seminal political revolutions, in seventeenth-century England and eighteenth-century America, were downplayed in favor of social revolutions whose political consequences were disastrous.

Indeed, only because the Americans rejected monarchy and aristocracy, and established a republic, were they able to base their national Constitution on the concept of federalism as a set of democratic principles. For American Tories ( i.e., the monarchists who migrated to Canada to become Loyalists), there was no place for such principles as popular sovereignty, checks and balances, and limited government. As Tories, they favoured tradition. When the Dominion of Canada was established, the Ontario Tories ( now Conservatives) wanted to call it the Kingdom of Canada, and were quite unsympathetic to federalism.

If federalism accorded ill with traditional Toryism, it was more compatible with socialism. Those socialists who chose communism after the Russian Revolution looked forward to controlling a central government and implementing national policies through the Communist party of the Soviet Union. Although constituent governments were established in due course, the central authorities in Moscow refused to allow the various Union republics to elect non-socialist governments. Communists had little use either for genuine federalism or for parliamentary democracy.

Yet, even those social democrats who accepted parliamentary government had difficulty supporting upper houses; the social democrats in Canada, as elsewhere, tended to regard second chambers as bastions of conservatism, not as potentially federal institutions. They were never impressed by arguments that an upper house was necessary to represent the regions in a federation. Hence, scholars in Canada and India, in which conservatism and socialism have continued to play a role, are often lukewarm in their support of federalism as a concept, since federalism is associated with liberalism.

The United States had always been different from both of these countries, first because of its rejection of conservatism. Its federal Constitution expressly rejects the true conservative tradition by forbidding any state from becoming a monarchy. Canada, by contrast, has not only retained the monarchy but to this day has retained an appointed Senate.

India, while a republic, has not abandoned all of its imperial conventions. The presidency is compared to the British monarchy. Governors, appointed by Delhi, are permitted to exercise considerable discretionary authority in the various states, especially during President's Rule when all state power is in their hands. Far from stressing limited government, public opinion in both countries favors strong Cabinet government.

The United States is also different from Canada and India in its attitude toward socialism. Successive American administrations have been unsympathetic to social democratic governments in the United Kingdom, Sweden, and elsewhere. For the most part, Americans are in principle committed to free markets.<sup>23</sup> They are, both in principle and in practice, hostile to a centrally planned economy. All this makes the United States very different from Canada and India. There have been social-democratic governments in four of the Canadian provinces, and Communist governments in three Indian states. To this day, there is a central Planning Commission in India.

If Canadians and Indians become interested in formulating a concept of federalism, they will have to incorporate a broader spectrum of political ideas than the U.S. Constitution with its commitment to liberal principles based on the rights of the

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<sup>23</sup> We say "in principle" because in practice the United States has often been protectionist. In defense and space research, the dominant role of the federal government has been taken for granted.

individual. For example, many Canadians and Indians regard human rights not only as individual but also as collective. Americans may think that one can explain the conservatism of these countries by suggesting that their traditional elites have held on to power and have managed to retard progress toward the liberal state.<sup>24</sup> However, this is too simple an explanation. Canadians and Indians are simply not liberals in the American sense, and cannot adopt the American concept of federalism.<sup>25</sup>

This is apparent from their interpretation of federalism as a means rather than an end. In any discussion of federalism as a means or an end, Americans can readily think of federalism as an end in itself. However, where a country like Canada or India is not committed to liberalism, but retains traces of its conservative past and tolerates socialist governments, instead of federalism as an end, there is only a federation as a means. There is a big difference between the philosophy (or doctrine) of the American Creed (or civil religion) underlying American federalism, and the absence of such principles in countries like Canada or India. They share many of America's liberal values, but they are not committed to American liberalism.

Because most of them are only vaguely aware of their philosophical differences from the United States, Canadians and Indians may encounter some real problems as they gradually transform themselves from quasi-federations into federations influenced by federalism. Increasingly, the scholars among them are describing their systems as federations and not as parliamentary systems; in so doing, Canadians and Indians are also beginning to realize that "parliamentary federalism" requires reexamination.

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<sup>24</sup> See Robert Vance Presthus, *Elite Accommodation in Canadian Politics* (Cambridge: Cambridge University Press, 1973).

<sup>25</sup> See Gad Horowitz, "Conservatism, Liberalism and Socialism in Canada: An Interpretation," *Canadian Labour in Politics* (Toronto: University of Toronto Press, 1968).

The American federalism consists of a set of interlocking (and “scientific” in the eighteenth century sense) principles to promote limited government and individual liberty. These are principles very different from their own tradition of strong cabinet government.

Cabinet government has meant a belief in a government responsible to the lower house alone and supported by disciplined national parties. In the Westminster tradition, there has been no separation of the executive and legislative branches of government, no place for the checks and balances provided by a powerful upper house representing states or provinces, and no place for the state-based parties taken for granted in the United States.

When adopting the distribution of power in their constitutions, neither Canada nor India saw fit to question the British tradition of cabinet government responsible to the lower house of Parliament. In the absence of a powerful U.S.-style Senate, Canada (and to some extent India) has relied on meetings of ministers from the two orders of government to address intergovernmental issues. Because disputes between the two orders of government in Canada tended to be resolved by ministers from each other, the Canadian federation came to be known in the 1970’s by that oxymoron “executive federalism”.

It is for the purpose of finding a balanced solution of the constitutional and administrative problems of a country which has either to coordinate and adjust the seemingly contradictory demand of several territories or to satisfy the separatist tendencies of those territories that federalism is considered to be the best concept to rely upon. The motives underlying political combinations of states are varied, differing from state to state. Consequently, the concept which aims at an amicable and stable adjustment of the motives and ideals of the combining units cannot but be

highly complex in its nature and methodology. And this accounts for the dissimilarity in the federal structures and institutions and their inter-relationships in different federations.

Nature of federalism and its tie can be illustrated with reference to a mathematical proposition. We can denote federalism as a complex function of several variables, denoted thus:  $F = f(x + y + z) + c$ , Here F stands for federalism, and x, y, z stands respectively for environments, historical antecedents, and present socio-economic conditions, and c as usual stands for the constant which in this case denotes the desire for union but not for unity. Each of these variables may have either a negative or a positive value, that is to say, it may be accelerating or hindering the federal movement. Some of these variables in a particular case may be positive and others negative. Then again, as these variables are in fact the forces generated by, and within the life of the people inhabiting the territories desiring federal union, their intensity and direction may again be affected by their interactions. The resulting stress and strain may prove too strong to bear and the federal attempt may at a particular time fail.<sup>26</sup>

Federalism is, from its very nature, an off-spring of democracy. Where democratic institutions are not in existence federalism cannot fully thrive, for the basic principle underlying federalism is the recognition of the rights of smaller political communities to develop along their own lines. The more an individual in a polity is allowed to express and assert his will unhampered by others the more that polity approaches democracy. It is, therefore, clear that the plant of federalism can take root and grow best in the soil of democracy and in an atmosphere of freedom. Prof. Laski has remarked, "The structure of our social organization must be federal if it is to be

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<sup>26</sup> Sharma, B.M., *Federalism in Theory and Practice*, (G.R. Bhargava and Sons: Chandausi, 1951), p.86.

adequate. Its pattern involves, not myself and the state, my groups and the state, but all these and their inter-relationships". This is exactly what democracy aims at. Thus, federalism being less compatible with any other form of polity than a democracy, it is clear that sovereignty in a federation is located in the individuals of all the states taken as a whole and nowhere else. Where defined federalism as, "By the federal principle I mean the method of dividing (governmental) powers so that the general and regional governments are each within a sphere co-ordinate and independent". W.S.Livingston, writing in 1956, went so far as to suggest that federal systems were a function not of constitutions but of societies:

The essential nature of federalism is to be sought for, not in the shadings of legal and constitutional terminology, but in the forces—economic, social, political, cultural—that have made the outward forms of federalism necessary....The essence of federalism lies not in the constitutional or institutional structure but in the society itself. Federal government is a device by which the federal qualities of the society are articulated and protected.<sup>27</sup>

The widespread interest in federal or quasi-federal forms of territorial autonomy reflects an overdue acknowledgement that the desire of national minorities to retain their distinct cultures should be accommodated, not suppressed. For too long, academic theorists and political elites assumed that modernization would inevitably involve the assimilation of minority nationalities, and the withering away of their national identity. Central governments have tried to speed up the assimilation of national minorities by eliminating their previously self-governing political and educational institutions, and/or insisting that the majority language be used in all public forums. For example, attempts were made in Canada to assimilate the French

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<sup>27</sup> W.S.Livingston, *Federalism and Constitutional Change* (Oxford: Clarendon Press, 1956). pp.1-2.



in the nineteenth century, and to assimilate the Indians earlier in the twentieth century. However, it is increasingly recognized that these efforts were both unjust and ineffective, and that the desire of national minorities to maintain themselves as culturally distinct and political autonomous societies must be accommodated.<sup>28</sup>

Federalism is one of the few mechanisms available for this purpose, which explains its increasing adoption in the West, and also increasingly in the newly independent countries after the 2<sup>nd</sup> World War. The shift from suppressing to accommodating minority nationalisms has also played a vital role in consolidating and deepening democracy. It is important to stress that the Western democracies which have adopted federal or quasi-federal forms of autonomy for national minorities have been very successful. They have not only managed the conflicts arising from their competing national identities in a peaceful and democratic way, but have also secured a high degree of economic prosperity and individual freedom for their citizens. This is truly remarkable when one considers the immense power of nationalism in the 20<sup>th</sup> century. Nationalism has torn apart colonial empires and communist dictatorships, and redefined boundaries all over the world. Yet democratic multinational federations have succeeded in taming the force of nationalism. Democratic federalism has domesticated and pacified nationalism, while respecting individual rights and freedoms. It is difficult to imagine any other political system that can make such a claim.<sup>29</sup>

But the view that federal institutions are merely the instrumentalities of federal societies, while an important corrective to purely legal and institutional analyses, is also too one-sided and oversimplifies the causal relationships. As authors such as

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<sup>28</sup> Kymlicka, Will., *Multicultural Citizenship*, (Oxford University press, New York, 1995), p.5-6.

<sup>29</sup> Kymlicka, Will., "Federalism and nationalism in Canada: A comparative perspective", in Saxena, Rekha., *Mapping Canadian Federalism for India*, Konark Publishers Pvt Ltd, Delhi, 2002. p.89-90.

Alan Cairns and Donald Smiley have pointed out, constitutions and institutions, once created, themselves channel and shape societies.<sup>30</sup> Thus, the relationships between a society, its constitution and its political institutions are not static but involve continual interaction. It is in the interplay of the social foundations, the written constitutions and the actual practices and activities of governments that an understanding of the nature and effectiveness of federal political systems emerge. Account therefore needs to be taken not only of how well the institutions in each system reflect the particular social and political balance of forces in that society, but also to what extent these institutions once established, channel and influence the articulation of unity and diversity within the polity. The main virtue of federalism is precisely its ability to accommodate diversity. According to Michael Burgess,

“The genius of federalism lies in its infinite capacity to accommodate and reconcile the competing and sometimes conflicting array of diversities having political salience within a state. Toleration, respect, compromise, bargaining and mutual recognition are its watchwords and ‘union’ combined simultaneously with ‘autonomy’ its hallmark.”<sup>31</sup>

**1.2 Meaning of Asymmetric federalism:** Asymmetry connotes an uneven distribution of elements along a common axis. Federalism is to do with the institutionalization of particular arrangements, and asymmetric federalism is in essence a calibrated institutional response to the diversity of constituent units, permitting variations. Generally, we tend to think of federalism as a vertical relationship between the Centre and the region. But another important aspect to it is the horizontal relationship between the federal units. Ideally, perhaps, federations

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<sup>30</sup> A.Cairns, “The Governments and Societies of Canadian Federalism, *Canadian Journal of Political Science*, 10:4 (December 1977): 695-725; D.V.Smiley, *The Federal Condition in Canada* (Toronto: McGraw-Hill Ryerson Ltd., 1987), pp.3-11.

<sup>31</sup> Michael Burgess. “Federalism and Federation: A Reappraisal” in M.Burgess and A.Gagnon, *Comparative Federalism and Federation: Competing Traditions and Future Directions*, (New York:Harvester, 1993),p.7.

should be compacts of units that are more or less alike; however this homogeneity over large areas is rare. This accords the necessity for the federation to arrive at certain innovations to maintain the differences in its regions. Sometimes, these regional differences are formally recognized in the Constitution through special arrangements.<sup>32</sup>

Asymmetric federalism covers many meanings. At one level, asymmetry refers to cultural, socioeconomic, and political party differences between the federated entities ( e.g., regions, cantons, provinces, states, and communities ) of a federation and the center. We call this *de facto* asymmetry.<sup>33</sup> At a different level, asymmetry is used to describe a situation whereby some federated entities have gained greater self-governing powers than others.<sup>34</sup> We call this *de jure* asymmetry. De facto asymmetry frequently leads to the entrenchment of some formal asymmetric institutional devices. The federal systems of Spain, Russia, India, and Belgium contain elements of *de jure* asymmetry.<sup>35</sup>

Scholars of federalism have turned their eyes to asymmetry, partly because in multiethnic federations, the practice of granting more powers to the most voracious territorial groups as a legitimate strategy for containing ethnic tensions has stimulated heated debates. While Brian Barry claims that asymmetry creates two classes of citizens, Will Kymlicka argues that minority-*nationalities*, as opposed to *regional*

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<sup>32</sup> Introduction in Ian Copland and John Rickard (ed), **Federalism: Comparative Perspective from India and Australia**, (Delhi, Manohar Publishers, 1999),p.16.

<sup>33</sup> Some authors employ the term (in) congruent instead of (a) symmetric federalism. See, Arend Lijphart, **Patterns of Democracy** ( New Haven: Yale University Press, 1999),pp.195-197 and Charles D.Tarlton, " Symmetry and Asymmetry as Elements of Federalism:A Theoretical Speculation," *Journal of Politics* 27 ( Winter 1965): 861-874.

<sup>34</sup> Will Kymlicka, **Politics in the Vernacular: Nationalism, Multiculturalism and Citizenship** (Oxford; Oxford University Press, 2001),p. 104.

<sup>35</sup> The term "asymmetry" can be applied to all federal political systems, not necessarily to federations only. Daniel J.Elazar pointed at the presence of associated states, federations, and condominiums as examples of asymmetrical federal arrangements. See, Daniel J.Elazar, **Exploring Federalism** (Tuscaloosa: University of Alabama Press, 1987),pp.44-61.

based units are entitled to special status because asymmetry “ensures that the national identity of minorities receives the same concern and respect as the majority nation.”<sup>36</sup>

**1.2.1 Political and Constitutional Asymmetry:** Two kinds of asymmetry among regional units may affect the operation of federations. One, which is characteristic of all federations and might be described as political asymmetry, arises from the impact of cultural, economic, social and political conditions affecting the relative power, influence and relations of different regional units with each other and with the federal government. The other, which exists in some but not all federations and which powers assigned to regional units by the constitution of the federation are not uniform. Political asymmetry among full-fledged constituent units exists in every federation. Among the major factors are variations in population, territorial size, economic character, and resources and wealth among the regional units. The impact of this factor lies in the relative power and influence within these federations of the larger regional units, especially where one or two dominate, and in the relative powerlessness of the smallest member units. Both can be a source of internal resentment and tension in the political dynamics within federations. An example where two member provinces or states have had a preponderant influence within a federation include Ontario and Quebec in Canada (combined population 62 percent). These asymmetries are politically significant for two reasons. First, they affect the relative capacity of different regional units to exercise their constitutionally assigned powers. Second, they affect the degree of a regional unit’s influence within those institutions of the federal government in which representation is based on population

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<sup>36</sup> Kymlicka, *Politics in the Vernacular*, p.105 and Brian Barry, *Culture & Equality* (Cambridge: Polity Press, 2001). Also, Michael Keating, “What’s Wrong with Asymmetrical Government?” *Regional and Federal Studies* 8 (Spring 1999): 195-218.

(such as the first chambers of the legislature, to which in parliamentary federations the federal executive is responsible).

Political asymmetry often lead to tension and instability and has often induced efforts at corrective measures. These have included moderating the political influence of larger regional units at the federal level by establishing a federal second legislative chamber with representation weighted to favour smaller regional units, and assisting less wealthy regional units by redistributive equalization transfers designed to assist those units.

Constitutional asymmetry refers specifically to differences in the status or legislative and executive powers assigned by the constitution to the different regional units. Many federations have a variety of units with relationships to the federation substantially different from that of the full-fledged units of regional governments. These have taken the form of federal capital districts, federally administered territories or peripheral federacies and associated states.

In most federations the formal constitutional distribution of legislative and executive jurisdiction and of financial resources applies symmetrically. Nevertheless, there are some instances where the constitution explicitly provides for constitutional asymmetry in the jurisdiction assigned to full-fledged member states. Where this has occurred the reason has been to recognize significant variations among the full-fledged constituent units relating to geographic size and population or to their particular social and cultural composition and economic situation.

There have been basically three approaches establishing constitutional asymmetry in the distribution of powers within federal systems. One has been to increase from the norm the federal authority (i.e. to reduce regional autonomy) in particular member

states for certain specified functions within the federal system. Such arrangements have existed in India under Article 356 of the Constitution.

The second approach has been to increase from the norm the jurisdiction of particular member states (i.e. to increase regional autonomy). In India, there have been adjustments in constitutional jurisdiction applied to the state of Jammu and Kashmir and to some of the newer small states that contain distinct ethnic groups, specifically in the North East. Canada from the beginning has had a measure of constitutional asymmetry principally related to denominational and linguistic guarantees in education, the use of French in the legislature and the courts, and the civil law.

There is a third constitutional approach for permitting asymmetry in the jurisdiction and powers exercised by certain member states. That is one in which the constitution is formally symmetrical in giving all the member states the same jurisdiction, but includes provisions that permit member states in certain cases to “opt in” or “opt out” of these assignments. Such arrangements retain the formal symmetrical application of the constitutional distribution of powers to all member states, but provide specific means for accommodating within that framework a *de facto* asymmetry among member states in the exercise of these powers. In Canada sections 94 and 94A of the *Constitution Act, 1867* and section 23(1)(a) of the *Charter of Rights and Freedoms in the Constitution Act, 1982* have been such constitutional provisions. Thus, at a practical level Quebec has enjoyed a degree of legislature asymmetry ( as exemplified by the Quebec Pension Plan) and administrative asymmetry ( it collects its own income tax for example). The Meech Lake Accord 1987 and the Charlottetown Agreement 1992 contained proposals for more such provisions, although these were not enacted.

An important factor influencing the powers and autonomy that member states in a federation are able to exercise is the constitutional allocation of financial resources. As the extensive literature on fiscal federalism has invariably emphasized, where there has been initial symmetry in the constitutional allocation of financial resources in federations it has often produced sharp variations in the wealth and fiscal capacities of their member states. Thus, redistributive asymmetrical transfers have been employed to make the fiscal capacities of the member states more symmetrical.

Clearly constitutional asymmetry among the regional units within a federation introduces complexity. Nevertheless, in a number of federations it appears that the recognition of constitutional asymmetry has provided an effective way of accommodating major differences between constituent unit.

### **1.3 Federalism and the accommodation of ethno cultural diversity in Canada:**

When the English began to settle in Canada in the late 1700s, there were already two distinct national groups—the French, who had begun to settle in Quebec almost 200 years earlier, in the 1600s; and the Aboriginal peoples (Indians, Inuit and Metis) who had lived there for thousands of years. The historical process by which these groups were brought into a single political community was largely involuntary. Indian homelands were overrun by French settlers, who were then conquered by the English in 1760. If different balance of power had existed, it is possible that Aboriginals and French-Canadians would have retained their original sovereignty, rather than being incorporated into the larger Canadian federalism. However, the historical preference of these groups has not been to secede, but to renegotiate the terms of federation, so as to increase their autonomy within it.

The largest ethnic group in Canada is the descendents of the English settlers who colonized the land. However, while they are the largest group in terms of ethnic origin, it is no longer a majority of the overall population. The French and the various Aboriginal groups can be called *national* minorities because they see themselves as “nations” in the sociological sense of being complete societies, occupying a historic territory or homeland, and sharing a distinct language and culture. Since Canada contains more than one nation, it is not a nation-state but a multination state, and the French and Aboriginal communities form “national minorities”. In addition, Canada also contains a number of *immigrant groups* from around the world, and became increasingly ‘polyethnic’. Finding new ways to accommodate this ethno cultural diversity has been a continual challenge.

Federalism is one mechanism which was adopted in part to accommodate Canada’s national minorities. Federalism was initially adopted in 1867 to accommodate the French, and has more recently been adapted to accommodate the Aboriginals. Canada became a single country in 1867 when several colonies agreed to join together and seek independence from Britain. At the time, most English Canadians were in favour of a unitary state, like England. However, the French Canadians insisted on a federal system, and agreed to join Canada only if a federal system was adopted which created a French-majority province (i.e. Quebec) with jurisdiction over issues that were seen as crucial to the survival of their culture.

Canada today is divided into 10 provinces, and three ‘territories’ in the far north. Under the federal system, powers are divided between the central government and the 10 provincial governments. The Constitution accords very significant powers to the provinces. They exercise exclusive or predominant power over education, health, welfare, housing, municipal government and civil law, while the federal government



exercises jurisdiction over foreign affairs and military defense, postal system, currency and banking, shipping, immigration and citizenship, and criminal law. Other areas, such as agriculture, the environment and natural resources are matters of joint jurisdiction.

Most discussions of federalism in Canada focus on the relationship between the federal and provincial governments. But a third form or level of government is emerging, namely, Aboriginal governments. While Aboriginal peoples have been dispossessed of most of the land they occupied before French and British colonization, some land has been reserved for their use, and Aboriginal communities on these 'reserves' have substantial self-governing powers. Until recently, Aboriginal communities (or 'bands' as they are called) were subject to paternalistic regulation by the federal government. But the band councils which govern each reserve have been acquiring increasing control over health, education, family law, policing, criminal justice and resource development.

Aboriginal governments are not part of the federal system, properly speaking, since they are not provinces. Traditional forms of federalism can only serve as a mechanism for self-government if the national minority forms a majority in one of the federal subunits, as the Quebecois do in Quebec. This is not true of most Aboriginal peoples in Canada, who are fewer in number and whose communities are often dispersed across provincial lines. Moreover, with the exception of the Inuit in the North, no redrawing of the boundaries of these federal subunits would create a province or territory with an Aboriginal majority. It would be impractical to treat each separate band as a province, since there are over 600 bands, many of which are very small both in population and territory. Furthermore, Indian bands differ amongst themselves in

the sorts of powers they desire. As a result, their powers are being settled on a case-by-case basis through ongoing negotiations with the federal government.

For these reasons, amongst others, many Aboriginals have suggested that their self-government should be seen as a form of “treaty federalism” which is prior to the 1867 federation, rather than as a “third-order of government” within the 1867 federation.<sup>37</sup> Their aim is not so much to reform the existing federal system in Canada to create a new level of Aboriginal governments, but rather to redefine (on the basis of existing treaties, combined with the signing of new treaties) a distinctive political status which is entirely outside the existing federal system. Like Indian tribes in the United States, Aboriginal communities would be “federated” to Canada through treaties, but not really part of the federal system per se.

One exception concerns the Inuit in the north, who have recently demanded that the Northwest Territories be divided into two, so that they form the majority in the eastern half called “Nunavut”. This redrawing of federal boundaries, completed in 1999 has made it possible for the Inuit to exercise their right of self-government within the existing federal system, although the Nunavut government will have ‘asymmetric’ powers compared to other territories and provinces. In Canada, then, we have a federal system adopted primarily to accommodate the Quebecois, and quasi-federal forms of territorial autonomy adopted to accommodate Aboriginal peoples.

#### **1.4 Territorial and Multination federation:**

Territorial federalism is adopted, not because it accommodates the desire of national minorities for self-government, but rather because it provides a means by which a single national community can divide and diffuse power. The United States of

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<sup>37</sup> James Youngblood Henderson, “Empowering Treaty Federalism”, *Saskatchewan Law Review*, Vol. 58/2, pp.241-329; cf. Alan Cairns, *Citizens Plus: Aboriginal Peoples and the Canadian State* (UBC Press: Vancouver, 2000) pp.179-83.

America is a good example of this model of federalism. It also is the dominant model of federalism in English-speaking Canada. This is reflected not only in the insistence that all provinces be equal in their legislative powers, but also in demands for an American-style 'Triple E' Senate. However, the territorial model is obviously unsatisfactory to the Quebecois and Aboriginals, since it says nothing about the accommodation of national minorities. Territorial federalism, in and of itself, is no guarantee that ethno national groups will be accommodated.

Multinational federalism provides means for accommodating the desire of national minorities for self-government, and not just as a means by which a single national community can divide and diffuse power. A genuinely multinational federalism tackle new challenges, not on the basis of "majority versus minority", or "superior versus subordinate", but on the basis of consent and shared sovereignty. The Canadian federation has many of the hallmarks of a genuinely multinational federation—at least with respect to the Quebecois, if not the Aboriginal peoples. This is reflected in the fact that the 1867 Constitution not only united four separate provinces into one country, it also divided the largest province into two separate political units—English-speaking Ontario and French-speaking Quebec—to accommodate ethno cultural divisions. This decision to create (or, more accurately, to re-establish) a separate Quebec province within which the French formed a clear majority was the crucial first step towards accommodating national self-government within Canadian federalism. Indeed, it was possibly the first time in modern history that federalism was used for this purpose.<sup>38</sup> Federalism has helped accommodate French-Canadians by creating a

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<sup>38</sup> Some people argue that Switzerland was, "the first modern federation built upon indigenous ethnic and linguistic differences that were considered permanent and worth accommodating" [Daniel Elazar, "The Role of Federation in Political Integration" in *Federalism and Political Integration*, ed. D.Elazar (Turtledove Publishing, Ramat Gan, 1987),p.20]. But the old Swiss confederation, which existed for almost 500 years, was composed entirely of Germanic cantons, in terms of ethnic origin and language. While French and Italian-speaking cantons were added in 1815, the decision to adopt a

province that they control. But there are serious disputes about the powers that provinces should possess, and these disputes are rooted in the conflict between the territorial and multinational models of federalism.

### **1.5 Federalism and the accommodation of ethno cultural diversity in India:**

India is one of the few countries outside the West to have voluntarily federalized and accommodated minority nationalist claims for autonomy. The Indian National Congress endorsed the idea of a multinational federalism organized along ethno linguistic lines as early as 1920, and indeed the freedom movement was itself organized in this way. This pre-independence promise of autonomy to ethno linguistic minorities was not in itself unique or unusual. Many national liberation movements in Asia and Africa promised autonomy to minorities as a way of broadening the base of popular support for independence. However, in most cases, these promises were merely strategic, and were broken once in power.

For a time immediately following independence, it appeared that India too would follow this pattern of backtracking on promises of autonomy. After independence, Nehru resisted the idea of reorganizing states along ethno linguistic lines, and said that he preferred a more “rational” (and highly centralized) form of federalism which would be purely territorial, like the American or German model i.e., where the borders of the states are drawn so as not to enable minorities to exercise territorial self-government.<sup>39</sup> However, faced with increasing restlessness amongst many ethno

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federal structure was not primarily taken to accommodate these ethno linguistic differences. According to Forsyth, the Canadian federation of 1867 was the first case where a federal structure was explicitly adopted to accommodate national minorities. “Introduction”, in *Federalism and Nationalism*, ed., M. Forsyth, Leicester University Press, Leicester, 1989, pp.3-4.

<sup>39</sup> On Nehru’s reservations about the ethnolinguistic states, see Banerjee, “Federalism and Nationalism”, *Federalism in India*, p.56. For the profound shift amongst many Congress members away from earlier federalist ideas to a more unitarist “strong centre” ideology at the time of the Constituent Assembly, see Mohit Bhattacharya. “The Mind of the Founding Fathers” in *ibid.*, pp.87-104. This shift was due in part to the trauma of partition in 1947, which engendered an obsessive concern for warding off further fragmentation and disintegration, which extended to viewing the

linguistic groups, the government of India accepted the linguistic reorganization of states in 1956. Further refining of the system has occurred since then – in 1960, 1966 and 1972—to accommodate groups left out of the original reorganization.<sup>40</sup>

Moreover, like Canada, India has accepted the need for quasi-federal forms of territorial autonomy for smaller indigenous peoples or hill tribes for whom full statehood may not be appropriate.<sup>41</sup> And, like many Western multinational federations, India has accepted the requirement for some form of asymmetry in the federal system e.g., the special self-government provisions for Kashmir in Article 370 of the Constitution,<sup>42</sup> the special provisions for other states in article 371, or the provinces in Schedule VI to the Constitution, which provide special protections for the administration and autonomy of tribal territories in Assam, Meghalaya and Mizoram. Indeed, India seems to have had much less difficulty accepting the principle of asymmetry than Canada.

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political expression of ethnolinguistic regional identities with suspicion and unease”. As a result, Congress stalled the reorganization of states, without having a “coherent alternative approach to the federal integration of ethnolinguistic identities” ( Arora and Mukarji, “Introduction: The Basic Issues: in *ibid.*, p.5).

<sup>40</sup> These include the division of Bombay into Marathi-and Gujarati-speaking states in 1960; the creation of Nagaland in 1962; the division of Punjab into Punjabi-and Haryana-speaking states in 1966; and the division of Assam into seven states in 1970-72. For an overview, see S.H.Patil, “State Formation in Federal India” in Abdulrahim Vijapur, ed., **Dimensions of Federal Nation Building** ( Manak:Delhi, 1998),pp.148-59.

<sup>41</sup> For example, the recent creation of Bodo Autonomous Area in Assam, for the tribal Bodos in 2001. There is some dispute about whether the term ‘indigenous people’ is appropriate for such tribal groups in the Asian context. For a discussion, see Benedict Kingsbury, “ ‘Indigenous Peoples’ as an International Legal Concept” in R.H.Barnes, ed., **Indigenous Peoples of Asia** (Association of Asian Studies, Ann Arbor, 1995),pp.13-34; Kingsbury, “ The Applicability of the International Legal Concept of ‘ Indigenous Peoples’ in Asia.” In Joanne Bauer and Daniel Bell,ed., **The East Asian Challenge for Human Rights** ( Cambridge University Press, Cambridge, 1999),pp.336-77. See also Will Kymlicka, **Politics in the Vernacular** ( Oxford university Press, 2000), chapter 5.

<sup>42</sup> On the special status of Kashmir, see Atul Kohli, “The Bell Curve of Ethnic Politics: The Rise and Decline of Self-Determination Movements in India” in Wolfgang Danspeckgruber, ed., **Self-Determination and Self-Administration: A Sourcebook** ( Lynne Reiner, Boulder, 1997),pp.321-25; Rasheeduddin Khan, “ India, the Federal State and Kashmir Problem” in Gunther Bachler, ed., **Federalism against Ethnicity: Institutional, Legal and Democratic Instruments to Prevent Violent Minority Conflicts** ( Verlag Ruegger, Zurich, 1997), pp. 269-89; Bashir Ahmad Dable, “Ethnic Plurality and Problems of Nation-Building in South Asia: A Study of the Kashmiri Problem” in **Dimensions of Federal Nation Building**,pp.224-35.

For a country of India's heterogeneity made up of people of diverse ethnicity, language, culture and history, it was only appropriate that the constitutional makers chose the federal form as the framework for governance. However, they were driven by fears, following the partition that accompanied independence, of the country breaking up further, on the one hand, and the vision of a strong united nation on the other.<sup>43</sup> While there was a unitary bias in the original design of the Indian federalism, a remarkable degree of flexibility and pragmatism was worked into it. Recognizing the virtues of 'asymmetry' or asymmetric federalism was one of them. More so in the context of bringing about and maintaining the Union, particularly in integrating states and people who had enjoyed considerable amount of autonomy under the British.<sup>44</sup>

From the early days, in India there was marked absence of homogeneity among the federating units. For instance, from the early times the princely states had a separate political entity, and had little in common with the erstwhile provinces. Also 'federal sentiment' as Dicey called it, was lacking among them. In these conditions, the framers of the constitution had to bring about innovations to accommodate all the units of the federation. After the first states Re-organization in India, the country still had to deal with new emergent demands from different quarters. One of the more notable area from where these demands were increasingly felt in the form of autonomy assertions, was in the North-east. To meet these demands, the Parliament has attempted to adopt the country's flexible federal constitution in the needs of the heterogeneous society through a variety of asymmetrical innovations. The North-east, by reasons of geography, history, economy and ethnicity was in variance with the 'mainstream' India. In this unequal situation, asymmetrical relations were worked out

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<sup>43</sup> Amaresh Bagchi, "Rethinking Federalism: Overview of Current Debates with some Reflection in Indian context, in *Economic and Political Weekly*, (August 19-25, 2000), Vol XXXV, No. 34.

<sup>44</sup> Balveer Arora and Douglas V. Verney, e.d., *Multiple Identities in a single state; Indian federalism in Comparative perspective* (Konark Publishers Pvt Ltd: New Delhi, 1995).

into the constitutional design to meet specific needs and situations of the peoples on this periphery.<sup>45</sup>

To meet these demands the provision for 'special status' was introduced in the Constitution through various amendments. "Special status and unique relationships to meet specific needs and requirements were a part of the original design of the Constitution. Exceptions and modifications to the general regime were regarded as legitimate, and non-conformity was considered perfectly compatible with the overarching requirements of the cohesion of the nation as such."<sup>46</sup>In a social system characterized by as what Francine Frankel says, 'asymmetrical obligations among unequals', special status encountered no conceptual objections. India's experiment with asymmetry can thus be viewed as an extended discovery of the minimum degree of uniformity necessary for maintaining a coherent Union.<sup>47</sup> One instance where the concept of special status was extended and given a permanent constitutional niche in the 13<sup>th</sup> Amendment (1962) which formally introduced 'special provisions' for the North East state of Mizoram under Article 371 G.

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<sup>45</sup> Balveer Arora and Douglas V. Verney, ed., **Multiple Identities in a single state: Indian federalism in Comparative perspective** (Konark Publishers Pvt Ltd: New Delhi, 1995).

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

## Chapter 2

### Introduction to the Inuit and the Mizo—

#### 2.1 The people and their land: The Inuit—

Arctic North America has long been the homeland of the people known to Europeans as Eskimos. Today, 'Inuit' is more commonly used to designate the eastern branch of the population, occupying the Arctic coasts from Bering Strait to Greenland. When Europeans first penetrated the ice-filled seas protecting Arctic North America, they found the land occupied by a people remarkably different from any they had ever known. They were fascinated by the Eskimos' ability to survive comfortably in a land that Europeans found appallingly barren. John Ross wrote of his 1830 encounter with the Inuit of the eastern Arctic:

It was for philosophers to interest themselves in speculating on a horde so small, and so secluded, occupying so apparently hopeless a country, so barren, so wild, and so repulsive; and yet enjoying the most perfect vigour, the most well-fed health, and all else that here constitutes, not merely wealth, but the opulence of luxury; since they were as amply furnished with provisions, as with every other thing that could be necessary to their wants.

European fascination with Eskimos soon led to conjectures about the origins of this remarkable Arctic people. The first scholar to write on the subject of Eskimo origins based his conclusions on physical similarities between Eskimos and Asiatic peoples. David Crantz was a Moravian missionary; in 1767, he wrote a work called *History of Greenland*, in which he noted the differences between Eskimos and other Aboriginal peoples of America and described resemblances between the Eskimos and the



contemporaneous inhabitants of 'Great Tartary between Mongolia and the Arctic Ocean'. Crantz considered the historical upheavals that had seen repeated outbreaks of central Asiatic peoples into mediaeval Europe to have driven the Eskimos in the opposite direction, to find refuge on the bleak shores of Arctic North America. However, it became apparent that the history of the Eskimos was considerably longer and more complex than envisioned by these early conjectures. The developing techniques of twentieth-century archaeology too dispelled the romantic notion that the Eskimos were Ice Age Europeans.

Historical speculation centered on the question of whether the Eskimos had originally been an inland people who had moved to the Arctic coast and learned to hunt sea mammals, or whether their ancestors had been maritime hunters of mammals and had adapted their economy to include the hunting of land animals and fish. Several early twentieth-century anthropologists saw the ancestral Eskimos as a people of the sub-Arctic interior, who had been pushed north to the Arctic coast and forced to adapt to this new and strange environment. The renowned scholar Franz Boas, writing in 1910, stated that 'the much-discussed theory of the Asiatic origin of the Eskimo must be entirely abandoned.[ Investigations]...seem to show that the Eskimo must be considered as, comparatively speaking, new arrivals in Alaska, which they reached coming from the east.'

A more elaborate version of this scheme was conceived by Danish geographer H.P.Steensby. In 1916 Steensby published a treatise on Eskimo origins in which he postulated two 'layers' of Eskimo culture. The earlier layer he named Palaeo-Eskimo and described as an interior hunting culture similar to that of the Indians of the

northern Canadian forests. At some time in the ancient past, these people had moved north to the Arctic coast, where they learned to hunt sea mammals. The resulting adaptation he termed Neo-Eskimo, the maritime way of life developed by Eskimos who had adapted to the conditions of northern coasts. Steensby's scheme of an older inland culture and more recent maritime culture set the stage for the first concentrated archaeological search for Eskimo origins.

Therkel Mathiassen, the leading archaeologist of the Fifth Thule Expedition, regarded the Thule culture people as the ancestors of the Canadian and Greenlandic Inuit. In contrast to Steensby's earlier theory, he suggested that ancestral Eskimos had been maritime hunters who had moved east from a homeland in coastal Alaska, and he dated this movement to approximately 1,000 years ago. Subsequent archaeological work has shown Mathiassen to have been essentially correct. After centuries of speculation, archeology finally showed that the origins of the Eskimo way of life derived not from that of the forest Indians of northern Canada, nor from that of 'Great Tartary between Mongolia and the Arctic Ocean', nor from that of the Ice Age reindeer hunters of Europe. Rather, ancestral Eskimo culture was the most northern of a sequence of rich maritime economies that developed over the past few millennia along the coasts of the North Pacific Rim from Japan to British Columbia.

The evidence that Therkel Mathiassen and his colleagues recovered on the Danish Fifth Thule Expedition of 1921-4 suggested that the Inuit, far from having an ancient history in the area, were descended from the whale-hunting Thule people who had expanded across Arctic Canada from Alaska within the past 1,000 years. The deeper

roots of Eskimo history seemed to be found in the western Arctic, around the coasts of the Bering and Chukchi seas.

In 1924, as the Danish expedition was completing its traverse of Arctic America, a new and intriguing piece of the archaeological puzzle came to light. Diamond Jenness, an ethnologist with the National Museum of Canada in Ottawa, received a large collection of archaeological specimens. Many of the specimens were identical to those from the newly defined Thule culture and were similar in form to artifacts used by the traditional Inuit. However, other parts of the collection were clearly different. Jenness concluded that these artifacts belonged to 'an old culture, hitherto unknown,' and he named it the Cape Dorset culture, after the location where a large portion of the collection had been excavated.

The archaeological puzzle of the end of Dorset culture is far from being solved. The Dorsets disappeared from history at a time when they were building longhouse enclosures across the Arctic. Their sites were full of carvings, each of them representing great care, skill, and purpose. The historical traditions of the central Arctic Inuit tell of a people named Tunit who occupied the country before them. It was them who made the country habitable by locating the places where caribou herds concentrated at a river crossing and building the lines of boulder cairns to guide the animals to an ambush. Some stories tell of Inuit and Tunit communities living in harmony and even of hunting together. In contrast to the traditions dealing with Indians, there are very few accounts of attacks by Tunit on the settlements of the Inuit. Most of the traditions tell of eventual Inuit attacks on the Tunit, however, and the accounts always end with the Tunit being chased from their homelands and

disappearing forever. The legendary Tunit could most probably be the archeologists' Dorset people. There seems to be little doubt that the Tunit legends are historical accounts referring to the final generations of the Palaeo-Eskimos, and these accounts are probably our most reliable source in searching for explanations of how Palaeo-Eskimo culture came to an end.

Over the generations of contact, there must have been many occasions when a Tunit woman was persuaded or stolen from her family to become the wife of an Inuk and when children were given or taken in adoption. As the Dorset people retreated into poorer and ever poorer territory, some individuals or remnants of small families must have attempted to join themselves to Inuit communities as an alternative to inevitable starvation. Through mechanisms such as these, the Palaeo-Eskimos must have contributed to the biological heritage of the Inuit population, and many of today's Inuit can probably trace a small proportion of their heredity to the Tunit. Some minor elements of the Dorset language, culture, and world view may have been incorporated into those of the Inuit people. The doomed *igloo*, that unique icon of Inuit culture, may be a surviving legacy of the Dorsets.<sup>1</sup>

## **2.2 The land and the people called the 'Mizos'—**

Mizoram, previously known as the Lushai hills or Mizo hills, lies in the southernmost corner of north-east India. It is bounded on the north by the Cachar district of Assam, on the east and south-east by Burma and on the west by Tripura and Bangladesh. It covers an area of 21,090 square kilometers, and lies between 20.20 N and 24.7 N

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<sup>1</sup> McGhee, Robert, *Ancient people of the Arctic*, (UBC Press: Vancouver, in association with the Canadian Museum of Civilization 2001).

latitude and 92.20 E and 93.29 E longitude.<sup>2</sup> The Tropic of Cancer runs through the heart of Mizoram. It has a population of 6,89,756 (1991 census). According to G.A.Grierson's *Linguistic Survey of India*, the Zos inhabiting what is today Mizoram belong to the Kuki-Chin group of the Assam-Burman subfamily, which, along with other eastern families, constitute the Mongoloid race.<sup>3</sup> Those who live in the geographical area of what is today called Mizoram are only one portion of the Zo tribe who inhabits portions of Burma, Bangladesh, Manipur, Tripura and Assam. With the absence of recorded history in the past, the early history of the Mizos remains obscure. However, the Mizos and all the related tribes claim to have originated themselves from what they have called 'Sinlung' or 'Chhinlung'. Different interpretations have been given to the Chhinlung tradition.

The Mizos themselves believe that their ancestors came out from a cave in the earth popularly known as Chhinlung, ( Sinlung as pronounced by the Hmar clan of the Mizo tribe ) which means 'a hole under a rock'.<sup>4</sup> The ancestors of the Mizos are said to have come out of this hole, and settled down in Burma for sometime, from where they moved out in different directions, and some of them entered the present day Mizoram. A.C. Ray said, "Mizos are a part of the great wave of the Mongolian race which fanned out to the east and the south of Asia in the past."<sup>5</sup> There are traditional songs, innumerable poems and legends about Chhinlung civilization handed down from generation to generation. The exact location of Chhinlung is a moot point. Hranglien Songate, a historian, understands it to be the present Tailing or Silung in

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<sup>2</sup> *Statistical Handbook*, Mizoram (1978), p.16.

<sup>3</sup> Grierson, G.A., *Linguistic Survey of India*, Vol.I, Part I: **Introductory**, 1927. Reprinted,( Delhi: Motilal Banarsidass 1967),pp. 391-6.

<sup>4</sup> Ray, A.C, *Mizoram—States of our Union series*

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

South-west of China.<sup>6</sup> Speculation has been made that this Sinlung might have been Sinning in Central Asia. Another writer of Mizo history, B. Lalthangliana, a research scholar from Mandalay University, believes Seinlung Kaba, one of the towns in Kachin State in Burma, to be the famous Chhinlung, about 26 miles away from Bhamo city. Another possible theory advocates Chhinlung to be a derivative of Ch'in dynasty of 221-207 BC when the people lived in a clustered city state/ community. The Ch'in dynasty absorbed many of the tribes that were already in the land. Those who refused to be absorbed were pushed, which included the Mizos who were pushed further south.<sup>7</sup>

The Mizos moved on, fought many fierce battles on the way, and settled somewhere in the northwest of Burma now known as the Shan state around 750 A.D. Generations of prosperity in Shan state was intercepted by a famine, and the people moved again to greener pastures, in the area known as the Chin Hills of Burma. The Mizos had to leave their settlement in the Chin Hills due to pressure from other stronger tribes. They now moved westwards, where they reached the mountainous region west of Burma beyond Chin Hills which is now called Mizoram (formerly called Lushai Hills). More than 60 percent of the Mizos now lives in Mizoram. Some are still living in Burma, in the Chin Hills and in the Tahan plains, some in Churachandpur area in Manipur state, some settled in North Cachar Hills in the state of Assam, some in the Jampui ranges of Tripura, while thousands are still living in the Chittagong Hill tracts of Bangladesh.<sup>8</sup>

A critical examination of Chhinlung theory:

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<sup>6</sup> Pudaite, Rochunga. *Education of the Hmar people*. p. 21.

<sup>7</sup> Ibid, p.22.

<sup>8</sup> Malsawma, H.L., *Sociology of the Mizos*, (Spectrum Publication: Delhi 2002). p.6.

Chhinlung theory poses an unending controversy as writers of Mizo history are not able to get authentic material for the purpose. The hole or cave version has been supported by almost all the Mizo historians but the problem lie in the location of the exact place where the cave is situated. One Mizo writer Dr. T. Sholomon claimed that the Mizos are the descendants of Manasseh, one of the sons of Joseph, a character in the Bible.<sup>9</sup> In support of his theory Dr. Sholomon said that the Mizo fore-fathers told their descendants to chant the name Manasseh every where they go—in the village, in the *jhum* or in the forest to avoid possible dangers either from the wild animals or various diseases from the air or wind. Obeying the word of their fore-fathers, Mizos chanted the name of *Manasseh* in ‘Kawngpui siam’(road-building)ceremony, and whenever they constructed a new village water spring point.

Although E.R.Leach, an isolated exception, regards the hypothesis that the Southeast Asian people as known today immigrated from the region of China as “a pure myth”,<sup>10</sup> it is generally accepted that the Tibeto-Chinese, on which the Tibeto-Burmans are a branch, had their original home in Northwestern China between the upper courses of the Yang-Tse and Hoang-ho.<sup>11</sup> This view is based on traditional and comparative philology as well as anthropological studies. Since Zo historians as well as other scholars are convinced that the people moved into their present home from the direction of the Chin Hills in Burma, it follows that the passage southward from China was along the rivers that flow into the plains of Burma from the north. In 1947 the *Report of the Frontier Areas Enquiry Commission* set up by the Burmese

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<sup>9</sup> Solomon, T, *History of the Mizo Israel*, 1974. p.8.

<sup>10</sup> Lehman, F.K., *The Structure of Chin Society: A Tribal people of Burma Adapted to a Non-Western Civilization*, 1963. Reprinted, (Aizawl: Tribal Research Institute 1980). p.11.

<sup>11</sup> Grierson, G.A., *Linguistic Survey of India*. Vol I, Part I: *Introductory*, 1927. Reprinted,( Delhi: Motilal Banarsidass 1967). p. 41.

government mentioned the Chin's migration from the Tibetan plateau into Burma as "almost a straight line down south".<sup>12</sup> The time period in which the Mizos reached the present Mizoram is believed to be sometime between 1700 and 1730 A.D.<sup>13</sup>

## 2.3 Religion

### 2.3.1 Religious beliefs of the traditional Inuit:

The timeless present in the mythology of the Inuit—

The beginning of the Inuit world is, strictly speaking, at a point out of time. There is no doctrine of creation *ex nihilo*, no philosophical conception of creation from nothingness. Nothing came first and of itself. They regard the "past" as merely an attribute of the present. In all their undertakings this "past" is present, giving these undertakings validity and value. Wherever they go, their surroundings have meaning for them; every ruin, rock, and cleft is imbued with mythical significance. For the Inuit, the Tunit are strangers from the past whose spirits still linger somewhere in the ruins. Yet the Tunit do not in any sense belong to the past, to an earlier age, to the dead-and-bygone world. They remain forever in the present, inhabiting the ruins, giving the Arctic stones a special quality, bestowing on them an aura of spiritual timelessness. For in these myths it *is*, always *is*, however much they say *it was*. In them life and death meet, for they conjure up timelessness and invoke the past that it may be relived in the present. There is no emphasis upon past, present, or future, but a unity embracing complexity. *Everything* is in mythology, and everything in

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<sup>12</sup> Khup Za Thang, K.A., *Zo*, p.iii, cited from the *Report of the Frontier Areas Enquiry Commission* (1947).

<sup>13</sup> Siama, V.L., *Mizo History* (in Lushei), 1953, 5<sup>th</sup> edition.,( Aizawl: Lalrinliana 1967). p.17.



mythology *is*, and is together. To die, for the Inuit, means only a transition. Death is not conceived as extinction. The realm of death is just another transcendence.<sup>14</sup>

The pagan Inuit believes firmly in the immortality of the soul and in the moral sanction in the other life. No doubt, absorbed as he is entirely by his preoccupations as a hunter and deprived of supernatural light, the Inuit thinks of his future life as a material paradise abounding in the choicest game, and where success in hunting is assured without work. This dream of the future life is explained by the environment in which the Inuit lives. His hell, too, is a material one, a land of desolation and of famine, without food or lamp, where he is forever engaged in the pursuit of game which he can never take or overtake.<sup>15</sup>

The Inuit had a religious leader, a shaman (*angakog*) who occupies an important position in the society. A man may become an *angakog* in two ways. The first is by purchase. The other method of becoming an *angakog* is by receiving a call. For e.g., a man may be building a snow house when he suddenly loses his knife. No living person is near, so it must have been a spirit who took it. Then the man rejoices, for he knows that one day, be it a few weeks or a few years hence, the spirit will come to him. Then one day it does come, perhaps while he is hunting, and gives him some task to do— it may be to make a horn spoon and leave it in a certain place. The man does so, and thereafter the spirit attends him and he is *angakog*.<sup>16</sup>

### 2.3.2 Religion of the traditional Mizos:

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<sup>14</sup> Carpenter, Edmund S, *The Timeless Present in the Mythology of the Aivilik Eskimos*, *Anthropologica*, Vol.3 (1956), pp. 1-4.

<sup>15</sup> Valentine, Victor F; Vallee, F.G., (ed), *Eskimo of the Canadian Arctic*, (The Macmillan Company of Canada Limited 1978). p. 47.

<sup>16</sup> Jenness, Stuart E., *Arctic Odyssey- The Diary of Diamond Jenness (1913-1916)*, (Canadian Museum of Civilization: Quebec 1991).p.8-9.

Traditional Mizos believed essentially in a benevolent God called *Pathian* who was the creator. He lived above the clouds in heaven and supplied rain and other daily essentials and human needs. He is good and usually did not harm them. It was not necessary to propitiate him in any way except in a way they pleased to do so as thanksgiving. However, god had power over the world and might cause failure or success in agricultural works as he alone was the source of material blessings. As such, they offered sacrifices to him in the form of '*sakhaw bia*' or '*sakhaw hman*' (religious sacrifices) in a kind of thanksgiving to demand material blessings to the villagers. These sacrifices were conducted by the *Sadawts* (priests). Apart from the existence of God, they also believed in the existence of numerous *Huai* who were ill disposed towards humans. McCall listed thirteen different types of *huais*<sup>17</sup> to which K.Zawla added two more,<sup>18</sup> for a total of fifteen. These *huais* were believed to reside in high precipices, large rocks, caves, large trees, holes in the earth, water springs, waterfalls, underwater in lakes and in deep pools of rivers. Diseases were believed to be caused by evil spirits. Sacrifices (*inthawina*) were offered to the *huais* to appease them. The village *bawlpw* performed the sacrifices (*inthawina*) on behalf of the sick. His services were available to any member of the village, as are those of a medical doctor today. When sacrifices were to be offered to the family or clan gods, it was the clan *sadawt* alone who could perform the rite. The *sadawt* of the chief's clan functioned as the official *sadawt* and as such was responsible for performing all the religious functions of the village community as a whole. The function of the *sadawt* was more akin to the role of priests in most religions. But once that was done, they were not revered. Thus, there was broadly a division between the God or Gods who live in heaven, and the other spirits of the world. This broad division manifested itself

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<sup>17</sup> McCall, A.G., *Lushai Chrysalis*, Reprinted by (Tribal Research Institute, Department of Art and Culture:Government of Mizoram 2003). p. 70.

<sup>18</sup> Zawla, *Mizo Pi Pute leh an Thlante Chanchin*, (Tribal Research Institute, Aizawl 1964).pp.45-6.

in the two forms of sacrifices, 'ramhuai bia' (sacrifices to the bad spirits) and 'sakhaw bia' (sacrifices to God). A Mizo historian Rev. Liangkhaia believes that the religion of the Mizos had its origin in the consciousness of their need for deliverance from physical illness and from other misfortunes which they attributed to evil spirits.<sup>19</sup>

While still in the Chin Hills of Myanmar, the Mizos had formed a definite concept of life after death. They believed in the continuance of life beyond the grave either in *Mitthikhua* or *Pialral*. *Mitthikhua* (the village of the dead) was the abode of the commoners' departed souls. It was believed to be a shadowy world where everything was on a much lower scale than in the present world. It was comparable to the Hebrew concept of Sheol. On the other side of *Mitthikhua*, beyond the Pial river, was located *Pialral* (the land beyond the Pial river—Paradise). Those who went there need not work, but would enjoy a plentiful supply of rice that did not require husking, meat and *zu*. Only the souls of the rich, the skillful and the mighty could go to *Pialral*. Such men were called *Thangchhuahs*, which might best be translated as "the famous ones"—a title beyond the dreams of most people.<sup>20</sup>

## 2.4 Social Systems

### 2.4.1 Traditional Inuit social structure:

Traditionally, the main forms of grouping among the Eskimos were according to band, extended family, and household. The literature often refers to tribes, but the Eskimos did not have tribes in the sense used by modern anthropologists. In a given region, a number of camps would share a dialect of the Eskimo language, certain

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<sup>19</sup> Liangkhaia, *Mizo Sakhua* in *Mizo Zia-Rang*. (Aizawl: The Mizo Academy of Letters 1975).

<sup>20</sup> Kipgen, Mangkhosat., *Christianity and Mizo Culture*, (Mizo Theological Conference: Aizawl 1997).p. 118.

stylistic forms—such as in tattooing, dress, and so on—and a vague sense of identity. We might describe such groupings as regional sub-cultures, but they were not tribes, for they had no encapsulating kinship or political structure. Because of selective interaction with other camps in such a grouping, most marriages would occur within it, but the Eskimo did not objectify this grouping as an endogamous unit of social structure.

Comprising those gross groupings were social units variously called bands and camps, made up of families which normally camped and moved together most of the year. Such bands or camps varied considerably in size. After the introduction of rifle and individualized hunting techniques, the size of camps devoted to hunting the caribou dwindled appreciably, especially in those areas where trapping assumed a significant part of the economy. In some places the average camp, during the thirties, numbered about three nuclear families, usually related by kinship within the second degree and comprising about twelve to fifteen persons. In other areas, where getting a livelihood required concerted group effort and where important facilities, such as whale boats, were controlled by a headman, the bands numbered between forty and sixty persons on the average. Within such camps or bands authority lines were much clearer and more highly structured than in the smaller, more nomadic bands mentioned earlier. The literature indicates that there were important variations, particularly between people who spent all or most of their time inland, and those who spent all or most of their time in sea-mammal hunting.<sup>21</sup>

Regardless of what they are called, all groupings were for the purpose of work, their size and composition being determined by the seasonal tasks to be accomplished. In spring, Inuit hunted seals, whales, and walrus by kayak and lived in skin tents. In

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<sup>21</sup> Vallee, F.G., *Differentiation among the Eskimo in Some Canadian Arctic Settlements, Sociological Research in the Arctic*, (Ottawa: Northern Co-ordination and Research Center, Department of Northern Affairs and National Resources 1962).

summer, they traveled the land in search of caribou, wolves, bears, foxes, and rabbits. Fall was the sewing period in preparation for winter, when the Inuit lived in snow houses. In winter, the main work was sealing at the breathing holes or hunting polar bears.<sup>22</sup>

It was considered a grave breach of etiquette to take food from another's cache unless one were in danger of starvation, and this relaxation of the rights of ownership in extreme situations is generally thought to have functioned as a form of insurance since anyone might be in a similar situation.<sup>23</sup> Although the land could not be "owned", pre-contact Inuit clearly had a sense of territory, which is different from treating it as communal property. Numbering only several thousand and dependent upon non-domesticated food sources, they did not settle in large numbers in one spot but worked a particular area in shifting, but never very large, hunting aggregates. "Nomadic" does not imply constant travel to new places; Inuit traveled a route that brought them, seasonally, to the same places and their right to work that territory was recognized by other Inuit. Contact with others of their kind was sporadic and, when it did occur, apt to be hostile. The land and its resources were not personally owned or controlled, a stricture that had the effect of ensuring subsistence production and perpetuating the group. Territorial rights were exerted by hunting groups, and means of subsistence were personally owned and controlled.<sup>24</sup>

#### **2.4.1 (a) Leadership in traditional Inuit social structure:**

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<sup>22</sup> Mitchell, Marybelle., *From Talking Chiefs to a Native Corporate Elite*, (McGill-Queen's University Press: Montreal 1996). p.34.

<sup>23</sup> Weyer, Edward Moffat., *The Eskimos: Their Environment and Folkways*. (Connecticut: Archon Books 1962). pp.188-9

<sup>24</sup> Mitchell, Marybelle., *From Talking Chiefs to a Native Corporate Elite*, (McGill-Queen's University Press: Montreal 1996). p.33.

There was no formal governance of Inuit social/work groups, but several writers<sup>25</sup> have remarked that Inuit hunting groups were guided, as opposed to being governed, by an informal leader known as the *isumaitoq* (one who thinks).<sup>26</sup> Usually, this was an older male of demonstrated competence in the most important life skill, the procuring of food. Women were excluded from the position because of the necessity of providing leadership in the hunt. Damas has determined that, for the Iglulingmiut, the *isumaitoq* was usually “the head of the largest segment of close kindred”, and “the powers of the *isumaitoq* seem to have been fairly clear. The head of the extended family unit controlled decisions such as those regarding adoption and sharing of possessions and products of the hunt and trade; he also made decisions as to the hunt and the movement of his groups.”<sup>27</sup>

The subtle, unassertive “style” of Inuit leadership has misled some observers into thinking that it was entirely a matter of being deferred to rather than of wielding authority, but the exercise of authority among Inuit seems not to have been as innocent as some have inferred. Graburn and Strong, for instance, considered that the *isumaitoq* enjoyed his position as leader primarily because he could confer some economic benefit upon his followers.<sup>28</sup> Personality seems also to have been important, and the *isumaitoq*'s authority was doubly assured if, in addition to possessing valued skills, he also possessed an *umiak*, the large skin boat capable of carrying twenty or

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<sup>25</sup> Such as Hall, Charles Francis., *Life with the Esquimaux: A Narrative of Arctic Experience in Search of Survivors of Sir John Franklin's Expedition*, Edmonton: Hurtig, 1970 ; and Turner, Lucien., *Indians and Eskimos in the Quebec-Labrador Peninsula: Ethnology of the Ungava District*, (Quebec: Comeditex 1979).

<sup>26</sup> Graburn and Strong contrast this situation to that in Alaska where there were more permanent villages; the leader “ may have been considered a ‘chief’ in that he had more formal authority in social, ritual, and economic affairs and was more likely to retain his position permanently and perhaps even pass it on his son” in Graburn, Nelson, and Stephen B. Strong., *Circumpolar Peoples: An Anthropological Perspective*. Pacific Palisades, California: Goodyear Publishing, 1973. p.153.

<sup>27</sup> Damas, David., *Social Anthropology of the Central Eskimo*, *Review of Canadian Sociology and Anthropology* 12, no. 3:252-66, 1975.pp.257-8.

<sup>28</sup> Graburn, Nelson, and Stephen B. Strong., *Circumpolar Peoples: An Anthropological Perspective*. (Pacific Palisades, California: Goodyear Publishing 1973),p. 163.

thirty people and used for moving families from one camp to another as well as for whale hunting. As Mathiassen was astute enough to remark, Inuit followed the erstwhile commander because it paid to be on “good terms” with him (presumably because he had the power to impede or promote one’s interests).<sup>29</sup>

Although there was no institutional inequality, there was one social position that came close to allowing its incumbent ascendancy over the community, namely, the office of shaman (*angakoq*). Ostensibly a religious leader, the *angakoq*, who could be male or female, sometimes wielded a double authority by combining the function of *isumaitoq*.<sup>30</sup> In any case, given that religious practices were believed to have economic repercussions, it is inaccurate to relegate the influence of the shamans to the religious domain. Their perceived ability to bring food might even account for their sometimes being accorded the status to secular leader –*isumaitoq*– as well.

Not everyone could attain to the position of *angakoq*, although the mechanism by which this role was transmitted is rather ambiguous. Apparently, Inuit believed that shamans were born, not made. Birket Smith observed: “An Eskimo almost never becomes a shaman of his own free will; it is *sila* [ nature] or the spirits themselves who, through dreams or some other manner, appoint the chosen one”.<sup>31</sup> However Jenness’s observed that amongst the Copper Eskimos, shamanistic power was a kind of intangible property that could be bought and sold, or bequeathed.<sup>32</sup> This is evidence that the practice of shamanism was more a commercial venture than a manifestation

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<sup>29</sup> Mathiassen, Therkel., **Material Culture of the Iglulik Eskimos**. Report of the Fifth Thule Expedition 1921-24. Vol. 6, no.1. Copenhagen: Gyldendalske Boghandel, Nordisk Forlag, 1928. p209.

<sup>30</sup> Smith Derek G, **Mackenzie Delta Eskimo**, in Handbook of North American Indians, Vol.5. (Arctic, 1984),p.354. see also Graburn and Strong 1983,p153-4.

<sup>31</sup> Birket-Smith, Kaj., **The Eskimos**. (Copenhagen: Gyldeddalske, Nordisk Forlag, 1959),p.171.

<sup>32</sup> Jenness, Diamond., **The Life of the Copper Eskimos: Report of the Canadian Arctic Expedition 1913-18**. Vol. 12.( Ottawa:F.A. Acland/ Department of the Naval Service, 1922),p.92.

of the supernatural. Jenness noted that payment did not depend upon results.<sup>33</sup> As well as curing disease and ensuring good luck in the hunt, shamans were allowed to enforce punishment against those violating taboos, and these, it appears, were also “quite remunerative for the *angakoq*”.<sup>34</sup>

Shamans could never be considered as constituting a class, given that they were isolated individuals with no group solidarity, “independent practitioners,” not “members of a priesthood”.<sup>35</sup> There was little distinction between rich and poor, since the general poverty in which all Inuit lived worked against the accumulation of wealth. Besides, there was little to accumulate besides food and dogs, with their attendant disadvantages of having to be stored or fed. It should be noted, however, that there was no ideology opposed to the accumulation of wealth, and Alaskan and Greenland Inuit had no scruples against accumulating property.<sup>36</sup>

#### **2.4.2 Traditional Mizo social structure:**

The traditional social organization of the Mizos centered around the village. Due to the constant feuds and wars with the neighbouring groups, villages were usually made as large as possible in size and a strong fortress was usually built around the village against any possible attack. Different Mizo clans settled in one village, and kinship ties run through various villages.

#### **2.4.2 (a) Leadership through ‘Chiefs’:**

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<sup>33</sup> Ibid, p.195.

<sup>34</sup> Marsh, Donald B. *Echoes From a Frozen Land*. (Ed Winnifred marsh. Edmonton: Hurtig, 1987),p138.

<sup>35</sup> Vallee, F.G., *Kabloona and Eskimo in the Central Keewatin*.( Ottawa: Canadian Research Centre for Anthropology, Saint Paul University, 1967a),p. 173. see also Jenness, 1922.p.194.

<sup>36</sup> Mitchell, Marybelle., *From Talking Chief to a Native Corporate Elite*,( McGill-Queen’s University Press:Montreal 1966). p.38.



The people lived in villages, each of which was ruled by a Chief (*Lal*) who was entirely independent. The first known clan which introduced the Chieftainship was the Hnamte clan of the Lusei sub-tribe while they were in Khawrua and Tlangkhua in the Chin Hills of Burma, around 1500 A.D. It was originally not a hereditary one. The people had adopted the Chief system so that they could be guided and governed in all activities of life. In course of time, the institution of Chiefship became hereditary, where the eldest son succeeds his father. The Chief became the real centre of authority in Mizo society. Theoretically, all that was in the village belonged to the Chief. He administered the village as advised by the Elders in Council (*Upa*) who were appointed by him from the common citizen of his village.<sup>37</sup>

The commoners had almost equal access to the village land and normally considered the village land and territory to be theirs as much as the chief's and the elders'. However, the chief was recognized as the legitimate guardian and authority. The traditional sanction of the chief's proprietary right was made explicit by the flesh-tax given to the chief by members of other villages. Such traditional sanction, strictly observed by the people illuminates the territorial proprietorship of the village land by the chief. He even had the right to collect taxes on bees and salt springs not only from his subjects but also from members of other villages who had made use of these within the chief's jurisdiction. He had to preserve the village land from encroachment by outsiders, and preserve the land from wasteful use and fire which might sweep the hills at the time of burning the fallen jungle for *jhumming*. The village and its territory had a great fascination for the villagers. It represented the basis for their world of

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<sup>37</sup> Malsawma, H.L., *Sociology of the Mizos*, (Spectrum Publications: Guwahati 2002), p.14.

knowledge affording slight differences between villages in indigenous inter-personal relations while retaining the cultural form that was common throughout Mizoram.<sup>38</sup>

Even though power was theoretically held by the chief, in fact the government of the villages had democratic elements. This was due to the appointment, by the chief, of *Upa* (Elders) to assist him in the administration of the village. The chief was free to appoint whomsoever he deemed fit, but usually they were chosen from among the *thangchhuahs*, who were reputed public figures and representatives of the different clans found in the village.<sup>39</sup> Besides the *Upas*, the chief also appointed other officials to assist him in governing the village. They were, (a) the *Tlangau* (village crier), (b) the *Thirdeng* (blacksmith), (c) the *Puithiam* (priest), and (d) the *Ramhuals* (advisors concerning land to be cultivated).

The economy was, and still is, based on agriculture. The agricultural system of *Jhumming* (slash and burn) as practiced in Mizoram is very destructive for the soil. It gives the cultivator a reasonable return for his labour in the first year, an acceptable return in the second, but unprofitable in the third year in the absence of the use of chemical fertilizers. Hence a new plot was chosen for the third year. The practice of cultivating land for only one or two years and then clearing new land meant that after about five years all the land near a village had been used. Since there was unoccupied land available elsewhere, after this period of time the entire village would be shifted to a new site. This, and inter-clan feuding, were mainly responsible for the nomadic pattern of Mizo life.

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<sup>38</sup> Nunthara, C., *Mizoram: Society and Polity*, (Indus Publishing Company: New Delhi 1996), p.68-69.

<sup>39</sup> **Thangchhuah** was an honorific title given to a man who had distinguished himself by killing a certain number of different animals in the chase, or by giving a certain number of public feasts culminating in the *Khuangchawi* feast. See "thangchhuah" in J.H. Lorain, *Dictionary of the Lushai Language*, 1940. Reprinted 1975. p.447.

The youth were the greatest social assets of the chief as they alone had the organizing force and capacity in the traditional setting. The youth had a kind of group existence which was manifested in the 'bachelors quarters' called '*Zawlbuk*'. Every village had a *zawlbuk* (or two) of its own where all the young men assembled after evening meal and slept there for the night. It was built in such a way so as to allow a big fire running throughout the night. The firewoods for then *zawlbuk* were collected from the nearby jungle or vicinity of the village during the day-time by all the boys under the age of puberty and above five years of age without exception, except the son of the village chief. Any failure to comply with the day's collection of bundles of firewood was severely punished by doubling or trebling the bundles the next day by some other means considered appropriate by the Committee of Bachelors or office in charge of the boy's work. Older men also assembled at *zawlbuk* in the evening and told stories concerning great events and deeds of bravery, chivalry, heroic efforts in the past as well as customary rules which were related to the young men. From these accounts, younger generation learned old traditions, customs, and social codes, and young boys learned discipline and respect for elders.<sup>40</sup>

## **2.5 Economy**

### **2.5.1 Traditional Inuit economy:**

As they were for food, so were the Eskimos dependent upon wildlife for the raw materials from which they made clothes, shelter, tools, and weapons. Raw materials

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<sup>40</sup> Nunthara, C.. **Mizoram: Society and Polity**, (Indus Publishing Company: New Delhi 1996),p.72.

consisted of animal skins, bones, antler, ivory, snow, ice, stone, and in some areas, driftwood and grass. Flint or other hard rock was used for arrow and harpoon heads, scrapers, and knives, and so-called "soapstone," the basis of the contemporary carving industry, was used for oil lamps and pots. Although not entirely unknown, metal did not figure largely in Canadian Eskimo material culture. Transportation was by *kayak*, *umiak* (a large skin boat), or sled and dogs.<sup>41</sup> Another important feature of the tools and implements used by Inuit is that they were owned by their makers. However, not much of material property could be owned since the Inuit bands are nomadic.

The economy can be characterized as a hunting-gathering one. Depending on seasonal variations, the Inuit chased and hunted games like the caribou, whales etc. Food was shared amongst the members of the band. It was considered a grave breach of etiquette to take food from another's cache unless one were in danger of starvation, and this relaxation of the rights of ownership in extreme situations is generally thought to have functioned as a form of insurance since anyone might be in a similar situation.<sup>42</sup>

Although the Inuit shared much in common, their need for an accommodation with the local environment required a number of regional adaptations. In the eastern barren lands, the Caribou Inuit had moved away from the coast and subsisted on the huge caribou herds which roamed the area. Their reliance on this single animal often left them very vulnerable to changes in migration patterns or shortages of game. Conversely, the Mackenzie Delta Inuit inhabited a relatively rich land, marked by an abundance of game, including caribou, musk-ox and moose, and plentiful sea

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<sup>41</sup> Mitchell, Marybelle., *From talking Chiefs to a Native corporate elite*, (McGill-Queen's University Press:Montreal 1996),p.30-31.

<sup>42</sup> Weyer, Edward Moffat., *The Eskimos: Their environment and Folkways*.(Connecticut: Archon Books 1962),p.188-9.

resources, especially baleen and beluga whales. The concentration and variety of food resources allowed the Mackenzie Delta Inuit to congregate in larger numbers than was possible elsewhere in the Canadian Arctic. Seasonal groupings of up to 1,000 were not uncommon and substantial villages remained together year-round. The Netsikik people, who lived near King William Island, developed in a different fashion again. Here, seals provided the mainstay of their life, and the natives developed particular skills at hunting these animals, by kayak during the short season of open water and through air-holes in the ice in winter. There were yet other Inuit groups who similarly exploited those resources in greatest abundance in their homelands, and whose cultures therefore differed from the Inuit norm.<sup>43</sup>

### **2.5.2 Traditional Mizo economy:**

Constant shifting of villages made it impossible to amass wealth in the form of immovable property. What can be called household property was therefore very limited. One or two gongs and a few necklaces, a few heirlooms, a few agricultural implements like hoes and axes, cooking pots, and a few weapons such as daos, spears and possibly a gun, would have been some of the permanent household properties. Another type of wealth was in the form of domestic animals. One who owned them in abundance was regarded as rich.

The most important element in the Mizo economy was bamboo. Bamboos of various types met many of the essential needs of the people. At every stage of its growth from shoot to maturity it served a specific purpose. The new shoots provided food; young bamboos provided material for making baskets and other household implements; and mature bamboo provided the primary building material. It can be said that the economy of the Mizos depended on the bamboo. However, in spite of its general

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<sup>43</sup> Coates, Kenneth, *Canada's Colonies*, (James Lorimer and Company: Toronto 1985), p.28-29.

value, the bamboo is periodically a source of great misery for the Mizos. The flowering of certain species of bamboo has often resulted in famine. This is especially true when two species, the Mautak and Rawthing, flower at approximately fifty year intervals. Because they do not flower at the same time, it resulted in famine every 18 to 30 years. The reason for famine is the rapid multiplication of the rodent population, especially rats, which feed on the bamboo seeds. The rodents devour the standing crops and hence the people were left with nothing to eat.

The first documented famine occurred in 1862, followed by the 1880 famine. Next in line were in 1911, 1929 and 1959. The people survived only by eating wild roots, jungle fruits and anything else they could find that was eatable. This resulted in widespread malnutrition, epidemics and extensive loss of life. Even today the people remember with horror the deaths of entire families and of the difficulties experienced in even burying the large number of dead in some villages. Famines became a phenomenon which would propel the political processes of the Mizo Hills to new heights in later years.

The forefathers of present day Mizo's were a nomadic people. Their means of sustenance was through products of nature found in the woods. This stage in their economy could be described as a "rudimentary economy".<sup>44</sup> There was no trade links with outside community. From this stage, they proceeded to a "village economy", wherein they settled at a point for a few years. A type of cultivation called "shifting cultivation" was practiced. The following five are the characteristics of this system of cultivation: (1) Rotation of field (2) Keeping the land fallow for a number of years. (3) Use of human labour as the chief input (4) Non-employment of animal, and (5)

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<sup>44</sup> Kurien, C. T., *The Economy: An Interpretative Introduction*. (Sage publication: New Delhi 1991), pp. 28-33.

Use of very crude and simple implements.<sup>45</sup> It is believed that this type of cultivation was practiced even before they entered the present day Mizoram. The sacrifices they offered to propitiate evil spirits, the festivals they celebrated, and every realm of their socio-economic and political life is closely related. Product of the fields was enough for personal consumption. They survived under this “tribal subsistence economy”.<sup>46</sup> Towards the close of the 19<sup>th</sup> century, with the effort of two British Political Officers, Capt. T.H. Lewin and John Edgar, trade centers were opened at various centers of Mizoram. The Mizos exported rubber, ivory etc and imported salt, iron, and other essential commodities.<sup>47</sup> However, due to negligible road development, the interior regions were not participants in this trade. Nevertheless, this small scale exchange of commodities is worth a mention as it is the first known instance of trade with out-groups, where the mode of exchange is cash.

## **2.6 Pre-contact collective identity**

### **2.6.1 Pre-contact collective identity amongst the Inuit:**

Ironically, although Inuit are even now considered to be a homogeneous group, they did not until recently perceive themselves to be a group with a common history and interests. The Arctic was populated for many centuries by hundreds of discrete hunting groups, bands, and perhaps tribes, but none of these constituted a political entity. Some Inuit groups referred to themselves by the use of place names bearing the suffix *miut*, meaning “people of”; *Puvirnitungmiut*, for example, means “the people of

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<sup>45</sup> Nag, Sajal., *Contesting Marginality*, (Delhi: Manohar Publishers 2002),p.29.

<sup>46</sup> Prasad ,R.N., *Government and Politics in Mizoram*, (New Delhi: Northern Book Centre, 1987),p.5. See also Thangchungnunga, *Mizoram Economy: Past and Present*, in *Mizoram Politics and Economy*.( Aizawl:YMCA 1989).p.63.

<sup>47</sup> Prasad, R.N., *Government and Politics in Mizoram*, (New Delhi: Northern Book Centre 1987),p.14. See also Chatterjee, Suhas., *Mizoram Encyclopaedia*. Vol III. (Bombay: Jaico Publishing House 1990),p.252.

the place of the putrid flesh.” Accordingly, people were known from the place where they settle.

Contrary to the common perception of the peace-loving nature of the Inuit, hostility within the group appears to have been the norm. The general impression that Inuit lived together in harmony is based upon the lack of organized battle, but that kind of war was not likely to have occurred among groups averaging less than fifty people and preoccupied with finding food. Inuit were family-oriented, but in their case the family was virtually synonymous with community, and kinship was extended by various alliances such as child betrothal and naming that helped ensure survival by increasing the number of persons who would be concerned for one’s welfare.

In the pre-contact period, there was no impetus for Inuit to think of themselves as a distinct people beyond relationships and practices that determined local affiliations. This is not to say, however, that they did not acknowledge similarities among Inuit per se. They made distinctions between Inuit and Tunit, and, as is clear from some of their mythology, contact with Indians elicited a different kind of response than did contact with others of their kind.

The most that can be said at this stage concerning a collective identity among pre-contact Inuit was that the unit with which people identified was flexible but small, its size varying according to the seasonal nature of the hunt as well as the normal cycle of birth and death. Group solidarity was assured through kinship or other forms of alliance, and collective identity was synonymous with membership in a producing and consuming unit that acted defensively in a number of instances, including when its economic livelihood was threatened.<sup>48</sup>

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<sup>48</sup> Mitchell, Marybelle., *From Talking Chiefs to a Native Corporate Elite*, (McGill-Queen’s University Press 1996), p.45.



Professor Honigmann has discussed “flexibility” as one element of the Eastern Arctic Eskimo ethos.<sup>49</sup> Rigorous life in the Arctic, where subsistence itself is a never-ending challenge to man’s ingenuity, demands a high degree of inventiveness and at the same time prevents the establishment of large, permanent local groups where patterns may become formalized and endowed with value.<sup>50</sup>

### **2.6.2 Pre-contact collective identity amongst the Mizos:**

The village occupies an important place for the Mizos. It was almost the universe for the Mizos, sufficient in almost all respects, each village having a particular structural existence different from the other while retaining a general uniform cultural pattern that was common throughout the Mizo Hills. In the circumstances, outside contacts were ordinarily made by way of raids and plunders. In rarer instances, contact with outside one’s village is made through marriage alliances, formal family gatherings and commercial tradings in *jhumming* tools and war apparels.<sup>51</sup>

Group identity, in terms of formation of a larger pan-Mizo identity was not present at this stage.

## **2.7 Policy of Canada towards the Inuit and that of India towards the Mizos**

**2.7.1 Policy of Canada towards the Inuit:** Section 91 (24) of *The British North America Act, 1867*<sup>52</sup> confers jurisdiction on the federal parliament over all matters coming within the class of subjects “Indians, and Lands reserved for the Indians.” A

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<sup>49</sup> John and Irma Honigmann, *Notes on Great Whale River Ethos*, *Anthropologica*, Vol. I, 1959, pp. 106-121.

<sup>50</sup> Willmott, W.E., *The Flexibility of Eskimo Social Organisation*, *Anthropologica*, Vol. 2, 1960, pp. 48-57.

<sup>51</sup> Nunthara. C., *Mizoram- Society and Polity.*, (Indus Publishing Company:New Delhi, 1996),p.64.

<sup>52</sup> 30-31 Vict., c.3 (U.K).

Supreme Court of Canada decision in 1939 held that the Inuit of northern Quebec are “Indians” within the meaning of that section,<sup>53</sup> and doubtless the reasoning in that decision applies to the Inuit in the rest of Canada. It may be noted in passing, however, that the Inuit are not “Indians” for the purposes of the *Indian Act*.<sup>54</sup>

The Royal Proclamation of 1763 enunciated a number of measures to protect Indians and their lands which had not been ceded to or purchased by the Crown. Brian Slattery argues that the Proclamation “encompasses all indigenous groups occupying territories claimed by the British Crown in North America in October 1763,”<sup>55</sup> and that therefore the term “Indians” used in the Proclamation includes the Inuit.

Under the Order in Council of June 23, 1870, Rupert’s Land and the Northwest Territory became a part of Canada. In this legal instrument the Dominion government gave various undertakings to the Imperial government. These were, in broad terms, that the claims of the Indian tribes to compensation for lands required for purposes of settlement were to be considered and settled in conformity with the equitable principles which had uniformly governed the British Crown in its dealing with the aborigines; and that these claims were to be disposed of by the Canadian government in communication with the Imperial government.<sup>56</sup> In light of these undertakings, Professor Hooper has argued that “the existence of aboriginal title received not only executive, but also legislative affirmation.”<sup>57</sup> In short, the federal government assumed various obligations towards the Inuit prior to the Patriation Resolution 1981. Under the law, they were recognized as having a homeland within Canada as a

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<sup>53</sup> Re Eskimos (1939) S.C.R. 104.

<sup>54</sup> R.S.C., 1970, c.1-6, s. 4 (1).

<sup>55</sup> Brian Slattery, *The land Rights of Canada’s Indigenous Peoples, as affected by the Crown’s acquisition of their Territories* ( D.Phil. dissertation, Wadham College: Oxford 1979), p. 243.

<sup>56</sup> See R.S.C., 1970, Appendices, no.9, pp.8,11,12,14,18.

<sup>57</sup> Anthony Hooper, “ Aboriginal Title in the Northwest Territories”, in Cumming and Mickenberg *.Native Rights in Canada*, 2<sup>nd</sup> ed (Toronto:General Publishing 1972) p.149.

birthright preceding the two constitutional documents above, and which reflected that right in law. The Patriation Resolution of 1981 recognized and affirmed those rights.<sup>58</sup>

### **2.7.1 (a) Federal-Provincial-Territorial Relations and the Inuit:**

For the Inuit, intergovernmental entanglement is of comparatively more recent origin. In the Northwest Territories (NWT), where 17,000 Inuit live, the federal government was not strongly present until the creation in 1953 of the Department of Northern Affairs and National Resources. The territorial government was established in Yellowknife in 1967, and in 1979, following territorial elections, the Territorial Council began to assume the semblance of authority of a provincial assembly. Despite the fact that the NWT is under federal jurisdiction, the devolution of some responsibilities to the government of the NWT (GNWT) has resulted in some confusion among NWT residents as to which government (federal or territorial) has immediate policy responsibility in certain areas. In the health area, for instance, responsibility for delivery of health services has recently been transferred to the GNWT from Ottawa. But treatment of seriously ill patients may require referral to larger hospitals in the south, and in the case of the Keewatin region, "its" hospital is in Churchill, Manitoba.<sup>59</sup>

The events leading to the recognition of aboriginal rights in the Patriation Resolution have their roots in the historical position of Canada's aboriginal peoples. Clearly, they used and occupied this continent in societies organized after their own fashion.<sup>60</sup> As

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<sup>58</sup> Simon McInnes, *The Inuit and the Constitutional Process: 1978-81.*, *Journal of Canadian Studies*, Vol.16, No.2 ( 1981 Summer).p.55.

<sup>59</sup> For a good review of health problems in the Keewatin see *Report of a study of Inuit Health and Health Services in the Keewatin Zone of the Northwest Territories 1980* (Ottawa: April 1981).

<sup>60</sup> In the case of the Inuit in NWT, see *Report, Inuit Land Use and Occupancy Project* (Ottawa: Supply and Services 1976), Vol 3.2

mentioned above, this was recognized and given a certain legal status. But the actions of federal and provincial governments often belied that status, undermining the ability of aboriginal peoples to retain their traditions in the face of general technological challenges. In 1969 a federal *White Paper* tacitly endorsed the assimilation of the aboriginal peoples into Canadian society and the abolition of whatever remaining particular rights they had.<sup>61</sup> Outrage greeted this policy, spurring aboriginal peoples to argue their case more coherently and with more publicity. In British Columbia the Nishga tribe went to court to protect its rights. The Supreme Court of Canada dismissed the *Calder* case on a technicality but the court split evenly on whether the Nishga had aboriginal rights. The dissenting opinion argued that until subsisting private title was legally changed by a new sovereign, existing aboriginal rights would continue.<sup>62</sup>

The *Calder* case persuaded the federal government to open serious land claims discussion with the aboriginal peoples, resulting, for example, in the agreement with the Inuit of Northern Quebec in 1975, and in negotiations with the Inuit in the NWT and Labrador. The government recognized, however, that land claims negotiations would cover only that portion of aboriginal rights pertaining to land.

It can be seen that all the above constitutional developments contributed in the long run to the formation of Nunavut territory, where the Inuit constitute a majority.

### **2.7.1 (b) Canada's Northern Development Policy:**

Canadians knew hardly anything about the Arctic before the Second World War, and it was only in 1953 that the federal department was established to look after Inuit affairs, although this mandate was somewhat peripheral to its mandate to develop

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<sup>61</sup> DIAND, *Statement of the Government of Canada on Indian Policy* (Ottawa: 1969).

<sup>62</sup> *Calder v. A-G.B.C.* (1973) S.C.R.313.

resources. On 8 December 1853, during the second reading of the bill to create the Department of Northern Affairs and National Resources, Prime Minister Louis St Laurent made his much-quoted comment: "Apparently we have administered these vast territories of the North in an almost continuous state of absence of mind."<sup>63</sup> Explorer and author Diamond Jenness, who was critical of Canada's northern involvement, produced a series of technical papers comparing the state administrations of Eskimo populations in Alaska, Canada, Labrador and Greenland.<sup>64</sup> The Americans, who insisted "that there should be no effort to preserve the aboriginal way of life" and no separation of education, considered that Inuit were equal to other Americans and enacted measures to assimilate them.<sup>65</sup> The Danes, on the other hand, believed that the Greenland Eskimos were inferior; hence there was no point in wasting time and money trying to assimilate them. Efforts were directed towards providing a simple life for them in their own land, and until 1953, Greenland was isolated from all outside contact in the interest of paternal rule, its missions and trade controlled by the state. Canadians have wavered somewhere between these two ideals, believing on the one hand that the culture was doomed and that the people *must* be assimilated, and, on the other, that they should be helped to live off the land in ways that would not unduly violate the traditional culture and the romantic illusion of the

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<sup>63</sup> Sprudz, Aleksandrs, "Co-operatives in the Canadian Arctic." In **Year Book of Agricultural Co-operation**, eds. J. Elise Bayley and Edgar Parnell. (Oxford: The Plunkett Foundation for Co-operative Studies 1984), p.166.

<sup>64</sup> Jenness, Diamond., **Eskimo Administration I. Alaska**. Arctic Institute of North America, Technical Paper no.10, 1962.

--**Eskimo Administration II. Canada**. Arctic Institute of North America, Technical Paper no. 16, 1964.

--**Eskimo Administration III. Labrador**. Arctic Institute of North America. Technical Paper no.16, 1965.

--**Eskimo Administration IV. Greenland**. Arctic Institute of North America. Technical Paper no.19,1967.

<sup>65</sup> Jenness, Diamond., **Eskimo Administration V: Analysis and Reflections**. Technical Paper No. 21. (Calgary: University of Calgary, Arctic Institute of North America, 1968), p.32.

“noble savage”. The greatest deficiency in Canadian Arctic Development has been the lack of a coherent plan.

Considered more of a hindrance than an asset in northern-resource exploitation, the well-being of Inuit has been low on the list of state priorities. Clearly, the main objective of economic-development efforts in the late fifties and early sixties was to reduce welfare spending on Eskimos. There appears to have been considerable concern that the Canadian State might have to look after these people indefinitely. Jenness remarked that “destitution and hunger stalked the Arctic, and Ottawa could see no remedy except unending relief.”<sup>66</sup>

**2.7.1 (c) Inuit as the Defender of the Canadian state’s territorial borders:** Inuit played a role in asserting Canadian sovereignty, by virtue of their occupying the Arctic. In what has become a controversial move, several groups were relocated to the High Arctic in the interest of establishing a Canadian presence. The northern Native people are also a key element in the Canadian Rangers patrols operating throughout the NWT and Labrador. The Rangers constitute “Canada’s only permanent military presence in the High Arctic.”<sup>67</sup> Their job is to report sightings of submarines and strange aircraft to Yellowknife headquarters, whence a reconnaissance aircraft would be sent to investigate. The rangers “demonstrate visible proof of Canadian presence in sparsely settled northern, coastal and isolated areas of Canada.”<sup>68</sup>

In 1957, the federal government launched its “Roads to Resources” program to facilitate mining through construction of roads to mine sites. The first permits for oil-and-gas exploration in the Arctic Islands were issued in 1958; in 1962, the first oil

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<sup>66</sup> *Ibid.*, p.25.

<sup>67</sup> Marsden, William. “With a 1940s rifle, He stands on guard for Thee.” *Montreal Gazette*, (5 October, 1965).

<sup>68</sup> DIAND 1989g.p.76.

well was drilled in the Arctic Islands and an iron deposit was discovered on northern Baffin Islands. Fired by the 1968 discovery of oil and gas at Proudhoe Bay in Alaska, Canadian politicians eagerly revived Stefansson's and Diefenbaker's dreams of tapping the Arctic's supposed storehouse of riches.

Believing in 1968 that the Arctic was rich in oil, the Trudeau government exerted every effort to increase Canadian oil and gas exports to the United States. But it was also in 1968 that an American oil company sent the oil tanker *Manhattan* through the Northwest Passage without asking Canada's leave, thus precipitating a crisis of sovereignty. When the incident was repeated in 1970 with a second voyage by *Manhattan*, Prime Minister Trudeau dealt with the American challenge to Canadian sovereignty by enacting the Arctic Waters Pollution Prevention Act, which gave Canada jurisdiction in northern waters for one hundred miles offshore to deal with pollution, a move less assertive than an overt declaration of sovereignty.

**2.7.2 Policy of India towards its tribal population:** After independence, the tribals were considered as a 'problem' by their more advanced fellow citizens. The administrators, anthropologists, Christian missionaries and social workers have viewed this 'problem' from different angles with different perspectives. These views and approaches could be divided into three categories.<sup>69</sup> They are:

- (a) Isolation
- (b) Assimilation
- (c) Integration

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<sup>69</sup> Hasnain, Nadeem., **Tribal India**, (Palaka Prakashan: Delhi 2002).p.162.

**2.7.2 (a) Isolation:** The noted anthropologist, Verrier Elwin had propounded this approach, also called the 'National Park' approach. He is of the opinion that all alien links, responsible for the unregulated and unrestricted contacts with the modern world and the resultant miserable condition of the tribes, should be snapped and the primitive people should be allowed and encouraged to flourish in their own primitive environment. The administration of the tribals was to be 'so adjusted as to allow the tribesmen to live their lives with utmost possible happiness and freedom. No missionaries of any religion were to be allowed to break up tribal life.' This approach has been severely criticized on the ground that in the name of protecting the culture of the tribals, they cannot be kept aloof from the rest of India. They are not domestic cattle or zoo exhibits but equal citizens of free India and thus they should be allowed to contribute towards the advancement of their country and enjoy the resultant fruits of development.

**2.7.2 (b) Assimilation:** This approach got considerable acceptance when lobbied by social workers. The protagonists of 'assimilation' advance the view that tribes should be assimilated with their neighbouring non-tribal cultures. However, it is a known fact of history that total assimilation of any cultures has not been possible. Even the Indian nation-state is the product of various cultural currents, co-existing side by side. The policy of 'assimilation' had an ethnocentric bias against tribal culture.

**2.7.2 (c) Integration:** Jawaharlal Nehru was the foremost propounder of this approach. He was an outspoken critic to the imposition of the Hindu way of living on tribal populations reared in another tradition. He being the first Prime Minister after Independence, was in a position to influence the Indian State's approach to the tribals



which could be termed as 'integration'. Indian society is plural, and space should be given for the tribes to be a part of this vast and encompassing social milieu.

The 'Mizos', occupying the present day Mizoram and the surrounding areas are recognized as a 'Scheduled Tribe' by the Constitution of India, 1950. While discussing the term in the context of India, Jagannath Pathy strongly asserts that, "The origin of the term ['tribe'] is closely connected with the rise of European colonialism and its racist ideology, for hegemonic purposes. It is not merely accidental that only in the heyday of colonialism were the people labeled as tribes. Despite its ideological connotations the term has survived,....At the moment,...it has always and everywhere carried a negative connotation like relative backwardness and supposed 'primitivism' of their social, cultural and economic practices."<sup>70</sup> As an administrative term in India, it appeared— perhaps for the first time—in the 1872 Census of India. It evolved as "primitive tribes" in the 1931 Census and "backward tribe" in the Government of India Act, 1935, and eventually found its place in the Constitution of the independent India.<sup>71</sup> In the adoption of this term in India, Nirmal Sengupta suggests that the superiority of the "Indo-European" race is postulated.<sup>72</sup>

According to Andre Beteille, "Where tribe and civilization co-exist, as in India..., being a tribe has been more a matter of remaining outside of state and civilization... than of attaining a definite stage in the evolutionary advance from the simple to the complex." With regard to the Scheduled Tribes of India, Beteille continued, "They are

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<sup>70</sup> J. Pathy, "What is Tribe? What is Indigenous? Turn the tables towards the metaphor for social justice," *Religion and Society* 38 (1991): 21-22.

<sup>71</sup> B.K. Roy Burman, "Tribal Population: Interface of Historical Ecology and Political Economy," in *Continuity and Change in Tribal Society*, ed., Mrinal Miri ( Shimla: Indian Institute of Advanced Study 1993), pp.176-77.

<sup>72</sup> Nirmal Sengupta, "Reappraising Tribal Movements- I: A Myth in the Making," *Economic and Political Weekly* 23, 7 May 1988, 943-944.

all tribes because they all stood more or less outside the Hindu civilization”<sup>73</sup> By identifying a section of the nation’s minorities “outside of Hindu civilization” as tribe, the Indian Constitution finds a place for the “tribals” in the overall structure of the nation’s “socio-ritual hierarchy.”<sup>74</sup>

P.K. Bose has classified the whole tribal population of India into “two principal territorial zones,” namely, “the north-eastern or frontier zone and the non-frontier zone.”<sup>75</sup> This classification follows the administrative classification of the tribal communities by the Constitution. Though it indiscriminately labels all the diverse communities as Scheduled Tribes, the Constitution does make a certain differentiation for administrative purpose. All tribal communities outside the Northeast are classified under the fifth schedule of the Constitution. Accordingly, they are to be administered by their respective states through “Tribes Advisory Council.” The tribals of the Northeast are classified under the Sixth Schedule which confers a special administrative provision with a good deal of autonomy. The Tribes of Northeast India are not only different in their racial and cultural make up from the rest of India, they have a different historical origin and experience. These factors had a significant impact on the region’s political developments.

The degree of diversity amongst tribes in India is such that no common feature could be suggested as distinctive to tribal identity in India. For instance, while some scholars find “tribal cohesion” existing in some central India tribes,<sup>76</sup> the same could hardly be identified among many tribes of the Northeast. As Roy Burman indicates,

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<sup>73</sup> Andre Beteille, “The concept of tribe with special reference to India,” *Archives Europeenes de Sociologie* 27, No. 2 (1986): 316.

<sup>74</sup> M.N.Srinivas and R.D. Sanwal, “Some aspects of Political Development in the North-Eastern Hill Areas of India,” in *The Tribal Situation in India*, ed. K. Suresh Singh (Shimla: Indian Institute of Advanced Study 1972),p. 121.

<sup>75</sup> P.K. Bose, “Congress and the Tribal Communities in India,” in *Diversity and Dominance in India*, Vol 2, *Division, Deprivation and the Congress*, eds. Ramashray Roy and Richard Sisson (New Delhi : Sage Publications 1990).p. 64.

<sup>76</sup> Suresh Sharma, *Tribal Identity and the Modern World* (Tokyo: United Nations University Press, New Delhi:Sage Publications 1994),pp.13-14.

while some communities listed under Scheduled Tribes are called tribals merely as a “secondary phenomena,”<sup>77</sup> others may be considered to be “post-primitives,” and still others may be designated as “primitive tribes.”<sup>78</sup> Morton Fried’s concept of tribe as “secondary phenomenon”<sup>79</sup> best explain the “tribal identity” of the Northeast “tribals.” To Fried, what anthropologists designated as tribes “represent neither a definite type of society nor a definite stage of evolution.”<sup>80</sup> Instead, the designation may best be regarded as “secondary phenomenon” which acquires its form and identity from some external source. As the people in the borderline between the two great civilizations of India and China, the unassimilated portion of the Northeast people came to acquire their “tribal identity” from an external source of Indic caste hierarchical system.<sup>81</sup>

North-East India has three distinct regions: Assam Valley, Purvanchal and Meghalaya-Mikir region. It is strategically important, and has natural frontiers on three sides and a political boundary with four political communities. They are, China in the North, Bhutan in the West, Bangladesh in the South and Myanmar in the East. Sir Alexander Mackenzie says that the British Government’s policy to the tribes on its North-East Frontier has been a policy of conciliation and not a policy of repression or devastation. It was in 1872 that measures were taken for the complete subjugation of the territory of the tribes.<sup>82</sup>

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<sup>77</sup> “Secondary phenomena’ is Morton Fried’s words for whom tribe in today’s world is a secondary phenomena, and it acquires its form and identity from the external source. See Roy Burman, “Tribal Population: Interface of Historical Ecology and Political Economy,” in **Tribes in Perspective**, Encyclopaedia on Scheduled Tribes, Scheduled Castes & Disadvantaged Peoples- 1 (New Delhi: Mittal Publications, 1994),p.176.

<sup>78</sup> Ibid., 176,202.

<sup>79</sup> Morton H. Fried, **The Notion of Tribe** (Menlo Park: Cummings Publishing Company, 1975).

<sup>80</sup> Beteille, Andre., “The concept of tribe with special reference to India,” **Archives Europeenes de Sociologie** 27, No. 2.(1986): 303.

<sup>81</sup> Pachuau, Lalsangkima., **Ethnic Identity and Christianity.**,(Peter Lang GmbH, Europaischer Verlag der Wissenschaften: Frankfurt am Main 2002),p. 43.

<sup>82</sup> Rao, Venkata, V., **A century of Tribal politics in North-East India 1874-1974**, (S. Chand and Company Ltd: New Delhi 1976),p.32.

Before Independence, the tribal areas in North-East India were divided into excluded areas and partially excluded areas. The Indian Independence Act, 1947, provided that all provinces and all parts of the Province should be governed as nearly as might be in accordance with the Government of India Act, 1935, the Orders-in-Council and other Instruments made there under. As a consequence, the Special Responsibilities of the Governor disappeared. From 15 August 1947, the administration of the Excluded and Partially excluded areas was entrusted to the Government of Assam. In 1948, the Indian Provisional Constitution Order added the Proviso to Section 91 authorizing the Governor-General to remove any area from the list of partially or completely excluded area or add any area to an excluded or partially area.<sup>83</sup>

The remote North-eastern region was the last to be conquered by the British. “The Tribal Policy” or “Frontier Policy” followed by the British was designed to keep the tribal peoples satisfied so that the strategic frontier area could be isolated against any intrusion from the neighbouring foreign countries as also keep them immune from any influence of the growing national movement of the plains. Absence of sympathetic contact with these backward peoples on the part of the national political or social leaders on the one hand, and the proselytizing activities of the Christian missionaries on the other, through educational and health services etc., made the respective peoples sympathetic towards the foreign rulers. There was little scope of imbibing in their minds, any feelings of “Indianness”. So, the spirit of isolation or exclusiveness in these areas is not of recent origin.<sup>84</sup>

Along with the growth of Indian nationalism, there grew the spirit of ‘regional nationalism’ based on distinctive languages, cultures etc. of the different groups of people. There is the gradual emergence of Nagas, Mizos and others from their

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<sup>83</sup> Ibid., p.102.

<sup>84</sup> Pakem, B., *Insurgency in Northeast India*, (Omsons Publications: New Delhi 1997),p.223.

respective ethnic or clan life to a nascent national or sub-national status. All these seven states of the Northeast region are treated as 'special category states' getting 90% of all fund allocation as grants for development. This high dependency on New Delhi did not solve much of the region's problems characterized as it is by large scale un-employment, economic and industrial backwardness, alienation etc which gave birth to insurgency. Right from the beginning, Governments of India had no clear-cut policy towards the insurgent movement in the North-East. Its attitude and policy can at best be described as 'ad hoc'.<sup>85</sup>

It was during the colonial period that the people of the North-East came in contact with a stronger and secular culture of the British. The contacts with the British had brought about the cultural shocks which had usually uprooted some section of the people from their cultural moorings. Further, in the case of the hill people, the artificial physical isolation through excluded, partially excluded and un-administered areas had also resulted in cultural isolation of the people from the rest of India. This process had alienated the hill people from other Indians and they began to look more inwardly and emphasize their separate cultural identity.<sup>86</sup> Under Indian Constitution, this separate cultural identity is sought to be preserved and protected through various provision.

## **2.8 Comparative analysis between the Inuit and the Mizos:**

It can be seen that the Inuit had a very long history which is traceable, going back thousands of years. The Mizos, due to lack of written records, can trace their history

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<sup>85</sup> Joshua, Thomas C., 'Kuki-Naga Conflict', in the *Proceedings of the North East India Political Science Association*, (Third Annual Conference, 1993), pp. 40-46.

<sup>86</sup> Agrawal, M.M., *Ethnicity, Culture and Nationalism in North-East India*, (Indus Publishing Company: New Delhi 1996), p.16.

authoritatively back to only a few centuries earlier. It can be said that both the groups are migrants to their present habitation.

The Inuit did not have a clear conception of God as a creator. This did not however mean that they are irreligious. They have a shaman (*angakog*) who propitiate the spirits for a successful hunt. The Mizos believed in a benevolent God called *Pathian*, the creator. Evil spirits (*huais*) also abound, and they are propitiated by the *bawlpu*. Thanksgiving sacrifice to God is conducted by the priest (*sadawt*). In both the cases, the religious practices were believed to have economic repercussions. The religion of both groups thus exhibited a functionalist character. The religious men for both groups occupied leadership position in the social structure.

The Inuit did not have a secular head in the form of Chief as the Mizos do. This could be because of their nomadic life-style which necessitates constant movement with the change in season and the migratory nature of the hunt. During hunting, the Inuit were guided by an elder male called the *isumaitoq*. He provided leadership for the group.

The Mizo social structure is more elaborate with the Chief aided by his Council of Elders (*Upas*) and other officials such as the Blacksmith (*thirdeng*), the village crier (*tlangau*) etc. Though village site is shifted after some years, the character is more stable as compared to the Inuit.

The economy of the Inuit can be said to be characterized by hunting and gathering. Agriculture is not practiced, probably due to the snow-laden climate of the Arctic. The Mizos practiced shifting cultivation on the hill slopes. They also hunt and gather forests products.

The pre-contact collective identity for both the Inuit and the Mizos is not fully developed to the extent of having a pan-Inuit or a pan-Mizo collective identity consciousness.

The Inuit and the Mizos belonged to a special class of citizens in Canada and India respectively. Circumstances of history, the distinct socio-cultural practices, isolation, relative backwardness etc contributed to the special treatment meted out to them by the Canadian and Indian State.

## Chapter 3

### Outside contact and the resultant changes for the Inuit and the Mizos

#### 3.1 Inuit contact with outside forces

##### 3.1 (a) First contact :

Like those living in Greenland, the Labrador Inuit have “been longest in *continuous* contact with the white man”,<sup>1</sup> but it is not yet known exactly when they first made contact with Europeans. The first clear reports of European and Inuit contact are from the early eighteenth century, when three French established seal and cod fisheries in southeastern Labrador. Relations were not friendly, but there was some trading with local Inuit, and trade relations became “even more regular after 1743”.<sup>2</sup> The Moravian missionaries, who had begun establishing missions-cum-trading posts in 1752, enjoyed a trading monopoly in Labrador until 1926, when their trading operations were transferred to the Hudson’s Bay Company. The arctic explorers were not particularly interested in contacting the people, nor were they interested in settling the land. But they did meet with, and sometimes write about, the people they encountered. The English explorer Frobisher was something of an exception; for he produced “the first notable accounts about Eskimos”.<sup>3</sup> The Hudson’s Bay Company was more interested in whaling and exploration than it was in trading with the Eskimos. The trader Finlayson considered “the prospects of a substantial Eskimo trade would remain poor ‘until they shall have learned to increase their wants.’”<sup>4</sup> Given the lack of planned, regular, and sustained contact, it can be assumed that encounters with explorers and

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<sup>1</sup> Kleivan. Helge., **The Eskimos of Northeast Labrador: A History of Eskimo-White Relations 1771-1955** ( Oslo: Norsk Polarinstitut 1966),p.9.

<sup>2</sup> Taylor. J. Garth., **Historical Ethnography of the Labrador Coast**, in Handbook of North American Indians. (1984),p.510-11.

<sup>3</sup> Oswalt. Wendell H., **Eskimos and Explorers**. (California: Chandler and Sharp 1979),p.25.

<sup>4</sup> Ross,W. Gillies. ed., **Whaling and Eskimos: Hudson Bay 1860-1915**. (Ottawa: Publications in Ethnology No. 10, National Museums of Canada 1975), p.30.



early traders had little effect upon indigenous socioeconomic structures. Goods and materials obtained from these early agents of contact were highly prized. Most sought after were wood and metal, for which there were no counterparts in the traditional culture. Also Inuit continued to be enchanted with such frivolous items as “belles, looking glasses, and other toys”.<sup>5</sup> Except for a few instances of temporary employment, those relationships were economic, centered on trade but not developed enough to be considered relations of exchange. The incipient trading relations were not transformative, and while they paved the way for structural shift, the explorers and early traders were not a major force of change.<sup>6</sup>

### **3.1 (b) The whalers:**

Ross, a chronicler, writes that whaling represented “the first substantial exploitation of resources by outside interests and the first major thrust of an alien culture among the Eskimos.”<sup>7</sup> The impact of whaling went far beyond the introduction of disease; for not only did the whalers undertake trading activities but they also utilized the labour of the local people. The whalers also introduced new means of production, the most momentous of which were guns and whaleboats. The new technology resulted in significant alterations in the relations of production as well as changes in population distribution, which resulted when Inuit made trips to the whaling areas to trade, some taking up residence near the whalers. Not only did arctic whaling bring about “fundamental changes in human geography” but it also “played a role in the extension

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<sup>5</sup> Francis, Daniel., *Discovery of the North: The Exploration of Canada's Arctic*. (Edmonton: Hurtig 1986).p.12.

<sup>6</sup> Mitchell, Marybelle., *From Talking Chiefs to a Native Corporate Elite*, (McGill-Queen's University Press:Montreal 1996),p. 62.

<sup>7</sup> Ross,W. Gillies,ed., *An Arctic Whaling Diary: The Journal of Captain Comer in Hudson Bay 1903-05*. (Toronto: University of Toronto Press 1984), p.3.

of Canadian sovereignty and administration into the region”.<sup>8</sup> For a long time unconcerned, Canada suddenly realized in the early 1900s that she was allowing foreign ships unimpeded access to her territory. However, politicians of the time paid no heed to the changes—greatest in the areas of direct contact but extended through trade to even remote groups—being wrought in Inuit life.

Contact with whalers also provided the opportunity for entirely new relations of production. For the first time, Inuit became employees. Opportunities for employment made settlement near the whalers even more desirable. Apart from the use of Inuit as employees, there is one highly significant feature of Inuit employment with the whalers, and that is the practice of using some Inuit as “head natives” to organize the work of others. The head natives recruited other workers to whom they relayed the captain’s orders. Since supervision of the head natives by the whalers was minimal, they came to be powerful people.<sup>9</sup> The traits favoured in the selection of head natives were mostly consistent with leadership qualities valued in the pre-contact situation. In a word, the whalers wanted good hunters, but the ability to learn some English and to organize others was considered an asset. According to Ross: “Not infrequently *angakoqs*, or shamans, possessed these characteristics and were ready to cooperate with the whale men in order to increase their authority over other Eskimos.”<sup>10</sup> Another reason for the *angakoq*’s popularity as head native is that ritual was always an accompaniment to the killing of the whale. Taylor repeats Birket-Smith’s observation that whale hunting is particularly “hedged by strict taboo, magic formulas, and the use of amulets.”<sup>11</sup> There would have been some competition

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<sup>8</sup> Ibid, p.3.

<sup>9</sup> Ibid,p.85.

<sup>10</sup> Ibid,p.80.

<sup>11</sup> Taylor,J.Garth., *The Arctic Whale Cult in Labrador*, *Etudes/Inuit/Studies* 9, no.2(1985), p 121-32.

between the *angakoqs* and the *isumaitoqs*, especially when it came to organizing work crews.

The relationship between whalers and Inuit can probably be described as symbiotic. Since Inuit were hired mainly as hunters, their “work” was essentially “an extension of their traditional pursuits”. The whaling masters “normally exerted only a loose kind of authority” over Inuit. There was no “atmosphere of absolute subservience to outside authority.” The whaling period represents the first prolonged contact between Inuit and an alien culture, and it is interesting that encounters between whale men and Inuit appear not to have provoked the hostility experienced by many of the explorers. It was during the whaling period that Inuit began to distinguish themselves into proto-classes, later labeled by Vallee as *Kabloonamiut* (those who entered into relationships with the whites) and *Nunamiut* (those who continued to live on the land).<sup>12</sup> Inuit were sorting themselves into categories based upon economic advantages that derived from the association with an outside ethnic group.

Sustained interaction with the whalers also had the double effect of undermining and sustaining ethnic identity. Many Inuit learned a foreign language and adopted Anglicized names, at least for use with non-Natives. Customary territorial divisions were eroded as Inuit congregated in camps around the whaling harbours, a prelude to massive centralization in the mid-twentieth century. On the other hand, the breakdown of territorial boundaries and intertribal hostilities paved the way to a broader affiliation along ethnic lines. Inuit who had previously referred to themselves only as “the people” began to perceive themselves as a particular *kind* of people, distinct from Europeans. The whalers had paved the way, bringing the Eskimos in one scant half-century “from a subsistence hunting economy to the threshold of a

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<sup>12</sup> Vallee, F.G., *Differentiation Among the Eskimos in Some Canadian Arctic Settlements*, *Sociological Research in the Arctic* 6-21, (1962), p.10.

commercial trapping economy”. The whalers were traders when they left, and as Francis so eloquently expresses it, they left the Eskimo “hungry for the white man’s trade.”<sup>13</sup>

### **3.1 (c) Traders, Missionaries, and Police: A Community of Interest:**

Few Inuit came into contact with traders before the twentieth century, when the international demand for white fox spurred the establishment of permanent posts across the Arctic. Usher considers that the 1909 establishment of Cape Wolstenholme in Quebec marked “the real beginning” of the HBC’s arctic trade.<sup>14</sup> The effect of the missionaries cannot be overestimated: “Beginning in 1721, with the first Lutheran mission in Greenland, missionaries slowly emerged as the most powerful intellectual influence on Eskimo life. All Eskimos have had direct and intimate contact with them, often for hundreds of years.”<sup>15</sup> Though the Anglicans and the Catholics viewed themselves as competitors for Eskimo souls, they had a common enemy—the *angakoq*, whose role they were unabashedly usurping.

The shamans proved unequal to the Christians, who “had spectacular success,” converting whole camps “at one stroke”.<sup>16</sup> Although conversions were widespread, it is probable that Inuit did not abandon their beliefs as easily as it might have appeared. In some communities, there were “undercover shamans” whom everybody knew about but did not talk about.<sup>17</sup> Brody remarked that some Christian theology was

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<sup>13</sup> Francis, Daniel., **Arctic Chase: A History of Whaling in Canada’s North** (Newfoundland: Breakwater Books 1984), p.107.

<sup>14</sup> Usher, Peter., **Bankslanders: Economy and Ecology of a Frontier Trapping Community**. 2 vols. (Ottawa: Information Canada 1970), p.1-16.

<sup>15</sup> Oswald, Wendell H., **Eskimos and Explorers**. (California: Chandler and Sharp 1979), p.285.

<sup>16</sup> Vallee, F.G., **Kabloon and Eskimo in the Central Keewatin**. (Ottawa: Canadian Research Centre for Anthropology, Saint Paul University 1967a), p.25.

<sup>17</sup> D’Anglure, Bernard Saladin., **Inuit of Quebec**. In Handbook of North American Indians. Vol.5, (1984a), p.503.

incorporated into shamanism,<sup>18</sup> and Remie observed that the older people in particular interpreted the new religion “according to traditional religious categories.”<sup>19</sup> The Inuit called the missionaries “teachers”, which they were, and their teaching was not confined to matters of religion. The missionaries set out quite deliberately to reform the Eskimo way of life, and spared no effort to civilize them. They restricted polygamy, sent children away from the “heathen” environment to “civilizing” residential schools, and condemned infanticide, wife exchange, and hunting on Sundays. The missionaries deliberately attempted to undermine many Inuit practices, a project facilitated by the fact that for many years, they were in complete control of education.<sup>20</sup>

In 1880, Britain transferred *all* the arctic territories to Canada but, as Ross says,” the description of their limits was hopelessly vague, perhaps intentionally, and was therefore open to more than one interpretation.”<sup>21</sup> It was not until the beginning of the twentieth century that, alarmed by intensified efforts on the part of American and Norwegian explorers to register claims to arctic territories, Canada decided to wave a flag on its own behalf.<sup>22</sup> More cause for alarm was the settlement of the Alaska/Canada boundary in 1903, which “effectively cut off the northern half of British Columbia from direct access to the sea.”<sup>23</sup> Americans were perceived as the most immediate threat. In an early official history of the force, *Policing the Arctic*,

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<sup>18</sup> Brody, Hugh., *Living Arctic: Hunters of the Canadian North*. (Toronto: Douglas and McIntyre 1987), p.207.

<sup>19</sup> Remie, C.H.W., *Culture Change and the Persistence of Traditional Religious Beliefs and Practices: Notes on the Impact of the Oblate Mission on a Community of Hunters and Gatherers 1935-1963*, *Sociaal Anthropologische Cahiers VIII*. (Instituut voor culturele en sociale anthropologie: Nijmegen 1982), p.64.

<sup>20</sup> Oswalt, Wendell H., *Eskimos and Explorers*, (California: Chandler and Sharp 1979), p.286.

<sup>21</sup> Ross, W.Gillies., ed, *An Arctic Whaling Diary: The Journal of Captain Comer in Hudson Bay 1903-1905*. (Toronto: University of Toronto Press 1984), p.34.

<sup>22</sup> Coates, Kenneth., *Canada's Colonies: A History of the Yukon and Northwest Territories*. (Toronto: James Lorimer and Company 1985), p.141.

<sup>23</sup> Ross, W. Gillies., *An Arctic Whaling Diary: The Journal of Captain Comer in Hudson Bay 1903-1905*. (Toronto: University of Toronto Press 1984), p.35.

author Steele writes of “the conquest” of the Arctic by the Northwest Mounted Police. It was, he says, a “peaceful, adventurous conquest”; further, “the gradual subjection of almost half a continent” was achieved by a single body of men “who perform not only the duties of police, but of all administration.” Vallee observed much later that “theoretically,” the police are to enforce the law, “but traditionally this has been one of the least significant aspects of the role of the RCMP in the Arctic,” where, like the missionaries, they played several roles: “administrators, registrars, census takers, ambulance operators, allocators of relief, mailmen, and rescuers.” Given vague terms of reference and unclear authority, it was not easy for the police to fulfill their multifaceted responsibilities.

Patrols were discontinued after 1911 and the Canadian Arctic Expedition, a more scientific venture, was launched by the Geological Survey under the leadership of Vilhjalmur Stefansson, who became “a tireless promoter of the economic potential” of the Arctic.<sup>24</sup> Activity in the North lapsed during World War I but resumed afterwards on a larger scale than before. The Eastern Arctic Patrol was revived in 1922 and the RCMP established a number of posts that were to become “a symbol of Canada’s sovereignty over the North.”<sup>25</sup> Airfields and weather stations were constructed at strategic points during World War II, and in the early 1950s the United States and Canada cooperated in constructing the Distant Early Warning System (the DEW Line), a radar line that ran from eastern Canada to Alaska to act as a deterrent to Russian invasion. Morrison thinks it probable that by 1925 all Inuit in the Eastern Arctic had been visited by the RCMP.<sup>26</sup>

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<sup>24</sup> Francis, Daniel., **Discovery of the North: The Exploration of Canada’s Arctic.** (Edmonton: Hurtig, 1986), p.205-08.

<sup>25</sup> DIAND Report, (1986), p.25.

<sup>26</sup> Morrison, William R., **Canadian Sovereignty and the Inuit of the Central and Eastern Arctic.** *Etudes Inuit/Studies* 10, nos. 1-2, (1986), p. 255.

The first sign of a new kind of government intervention in the North occurred when Inuit were included in Canada's Family Allowance Act, passed in 1944. They were paid in kind, not money, since cash was not used in the Arctic at the time, and payment was contingent upon having children enrolled in school, a requirement that meant that Inuit either had to "settle" at the posts or send their children to residential schools. In 1953, after the war, the Department of the Interior was renamed the Department of Northern Affairs and National Resources, and "a further rationalization of related government services" led to its becoming, in 1961, the Department of Indian Affairs and Northern Development. "This latter move seemed," Coates says, "to put the wolves in with the chickens, in that the department's responsibilities to defend native interests were often directly at odds with the priorities of would-be developers."<sup>27</sup> The focus was on national resources, not the inhabitants who continued to have ambiguous status within the Canadian state.

Interest in the North reached new heights during the reign of Prime Minister John Diefenbaker (1957-63). The thrust of his "New National Policy" was to provide access for private enterprise to northern resources.<sup>28</sup> Visions of untapped wealth had lingered from the days of Stefansson's poorly conceived Canadian Arctic Expedition (1913-18), and the emphasis of Diefenbaker's national policy, as developed by Alvin Hamilton, minister of Northern Affairs and National Resources, was firmly on resource development, to be facilitated by roads, railways, communication systems, etc. The message from Hamilton was that the North was "a new world to conquer"; echoing Stefansson, he added: "It is like a great vault, holding in its recesses treasures to maintain and increase the material living standards which our countries take for

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<sup>27</sup> Coates, Kenneth., *Canada's Colonies: A History of the Yukon and the Northwest Territories*. (Toronto: James Lorimer and Company 1985),p.198.

<sup>28</sup> *Ibid.*p.199.

granted.”<sup>29</sup> This dream, which continues to excite some, has yet to be realized. There may be resources in the Arctic, but the obstacles to their extraction are costly and enormous.

There was a great influx of civil servants into the Arctic during the fifties, with Yellowknife becoming the administrative centre for the NWT, Aklavik for the West, and Frobisher Bay for the East. Curricula were made consistent with those in schools all over Canada, in deference to the universalist approach to education favoured by industrial societies; for, as Vallee put it, “the goal of easy circulation in Canadian society presupposes at least a basic formal education along lines already laid down for the great majority of the population.”<sup>30</sup> The federal schools were intended to serve both settlement and land families, but this meant that the latter had to board with settlement families, which resulted in fewer land children being educated. This, in turn, exacerbated the differences between town and camp Inuit. The Eskimos who had the best habitations, the most secure sources of income, the largest and latest model outboard motors and canoes, the respect of the Kabloona, and plenty to eat are those who can either speak English or who at least can comprehend it sufficiently to communicate with the powerful Kabloona.<sup>31</sup>

### **3.2 The Transformation—**

#### **3.2.1 Economic, political and ideological transformation amongst the Inuit:**

By the end of the 1950s, the pre-contact economy and ideology had been largely replaced, and although an organized polity and ethnic consciousness were not part of

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<sup>29</sup> Ibid.

<sup>30</sup> Vallee, F.G., *Kabloona and the Eskimo in the Central Keewatin*. (Ottawa: Canadian Research Centre for Anthropology, Saint Paul University 1967a), p.152.

<sup>31</sup> Ibid, p.167.



the indigenous mode of production, the groundwork for both was laid with centralization. In the new administrative centers, Inuit were “governed” by non-Natives. In the new “communities,” the Eskimos had the opportunity to become aware of the differences between themselves and outsiders, and the lesson they learned was that power is tied to ethnic position. Centralization was the prerequisite for political, economic, and ideological transformation. The process of centralization began with the whalers, who first interrupted the pattern of seasonal migration. Desirous of obtaining foreign goods, many Inuit began to spend sustained periods in semi-permanent camps at the whaling harbours. In the 1920s, traders opened posts in some of those same harbours where they were joined by the missionaries and police and, later, by teachers, nurses, and northern-service officers, recruits sent by the Department of Indian Affairs and Northern Development to manage the northern “communities.”

In the 1950s, many camp populations had been decimated through evacuation of tuberculosis patients to southern sanatoria, and in order to survive, those remaining moved into the closest posts. Declining fur prices were also a factor in relocation. In some cases, whole camps were airlifted into the settlements. Some Inuit were relocated solely in the interest of establishing Canadian sovereignty. In their book, Tester and Kulchyski conclude that DIAND was accommodating the HBC by moving trappers to areas where their labour and furs were needed to support a trading post.<sup>32</sup> Disease introduced from the outside world was pervasive in the new towns and had a devastating effect. By the fifties, there was little choice, and the posts became the nucleus of towns into which most Inuit moved permanently. As the twentieth century moved into its sixth decade, Inuit had one foot in both worlds, definitely locked into

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<sup>32</sup> Tester, Frank James, and Peter Kulchyski., *Tammarniit (Mistakes): Inuit Relocation in the Eastern Arctic 1939-63*. (Vancouver: University of British Columbia Press 1994), p.185.

new relationships but attempting to mesh these with non-capitalist practices. It was no longer a case of exploitation *between* two modes of production but of a change *within* the pre-contact mode of production, signaled by new relationships.

According to Vallee, status and performance, previously synonymous, were now being differentiated. "New criteria of evaluation are entering the social scene: the mastery of such skills as those required to mix easily with the Kabloona, and command of the English language in particular; ability to perform work which is highly valued by the Kabloona, such as the operation, maintenance, and repair of machinery; criteria such as these are becoming as significant as the more traditional ones in determining how people are evaluated."<sup>33</sup> Prestige was clearly the result of being attached to a powerful non-Native in what Paine called a "patron-client" relationship, not hereditary but tending to favour families.<sup>34</sup> Vallee noted that "no less than five household heads of the leading Kabloonamiut are the offspring of parents who were themselves linked with some Kabloona person, such as missionary, HBC Manager, and RCMP, in a patron-client relationship." He concluded that it was not that the role was hereditary, but that "the acculturation process has been mediated through these patrons or sponsors," and now "the clients themselves are the mediators between the Kabloona society and the Nunamiut."<sup>35</sup>

Dubbed "talking chiefs," the Kabloonamiut were treated by the non-Native group as spokesmen for all Eskimos. They took turns chairing the Eskimo Council meetings, for instance, although they were only figureheads, the real power being vested in the northern-service officer. As Vallee put it, "they are taking on the role of representatives of the whole Eskimo community *vis-a-vis* the Kabloona", a role that

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<sup>33</sup> Vallee, F.G., *Kabloona and Eskimo in the Central Keewatin*, (Ottawa: Canadian Research Centre for Anthropology, Saint Paul University 1967a), p.139.

<sup>34</sup> Paine, Robert., *A Theory of Patronage and Brokerage, in Patrons and Brokers in the Eastern Arctic*, ed., (Newfoundland: Memorial University Press 1971), pp. 8-21.

<sup>35</sup> Vallee, (1967a), p.143.

put them at odds with traditional authority, which never extended beyond one's own family or hunting group.

### **3.2.2 Collective identity amongst Inuit after contact:**

Inuit did not perceive themselves to be a distinct ethnic group, nor were they officially recognized as such until the 1970s when the necessity of signing treaties with them made definition of the category urgent. Following the 1939 ruling of the Supreme Court of Canada, they had been treated as Indians and administered under the Indian Act. But in the late sixties, Vallee detected "a trend towards the emergence of something which can be called an Eskimo social system in the Canadian Arctic, a social system which transcends local camps and communities and links widely separated people in a consciousness of kind."<sup>36</sup> This consciousness of kind, which can probably be termed a fledging ethnic solidarity, was lacking in traditional times and weakened by the lack of economic interdependence among Eskimo communities.<sup>37</sup>

They might not have thought of themselves as a unified population, but Eskimos were treated as a distinct kind of people by outsiders who entered into economic relationships with them. Former affiliations, loosely based upon extended family groups, were considered inconsequential, and many Inuit found themselves shepherded into artificial communities formed around trading posts where their productive activity was governed by outsiders who assumed authority. There is strong evidence that camp identities persisted and that Inuit solidarity was tenuous at best; still, the forces of collectivization were difficult to resist, and in spite of the differences—people of the seal, the inland people, etc—that had previously been acknowledged, Inuit were treated, and began to perceive themselves, as a unity

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<sup>36</sup> Vallee,(1967a),p.217.

<sup>37</sup> Ibid.,p.217-8.

distinct from “others.” Even those who remained in the camps were affected; for the emergence of the camp as a satellite of the post resulted in a new kind of collective identification.

By the end of the 1960s, Inuit were dominated economically (by the traders), politically (by the police who placed them under state authority in towns), and ideologically (by Roman Catholics or Anglicans). Compared with many other indigenous groups which have been subjected to pressures of change from an overpowering industrial society, the Eskimos are remarkable for the absence among them of individuals and factions with profound material and emotional vested interests in the *status quo*. Vallee considered that the pragmatic, present-oriented (“existentialist”) attitude of Inuit inhibited resistance. They did not “have a profound vested interest in their old way of life” nor did they have a “clearly formulated hostility” to the newcomers.<sup>38</sup>

Despite the general lack of resistance to westernization, Vallee noted the beginning of a pan-Eskimo movement in the late fifties with no evidence of Inuit being assimilated into mainstream Canada. The spokesmen of this movement were the products of settlement living or lengthy stays in hospitals or residential schools: “In cultural terms they are closer to the Kabloona than to the traditional Eskimo. However, for many of them, identification with the Eskimo reference group is quite strong”; it was “possible that they could inspire or act as spokesmen for protest movements as the Eskimos gain more insight into their predicaments.” Interestingly, Vallee noted that “the assumption of such a role by the Eskimos who are most acculturated to Kabloona

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<sup>38</sup> Ibid., p. 31-2.

ways is likely to occur if they feel socially rebuffed by the Kabloona or if they view themselves as victims of discrimination.”<sup>39</sup>

Inuit, it is clear, were now organizing around both ethnic and economic factors, and the emerging socioeconomic differences were the result of an alliance with outsiders, the townspeople being patronized by the non-Native population and thereby participating in greater material wealth and power than the land people. Because they were a devalued ethnic group, and because they were not needed as labour, Inuit remained outside the Canadian class structure.

### **3.2.3 From talking Chief's to a native corporate elite<sup>40</sup>:**

The most significant sphere of state involvement was the economic. As early as 1949, an ex-fur trader, James Cantley, had been sent by the federal government on a tour of the North to determine the prospects for economic development. He reported pessimistically that “he could discern in the Arctic no important natural product that could be exploited for the benefit of the Eskimos, within the foreseeable future except the white fox, and, in the Mackenzie delta, the muskrat.”<sup>41</sup> Foreseeing no stability in the white-fox market, Cantley had suggested that there were only two ways to raise the living standards of the Eskimos: the development of “petty industries” and handicrafts, or larger government subsidies and “doles.”<sup>42</sup>

Fifteen published area economic surveys were completed between 1958 and 1967. The goal of the survey was to determine the basis for local economic and social progress in the northern areas. Jenness dubbed the scheme a “little Colombo” plan, “but with

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<sup>39</sup> Vallee.,1967a.p.21.

<sup>40</sup> This is the name of a book written by Marybelle Mitchell. It dealt with changes underwent by the Inuit on all fronts, but most notably on the economic.

<sup>41</sup> Jenness,Diamond., Eskimo Administration II. Canada. Arctic Institute of North America. Technical Paper no.16. (1964),p.81

<sup>42</sup> Ibid.,p.98.

this difference, that the experts were permanent employees of the Canadian government, and their surveillance was more intense than would have been possible had they been working in a foreign land.”<sup>43</sup> The first co-operative was established in northern Quebec in 1959. M.M.Coady, a leading figure in the Canadian Antigonish co-op movement said, “Economic co-operation is a technique by which men have discovered how to carry on business without taking any toll from their fellows. It is thus the ultimate in justice.”<sup>44</sup>

Cooperatives in Canada are incorporated under provincial jurisdiction, which has meant “a definite diversity across Canada regarding the place, the role and the status co-operatives may be able to attain for themselves in their communities.”<sup>45</sup> The Co-operative Union of Canada, formed in 1909, later instituted a division called Co-operatives Everywhere that was committed to developing cooperatives in underdeveloped communities both at home and abroad.

After a slow start, bureaucrats had quickly developed high expectations of the economic potential of arts and crafts. In 1964, in his first speech to the new Canadian Eskimo Arts Council, then minister of Northern Affairs Arthur Laing referred to the use of Eskimo art as a national symbol: “On a broader plane, Eskimo art has become identified with Canada on an international scale.”<sup>46</sup> It is no accident that the concept of Canadian sovereignty in the North was developed during the same period as Inuit art. The bureaucrats took a hands-on role in the nurturing of Inuit art, a role they usurped from the HBC, which till then was selling approximately ninety-five percent of all production. The state’s determination to involve itself in the marketing of prints

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<sup>43</sup> Ibid.,p.109-10.

<sup>44</sup> Cooperative Union of Canada (CUC), **Commercial Co-operatives: Their Role in Canada’s Economy**.(Pamphlet 1969),p.8.

<sup>45</sup> Sprudz,Aleksandrs.. **Co-operatives in Native Communities in Canada**, Canadian Journal of Public and Cooperative Economy 8, nos.1 and 2, (1975),p.37.

<sup>46</sup> Ibid.

at the risk of good relations with the Great Company it had historically been at pains to mollify must be viewed in the context of a twin need for profitable northern commodities and for national icons. Inuit came to believe that the source of their power resided in their art, the only economic base upon which they could build. It is something they do that no one else does, and the only thing they produce that has any market value to the outside world.

The first Central Marketing Agency is formed:

Canadian Arctic Producers was incorporated on 12 July 1965 by the Co-operative Union of Canada at the request of the federal government. Ostensibly, the idea for CAP came from the Inuit co-op members but, like the co-ops themselves, CAP was another state project, perhaps another way of legitimating state involvement in marketing the increasingly popular Eskimo arts and crafts. A central marketing agency had been one of the recommendations of the first arctic co-op conference in Frobisher Bay in 1963. At the time of the Frobisher conference, there were sixteen Eskimo cooperatives across the Arctic with five hundred paid-up members, representing one out of five Inuit in the North. The Frobisher conference was the first major gathering of Inuit from across the Arctic. At this time, few Inuit had had sustained personal contact with outsiders, let alone any experience with business or politics.

At the local level, the cooperative was the first institution to organize leadership “on a community-wide basis.”<sup>47</sup> Also, Vallee remarked, “In almost all of the communities where co-operatives have been established, you will find a small nucleus of native people who become converted to the co-operative ideology. They are typically young adults between 25 to 40 years of age, *people who would not have been leaders in*

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<sup>47</sup> Arbess, Saul E., *Social Change and the Eskimo Co-operative at George River, Quebec* (Ottawa: Northern Co-ordination and Research Centre, Department of Northern Affairs and National Resources 1966), p.38.

*traditional times*. These are people whose skills are suited to the present. They are flexible and they try to learn the ropes of modern life.”<sup>48</sup> Those few Inuit who became managers in the co-op system operate under certain constraints. They are accountable to a board of directors, who are predominantly White. The asymmetrical shape into which almost all Eskimo-White relationships have been fashioned: missionary-catechist; RCMP constable-special Eskimo constable; Hudson’s Bay manager-post servant, etc. In the case of the cooperative, there is a self-conscious public denial that this ethnic imbalance exists or should exist and the Eskimo is defined as someone who has as much to say as anyone else. All this goes against a background of a real imbalance between White and Eskimo in relevant skills, power, and role.

The co-op also sparked the beginning of a pan-Eskimo movement, which was evident, according to some observers, at the first co-op conference in Frobisher Bay in 1963, just four years after the first co-op was incorporated at George River. This was the first occasion in history on which Eskimos from all across the Canadian Arctic had assembled for any purpose. Sprudz reported that there was, “the detectable birth of a Pan-arctic feeling.”<sup>49</sup> The net effect of being treated as a discrete group of one kind or another is a perception that one is indeed a member of such a group. In other words, a sense of “us” and “them” is born. Jenness may have been correct in his assertion that there was no sense of nation among Inuit; they were just “Inuit,” the people. But then outsiders came and gathered them together and *ipso facto* they were of a kind, a different kind. The birth of a pan-Arctic movement surely did occur in Frobisher Bay in 1963, when for the first time Inuit saw themselves being treated as a collective.

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<sup>48</sup> Vallee.,( 1966),p.47.

<sup>49</sup> Sprudz. Aleksandrs., Co-operatives in the Canadian Arctic, in Year Book of Agricultural Cooperation, eds. J.Elise Bayley and Edgar Parnell.(Oxford:The Plunkett Foundation for Co-operative Studies 1984).p.171.



Co-ops were promoted from the beginning, as the second road, the route to independence, economic as well as cultural. Vallee noted that a favourite saying at the co-op meetings in Povungnituk in 1960 was “the Cooperative will not make you rich, but it will make you independent.”<sup>50</sup> Sprudz wrote, “The cooperatives have been schools in democracy and in responsibilities, and the training ground for technical knowledge, entrepreneurship and also for leadership.”<sup>51</sup>

### **3.3 The repercussions—**

#### **3.3.1 Native land claims:**

When Canada took over Rupert’s Land from the Hudson’s Bay Company in 1870 and the North-Western Territory the following year, it took on the responsibility of compensating Indians for land taken by non-Natives for settlement.<sup>52</sup> Several treaties had already been signed with Indians, prompted by the necessity of maintaining peace while settling the West. But since settlement was not a factor in the arctic territories, it had not been necessary to sign treaties with the Inuit. This changed, however, in 1973, when the minister of Indian Affairs and Northern Development acknowledged the state’s obligation to “negotiate settlements with native groups in those areas of Canada where any native rights based on traditional use and occupancy had not been extinguished by treaty or superceded by law.”<sup>53</sup> Since then, Canada has recognized two types of claims: specific claims, based on allegations that the state has not fulfilled specific obligations proceeding from signed treaties or the Indian Act, and comprehensive claims, which are based on use and occupancy of the land. Inuit had

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<sup>50</sup> Vallee..(1967b),p.42.

<sup>51</sup> Sprudz..(1975).p.47-8.

<sup>52</sup> Daniel. Richard C., *A History of Native Claims Processes in Canada, 1867-1979*. (Ottawa: Research Branch, Department of Indian and Northern Affairs 1980),p.1-2.

<sup>53</sup> Ibid.,p.5-6.

no basis for specific claims, but they were entitled to negotiate on the basis of use and occupancy of the vast arctic territory.

The first settlement of a comprehensive claim put forward by Inuit occurred only a few years later. In November 1975, the James Bay and Northern Quebec Agreement was signed by the state and several other parties, including representatives of the Inuit and Cree of that region. Other claims soon followed. In February 1976, Inuit Tapirisat submitted an Agreement in principle to the government of Canada that involved dividing the North West Territories. Called by different names, these agreements are latter-day treaties containing varying provisions for hunting, trapping, and fishing rights, burial grounds, settlement privileges, carving-stone rights, resource-revenue sharing, real property interest and the right to rents thereof, control over education, language, social-welfare facilities, policing, and game management.

The impetus for land-claim settlements originated, not with the Inuit, but with the state. In the same way the Canadian state had previously been committed to a policy of proceeding with northern treaties (Indian) only when the land was required for settlement, there was no movement on Inuit comprehensive claims until the state perceived a need for the land—in this case for exploitation of resources and energy rather than settlement.<sup>54</sup> Just as the Alaskan settlement was put into motion to enable the United States to build the Alaska oil pipeline, the Canadian state facilitated land-claim settlements with Inuit to pave the way for massive exploitation of the reputedly resource-rich Arctic. Inuit were not necessarily intended to benefit from this exploitation.

Oil had been discovered in the North in the sixties and the oil industry was straining at the gate. Since 1969, Daniel writes, with understatement or irony, “Comprehensive

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<sup>54</sup> *Ibid.*, p. 11.

Claims have received the greatest public attention ...due in part to their somewhat symbiotic relationship with major resource development projects in Northern Canada.”<sup>55</sup> Settlement of claims would enable the state to control resource development, but the trick was to reconcile this with the Native peoples’ assumed prerogative to hunt, fish, and trap where they wished. Before contact, Inuit recognized no “ownership” of the land. It, like the air, was there for all to use. They were therefore “amazed” to learn that the land belonged to the government. Recognizing that “self-government in various forms is a basic element of our democratic system,” an information sheet released by DIAND in February 1989 declared that “the federal government believes that aboriginal peoples, while enjoying all rights of Canadian citizens, should have institutions of self-government that meet their unique requirements.”

### **3.3.2 The drive for ethno-regional rights:**

Paradoxically, while economic activity and the compensation received for it are becoming more individualized, there has developed over the last ten years a definite sense of collective identity that is being expressed in a movement for ethno-regional rights. Rejecting the “two founding nations myth,” Inuit Tapirisat of Canada’s position is that “Inuit have certain collective rights under international law because colonization has violated the right of Inuit to govern themselves and their lands. Colonization is recognized by the international community as a serious violation of the right of peoples to self-determination. Inuit are entitled to assert this right of self-determination within Canada and to have it recognized in the Constitution.”<sup>56</sup> Demanding recognition of “a third order of government, composed of indigenous

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<sup>55</sup> Ibid.,220.

<sup>56</sup> Inuit Tapirisat of Canada (ITC), **Constitutional Reform: The Government’s Process and the Inuit Positions**. Advertisement in Nunatsiaq News, (Iqaluit, August 9, 1991).

nations and governments in Canada,” ITC called for official recognition of aboriginal languages, creation of Nunavut, representation of aboriginal people at constitutional forums and first-ministers’ conferences, and the constitutional entrenchment of “a free-standing right of aboriginal peoples to self-government.”<sup>57</sup>

Aboriginal and treaty rights (undefined) were first recognized by Canada in 1982. The debate since then has focused on whether or not those rights include the inherent right of self government. Consultation with Inuit in Pangnirtung on the constitution in 1991 resulted in the Pangnirtung Accord, which outlined three objectives: recognition of the inherent right of self government; full and equal participation in the constitutional reform process; and recognition of Inuit as a distinct society with cultural and language rights.<sup>58</sup> The final report of the Constitutional Committee produced in February 1992 did, however, concede that the Native people possess inherent rights.

The aboriginal push for involvement in constitutional reform gained astonishing momentum during 1992, when the incumbent Conservative government became preoccupied with constitutional amendment. The Native people had to fight to be included in the process, crashing a conference in Toronto and staging a demonstration at Harrington Lake where the premiers were meeting. Inuit opted out of the Harrington Lake demonstration, which was organized by the Assembly of First Nations. Kuptana, president of ITC said, “The Indian way is not the Inuit way.” The Inuit strategy was to attempt to meet with Quebec politicians in an effort at conciliation, Quebec being perceived as the major anti-Native force. Quebec is opposed to definitions of aboriginal self-government out of a fear that the Native people, who live in fifty-four Quebec communities, could take over provincial lands.

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<sup>57</sup> Ibid.

<sup>58</sup> ITC 1992, 1.

Canadian Inuit seem convinced that they can run their own affairs, and, in spite of their growing realization that they are impeded—not just by their inferior position within the Canadian state but also by internal factionalism amongst the Aboriginal population. Continuing the practice begun in 1939, Canada continues to try to treat them as part of a general aboriginal category, but the idea of Inuit nationhood is being refined partly in reaction to this collapsing of distinct ethnic groups.

### **3.3.3 Nunavut: The largest comprehensive land claim in Canada:**

History was made on 9 July 1993 with the proclamation of the Nunavut Act and the Nunavut Land Claim Settlement Act. The first divides the NWT to create a new territory in which Inuit are dominant, making up some eighty-five percent of the 18,000 people in the area. The second act settles a land claim with 17,000 Central and Eastern Arctic Inuit (eighty percent of the population in the area). The Nunavut land claim, originally presented by Inuit Tapirisat in 1976 but taken over by the Tungavik Federation of Nunavut in 1982, provides Inuit with title to approximately 350,000 square kilometers of land (36,257 square kilometers with subsurface mineral rights) and access to other lands. Inuit will not, however, be allowed to sell land to anyone except the state, although they can lease it. Compensation of \$580 million (1989 dollars) will be paid over fourteen years with interest, for a total of \$1.14 billion. A Nunavut Wildlife Management Board will be established with equal Inuit and public membership, and three national parks are to be set aside. Inuit are to be represented on all boards set up to oversee land-use planning, wildlife and water management, and environmental and socioeconomic reviews of development proposals.<sup>59</sup>

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<sup>59</sup> DIAND 1990a.

In December 1991, the federal government finally agreed to negotiate a political accord on Nunavut, but this was to remain a parallel process outside the land-claim agreement. An accord was reached in April 1992 for a Nunavut government similar to the present Yukon and NWT governments, but since Inuit are a majority in the Eastern Arctic, they will be able to control an elected legislature. Nunavut is therefore analogous to Quebec, a homeland for Inuit of the Eastern Arctic. NWT Inuit voted on 3-6 November 1992 on the Nunavut land claim and sixty-nine percent were in favour, paving the way for the creation of a new territory and a new, Inuit-dominated government by 1999. They ratified the division of the NWT at the same time as they surrendered aboriginal title in return for financial compensation and certain defined rights over wildlife and other resources.

### **3.4 Contact of the Mizos with outside forces:**

#### **3.4.1 Advent of the British in the Lushai Hills:**

The mountainous land of Mizoram was not commercially inspiring for the British at the height of its colonial rule, as it had no known mineral resources. The Mizos were carrying on their struggle for existence. They used to raid British villages for food and salt, as well as to establish clan supremacy amongst the plain people of Cachar, Sylhet, Manipur and Chittagong. This compelled the British to initiate punitive expeditions to the Lushai Hills in order to pacify the wandering tribes.<sup>60</sup> With an aim to secure peaceful relationships with the tribes, the British India government enacted the "Bengal Eastern Frontier Regulation I of 1873." The regulation drew an imaginary line called the "Inner Line" to serve as a unilateral boundary with the frontier tribes.

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<sup>60</sup> Prasad, R.N., *Government and Politics in Mizoram*, (Northern Book Centre:New Delhi 1987),p.15.

The government's policy was to exercise political influence only without direct interference or administrative control on these border tribes; therefore, it prohibited all British subjects from going beyond the line without permission.<sup>61</sup> In the case of Mizoram, the Inner Line was applied to its Cachar boundary in 1875<sup>62</sup> and continued to be in effect even after the official annexation in 1895 and the independence of India in 1947. When the territories of the border tribes were annexed, they were administered separately by the policy of indirect rule. Based on the Government of India Act 1919, the Governor-General-in-Council declared a number of territories, including the territories of the border tribes, as "Backward tracts" which nullified the authority of Legislatures and vested the Governor-General with special power.<sup>63</sup> Along this line, following the recommendation by the Indian Statutory Commission (also known as the Simon Commission), the Government of India Act of 1935 (Section 91 and 92) made provisions for the "Excluded area" and the "Partially Excluded Area." These areas were to be "excluded [or partly excluded] from the operation of Provincial and federal Legislations."<sup>64</sup> No act of the Federal Legislature or Provincial Legislature was applicable to such areas unless the Governor directed it. The people in the Excluded Areas could neither participate in the government nor elect representatives to the Legislature, whereas in the Partially Excluded Areas the people could vote for members of the Legislature. In 1936, the government declared the Lushai Hills District (Mizoram), the Naga Hills District, the North Cachar Sub-division, and the Frontier Tracts as Excluded Areas, and the Garo Hills District, the

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<sup>61</sup> Ray, Animesh., *Mizoram Dynamics of Change*. (Calcutta: Pearl Publishers 1982), p.43.

<sup>62</sup> "Notification by the Government of India, Foreign Department, No.2299 P., dated the 20<sup>th</sup> August 1875, as modified under G.O. No.1246 dated 19<sup>th</sup> June 1878." The notice is reproduced in Mackenzie, A., *The North-East Frontier of India*. (New Delhi: Mittal Publications 1979), p.397.

<sup>63</sup> The declaration effecting the Hill districts of Northeast India was made on 3<sup>rd</sup> January 1921. Venkata Rao, V., *A Century of Tribal Politics in North East India, 1871-1974*. (New Delhi :S. Chand & Company Ltd 1976), p.52.

<sup>64</sup> Nunthara. C., *The Politics of the Mizo Hills*, (Ph.D. diss.: University of Delhi 1981), p.182.

Khasi and Jaintia Hills District, and the Mikir Hills tracts as “Partially Excluded Areas.”<sup>65</sup>

### **3.4.1 (a) British occupation of the Lushai Hills:**

The British administrators of Cachar began to feel the presence of the Mizos in their southern frontier beginning in the early 1840s. The first notable incursion on the British “territory” by the Mizos was in 1842 when they raided “Sylhet woodcutters on the ground that they had withheld from the Lushais [Mizos] tribute due on timber.”<sup>66</sup> According to Alexander Mackenzie, the British government’s attention was drawn by the Mizos only in 1847 when they raided the districts south of Manipur.<sup>67</sup> In the British government’s record, the Mizos’ raids on the British territories were relatively frequent between 1849 and 1871.<sup>68</sup> Between 1872 and 1890, the raids occurred less frequently. Most British records hold the savage character of the Mizos (or Lushais as they were then called) as the irrational factors of the raids. However, taking their case mostly from oral traditions, a good number of Mizo historians are convinced that the British’s encroachment of their territory was an important factor for the Mizos’ raids.<sup>69</sup> Having failed to yield any effect with some small scale punitive measures, the British authority sent the first major pre-planned “punitive expedition” to the Mizo hills in 1868. This expedition suffered a severe “defeat”<sup>70</sup> at

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<sup>65</sup> Chaube, S., *Hill Politics in North-East India*. (New Delhi: Orient Longman 1973), p.22.

<sup>66</sup> McCall, Anthony G., *Lushai Chrysalis*. (Calcutta: Firma KLM Pvt Ltd. 1949), p.38. The government’s record of the earliest Mizo raid occurred in 1826.” Office record of the Deputy Commissioner, Mizo District”. No. DG/7/63/13 dt, Aijal, the 13<sup>th</sup> June ’63. quoted by Nag, Chitta Ranjan, *The Mizo Society in Transition* (New Delhi: Vikas Publishing House Pvt Ltd. 1993), p.84.

<sup>67</sup> Mackenzie, A., *The North-East Frontier of India*. (New Delhi: Mittal Publications 1884); reprinted, (1995), p.563.

<sup>68</sup> Nag, Chitta Ranjan. *The Mizo Society in Transition*. (New Delhi: Vikas Publishing House Pvt Ltd 1993), p.85.

<sup>69</sup> Lalkhawliana. “Centenary Chibai (Editors Note),” *Mizoram Gospel Centennial Jubilee-1994 Souvenir*. (Aizawl: The Gospel Centenary Sub-Committee on Souvenir 1994), p.1.

<sup>70</sup> Vanlawma, R., *Ka Ram leh Kei: Political History of Modern Mizoram*, 3<sup>rd</sup> edition. (Aizawl: M.C. Lalrinthanga 1989), p.52.



the hands of the Mizos and failed in its mission to punish “the savages”. More severe raids, including the widely publicized murder of Dr. Winchester and the abduction of his five-year-old daughter, followed in 1870-71. In response, a major punitive expedition was launched in 1871-72 as a showcase of the British power to recover the kidnapped Mary Winchester as well as to conduct a topographical survey.<sup>71</sup> This expedition marked the first major success in subduing the people. “Fifteen important chiefs,” says McCall, “had promised their lasting friendship and peace.”<sup>72</sup> When raids became more frequent again in some parts of the state in the late 1880s, the Lieutenant-Governor of Assam favoured occupying Mizoram. By this time, the territories of Burma (or Myanmar) adjacent to Mizoram were already annexed to the British Territory, leaving this small hill district surrounded on all sides by the British territories.<sup>73</sup> Two successive expeditions were dispatched in 1888-89 and in 1889-90. The second expedition, the so-called “Chin-Lushai Expedition of 1889-90,” became the last punitive expedition and “marked the final colonization of Mizoram.”<sup>74</sup>

The expedition was the largest in size and had two columns, one from the Chittagong (now Bangladesh) and another from Assam.<sup>75</sup> It explored the whole region up to the Chin state of Burma (Myanmar). When the expedition accomplished its objectives in “a most complete manner,” the two columns erected four “semi-permanent posts,” two in each of their respective areas of expeditions. The “[two] operations led to the creation of the 2 districts of the North Lushai Hills and South Lushai Hills..... The North Lushai Hills became part of the Chief Commissionership of Assam, while the

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<sup>71</sup> Woodthrope, R.G., *The Lushai Expedition, 1871-72*. (Calcutta: Firma KLM Pvt Ltd 1978 ) (reprint of 1873 edition)

<sup>72</sup> McCall, A.G., *Lushai Chrysalis*. (Calcutta: Firma KLM Pvt Ltd. 1949), p.50.

<sup>73</sup> Reid, Robert., *The Lushai Hills*. (Calcutta: Firma KLM Pvt Ltd 1942), p.8.

<sup>74</sup> Nunthara, C., *The politics of the Mizo Hills*. (Ph. D. diss.: University of Delhi 1980), p.69.

<sup>75</sup> Ray, Animesh., *Mizoram Dynamics of Change*. (Calcutta: Pearl Publishers 1982), p.10. According to the author, the force consists of 3,780 officers and sepoy, 2,511 Punjabi *coolies*; 782 local *coolies*; 2196 mules and 71 elephants.

southern district was attached to Bengal.”<sup>76</sup> The two districts were constituted separately, the North Lushai Hills District on 3<sup>rd</sup> July 1890 by the Government of India, and the South District on 1<sup>st</sup> April 1891.<sup>77</sup> Captain H.R. Browne was the first Political Officer of the North District with headquarters at Aizawl, and Captain J. Shakespear and C. S. Murray undertook the initial charge of the South at Lunglei. It had taken four more years and the life of a number of British officers including Captain Browne to finally subdue the two districts. In September of 1890, the western chiefs of the North district rebelled against their conquerors resulting in the death of Captain Browne.<sup>78</sup> R.B. McCabe, who succeeded Browne as the political Officer of the North district, was again faced with “operations on a big scale” to quench the uprising. Both these uprisings were caused by the new levying of taxes and revenues and the demand for forced labour. In the south, Shakespear and C.S. Murray had to deal with a number of rebellious chiefs, and the latter barely escaped an attack “having to fly for his life.”<sup>79</sup>

The final resistance by a Mizo chief, according to McCall, was subdued in 1895, and thenceforth “the Lushais settled down to accept the new conditions with stoical sagacity.”<sup>80</sup> Although the two districts had been officially constituted, they were officially declared to be part of the British India only in 1895.<sup>81</sup> The two districts were amalgamated in 1898 and named Lushai Hills District to be administered by the Chief Commissioner of Assam.<sup>82</sup> Like in the neighbouring hill districts, the British applied the colonial system of indirect rule in the district. The existing village chiefs

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<sup>76</sup> Reid, 17.

<sup>77</sup> Letter No.231-H.T.dated 22<sup>nd</sup> February 1891, quoted in Reid.p.43.

<sup>78</sup> Reid.p.23.

<sup>79</sup> McCall,A.G., *Lushai Chrysalis*.(Calcutta:Firma KLM Pvt Ltd. 1949),p.60.

<sup>80</sup> *Ibid*.p.64.

<sup>81</sup> Ray,Animesh., *Mizoram Dynamics of Change*, (Calcutta:Pearl Publishers 1982),p.307-08.

<sup>82</sup> *Ibid*.p.308. Also see Reid, 59-61.

continued to administer their villages on behalf of the new colonial rulers. The Lakher district in the extreme south was formally annexed only in 1931.

### **3.5 The transformation—**

#### **3.5.1 Christianity in Mizoram:**

As was prevalent elsewhere, Christianity came into the Mizo Hills in the wake of the *Pax Britannica*. The first Christian missionary Rev. William Williams of the Welsh-Calvinistic Church stationed in Khasi Hills visited Mizoram in 1891, but he stayed in the hills for only a month. In 1893-94 Rev. F.W. Savidge and J.H. Lorrain, both of the Arthington Aborigines Mission, came to Aizawl and stayed there till 1897. They learned and reduce the language of the people to writing, using the Roman script with slight modifications. They thus gave the supreme gift of “language and literature” to the Mizo people and prevented Bengali from becoming the trade and court language. They did this for communicating gospels to the Mizos. Their pioneering work was subsequently taken over by Welsh Presbyterian Missionary, Rev. D.E. Jones who established Welsh Presbyterian Mission in Aizawl in 1897. Both the Reverend J.H. Lorrain and F.W. Savidge returned to Mizoram in 1903 to operate on behalf of the London Baptist Mission in the South of Mizoram where they used Serkawn ( Lunglei) as a base.<sup>83</sup>

In the beginning, the Mizos were hostile to the Christian Missionaries. But very soon, they responded and the message of Christianity started spreading. The Mizos welcomed the teaching which promised them freedom from the heavy burden of rituals and sacrifices. Also, Christianity promised that those who believed in God’s

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<sup>83</sup> Prasad,R.N., *Government and politics in Mizoram*.(New Delhi: Northern Book Centre 1987),p.65.

words will go to *Pialral* (paradise or heaven). The animistic Mizo mind was capable of grasping that kind of message with a view to meeting their needs.<sup>84</sup>

Education was an important instrument of conversion and it formed a *Preparatio Evangelica*. They first concentrated their works on education and gradually monopolized the education system in the entire district till the Independence of India. The Mizos showed a remarkable eagerness for education from the beginning. By 1899, when there were only five baptized Mizo Christians in the state, the Sunday School already registered 46 pupils and the Day (elementary) School 56. Seeing the high quality of the Missions' schools, the Chief commissioner of Assam, merged the government's schools with the Missions' schools and transferred all the schools in the district to the Welsh and Baptist Missions in 1904.<sup>85</sup> The monopoly of educational activities opened up a great opportunity for Christian missions to make a lasting impact on the people. They established Lower Primary, Upper Primary, Middle and High Schools through which they used to do spiritual and educational teaching work for the people. Besides educational work, the Missions were engaged in medical and philanthropic works like caring for orphans in furthering the missionary cause which, in turn, helped the spread of Christianity amongst the Mizos. The Mizos embraced their new-found faith with so much dedication and submission that their entire social life and thought process have been transformed. Christianity has helped eradicate many evil practices and customs like head-hunting, sorcery, magic, sacrifice, slavery, warfare and inter-tribal feuds.

The Church became not only the religious and cultural agency but an employer for the newly educated elite who took to teaching and preaching as a black coated occupation. The Church thus became a centre of power and patronage in the Hill

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<sup>84</sup> *ibid.*

<sup>85</sup> Lloyd, J. Meirion., *History of the Church in Mizoram (Harvest in the Hills)*. Gospel Centenary Series No. 1. (Aizawl: Synod Publication Board 1991), p. 67-8

districts. It inevitably clashed with the British administration on various issues. The strategy of the administration was least interference with the existing order while the activities of the Church were undermining the very fabric of the traditional social structure. This dual policy is to guide the future course of the Mizo Hills, bringing unalterable changes in the socio-economic and political structure of the people.

### **3.5.2 Mizo economy under the District Council (1952-72)—**

The Lushai Hills in 1952 was elevated to the status of a District Council. The Five Year Plans now encompassed the area, wherein large amount of funds started entering the region, under both Planned and Non-Plan scheme. E.g., under Post and Telegraph, All India Radio, BRTF, NEHU, Defence, Banks etc. It is with this large influx of centrally sponsored funds that the economy of the region underwent drastic changes. Corruption made its mark, enriching those in governmental jobs willing to exploit their position. The gulf between the haves and have-nots widened.<sup>86</sup> The Census of 1951 recorded two and a half lakhs population in the Lushai Hills, of which 93% depended on agriculture for their livelihood. The 1961 census recorded the per capita income of individual person at Rs.206.<sup>87</sup>

1959 was the year of the *Mautam* famine. Frustration and alienation was high amongst the Mizo populace due to the neglect of its pitiable condition by both the Assam and New Delhi Government. Mizo National Famine Front (MNFF) was established to perform voluntary work. In 1961, the MNFF transformed itself into a political party called the Mizo National Front ( MNF). It took up arms, threatening peace and stability in the region. Grouping of villages was undertaken by the Government of India to weaken the insurgency movement. Traditional village

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<sup>86</sup> Thangchungnunga, 'Mizoram Sundawna: Tunhma leh Tunhnu' in *Kristiante leh Rahbi Thar*, edited by Rev.Lalchhuanliana, (Aizawl:Synod Social Front Committee 1991),pp.43-44.

<sup>87</sup> Mizoram District Gazetteers, 1989,p.208-09.

boundaries were re-drawn, *jhumming* cycle was disturbed. As a result, more and more people migrated to towns where new mode of creating wealth through trade enlarged the nascent capitalist economy. A new indigenous bourgeois class emerged.<sup>88</sup>

### **3.6 The repercussions—**

#### **3.6.1 Political processes amongst the Mizos:**

The newly educated class consisted many commoners who became an important public opinion shapers. Fired by ambition and constrained by traditional authority structure under the Chiefs, this class acted as an articulate group who voiced dissent against the institution of Chieftainship which they viewed as a repressive and exploitative institution. Society must change with time, they argue. The new situation forced the educated elites to mobilize themselves against the chiefs and traditionalism in general. Thus, the root of the new set of rulers based on democratic principle was envisaged by the people as early as 1920.<sup>89</sup>

The new ethos brought about by Western education and the modernization process basically transformed itself in negative orientation towards the traditional political set up. It is because of this reason that Mizoram politics did not stress out-group hostility and separatism in a forceful manner in the first few years of the political movement in Mizoram. The new mobilizing forces against traditionalism were the by-products of western education, strengthened by experiences during the First and Second World Wars. In the first few years of the First World War, the Lushai Hills Military Police Battalion supplied 103 officers and men for the Army in October 1914. They also sent 101 officers and men to Manipur for eight months to relieve the regular unit there.

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<sup>88</sup> Rinawma, R.L., and Tlanghmingthanga., *Kum 100 Kristian Zofate Hmabak*, (Bangalore Mizo Christian Fellowship: Bangalore 1994), p.140.

<sup>89</sup> Vanlawma, R., *My Country and I*, (Aizawl: Zoram Printing Press 1972).

Throughout the war, the Battalion supplied 7 officers, 33 non-Commissioned officers and 1024 men to the Gurkha Brigade. And a Labour Corps of 2000 men were raised in 1917-18 and went to France under Lieutenant Colonel Playfair. The Labour Corps earned a good name when in service and returned in June 1918, when it was disbanded, and a big welcome reception was staged for them at Aizawl. The First World War, thus, afforded wider contacts and helped in the accelerated process of modernization and the consequent emergence of new class of people hitherto unknown in the traditional setting.

But the emergence of new educated elites who brought with them new values did not create any tangible political impact till 1935 when the Young Lushai Association (YLA), a prototype of YMCA, was formed under the guidance of Rev. Edwards, a Christian missionary, at Aizawl. The YLA was not strictly a religious organization but rather an all-purposive organization carrying on religious, social, economic and political activities with special emphasis on health and cleanliness as well as charitable deeds. The YLA did not openly involve itself in politics until after the Second World War.

During the Second World War, a total of 3551 Mizos enlisted themselves in different branches of military services like Medical Corps, Assam Regiment, Assam Rifles, Air Force, Navy, Lushai Scout Corps and so on, and the Lushai Brigade (Scout Corps) did exceptionally well in the recapturing of Tiddim and Falam. On the whole, the impact of the Second World War had been wider contacts with outsiders and consequently the emergence of a new political consciousness as it did in other hill areas of North East India. Thus, the commoners were engulfed with the new ethos of political consciousness. Some members of the YLA (later changed into Young Mizo Association, YMA) felt the need for creating a political party as the YLA was too all-

purposive and its leaders being mostly religious men were constrained to delve deep into politics. As a result of this prevailing idea among the educated elites, the first political party, the Mizo Union, was formed in April 1946.<sup>90</sup>

Political activity of any kind was not permitted in the district up to the end of the Second World War. But the closeness of Japanese troops in Burma and the political enslavement of the Mizo people at the hands of the British Superintendent and the Chiefs brought about a lot of political consciousness and awakening in the district. The educated Mizo youths did not desire the Chiefs to retain their power by the time the British leave India.<sup>91</sup> They wanted to organize themselves into a political party. As a result, a political party called the Mizo Common People's Union with the permission of the Superintendent was formed on the 9<sup>th</sup> of April, 1946 to voice the people's aspirations and various demands especially with regard to political rights and status. The name of this party was later changed to Mizo Union.

The traditional elites bestowed political allegiance to a political organization called the United Mizo Freedom Organization (UMFO) which opposed the Mizo Union. The UMFO, with its policy of joining Burma and thus opting out of India, offered an opposition to the Mizo Union who favoured remaining within India. In May 1946, the Cabinet Mission suggested to have an Advisory Committee on the rights of citizens, minorities and tribal and excluded areas. This was the beginning of the transfer of power in India. Accordingly, the Constituent Assembly of India set up an Advisory Committee in terms of the Cabinet Mission plan on 24<sup>th</sup> January 1947. This Committee appointed a Sub-Committee known as the North-East Frontier (Assam) Tribal and Excluded Areas Committee on the 27<sup>th</sup> February 1947, with Gopinath

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<sup>90</sup> Nunthara, C., *Mizoram: Society and Polity*, (Indus Publishing Company: New Delhi 1996), p.122.

<sup>91</sup> Prasad, R.N., *Evolution of Party Politics in Mizoram*, published in *Political Science Review, Quarterly Journal of the Department of Political Science*, (University of Rajasthan: Jaipur 1986).



Bardoloi as its Chairman. The Bardoloi Committee, consisting of Rupnath Brahma, A.V. Thakkar, B.N. Rau, the Constitutional Advisor to the Constituent Assembly and Rev. J.J.M. Nichols Roy, the Khasi leader, Minister of Assam and member of the Constituent Assembly visited Aizawl in April 1947. The Committee co-opted Saprawnga and Khawtinkhuma from the Mizo Union Party to represent the Mizo problems.<sup>92</sup>

In the year when India was to get Independence, the Mizo leaders had triangular political views regarding the future political status of the hills— One faction of the Mizo Union aimed to join the Indian Union, while the UMFO aimed to opt out of India in order to merge with Burma. A third view purported by dissident Mizo Unionists toyed with the idea of independence. But the support for independence was fast dying out owing to the lack of support given to it by the people in the midst of anti-chief movement. The numerical strength of the commoners over the pro-UMFO traditional ruling group culminated in the emergence of the Mizo Union as the dominant party in the Mizo hills. The Mizo Union thus, stood for the abolition of chiefship and the eradication of traditional inequality. The keen desire of the Mizo Union, who enjoyed a mass following at the time, to link up their political life with Assam on the one hand and the fear of being submerged by outside culture on the other, could be reconciled within the framework of autonomous existence under the Sixth Schedule of the Constitution of India.<sup>93</sup>

When there was discussion on the Sixth Schedule in the Constituent Assembly, some of its members vehemently opposed the creation of the district and regional councils

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<sup>92</sup> Prasad, R.N., *Government and Politics in Mizoram*, (Northern Book Centre: New Delhi 1987), p.79.

<sup>93</sup> *Ibid.* p.86.

on various grounds. They feared a repeat of the bitter Partition. There were some representatives like Dr. Ambedkar, Bardoloi, Jaipal Singh, Nicholas Roy and A.V. Thakkar who wanted to integrate the Hill areas by reconciling the hill tribe's demand for political autonomy with the Government of Assam through the Sixth Schedule. For, integration means a sense of belonging, a feeling of oneness and a sense of unity. Its main objective is to bring about a social and religious climate in the country in which all the citizens irrespective of their religious affiliations or social status may be able to live a life of peace entirely devoted to the common purpose of building a strong and united country. This integrationist policy is intended to bring about gradual integration of the hill tribes and their areas with the plains through the schedule.

The Government of Assam would exercise its authority even in the autonomous districts. This is an improvement over the provisions contained in the Government of India Act 1935. According to this Act, the Governor in his discretion used to carry the administration of the excluded areas. But under the new Constitution, the Governor, on the advice of the Council of Ministers, would carry out the administration of the Hill areas. The Assam Legislative Assembly and the Indian Parliament would formulate laws for the Hill areas on all matters except a few. The burden is left to the Governor to show why the laws made by the Legislative Assembly or Parliament should not apply to these areas. The Hill areas would also be represented in the Provincial Cabinet and thereby participate in the decision making and formulation of policy. As per the new scheme, the Governor would act on the advice of the Council of Ministers, regarding the application of laws made by the Assam Legislative Assembly and the Parliament. But in the original provision, the Governor would accept the decision of the district council provided the resolution was passed by a three-fourths majority. But the Constituent Assembly thought that the councils might

prevent the application of any law to these areas. So, in order to get over this difficulty, the minister was empowered to extend any law made by the state legislature or Parliament to any area.<sup>94</sup>

The objective of the Sixth Schedule was to provide the Hill tribes with simple and inexpensive administration which would protect their tribal customs, culture and ways of life and also assure them maximum autonomy in the management of their tribal affairs. The Bardoloi Committee realized the geo-political importance of the Hill areas occupied by the tribes. Accordingly, the Committee suggested that these people should be free from the fear of exploitation and domination by the more advanced section of the plains people and unscrupulous businessmen. At the same time, it was made clear that the Hill areas were an integral part of Assam.

In 1947 when the Indian Independence Act came into force, the Mizo Union was informed about the incorporation of Mizoram (then Lushai Hills) with the State of Assam, since the district was a part of the State. Later, the Mizo Union accepted the Sixth Schedule and also decided to remain with Assam as one of its parts and sent its assent to the Governor of Assam.<sup>95</sup>

### **3.6.2 Political strife and violent phase:**

In 1959, there was a great *Mautam* famine all over the Hills due to the flowering of bamboos. The Mizo District Council and some Mizo M.L.A. in 1958 also cautioned the Government of Assam that the great famine would occur the following year and demanded positive action in this matter but adequate measures to meet the situation were not taken up by the Government. There were cases of starvation deaths. In order

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<sup>94</sup> Ibid.p.98-9.

<sup>95</sup> Ibid.p.100-1.

to provide relief to the famine-stricken people, a welfare organization was formed called the Mizo National Famine Front. R. Dengthuama and Laldenga were elected Chairman and Secretary of the Front. This social service organization continued functioning even after the famine in September 1961 and took all the credit for fighting the famine and helping the suffering people. Dr Chaube has rightly said, "Relief in fact turned out to be a salient form of patronage in the famine-stricken Hills."<sup>96</sup> The Front gained considerable popularity on account of its relief work.

The Mizo Union leaders, who were running the District Council were unhappy at the step-motherly treatment meted out to the Mizos by the Assam government. The State Official language issue of 1960, where attempt was made to make Assam the official language of governance too was vehemently opposed by the Mizo Union. In this situation, Laldenga received special patronage from the Chaliha government. In this background, the Mizo National Famine Front (MNFF) was converted into a political party called the Mizo National Front (MNF) on the 22<sup>nd</sup> October, 1961. Laldenga and R. Vanlawma, were first elected President and General Secretary.

In the early stages of political development, the authoritarian nature of the traditional political organization gave rise to stresses on traditional clan division as a means of political articulation. However, the changed situation brought about by the accelerated process of commercialization and modernization gave rise to the emergence of new values, the sources of which become removed from the traditional system of value based on agricultural works, chivalry, bravery and the authoritarian form of political organization. The new sources of values are thus, the skill in manipulating new opportunities afforded by the process of modernization. Thus, the powerful leaders are those who successfully exploit the new opportunities.

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<sup>96</sup> Chaube, S.K., *Hill Politics in North-East India*, (Delhi:Orient Longman 1973),p.165.

### **3.6.3 Collective identity amongst the Mizos after contact:**

The impact of commercialization and modernization had been the emergence of new ethos of ethnicity with the attendant stress on tribal group solidarity. With the relatively subordinate nature of the Mizo society within the dominant society in relation to the super-ordinate group, the process of commercialization had resulted in negative orientations towards the main, dominant out-group. This has been conducive to the maintenance of group cohesion at different levels of in-group membership, but give rise to the problem of the maintenance of ethnic boundary.<sup>97</sup>

Before the British annexation of the land, the tribe lacked political unity as each village was virtually independent of the others. The imperial rule—for its administrative convenience—forced the small independent village-state together which tended to enforce a sense of ethnic identity as the new basis of the political unity. The villages in turn became local political units recognizing one another. Important external factors helped to crystallize the new sense of identity, and the success of this unification was due largely to Christianity's message of fraternity. The people became most acutely aware of their commonality because of the presence of the European and Indian people in their midst. The continuing exposure of the people through formal and informal education to the wider world solidified them more than ever as a distinctive and unified people. The strongest bond, however, came from their new religion which they embraced with enthusiasm.<sup>98</sup>

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<sup>97</sup> Nunthara, C., *Mizoram: Society and Polity*, (Indus Publishing Company: New Delhi 1996), p.194.

<sup>98</sup> Pachuau, Lalsangkima., *Ethnic Identity and Christianity*, (Frankfurt: Peter Lang 2002), p.155.

The MNF, banking on the general feeling of neglect amongst the Mizo populace by the Assam and the Central Government during the famine of 1959, stressed on the differential variation between in-group and out-group. The MNF leaders stressed on differences between Christian Mizos and the larger Hindu India. They preached the social and cultural danger of remaining a part of India. All in all, the MNF leaders stressed the ethnic differences of the Mizos and the plains taking care to emphasize ethnic factor, evident in the Memorandum submitted to the Prime Minister in 1965 and the Declaration of Independence issued in 1966.

The concept of political self-determination on the basis of group solidarity thus became the dominant ideology of the MNF. The central theme of political self-determination had been overtly expressed by the president, Laldenga, of the underground MNF government when he was met by the representatives of the Church leaders in January, 1967, in which he said that the MNF stood for political self-determination of the Mizos. He emphasized that political self-determination is the birth-right of any nation group; and the Mizos, as a nation group totally different from Indians, should not be deprived of such a God-given national birth-right. Having thus set their philosophy on the political ideal of self-determination, the MNF leaders were finding it hard to explain the material feasibility of attaining sovereign independent Mizoram. They had to accentuate the possibility of mineral wealth in abundant supply, the forest wealth and improved method of agriculture through foreign aid, in order to win the support of the people. The leaders stressed that all these would be achieved through non-violence, as Christianity is opposed to violence.

The MNF leaders, on the other hand, were making secret negotiations with the then East Pakistan for supply of arms and other material help. East Pakistan was only too eager to extend help to the MNF in order to destabilize the Indian frontier. The MNF leaders also sought the support of the Communist government of China. The hard-core of the M.N.F members started hostile activities in Mizoram in February 1966. The crisis of 1970-71, whereby East Pakistan became a liberated country with a new name of Bangladesh, posed physical problems for the Mizo undergrounds who hitherto had hideouts in the erstwhile East Pakistan. Nevertheless, the ability to create alliance with other insurgent groups in the Arrakan and Chittagong enhanced material support; and with the weak nature of the Burmese government, the MNF was able to maintain its physical survival despite difficult circumstances. With the establishment of regular route across Burma in later stages, it could also make advantage of Chinese offer of arms and military training as the other insurgent groups such as the Nagas.

However, years of wandering in the jungles over the years had impaired the health condition of a number of MNF personnel who got themselves surrendered to the Indian government. Moreover, distrust in the leadership of Laldenga in spite of his commendable charismatic power and the realization of the futility of the original aspiration, that is, political self-determination for the Mizos translated as independent Mizoram, began to take tangible shape during 1969 among the educated members of the organization. Also, although some foreign countries which were decidedly hostile to India were outwardly sympathetic in their dealings, they were not ready to initiate concrete and tangible help to realize the MNF cause. They thus felt that they were being used by enemy countries of India as puppets to create internal troubles within India. All in all, frustration grew large among members of this group and a beginning of doubt in the feasibility of independent Mizoram emerged. Initially they had,

perhaps, visualized a protectorate state, but were now ready to accept, though not stated overtly, statehood for Mizoram rather than being led directionless by Laidenga who they disliked but were unable to overthrow because of his hypnotic-charismatic quality through which he could always get support from the less educated members of the military and the civil wing. The educated members opposed to Laidenga's leadership were collectively called the 'Blues' by the pro-Laidenga camp. Members of the Blues surrendered themselves to the Indian government. Despite long years of sufferings as MNF members, they lose their popularity. They were very rarely able to pursue politics as a career, while other ex-MNFs were usually active participants in the current Mizoram politics and hold important positions in major political parties. This could be because the MNF act as a symbol of Mizo ethnicity. An individual Mizo may feel averse to the activities of the MNF volunteers, or may not totally agree with its ideology of self-determination; nonetheless, he cannot help but accept the MNF as an agent of Mizo ethnic solidarity. The MNF drew support from all sections of the population in general, and particularly from the dethroned chiefs and their followers who were anti-Mizo Union. The MNF movement acts as a locus for the release of hostility to out-groups. And conflict with out-group promotes internal cohesion amongst in-group members. This is universally applicable as shown by Gelfand and Lee.<sup>99</sup>

Initially, a large section of the Mizo population were un-sympathetic to the cause of the MNF. However, events such as the grouping of villages changed the situation. Regrouping of villages into larger units as counter-insurgency measure as done in Mizoram during 1967-70 was modeled after the 1958 regrouping launched by the

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<sup>99</sup> Gelfand, Donald and E. Lee, Russel, D., *Ethnic Conflict and Power: A Cross National Perspective*, (New York: John Wiley and Sons Inc 1973), p.2.



British chiefly against the Chinese squatters in Malaya after the Second World War. It is also linked with the tragic and ill-fated experiment of 'agro-villages' in South Vietnam which was aimed against the Vietcong which was later modified by the U.S.A. The authorities responsible for grouping exercises in the past were foreign powers, viz. the British in Malaya and the U.S.A in South Vietnam, both aimed against the Communist insurgents. Hence its application in India is to some extent a deviation.

The immediate object of grouping of villages in Mizoram was to facilitate the effective operation of security forces against the underground elements which had taken control of interior villages spread out in far-flung areas. It was meant to cut off supply of food and money to insurgents, where villagers were sometimes forced to comply with the demands of the insurgents. The second objective of grouping was to accelerate the progress of development works, and to bring home immediately the impact of developmental programmes hitherto impossible owing to the scattered nature of villages coupled with extremely inadequate communication facilities. Shifting of remote hamlets into larger units for developmental reasons was recommended by the Planning Commission Study Team headed by Shri Tarlok Singh who visited the Hill districts of Assam, including Mizoram in the early part of 1966.<sup>100</sup>

Grouping of villages involve roughly 75 percent of the population of Mizoram and had four distinct categories namely (1) Protected and Progressive Village, (2) New Grouping Centre, (3) Voluntary Grouping, and (4) Extended Loop Areas. Each category of grouping was initially undertaken by the security forces and later the

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<sup>100</sup> Nunthara, C., Mizoram: Society and Polity, (Indus Publishing Company: New Delhi 1996), p.252.

centers were taken over by the civil administration. There was considerable local opposition to grouping which was quite understandable as none could be expected to be enthusiastic about leaving one's home for a new place under compulsion.

Grouping of villages adversely affected the Mizo economy, while it causes innumerable sufferings and hardships amongst the populace. Instead of containing insurgency, it increased the intensity of the armed struggle in a virulent form. *Jhumming* hours was considerably reduced due to constant army operations. Villagers had to render manifold duties such as fetching water and fuel, and acting as porters for the Army. Further, due to the largeness of newly grouped villages, the land, which was available for cultivation every year near the group center, was insufficient and not within easy walking distance. Generally, they spent almost the whole day in walking to their *jhum* fields and coming back. This reduced the productivity of crops, and made them dependent on government rations. Curfew was another headache, disrupting normal life. Army atrocities such as rape, torture of "suspected" individuals even to their executions, the burning of villages, and other acts of violence and injustice it committed against the people behind the "draconian laws" such as the Armed Forces (Assam and Manipur) Special Powers Act 1958 alienated the people. The practice of punishing innocent civilians was doubtlessly effective to counter the MNF's activities, but the harm it has caused to the Mizo people's relationship with their fellow Indians was incalculable, because for an average villager the Army represents India. Grouping of villages thus had the opposite effect, and insurgency received a new intensity.

#### **3.6.4 Attainment of peace:**

To pacify insurgency in the region and to integrate the Mizo people in the larger Indian nation, Mizoram was elevated to the status of a Union Territory in 1972. A significant trend in Mizo politics emerged, when Chhunga, Chief Minister of the ruling Mizo Union and Lalthanhawla, President of the Congress decided to merge unconditionally. The Congress and the Mizo Union were merged on 24<sup>th</sup> January, 1974 which was approved by the Congress High Command. The Congress became a single dominant party without any opposition party in and outside the Legislative Assembly. This political vacuum was filled by Thenphunga Sailo, a retired Brigadier of the Indian Army. He turned his 'Human Rights Committee' which probed into the excesses committed by the Army on the Mizo population, into a regional party known as the People's Conference in April, 1975. His mass appeal made his party by far the strongest among all the local parties in Mizoram, replacing even the Congress party in Mizo politics for a while.

The Government of India, with a view to elevating the Union Territory of Mizoram to a full-fledged state, introduced the Mizoram Statehood Bill in 1986, with special safeguards and provisions of forty elective seats in the Legislative Assembly and the 53<sup>rd</sup> Constitution (Amendment) Bill, in Parliament and the bill was passed by an absolute majority of votes. The President also gave his assent to the Mizoram Statehood Bill on the 14<sup>th</sup> of August, 1986. The state bill, thus, became an Act, but was not put into force with immediate effect. The reason was that it was politically agreed upon between the Central Government and the MNF Chief Laldenga to form an Interim Congress (I) and MNF coalition government, comprising 9 ministers of Cabinet ranks (5-Congress, 4-MNF), headed by Laldenga as the Chief Minister and Lalthanhawla (Congress I) as the Deputy Chief Minister, after the MNF on its part

completed laying down of arms and ammunition within July, 1986. So, the reigning Chief Minister Lalthanhawla hand over his post to Laldenga, as agreed, to pave the way for peace and harmony in Mizoram. The Congress-MNF coalition government headed by Laldenga as Chief Minister, and Lalthanhawla as Deputy Chief Minister was sworn in on 21<sup>st</sup> August, 1986.

The outgoing Chief Minister Lalthanhawla, in his Independence Day speech on 15<sup>th</sup> August, 1986 appealed to all sections of the Mizo people to cooperate sincerely with the government in the implementation of every part of the historic Memorandum of Settlement between the Government of India, the Government of Mizoram and the MNF. He also thanked the deep concern showed by the then Prime Minister of India, Rajiv Gandhi towards the Mizo people, and the statesmanship displayed by him. He repeated that the Mizo people, being a small community, have been fortunate to be a member of the great country that is India.<sup>101</sup> It looks like the majority of the Mizo population at that time agreed with his views.

### **3.7 Comparative analysis between the Inuit and the Mizos:**

It can thus be seen that the Inuit at the dawn of large scale changes wrought by contact with outside forces did not have a profound vested interest in their old way of life, nor did they have a clearly formulated hostility to the newcomers. Thus, they were won over without any battle fought against the outsiders. On the contrary, the Mizos with their Chiefs had tried to repel the British Imperial forces as long as possible. They hold onto their own till 1895.

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<sup>101</sup> Prasad, R.N., *Government and Politics in Mizoram*, (Northern Book Centre: New Delhi 1987), p.346.

Though the Inuit had longer contact with out-group members compared to the Mizos, it can be said that the result of these contact for both the group yielded similar awakening in terms of formation of collective identity consciousness. This consciousness is the driving force for the demand of the Inuit and the Mizos for a better and fairer arrangement for themselves in the constitutional arrangement of Canada and India respectively.

The first set of outsiders who are in contact with the Inuit were driven primarily by economic gain. These were the whalers and the traders. The British who subjugated the wandering Mizo tribes were not driven by the motive of economic gain. It was mainly to protect their subjects residing in the plain areas of Assam. Even when British administration was established after the final annexation of the Mizo Hills in 1895, the traditional authority structure under the Chief was not disturbed. The aim was to run an administration with the least minimum costs.

The Canadian State's project of economically enhancing the Inuit through the Co-operatives goes hand in hand with its desire to legitimize its claim of the Arctic territories. Similarly, the interest of the Indian State towards the North-East of India, of which the Mizo Hills is a part, is very much tinged with strategic interests.

The Co-operatives produce the first set of Inuit leaders capable of charting out a vision for the future of the group. It sees the survival of the Inuit within the state of Canada. Christianity followed *Pax Britannica* in Mizoram, as elsewhere, and is responsible for raising the new educated elites of the Mizos through its Mission schools. A section of these elites comprehend the survival of the Mizos to lie outside

India, and hence demanded Independence. However, the desire to be a part of the Indian nation-state triumph in the end, and the Mizo Accord of 1986 elevated Mizoram from the status of a Union Territory to a full-fledged state of the Indian Union.

### **3.8 Asymmetric federalism as an answer:**

India and Canada faced the problem of integrating numerous social entities into the national mainstream. Lack of structural linkages between the dominant group and the so called peripheral group such as the Scheduled Tribe Mizo in India, and the Indigenous Inuit in Canada requires an innovative effort on the part of policy makers to come up with ways to integrate these social entities with the national mainstream. Asymmetric arrangement in the country's political structure provides one way of bonding these distinct social groups into the national fabric.

The next chapter would examine the ways and method adopted by Canada and India in its attempt to integrate the Inuit and the Mizos respectively into the larger national institutional structure.

## Chapter 4

### Evolution of political processes for the Inuit and the Mizos

#### 4.1 Evolution of political processes for realization of the rights of indigenous

##### Inuit in Canada:

The Inuit of Canada are indigenous peoples who had occupied the Arctic region for thousands of years. Indigenous peoples, or First Nations in Canada, are generally considered as those who inhabit a country or a geographic region at a time when people of different cultures or ethnic origins arrived, the new arrivals later becoming dominant through conquest, occupation, settlement or other means. The federal government of Canada acknowledges a special relationship between itself and Native Canadians. It agrees that registered Indians and Inuit possess special rights, privileges, and entitlements, whether they live on or off-reserves. On 5<sup>th</sup> April 1939, the Supreme Court of Canada ruled that Inuit were Indians.<sup>1</sup> The judgment represented a landmark decision in Inuit relations with the federal government.<sup>2</sup> Until 1939, however, there appears to have existed only a limited moral obligation toward the Inuit on the part of Ottawa; certainly it was not a legal one. This becomes clear when one examines the central government's denial of any formal responsibility for the well-being of the Inuit living within provincial—as opposed to territorial—boundaries, particularly in Quebec. Nevertheless, it was this anomalous situation

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<sup>1</sup> Canada, Supreme Court, *Decisions*, ( 5<sup>th</sup> April,1939),pp.104-24.

<sup>2</sup> There are exceptions, however. When Newfoundland entered Confederation in 1949, it insisted that Inuit within her boundaries be treated as citizens of the new province without special status, and not be considered a federal responsibility. Also, and somewhat ironically given the background to the 1939 decision, Quebec has moved in the last two decades to enlarge its role and jurisdiction vis a vis the Eskimos within its domain.

which brought about a confrontation between the Government of Quebec and the Government of Canada in the 1930s.<sup>3</sup>

In 1982, a breakthrough occurred when Canada patriated the Constitution and, for the first time in history, “existing rights”, were guaranteed to aboriginal people. Specifically, sections 25, 27, 35 and 37 dealt with Indian issues. The most explicit is section 35 which states that:

1. The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

2. In this act, “aboriginal peoples of Canada” includes the Indian, Inuit and Metis people of Canada.

Native people now argue that self-government is one of their aboriginal rights and is entrenched within the Constitution. The *Penner Report* of 1983 states that not only was self-government an appropriate move for Indians, but that it should be implemented immediately.<sup>4</sup> Indian leaders would like to have a third order of government, one that fits into their notion of Indian sovereignty. Indians see self-government as a means of allowing them to achieve three central goals: 1) to increase local control and decision-making; 2) to recognize the diverse needs and cultures of Indians throughout Canada; and 3) to provide accountability to local electors rather than to a federal bureaucracy. This new order of government would have powers similar to those of the federal and provincial governments. It would, for example, have full jurisdiction over such areas as resources, education, and social development and taxation.

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<sup>3</sup> Diubaldo, Richard J., The Absurd Little Mouse: When Inuit Became Indians, in Journal of Canadian Studies, Vol. 16, No.2 (1981 Summer), p.34.

<sup>4</sup> Frideres, James S., *Native peoples in Canada : Contemporary conflicts*, (Prentice-Hall Canada Inc: Ontario 1988),p.348.



However, there has never been a single position among Native groups as to what self-government means or how it is to be implemented.<sup>5</sup> Indians have insisted that their inherent sovereignty defines and formalizes them as a third order of government. Inuit, on the other hand, prefer to develop a provincial-type government because they occupy a large land area and make up nearly all of the population of it. Finally, the non-status Indians and Metis have publicly accepted the fact that any government for them will have to be delegated by either the provincial or the federal government. It is clear that because of different historical experiences the evolution of Native-White relationships has not been the same for the three major Native groups.<sup>6</sup>

Proposals to divide the NWT appeared in 1962 when, because of the possibilities of exploiting the non-renewable resources of the western Arctic and Mackenzie Valley, non-Aboriginal support was strong for a bill creating a western portion (Mackenzie Territory) and an eastern portion (Nunatsiaq) divided along the 105<sup>th</sup> meridian.<sup>7</sup> Because of the federal election of 1963 the bill did not pass. The issue did not arise again until 1973 when the Inuit Tapirisat of Canada (ITC) began discussions with the federal government on hunting rights and land claims. By 1976, ITC had made the first proposal to create the new Inuit territory of Nunavut. The imminence of oil and gas development in the western Arctic prompted the Inuvialuit of the region to withdraw from the Nunavut proposal and to eventually sign their own land claim agreement in 1984.

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<sup>5</sup> Cardinal, H. "Constitutional Change and the Treaty 8 Renovation." In **Indian-Provincial Relations**, M. Boldt, J.A. Long and L. Little Bear (eds). (Lethbridge: The University of Lethbridge 1986).

<sup>6</sup> Frideres, James S., **Native peoples in Canada: Contemporary conflicts**, (Prentice-Hall Canada Inc, Ontario 1988),p.344.

<sup>7</sup> Dickerson, M.O., **Whose North: Political Change, Political Development and Self-Government in the Northwest Territories**. (Vancouver: UBC Press 1992),p.85.

The establishment of Nunavut will lead to a form of self-government for the Inuit which appears to be the most innovative and extensive yet devised by the Canadian government and Native representatives. Nunavut will have its own legislative assembly by 1999 with full assumption of all territorial government responsibilities, generally consistent with those in the present NWT legislature, by 2008.

Already, the area designated as Nunavut experiences some degree of local autonomy under the current NWT government though this is necessitated, to a certain extent, by the area's sparse population, vast distances and limited infrastructure. This autonomy will act as a base for the intended devolution of power by the government. Nunavut's 28 communities will be divided into three distinct regions—Baffin, Keewatin and Kitikmeot. The aim is to further decentralize government by setting up government departments and agencies throughout the territory. Government will be dispersed downwards from territorial to regional to municipal or local levels, and tribal councils will continue to operate. This further devolution of government is intended to better address local needs and to try to ensure that social and economic benefits are more democratically shared and evenly distributed. The need to end the dependency on Yellowknife and Ottawa and to take more control of their own affairs has been a major factor in the Inuit drive for greater autonomy.

An important economic benefit will be an increase in employment in the government sector. The NWT's best estimate is for 1,126 new jobs in the government sector, 136 in other agencies and a further 300 in regional support services.<sup>8</sup> Similar figures are projected by DIAND with a further 622 employment opportunities occurring shortly after the transition is completed in 2008.<sup>9</sup> Some increase in the service sector will undoubtedly occur, but employment in the extra construction activities would be short

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<sup>8</sup> Government of Northwest Territories, *Financial Impact Division*, (Yellowknife, 1990).p.9

<sup>9</sup> *DIAND Report*. (1992).p.4.

term. Market conditions will determine the number of jobs in the non-renewable resource area. A more stable area of employment will be tourism and craft sectors. The number of the new jobs in this new territory filled by outsiders will depend on the outcome of the proposed quota system. The Nunavut Agreement proposed an 85 percent job reservation for Inuit at all levels of employment. All tenders for jobs and contracts must now give preference to Inuit applicants and Inuit-owned companies. Clearly, the intention is that the new employment opportunities arising through the creation of Nunavut should benefit its Inuit population in direct proportion to their population component.

The Inuit are to be involved in the management of Nunavut's renewable and non-renewable resources. Quasi-judicial boards, on which both the federal government and Inuit will have equal representation, are planned. Resources are to be managed in an integrated and comprehensive manner with land use and marine planning, environmental assessments and social impacts under the purview of the relevant boards. Such democratic control should have significant effects on the scale, pace, timing and location of most of the future socio-economic developments in the new territory, not least in the exploitation of oil, gas and mineral deposits. Apart from the Sverdrup Basin, the Agreement gave the Inuit the opportunity to select areas of known or potential mineral deposits, in particular the uranium resources in Keewatin, lead, zinc and gold reserves in North Baffin and Kitikmeot, and diamond fields in Keewatin and Baffin Island. Other potential sites are found throughout Inuit owned land ready for development as and when market conditions are favourable.

With sub-surface rights to some 18 percent of Nunavut and a share in royalties from non-renewable resources on Crown land, the new government should have sufficient financial assets to enable it to "encourage self-reliance and economic development as

well as cultural and social well being.”<sup>10</sup> However, the agreement barely mentions social and cultural issues such as education, health and justice. These are policy areas which will be more fully addressed as the new government’s powers are implemented and so present a great opportunity to fashion the new territory into a distinctive and singular Inuit homeland.

Central to Inuit cultural and social traditions is the use of non-renewable resources on land and water. Harvesting rights for the Inuit and non-Inuit are defined, with due emphasis on Inuit social, economic and cultural needs within the constraints of careful wildlife management and conservation, providing for periodic reviews to assess changing needs. Apart from a few limited areas mainly under military control, Inuit “shall have the free and unrestricted right of access for the purpose of harvesting to all lands, waters and marine areas within the Nunavut Settlement Area.”<sup>11</sup> Non-renewable resources, surplus to Inuit requirements and within the quota system, will be used for sport and commercial operations. A large percentage of the Native inhabitants throughout the NWT currently subsist on hunting, trapping and fishing activities supplemented by government transfer payments. The Nunavut Agreement offers an escape from this particular morass as the Inuit become more involved in economic development and management.

Potential to increase Native involvement in the tourist industry exists. Capable of similar expansion is the associated arts and crafts sector; this cottage industry provides a winter complement to summer tourism. Inuit arts and crafts enjoy a growing market elsewhere in North America as well as Europe and Asia. Nunavut’s remote location makes the tourism market more limited, attracting mainly the affluent, educated, adventure-traveller who enjoys unique cultural and natural

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<sup>10</sup> DIAND Report, (1986),p.7.

<sup>11</sup> Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada. Indian and Northern Affairs.( Ottawa 1993),pp.5,7,18.

environments. In this context, the part of the agreement concerning National Parks in Nunavut is significant. Of particular significance to the future is the fact that Inuit organizations will be given first refusal of any work or business opportunities occurring in the Parks—an important factor in the development of local tourism—related activities. Of all the land claims treaties negotiated lately, the Nunavut Agreement seems, on the face of it, to have been the most accommodating of Native aspirations, the most promising in the opportunities it offers and the most generous in its provisions.

#### **4.1 (a) Constitutional reform:**

In 1978, the Canadian government published a draft constitutional amendment bill. Accompanying documents raised the possibility of writing provisions into the Constitution after negotiations with aboriginal peoples. The aboriginal peoples had been left out of the original political arrangements in Canada and deserved inclusion. Charlie Watt and the Quebec Inuit also feared that Quebec could separate from Canada, leaving them without the protection of the Canadian Constitution. The original 1867 Constitution provided Ottawa with powers to afford some protection to aboriginal peoples from the land, resources and development powers of the provinces. This has led to Indian and Inuit determination to avoid having their interests transferred to provincial governments, fearing that provinces would generally favour settlement and development over aboriginal land use.

The Inuit set up a special body, the Inuit Committee on National Issues (ICNI), to examine matters after the ongoing federal-provincial constitutional revision was opened to aboriginal peoples in February 1979. The Inuit under the leadership of

Charlie Watt and Mark R. Gordon were eager to make the most of the opportunity. But constitutional wars intervened.

#### **4.1 (b) International Relations:**

In 1977, the Inuit Circumpolar Conference (ICC) was founded by an Inuit mayor who had successfully created an Inuit-run regional government across north Alaska. Inuit from Greenland and Canada were invited to Barrow, Alaska, where the world's Inuit reunited under Summer's midnight sun.<sup>12</sup> It was an emotional reunion. In his brief opening speech, Mayor Hopson urged two over-riding concerns which all Inuit should address: protection of the natural environment, especially the seas, and achievement of regional self-government by each Inuit group across the arctic.

#### **4.1 (c) The Intersection of Aboriginal and Quebec Constitutional Agendas: "Two Founding Nations" and Distinct Society Status**

Since before Confederation, the relationship between English and French Canada has been characterized as a compact between "two founding nations". Indeed, federalism itself has been regarded as an arrangement designed to join the two ethnic/linguistic groups in a system which would allow each to flourish while reaping the benefits of broader union.

Canada's Aboriginal peoples, however, have long rejected the "two founding nations" conception of Canada. In fact, it is almost always characterized as a "myth". However, the Aboriginal challenge to the dominant conception of the national compact did not gain currency until the 1991-92 "Canada Round". The two nations

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<sup>12</sup> Lauritzen, Philip., *Oil and Amulets*. (Newfoundland: Breakwater Press 1983).

concept was under siege, displaced by an alternative concept: three founding peoples. The AFN First Nations Circle Commissioners, for example, concluded that “there is widespread and growing support for the position that First Nations are one of Canada’s three founding peoples.”<sup>13</sup> Chartrand observes:

The nationalistic movement among Aboriginal peoples presents a challenge to the notion of two founding nations in establishing the Canadian state. Since the Aboriginal peoples had virtually no say in the establishment of Canada, the legitimacy of Canada, not only as a constitutional entity, but as a country with a legitimate vision of its own society is being challenged. It so happens, however, that the Aboriginal nationalism is occurring at a time when the nationalism of one of the “official founding nations” is itself causing a fundamental re-examination of the legitimacy of the existing order.<sup>14</sup>

The problem with the alternative conception, however, concerned its implications for the manner in which Aboriginal peoples would be recognized in the Constitution. Since the Meech Lake Accord, in which Quebec was to be recognized as a “distinct society,” the term had become widely associated with Quebec’s status claims. However, Aboriginal groups had been using it since at least the 1970s.<sup>15</sup> In May 1987, the leaders of the four national Aboriginal organizations had written a letter to the Prime Minister asking for recognition of Aboriginal peoples as a distinct society in

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<sup>13</sup> **To the Source: First Nations Circle on the Constitution, Commissioners’ Report**, (Assembly of First Nations: Ottawa 1992),p.74.

<sup>14</sup> Chartrand, Paul., **The Claims of the Aboriginal Peoples in Canada: A Challenge to the Idea of Two Founding Nations**, paper presented to a Conference on “Federalism and the Nation State”, (Centre for International Studies: University of Toronto, June 5, 1992),p.24.

<sup>15</sup> For example, Moss cites ITC and NCC claims that they are not just elements of Canada’s ethnic minorities, but rather are “distinct national groups”. See John E. Moss, **Native Proposals for Constitutional Reform**. *Journal of Canadian Studies*, Vol.15, No. 4,( Winter 1980-81),p.86.

the Meech Lake Accord.<sup>16</sup> Hence, by the 1990s, Aboriginal leaders resented the implication that Quebec had somehow gained a copyright on the concept. Thus began the discursive competition between Aboriginal versus Quebec claims. It was not simply a question of “whatever Quebec gets, we want too.” Instead, it was a question of prior claims, as well as of the effect of distinct society status for Quebec on the Aboriginal populations of that province.

While Aboriginal leaders did not succeed in their quest to obtain distinct society status for Aboriginal peoples, the language of the Canada clause, together with recognition of the inherent right to self-government, were arguably stronger guarantees than that imported by the distinct society terminology. The discursive breakthrough was significant, moreover, since the bubble of “two nations” had been pricked, and as it was widely realized that Aboriginal peoples had legitimate claim to special status which could not be neglected in constitutional reform.<sup>17</sup>

#### **4.1 (d) Aboriginal nationhood, sovereignty and the inherent right to self government:**

Aboriginal nationalism has been developing in Canada since at least the 1970s, when the Red Power movement began to craft an ideology of opposition which rejected the dominant political ethos and the place of Aboriginal people within it. As Chartrand observes, the recently mobilizing movement of Aboriginal peoples “is characterized by an emerging sense of nationalism which presents a number of challenges to traditional notions about the nation-state in Canada....[including]... the legitimacy of

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<sup>16</sup> Aubry, Jack., *Mercredi shows consistency in distinct society campaign*, Ottawa Citizen, (February 13, 1992),p.A3.

<sup>17</sup> Jhappan, Radha., *Inherency, Three Nations and Collective Rights: the Evolution of Aboriginal Constitutional Discourse from 1982 to the Charlottetown Accord*, International Journal Of Canadian Studies. No.3, (Spring Fall, 1993).p.242.



a constitutional order based upon a division of powers between the federal Parliament and the provincial Legislatures.”<sup>18</sup>

“Nationhood” is not normally understood by Aboriginal people in Canada in the sense of “nation-state.” The latter would imply an international status whereby the nation would exercise complete sovereignty over a discrete territory, while enjoying the right to make foreign policy and to enter into treaties with other nations. Rather, Aboriginal nationhood is generally understood as describing a socio-cultural (usually tribal) group, sharing a common language, history, territory and identity. Yet Aboriginal nationalism is more than cultural nationalism: it has political implications, even if these do not extend as far as a claim to full-fledged nation-statehood. As Boldt has suggested, nationalism can refer to a range of autonomous political conditions, and if full independence is one extreme on a continuum, Canada’s Aboriginal peoples are best characterized as “autonomists.”<sup>19</sup>

In contemporary discourse, however, Aboriginal nationalism and assertions of sovereignty do not require a return to the absolute autonomy of the pre-contact period. Chartrand notes that in general, “Aboriginal peoples...have not been anxious to assert that their right to self-determination requires that they separate politically and economically from Canada.”<sup>20</sup> John Moss notes that in the early 1980s, the National Indian Brotherhood (NIB), Native Council of Canada (NCC), and Inuit Tapirisat of Canada (ITC) each stated that their members represented separate and distinct nations, the NIB even declaring that “sovereignty continues to reside in each [Indian] nation.”

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<sup>18</sup> Chartrand. Paul., Op.cit, p.24.

<sup>19</sup> Boldt, Menno., **Indian Leaders in Canada: Attitudes Towards Equality, Identity, and Political Status.** (Ph.D thesis, Yale University:New Haven 1973),p.10.

<sup>20</sup> Chartrand.op.cit.,p.21.

For the NIB and the NCC, their status as nations gave them the right to choose whether they wished to be part of Confederation or not.<sup>21</sup>

The prescription, however, was not secession from Canada, but rather “internal sovereignty” via new political arrangements and institutions by which Aboriginal peoples might govern their own internal affairs. For the NIB and the NCC, the answer lay in the formation of a “third order of government” where Aboriginal governments would exercise a wide range of powers (combining municipal, provincial and some federal powers). Such governments would exist within current provincial boundaries, but would not be municipalities or “arms of the provincial governments.” The ITC, on the other hand, envisioned the creation of a new province in the Northwest Territories in which Inuit would form the majority, though the ITC was not proposing “ethnically-exclusive government institutions [or] anything outside this country’s fundamental political principles.”

One of the cornerstones of Aboriginal constitutional discourse in recent years has been the primacy of collective over individual rights. Aboriginal rights claims are claims to collective rights, wherein rights inure to individuals **by virtue of** their group membership. Whereas an Aboriginal right (such as the right to hunt or fish) may be exercised by individuals, access to the right is pre-determined by their membership in Aboriginal communities. However, land rights under Aboriginal title, for example, cannot be claimed by individuals, as the notion of Aboriginal title is founded upon the idea that lands are held by communities, not by individuals.

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<sup>21</sup> Moss, John E., *Native Proposals for Constitutional Reform*, *Journal of Canadian Studies*, Vol.15, No. 4, (Winter 1980-81), pp.86-87.

The renewed Aboriginal constitutional discourse has had a number of far-reaching effects. First, even though the Charlottetown Accord floundered, Aboriginal organizations' participation in all facets of the negotiations has changed Canadian constitutional discourse irreversibly. Political elites and a large proportion of the citizenry have been willing to acknowledge an inherent right to self-government. This is tantamount to an acceptance of Aboriginal sovereignty claims (albeit within the federation). Secondly, the "two nations" doctrine has been dealt a mortal wound. It is no longer possible to conceive of Canada as consisting of two founding nations and cultures. Thirdly, Aboriginal peoples have succeeded in legitimating their claims to collective rights as between themselves and other governments, though they have not yet resolved the problem of balancing them against individual rights **within** Aboriginal communities.

#### **4.1 (e) Developments leading to the creation of Nunavut:**

Nunavut Political Accord, a political agreement between the Inuit, the Government of Canada and the Government of the Northwest Territories, was signed on 30<sup>th</sup> October, 1992 at Iqaluit. The land occupied by the Inuit in the central and eastern Arctic was never subject to treaties with either the British or Canadian government, thereby making it easier for all parties concerned to start the negotiation on fresh ground.

The possibility of dividing the NWT along east-west lines was first discussed in the period 1959 to 1963, with debate in the Territorial Council on establishing a separate Mackenzie Territory for the western NWT. Inuit aspirations were not of concern in this debate. The principal argument favouring division was that freeing the Western NWT from the constraining influence of the more "backward" Eastern Arctic that would allow a smaller western territory to progress more rapidly in its political

development. With the dissolution of Parliament in 1963, the bills died on the *Order Paper*. Subsequently, the 1966 report of the Advisory Commission on the Development of Government in the NWT acknowledged that division of the NWT was probably inevitable but did not recommend its immediate implementation.<sup>22</sup> Commissioner A.W.R. Carrothers argued that division would effectively isolate the Inuit, leaving them vulnerable to unilateral action by Ottawa on political and economic development. His preference was to extend the franchise to include the eastern NWT so that “residents of the east would have the same opportunities as those in the west of participating in their government... In short, representation now, possible division later.”<sup>23</sup>

In common with Aboriginal people throughout Canada, the Inuit developed detailed and far-reaching land claims in the 1970s which, following the landmark 1973 Calder case, the federal government agreed to accept as a basis for negotiation. In 1976 the Inuit Tapirisat of Canada (ITC), representing Inuit throughout Canada, submitted a formal proposal to Prime Minister Trudeau for the settlement of the Inuit land claim. The Inuit position paper argued for the creation of Nunavut. For the ITC, a basic goal was to “preserve Inuit identity and the traditional way-of-life so far as possible;” this could be achieved by “the creation of Nunavut Territory, in respect to which through numbers and voting power, the Inuit will have control for the foreseeable future.”<sup>24</sup>

The late 1970s and early 1980s witnessed both setbacks and progress for the Inuit. Reflecting the Aboriginal majority on the Territorial Council, the GNWT became notably more sympathetic to Inuit aspirations and to the notion of dividing the NWT.

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<sup>22</sup> Canada, *Report of the Advisory Commission on the Development of Government in the Northwest Territories*, (Ottawa 1966), p.151.

<sup>23</sup> *Ibid.*, p.147.

<sup>24</sup> Inuit Tapirisat of Canada, *Nunavut, A Proposal for the Settlement of Inuit Lands in the Northwest Territories*. (Ottawa 1976), p.1.

National constitutional processes, which led to fundamental revision of Canada's constitution in 1982 (including constitutional entrenchment of Aboriginal rights, although in undefined form), also contributed to a climate favourable to adventurous constitutional departures.

There were hurdles, such as a settlement of the boundary question. It was generally accepted that the Nunavut boundary would roughly follow the tree-line, but both Inuit and Dene claimed extensive tracts of land in the central Arctic as traditional hunting areas.<sup>25</sup> Without a settled boundary, Nunavut could not proceed, since it was necessary to delineate both the Inuit settlement area and the border of Nunavut. In 1991, the federal government appointed a former Commissioner of the NWT, John Parker, to consult those affected and recommend a boundary. A May 1992 plebiscite put the issue before the territorial electorate. Technically, this was a vote strictly on the boundary proposed by Parker, but it was widely felt that the vote would also signal reaffirmation or rejection of the concept of division. The outcome was reminiscent of 1982, with a relatively low turnout and a narrow majority— 54 percent— voting to accept the line. Following this narrow victory, Ottawa, the GNWT and the Inuit announced their continued commitment to moving forward with division.

The Inuit framed their case for Nunavut as an expression of their claims and, by extension, of their self-government interests. They wished to see the concept of Nunavut as a separate territory incorporated into the land claim itself. By so doing, the

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<sup>25</sup> Coincidentally, some of the lands in question, owing to disputes over traditional usage, were subsequently found to include some of the most promising areas for diamond mining. Although mineral development questions formed part of the dispute, potential diamond wealth was unrecognized in the 1980s.

Inuit and the federal government would be agreeing to the recognition of the new territory as an embodiment of the Inuit's Aboriginal rights, protected by section 35 of the Constitution Act, 1982. This, the federal government's negotiators argued, would give the territory an unacceptable constitutional status, considering that Nunavut was to be a public government representing, serving and including all Canadians living in that area, not just the Inuit. From Ottawa's perspective it would be inappropriate to use a land claim with an Aboriginal group as the instrument to establish a public government.

Ottawa maintained that a new territory and its public government would have to be created through a separate act of Parliament, not through an ethnically-based land claim agreement recognized and protected by the Constitution. Nunavut's existence would have to stand apart from the claim because of its relationship to the general interests of all Canadians and the democratic principles of the federation.

A compromise acceptable to all parties was struck through a provision in the claim committing Canada to negotiate a "Nunavut Political Accord" that would not stand as a formal part of the claim but would effectively provide for the creation of Nunavut. Article 4 of the TFN Land Claims Agreement stipulates:

Neither the said political accord nor any legislation enacted pursuant to the political accord shall accompany or form part of this Agreement or any legislation ratifying this Agreement. Neither the said political accord nor anything in the legislation enacted pursuant to the political accord is intended to be a land claims agreement or treaty right within the meaning of Section 35 of the *Constitution Act, 1982*.<sup>26</sup>

The elements of the Accord reflect the practical and reasonable approach taken by the Inuit. The Accord speaks to an interest in federal legislation for Nunavut "similar to

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<sup>26</sup> Canada, *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada*, (1993), p.23.

the present Northwest Territories Act with such modernization and clarification as may be appropriate” (section 2.1). It specifies that the “types of powers of the Nunavut Legislative Assembly and Nunavut Government shall be generally consistent with those in the present Northwest Territories Act” (section 4.1). Essentially, the Inuit were prepared to accept a modified *status quo*, with the critical difference that they, not a distant government in Yellowknife, would be in control. A small but telling point about the Inuit approach to Nunavut is that neither the Nunavut Political Accord nor the Nunavut Act makes any reference to “citizens” of Nunavut. This contrasts with the self-government agreements finalized under the Council of Yukon Indians claim in the Yukon and with the rhetoric that often accompanies self-government discussions in the western NWT, both of which put great symbolic store in the concept of First Nations citizenship.

The Accord gave priority for human development. It states: “the parties recognize the central importance of training in enabling Nunavut residents to access jobs resulting from division.... and that investing in people is of greater value than investing in infrastructure”(section 9.1). A phased approach to the transfer of administrative responsibilities to the new government is set out in Part 6 of the Accord. At division, a number of key governmental institutions, such as an Assembly and cabinet, will have to be in place, as will personnel, finance and public works functions. Other matters, such as education, health and transportation, even though they will fall under the legislative jurisdiction of Nunavut as of 1999, can “be discharged through intergovernmental agreements or contracts with appropriate governments, public institutions or non-governmental bodies.” (section 7.2)

The Nunavut Act became law in June 1993. A fundamental principle underlying the implementation of Nunavut is the acceptance that the new government will not be a

subordinate or junior territory relative to the Yukon or the NWT. From the outset, it will have the same range of legislative and executive authority as the other territories. In terms of political decision making, the Nunavut government will, at least at the outset, be essentially a scaled-down, Inuktitut-speaking version of the current GNWT. That is, it will generally follow the modified Westminster model of government that now functions in the NWT, in which a cabinet is chosen by and from the elected members of the Assembly. If, however, the premier is to be directly elected—as many in Nunavut wish—this will imply a substantially different form of government, since direct election of the first minister is incompatible with the Westminster model of cabinet-parliamentary government.

One element that will probably be carried over from the present NWT Assembly is the absence of political parties; the all-but-universal presumption is that the Inuit will continue to avoid party politics for some time. Over the longer term, however, the possibility that political parties will emerge should not be entirely discounted. Since the Inuit have no equivalent to the bands or band councils established under the Indian Act, local government in the eastern and central Arctic is entirely public government. Thus, the complications that arise in the west from the coexistence of band councils and municipal governments within individual communities are not present in Nunavut. Tensions and disagreements will doubtless develop between community governments and the Nunavut government but they will probably not be grounded in fundamentally different conceptions of governance, as is the case in the west.

#### **4.1 (f) The Nunavut land claims settlement:**

The new territory covers the eastern part of the NWT mainland and most of the Arctic islands—an area of some 1,900,000 sq km or nearly eight times the size of the United



Kingdom. Of Canada's 25,000 Inuit, some 17,500 live in Nunavut where they make up eighty percent of the total population of approximately 22,000. Iqaluit (3,500), the probable capital is the only community of any size, and population density in this vast northern wilderness is only 0.01 per square kilometer. Apart from the relatively narrow forest belt in the south, the territory consists of tundra and arctic climate zones, impossible to farm but containing a variety of renewable and non-renewable resources. With a mere 20 km of highway and the coast ice bound for much of the year, transportation is mainly restricted to expensive air travel.

The 41 articles of the agreement (Agreement 1993) establish clear rules of ownership and control over land and resources in an area covering one-fifth of Canada. In exchange for surrender to the crown of their Aboriginal title to the lands, waters and adjacent offshore of the new territory, the Inuit of Nunavut will receive a variety of rights and benefits. Briefly, these include title to 350,000 sq km of land of which 35,250 sq km in some 1,500 parcels will include mineral rights; representational rights on management boards for land, water, wildlife, environment and resources development; capital transfer payments over fourteen years totaling \$1.148b; and other economic rights including a share of royalties from oil, gas and minerals on land to which the Inuit hold surface rights. Three new federally-funded national parks will be established and the Inuit will be given priority in setting up sport and commercial wildlife ventures. In addition, Inuit will be guaranteed, subject to the principles of conservation, the right to harvest marine and territorial wildlife throughout the new territory sufficient to meet their consumption needs and will be given special consideration in the allocation of commercial fishing licenses in Hudson Bay and Davis Strait adjacent to, though outside, Nunavut's boundaries. The two bills passed

in June 1993, the Nunavut Land Claims Agreement and the Nunavut Act, are to be implemented by two separate bodies: the Nunavut Tunngavik Incorporated (NTI) implementing the land claims settlement and the Nunavut Implementation Commission (NIC) implementing the political agreement. In essence, the NTI will concern itself with proprietary rights concerning land title, hunting and fishing rights and financial entitlements, while the NIC's responsibilities will cover the whole gambit of activities concerning the establishment and operation of the new government and all its bodies and responsibilities. The two separate and distinctive bodies emphasize the agreement's political dimension not only as a land claims settlement but also a clear commitment to Inuit self-government. This sets it apart from other northern agreements which have been predominantly land claim settlements with some limited, local political autonomy. The implementation of the Nunavut land claims by the NTI is now proceeding apace while an array of policies and recommendations is forthcoming from the NIC (NIC, 1995).<sup>27</sup>

When the Nunavut government is completely in place, in 2008, the total cost is estimated by DIAND to be between \$ 1,250 m and \$1,400 m. This is more than three times the current NIC estimate of a total cost of some \$400 m. Even if the latter estimate proves to be the more realistic, the federal government will still have to cover 95 percent of the eventual cost. The inhabitants of the west of Nunavut would not have to pay for Nunavut.<sup>28</sup> Nevertheless, the total costs of the settlement will be considerable and will require the Canadian tax-payer to contribute between ten and twenty percent more per annum over the present costs of government in NWT.<sup>29</sup> These costs have to be placed in the political context of a treaty establishing a new

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<sup>27</sup> Nunavut Implementation Commission (NIC) *Footprints in New Snow*. (Iqaluit 1995).

<sup>28</sup> Fenge, T., *Political Development and Environmental Management in Northern Canada*, *Etudes/Inuit/Studies*, no 16, (1992), pp.126.

<sup>29</sup> Hamley, W., *Problems and Challenges in Canada's Northwest Territories*, *Geography*, No. 78(3), (1993), p.277.

territorial government which is intended to give, *de facto*, self-government to a majority of Canada's Inuit and which settles a major comprehensive land claim.

#### **4.2 Nunavut and Inuit self-government:**

The Inuit have not put all their political eggs in one governmental basket. They are protected by having a Nunavut territorial government that they will control since the territory comprises a substantial majority of the population. The land claim further protects their interests in both Nunavut and their settlement region, through Inuit involvement in the management of resources in those areas.

The claim establishes public government structures with guaranteed Inuit representation to oversee and control critical aspects of economic activity, both traditional and modern, in Nunavut. The Nunavut Wildlife Management Board, created under Article 5, and the Nunavut Planning Commission for land use planning, established under Article 11, are particularly important. In addition, attention to Inuit interests in the review of proposals for major economic development projects is assured through a Nunavut Impact Review Board (Article 12). Similarly, Inuit have substantial representation on the board that manages water, the Nunavut Water Board. Articles 15 and 16 of the claim reflect the importance of Inuit off-shore jurisdiction.

Another significant element in the protection of Inuit interests is the Inuit insistence that their commitment to Nunavut as an expression of their aspirations for self-determination has not extinguished the potential for their pursuit of self-determination arrangements at a later date. The Inuit have made it clear that they expect the Nunavut government to meet their self-governing interests for the foreseeable future. Nevertheless, were there to be a significant demographic shift due to a declining Inuit

population or to increased migration to Nunavut, the Inuit believe they would be able to approach Canada regarding the recognition of inherent right powers either through Aboriginal institutions, or through new guarantees of Inuit involvement in territorial decision-making bodies.

#### **4.2 (a) Asymmetric federal arrangement for Inuit:**

The relationship between Canada and Nunavut is, in several ways, unique and indeed inherently different from the relationship between the national order of government and the other partners in the federation. At root, Nunavut represents the outcome of a political agreement between an Aboriginal people and the federal government. Despite the similarities between the Nunavut Act and the NWT Act, fundamental innovations in the former affirm the inseparability of Inuit interests and the new territory thereby setting Nunavut apart from the provinces. Section 25 of the Act delegates to the Nunavut government, albeit in a limited sense, federal legislative authority under section 91 (24) of the Constitution Act, 1867 for “Indians and land reserved for Indians”:

For greater certainty, the Legislature may make laws under any other provision of this Act for the purpose of implementing the land claims agreement entered into by Her Majesty in right of Canada and the Inuit on May 25, 1993 or any other land claims agreement with an Aboriginal people as may be designed by order of the Governor in Council.<sup>30</sup>

Thus, through the new territory’s “constitution,” the Nunavut Act, the Inuit have secured further capacity to control their Aboriginal interests, through a public government body that they control. Section 23(1)(n)—also reflects the unique relationship between the Nunavut government and its majority Aboriginal population.

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<sup>30</sup> Gregoire, Lisa., **Feds Get Lesson on Land Claim**, Nunatsiaq News, (July 29, 1994), p.1.

This section authorizes the territorial government to legislate for “the preservation, use and promotion of the Inuktitut language....” Inuit leaders plan for Inuktitut to become the working language of the Nunavut government. The realization of this goal will depend heavily on the success of education and training initiatives.

These provisions underline the distinctive Aboriginal foundation of the new territory. This legal foundation, the in severability of the Inuit’s interests and the new territorial government, and the close linkages that will doubtless emerge between the Nunavut Government and the various public government boards established under the claim, arguably create a constitutional framework for the territory that is quite distinct from that of the provinces. Section 25 in particular gives Nunavut an explicit constitutional role, extracted from the jurisdiction of Canada, that is not enjoyed by the provinces.

This distinction in the constitutional foundations of the provinces and of Nunavut government represents an important new linkage between cultures and governments in Canada. The creation of Nunavut, in other words, is a powerful and visionary step forward for Canada’s Aboriginal people and for Canada itself. The provincial model of government, founded on the British parliamentary structures and traditions, has been modified to give the Aboriginal people of the Nunavut region extensive jurisdiction over their inherent Aboriginal interests.

The inherent right of the Aboriginals in Canada is an ongoing debate. The outcome of the debate would fundamentally alter the future status of Nunavut. The federal government has already accepted the principle of Aboriginal peoples’ inherent right to self-government, and its concrete policy expression could result in a fundamental rethinking of claims and self-government obligations throughout Canada. The status of Nunavut as an expression of Inuit self-government would have to be revisited. The question would then arise as to whether the federal government would accept

constitutional entrenchment of a public government under section 35 of the Constitution Act, 1982 and how this might affect the balancing of rights enjoyed by all Canadians.<sup>31</sup>

#### **4.3 Evolution of political processes for realization of the rights of ‘tribal’ Mizos in India—**

Mizo’s are commonly referred to as “tribes” in India. Sadly, though interestingly, the anthropologists, sociologists, social workers, administrators and such people who have been involved with the tribes and their problems either on a theoretical plane or on practical grounds are still not on the same wavelength regarding the concept and the definition of their subject matter. For years, ambiguity has stalked India’s official portrait of tribal people. From 1917 through the 1931 census, for instance, the nomenclature referring to tribes underwent successive modifications, involving primarily changes in descriptive adjectives such as “aboriginal” or “depressed classes”. By the 1941 Census, these qualifying adjectives were dropped, a practice continued after independence with the adoption of the notion of scheduled tribes or as they are commonly called, *Adivasi*.<sup>32</sup> However, the ambiguity surrounding the term still lingers. Some of the definition of ‘tribes’ are:

A ‘tribe’ is a collection of families bearing a common name, speaking a common dialect, occupying or professing to occupy a common territory and is not usually endogamous, though originally it might have been so.

--Imperial Gazeteer of India.

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<sup>31</sup> Cameron, Kirk and White, Graham., *Northern Governments in Transition*, Quebec: The Institute for Research on Public Policy, (1995). p.112.

<sup>32</sup> Hasnain, Nadeem., *Tribal India*,( Delhi: Palaka Prakashan 1991), p.31.

In its simplest form, the 'tribe' is a group of bands occupying a contiguous territory or territories and having a feeling of unity deriving from numerous similarities in culture, frequent contacts, and a certain community of interest.

--Ralph Linton.

A 'tribe' is a social group with territorial affiliation, endogamous, with no specialization of functions, ruled by tribal officers, hereditary or otherwise, united in language or dialect, recognizing social distance with other tribes or castes, without any social obloquy attaching to them, as it does in the caste structure, following tribal traditions, beliefs and customs, illiberal of naturalization of ideas from alien sources, above all conscious of homogeneity of ethnic and territorial integration.

-- D.N.Majumdar.

The 'Mizos', occupying the present day Mizoram and the surrounding areas are recognized as a 'Scheduled Tribe' by the Constitution of India, 1950. In addition to the Scheduled Castes, reservations were also provided for the Scheduled Tribes. The Constituent Assembly agreed to reserve seats for them in the legislative bodies, educational institutions and public services, in proportion to their numerical size in the total population. Accordingly, 7.5 percent of seats were reserved for them in the identified areas. The Constituent Assembly recognized that tribals have a distinct way of life which cannot be suddenly distorted or destroyed.<sup>33</sup> At the same time they also recognized that in the plains at least the tribal populations were being steadily assimilated into the rest of the society. In the hills, certain patterns of cultivation, e.g. *jhumming*, were not ecologically viable and needed to be gradually replaced or changed. The need for change was further reinforced by the fact that several tribal

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<sup>33</sup> Report of the two Sub-Committees submitted on 25<sup>th</sup> August, 1947.

communities were, in terms of access, infrastructure and facilities, health and non-agricultural occupations, extremely backward. It is in this dual context that reservations were provided to them. On the one hand, it took cognizance of the disadvantages that stemmed from the tribal way of life, particularly its incompatibility with the market system; on the other, it sought to include into the political process populations that had previously been excluded on account of their special status and protective segregation. Put together, reservations were a measure intended to counter the possibility of tribal populations being excluded on account of their cultural way of life, historical location or past (colonial) policies.<sup>34</sup> The Scheduled Tribes received special consideration on account of their exclusion. Second, inclusion rather than assimilation was the desired objective of the policy of reservations. Positive discrimination was meant to create conditions by which these populations, that had hitherto been excluded, could be enfranchised and included as equal citizens in the political life of the country.<sup>35</sup>

The basic structure that governs Tribes in India has remained more or less intact from policies framed during the British Rule. Hence, no study in Post-Independence era can be complete without reference to the Pre-British and British Rule.

#### **4.3.1 Governance and Administration of Tribals in Pre-British India:**

During the Pre-British Era, the tribal people were never fully conquered or subjugated by the Muslim rulers who preferred to make settlements with the local non-tribal princes or if expedient, with the tribal chieftains instead of dealing with the tribal

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<sup>34</sup> Mahajan, Gurpreet., *Identities and Rights- Aspects of Liberal Democracy in India*. (Oxford University Press: New Delhi 2001),p.130.

<sup>35</sup> *Ibid.*, p.131.



people directly.<sup>36</sup> They did not interfere with customary laws, tribal life-styles and economic fabrics. The result was that tribal life was not subjected to or influenced by political vicissitudes and changes in Delhi. Till the British made their debut, the tribals were literally masters of all they surveyed.<sup>37</sup>

#### **4.3.2 Governance and Administration of Tribals in British India:**

In the beginning, most British officers were completely ignorant of tribal customs or of the existence of many tribes. Their contact with tribal peoples was hampered by the fact that most tribes lived in the inaccessible areas in remote hills, marshy and material forests and inhospitable tracts. It can be said that the British followed a policy of expediency in which tribal interests were subordinated to larger British interests. The earlier revolts and all round discontent among the tribes, forced the British to revise their policy of isolation and adopt special provisions for the administration and development of tribal areas in the country. These developments can be examined under the following heads:

- (i) Developments up to 1873.
- (ii) Constitution of Scheduled Districts.
- (iii) Declaration of Backward Tracts.
- (iv) Creation of Excluded and Partially Excluded Areas.

##### **4.3.2 (a) Developments up to 1873**

The first important legislation, which recognized that administration in advanced areas of Bengal and Bihar was not suited to tribal areas, was the *Regulation XIII* of 1833. The Regulation had declared Chhota Nagpur a “non-regulated” area. The main feature of these laws was a simple and elastic form of judicial and administrative procedure. The *Government of India Act, 1835* allowed laws to be made directly for

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<sup>36</sup> Hasan, Amir., *Tribal Administration in India*. (Delhi: B.R. Publishing 1988),p.21.

<sup>37</sup> *Ibid.*,p.25.

tribal areas under the Government of East India Company. The administration of these areas was taken over by the British Sovereign in 1858. *The Indian Councils Act, 1861*, validated the Laws made under the Government of India Act, 1835 for peace and good government.<sup>38</sup> The *Garo Hills Act, 1869*, provided for exclusion of Garo Hills areas from the general administrative set up and vesting of the administration of these areas in such officers as the Lieutenant Governor might, from time to time, appoint. The Act prescribes a separate system of administration of justice in the area. For sometime, the power to make laws by the executive authorities was withdrawn. However, it was again conferred by the *Government of India Act, 1870*, which was extended to the Assam Valley, Hill Districts and Cachar in 1873.<sup>39</sup> During this time, the area now known as Mizoram was not yet subjugated by the British Colonial rule.

#### **4.3.2 (b) Constitution of scheduled districts**

The enactment of the *Scheduled Districts Act, 1874*, may be called the first significant measure taken to deal with all tribal areas in the country which declared tribal areas as *Scheduled Districts*. The Act provided for appointment of office called *Agents* to decide civil and criminal cases, to undertake settlement and collection of public revenues and conduct administration within the *Scheduled Districts*. The Areas under the control of *Agents* were described as *Agency Areas*. The Act also allowed modification of laws in force in other parts of India to suit a particular *Scheduled District*. This enabled the executive to legislate, though to a limited extent, in tribal areas.<sup>40</sup>

#### **4.3.2 (c) Declaration of backward tracts**

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<sup>38</sup> *Reil v. Queen* (1885) 10 A.C. 674. According to Lord Halsbury, "Peace and good government" conferred utmost discretion of enactment for the attainment of objects. The judicial pronouncement was approved by the Supreme Court in *Ram Kripal v. State of Bihar*, AIR 1970 SC 951. See, also Abdul Hamid, *A Chronicle of British Indian Legal History*. (RBSA Publishers:Jaipur 1991),p.175.

<sup>39</sup> *Queen v. Burach* (1878) 51 I.A.178.

<sup>40</sup> *State of Nagaland v. Ratan Singh*, AIR 1957 SC 213; See, also M. Sridharacharyulu, "Tribal Revolts and Evolution of Land Transfer Regulations : A critical Appraisal", 2 NCLj 2-3, 1997.

The *Scheduled District Act, 1874*, was repealed when the Sections 52A and 52B of the *Government of India Act, 1919*, came into force. The Act designated the tribal areas as *Backward Tracts*. Section 52A(2) of the Act provided that the Governor-General in Council could declare any territory in British India to be a Backward tract. The *Backward Tracts* were determined from time to time and the laws were applied with such restrictions and modifications as was deemed fit. The Section 52B of the *Government of India Act, 1919* empowered the Provincial Legislature to vote necessary expenditure. The Act also allowed consideration of local convention in administering the *Backward Tracts*. Thus, the Act did not change the policy of isolation towards tribals but it tried to define and determine limits and extent of isolation.

#### **4.3.2 (d) Creation of excluded and partially excluded areas**

The *Indian Statutory Commission* as appointed by the British Government in 1927, *inter alia*, examined the policy adopted by the Government towards the *Backward Tracts*. The Commission visited the areas inhabited by the tribals, and came to the conclusion that their backwardness precluded them from any kind of representative Government. They did not ask for self-determination but for security of land tenure, freedom in the pursuit of their traditional methods of livelihood and reasonable exercise of their ancestral customs. In 1930, the *Report of the Indian Statutory Commission* was submitted.<sup>41</sup> The *Report* had proposed a number of modifications regarding the *Backward Tracts*. These proposals were reflected into the *Government of India Act, 1935*.<sup>42</sup> The Act divided *Backward Tracts* into *Excluded Areas* and *Partially Excluded Areas*. Sections 91 and 92 dealt with these Areas. Section 91

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<sup>41</sup> A detailed account of the *Backward Tracts* is to be found in the Report of the Indian Statutory Commission, Vol.1 (Survey) 1930 in Part- I, Chapter-8, Paras 75,80,86,88,94 and 99.

<sup>42</sup> For Government of India Act, see, *The Law Reports: The public General Acts*, (The Council of Law Reporting: London 1935),pp.569-1001.

defined the expressions *Excluded* and *Partially Excluded Areas*, and prescribed the principle in selection of these areas. Section 91(1) defined *Excluded Areas* and *Partially Excluded Areas*. The principle adopted in the selection of these areas was that where there was an enclave or a definite tract of country inhabited by a compact tribal population, it was classified as an *Excluded Area*. Where, however, the tribal population was mixed up with the rest of the Communities and the tribals were substantial enough in numbers, the area was classified as *Partially Excluded*. The point of distinction between an *Excluded Area* and a *Partially Excluded Area* was that while both classes of areas were excluded from the competence of the provincial and Federal Legislatures, and administration of *Excluded Areas* was vested in the Governor acting in his discretion while administration of the *Partially Excluded Areas* was vested in the Council of Ministers subject, however, to the Governor exercising his individual judgement.

From the above description, we can know that during the British period, the problem of administration of tribal areas were recognized and a number of protective mechanism had been introduced for the administration of these areas. For this end, the *Scheduled Districts Act, 1874* declared that the tribal areas as *Scheduled Districts*, the *Government of India Act, 1919* designed the tribal areas as *Backward Tracts* and the *Government of India Act, 1935* again declared these areas as *Excluded* and *Partially Excluded Areas*, but what was common to all measures was the provision of filtering the applicability of the federal or Provincial Legislations. Therefore, the Cabinet Mission's statement of 16<sup>th</sup> May, 1946, mentioned the tribal areas as requiring the special attention of the *Constituent Assembly*.

#### **4.3.3 Development of Political Processes for Tribals during Constitution making:**

The *Constituent Assembly* had special attention to the matter concerning the governance and administration of tribal areas. In its endeavour the *Constituent Assembly* set up an *Advisory Committee on Fundamental Rights, Minorities, Tribal Areas, etc.* The motion adopted by the *Constituent Assembly* setting up the *Advisory Committee* laid down that this Committee should appoint Sub-committees to prepare schemes for the administration of the *Tribal and Excluded Areas*. Consequently, the *Advisory Committee* with a view to examine the matter in detail, appointed two Sub-Committees,<sup>43</sup> namely:

- (i) The North-East Frontier (Assam) Tribal and excluded Areas Sub-Committee (hereinafter referred to as *Sub-Committee on Assam*).
- (ii) The Excluded and Partially Excluded Areas (other than Assam) Sub-Committee (hereinafter referred to as *Sub-Committee on other than Assam*).

These two Sub-Committees ultimately recommended separate schemes of administration for their respective tribal areas.<sup>44</sup>

- (i) Report of the Sub-Committee on Assam

In its report, the Sub-Committee on Assam had recommended a separate framework of the scheme of administration for the tribes of Assam and also underlined various factors which necessitated a separate treatment for the tribal people of Assam. These factors were:

- (a) Political experience

About the political experience of the tribes of Assam, the Sub-Committee on Assam was of the view that the tribals of Assam were all highly democratic in the sense that

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<sup>43</sup> Initially three sub-committees were appointed by the *Advisory Committee*. As a result of political partition of India, the *North-West Frontier Province and Baluchistan Sub-Committee* become a concern of the Dominion of Pakistan.

<sup>44</sup> For a Report of the Committee and Sub-Committee on tribal and excluded areas, see, B. Shiva Rao, *The Framing of India's Constitution: Select Documents*, (1967), pp.681-782.

their village councils were created by general assent or election although there were no statutory local self-governing bodies in any hill districts except in Shillong. The tribals could be able to manage a large measure of local autonomy.

Chiefship amongst the Lushai is hereditary. But, with British Rule from 1895, the Superintendent in his discretion also appoints some Chiefs. Amongst other tribes, appointment of headmen is by common consent or by election or, in some cases, selection from particular families. The "District Conference" of the Lushai Hills, the Tribal Council of the North Cachar Hills and the Naga National Council are very recent essays in organizing representative bodies for the district as a whole and have no statutory sanction. The Sub-Committee believes that the Naga, Lushai and Garo will be able to manage a large measure of local autonomy.

(b) Hill people's land

The Sub-Committee on Assam had pointed out the fear of exploitation of hills people by the people of the plains on account of their superior organization and experience of business. The Sub-Committee thus recommends that the Hill Districts should have powers of legislation over occupation or use of land other than comprising reserved forest under the Assam Forest Regulation of 1891 or other law applicable.

(c) Control of immigration

The Hill people were extremely nervous of outsiders, particularly non-tribals, and felt that they were greatly in need of protection against their encroachment. It was on account of this fear that they attach considerable value to regulations like the *Chin Hills Regulations* under which an outsider could be required to possess a pass to enter the hill territory beyond the Inner Line and an undesirable person could be expelled.

The hill people felt that with the disappearance of exclusion they should have powers similar to those conferred by the *Chin Hills Regulation*.

The Sub-Committee recommends that if the local councils so decide by a majority of three-fourths of their members, they can introduce a system of licensing for money lenders and traders. They should not of course refuse licenses to existing money lenders and dealers and any regulations framed by them should be restricted to regulating interest, prices or profit and the maintenance of accounts and inspection.

#### (d) Future Policy

In regard to the future of the hills of Assam, *the Sub-Committee on Assam* had stated the fact that the hill people of Assam had not yet been assimilated with the people of the plains. The distinct features of their way of life had to be taken into account and assimilation could not take place by the sudden breaking up of tribal institutions. About the future policy of Assam Hills, the Sub-Committee mentioned:

.....it is the advice of anthropologists.... that assimilation can not take place by sudden breaking up of tribal institutions and what is required is evolution or growth on the old foundations. This means that the evolution should come as far as possible from the tribe itself but it is equally clear that contact with outside influences is necessary though not in a compelling way. The distinct features of their way of life have at any rate to be taken into account. Some of the tribal systems such as the system of the tribal council for the decision of disputes afford by far the simplest and the best way of dispensation of justice for the rural areas without the costly system of courts and codified laws. Until there is a change in the way of life brought about by the hill people themselves, it would not be desirable to permit any different system to be imposed from

outside. The future of these hills now does not seem to lie in absorption in that the hill people will become indistinguishable from non-hill people but in political and social amalgamation.<sup>45</sup>

Besides the above mentioned factors, there were other factors which necessitated the *Sub-Committee on Assam* to recommend a separate framework of scheme of administration for the tribal people of Assam, which are:

- (a) The distinct social customs and tribal organizations of the different peoples as well as their religious beliefs.
- (b) The fear of exploitation by the people of the plains on account of their superior organization and experience of business.
- (c) In making suitable financial provisions it was feared that unless suitable provisions were made or powers were conferred upon the local councils themselves the Provincial Government might not, due to the pressure of the plains people, set apart adequate funds for the development of the tribal areas.<sup>46</sup>

#### **4.3.3 (a) Recommendations of the Sub-Committee on Assam**

The *Sub-Committee on Assam* had recommended, as mentioned earlier, a separate scheme of administration for the hill districts of Assam. The summary of Recommendations of the *Sub-Committee on Assam* is as follows:

- (a) Autonomous District Councils could be set up in the hill districts with powers of legislation and administration over land, village, forest, agriculture and village and town management in general, in addition to the administration of tribal or local laws and primary education and of management of local institutions which normally

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<sup>45</sup> Rao, Shiva B., *The Framing of India's Constitution: Select Documents*, (1967), Para 8, pp.693-694.

<sup>46</sup> *Ibid.*, Para 6, pp.692-693.



come under the scope of local self-governing institutions in the plains.

- (b) All social law and customs was left to be controlled or regulated by the tribes.
- (c) Certain taxes and financial powers could be allocated to the councils. They should have all the powers which local bodies in regulation districts enjoy and in addition, they should have powers to impose house tax or poll tax, land revenue and levies arising out of the powers of management of village forest.
- (d) The management of mineral resources could be centralized in the hands of the provincial Government but the right of the district councils to a fair share of the revenues is recognized.

#### **4.3.3 (b) Special features of the Tribal Areas of Assam**

The Joint Report of the two Sub-Committees had explained the special features of tribal areas of Assam. The special features of the Assam tribal areas, as compared with other tribal areas, were that these tribal areas were divided into large districts inhabited by single tribes or fairly homogeneous groups of tribes with highly democratic and mutually exclusive tribal organizations who had not assimilated much with the life and ways of other people in the provinces. These tribes had their roots in their own culture, custom and civilization. Therefore, special constitutional safeguards were required for the Tribal People of Assam. In this regard, the Joint Report of the two *Sub-Committees* said thus:

.....although certain features are common to all these areas, yet the circumstances of the Assam Hill Districts are so different that radically different proposals have to be made for the areas of this province. The

distinguishing feature of the Assam Hills and Frontier Tracts is the fact that they are divided into fairly large districts inhabited by single tribes or fairly homogeneous groups of tribes with highly democratic and mutually exclusive tribal organization. The tribal population in the other Provinces has been assimilated to a considerable extent. The life and ways of the plains people and tribal organizations have in many places completely disintegrated. Another feature is that some of the areas in Assam like the Khasi Hills, show greater potentialities for quick progress than tribes in the other Provinces.

#### **4.3.3 (c) Constituent Assembly debates on the Recommendations of the Sub-Committee on Assam—**

The recommendations of the *Sub-Committee on Assam* were incorporated in the *Sixth Schedule* to the *Draft Constitution*. The Scheme suggested by the *Sub-Committee on Assam* was more detailed and designed to confer a considerable extent of autonomy, by establishing *Autonomous District Councils*, on the tribal population through their elected representatives. In the *Constituent Assembly Debates*, two views emerged for the protection of tribal interests in Assam. The first view supported the recommendations of the *Sub-Committee on Assam* for the adoption of a separate scheme with the model of *Autonomous District Councils* for the administration of tribal people into the culture of the plainsmen and they suggested for the introduction of local self-government. Ultimately, the first view prevailed.

It can be seen that during the Constitution making process, two types of political processes have been recommended for the governance and administration of tribes in India: one was to establish *Tribes Advisory Councils* under the draft *Fifth Schedule* to the Constitution and another was to establish *Autonomous District Councils* under the

draft *Sixth Schedule* to the Constitution. The responsibility of tribals either in Assam or in other parts of India was vested on the Government of India and the scheme of development was to be implemented by the State Governments.

#### 4.3.4 An asymmetric federal arrangement for the tribals of India

The Constitution of India, paid special attention for the tribals. It went into the subject in an elaborate and somewhat complicated way. For the protection and recognition of separate administrative processes for tribals, a part in the Constitution, viz., Part X was included. The draft Article 190 was numbered as Article 244 in the Part X of the Constitution. The original Article 244 had provided that the provisions of the *Fifth Schedule* were applicable in any states other than the State of Assam. Subsequently, the Article 244 underwent many changes through Constitutional amendment and Parliamentary legislations. The State of “Meghalaya” was incorporated to the Article 244 by the *North-Eastern Areas (Reorganisation) Act, 1971*. The States of “Tripura” and “Mizoram” were incorporated to the Article 244 through the *Constitution (Forty-ninth Amendment) Act, 1984* and the *State of Mizoram Act, 1986* respectively. The present Article 244 reads as under:

#### 244. Administration of Scheduled Areas and Tribal Areas—

- (i) The provisions of the *Fifth Schedule* shall apply to the administration and control of the Schedule Areas and Schedule Tribes in any state other than the States of Assam, Meghalaya, Tripura and Mizoram.
- (ii) The provisions of the *Sixth Schedule* shall apply to the administration of tribal areas in the State of Assam, Meghalaya,<sup>47</sup> Tripura<sup>48</sup> and Mizoram.<sup>49</sup>

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<sup>47</sup> Initially the *Sixth Schedule* was only applicable in the tribal areas in the State of Assam and after reorganization of North Eastern Areas, its scope was extended to the State of Meghalaya through the *North-Eastern Areas (Reorganisation) Act, 1971* (81 of 1971), (w.e.f. 21.1.1972).

According to the joint recommendations of the *Sub-Committee on Assam* and the *Sub-Committee on other than Assam* separate financial provisions were adopted to the Constitution. A special provision to the Article 275(1) refers to Assam, Meghalaya, Tripura and Mizoram and provides for grants-in-aid (both capital and recurring) equal to the excess of expenditure over the revenues during the two years immediately preceding the commencement of the Constitution.

#### **4.3.4 (a) Sixth Schedule of the Indian Constitution:**

*Sixth Schedule* to the Constitution provides a detailed scheme of administration for tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram. The Schedule contains 21 Paragraphs. By Paragraphs 1 and 20 the whole tribal area is divided into autonomous districts, and autonomous district in turn is divided into autonomous regions. Paragraphs 2 to 17 deal with the administration of autonomous districts and autonomous regions. *District Councils* and *Regional Councils* are to be constituted under Paragraph 2. Paragraph 3 gives power to the *District* and *Regional Councils* are to be constituted under Paragraphs 4. Paragraph 5 deal with administration of justice. Paragraph 6 gives powers to the *District Council* to establish, construct or manage primary schools, dispensaries, markets, cattle pounds, ferries, fisheries, roads and water ways. Paragraphs 7,8 and 9 deal with financial matters. Paragraph 10 gives power to the *District Councils* to make regulations for the control of money lending and trading by non-tribals. Paragraph 11 provides for publication of laws, rules and regulations made under the Schedule. Paragraph 12 deals with the application of Acts of Parliament and the Legislature of the State to autonomous districts and autonomous regions. Paragraph 13 deals with the budget while 14 provides for the appointment of

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<sup>48</sup> The provisions of the **Sixth Schedule** were extended to the tribal areas in the State of Tripura in 1984. Ins. By the **Constitution (Forty-nine Amendment) Act, 1984**. (w.e.f.1.4.1985).

<sup>49</sup> Subs. For "Union Territory" by the **State of Mizoram Act, 1986** (w.e.f.20.2.1987).

a commission by the Governor at any time to inquire into and report on the administration of autonomous districts and autonomous regions. Paragraph 15 gives power to the Governor to annul or suspend any Act or Regulation of *District* and *Regional Councils* under certain contingencies and also gives him power to suspend the Council and assume all or any of its powers to himself subject to such order being placed before the State Legislature. Paragraph 16 gives power to the Governor to dissolve a *District* or *Regional Council* on the recommendation of the Commission appointed under Paragraph 14 and order a fresh election and in the meantime to assume the administration of the area to himself subject to the previous approval of the State Legislature. Paragraph 17 deals with the forming of Constituencies for the State Legislative Assembly. Paragraph 19 deals with transitional provisions and Paragraph 21 with the amendment of the Schedule.

The *Sixth Schedule* to the Constitution provides a detailed scheme of administration for tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram. There are nine tribal areas (North Cachar and Karbi Anglong), in Meghalaya three (Khasi Hills, Jaintia Hills and Garo Hills), in Tripura one (Tripura Tribal Area) and in Mizoram three (Chakma, Mara and Lai). The District Council is to consist of not more than thirty members, out of whom not more than four shall be nominated by the Governor and the rest shall be elected on the basis of adult suffrage. The *District Council* for an autonomous district has been given powers to make laws with respect to the allotment, occupation or use, or setting apart land; the management of any forest not being a reserved forest; the use of any canal or water course for the purpose of agriculture; the regulation of the practice of *jhum* or other forms of shifting cultivation; the establishment of village or town administration including village or

town committees or councils and their powers; any other matter relating to village or town police and public health and sanitation, appointment of headmen; inheritance of property; marriage and divorce; social customs. The *District Council* is given powers to make regulations for the regulation and control of money-lending or trading within the district by persons other than *Scheduled Tribes* resident in the district. The *District Council* may establish, construct or manage primary schools, dispensaries, markets, cattle pounds, ferries, fisheries, roads, road transport and waterways in the district. The *District Council* may constitute village councils or courts for trial of suits and cases between the parties all of whom belong to Scheduled Tribes within the areas of jurisdiction.

In suits and cases decided by the village councils or courts the provisions of the C.P.C and Cr.P.C do not apply. These courts do not try cases arising out of special laws or cases relating to offences of a serious nature (punishable with death, transportation for life or imprisonment for a term not less than five years). The Governor may, however, extend the jurisdiction of these courts to decide such cases by conferring the powers under the C.P.C and Cr.P.C for these cases. The jurisdiction of the Supreme Court and the High Court have been retained as in the other cases and no other court except the High Court and the Supreme Court shall have jurisdiction over such suits and cases. The *District Councils* have also power to levy and collect taxes on lands, buildings and tolls on residents within such areas. The royalties accruing each year from licenses or leases for the purpose of prospecting for, or the extracting of minerals are to be shared between State Government and the *District Council*. No Act of Parliament or State Legislature with respect to matters on which the *District Council* has the power to make law shall apply to an autonomous district, unless the *District Council* so directs.

The Governor of the State could exclude the operation of any Act of Parliament or of the State Legislature in these areas. There shall be constituted a *District Council Fund* in which all moneys received by the *District Council* shall be credited. The Governor may at any time appoint a Commission to examine and report on any matter specified by him relating to the administration of the autonomous district. On the recommendation of the Commission, the Governor may dissolve a *District Council*. The Governor may annul or suspend an Act or resolution of a *District Council*, if he is satisfied that such Act or resolution is likely to endanger the safety of India or likely to be prejudicial to public order. If at any time the Governor is satisfied that a situation has arisen in which the administration of an autonomous district cannot be carried on in accordance with provisions of the *Sixth Schedule*, he may, by public notification, assume to himself all or any of the functions or powers of the *District Council* for a period not exceeding six months. The Governor may declare that such functions or powers shall be exercisable by such person or authority as he may specify in this behalf.

*District Councils* are autonomous body established to implement the right of self-governance. The Courts have held that *District Councils* have all such executive powers as are necessary for the purposes of the administration of the district. The power of the *District Councils* to make laws are expressly limited by the provisions of the *Sixth Schedule*, because the *District Councils* unlike the Parliament and the State Legislatures are not intended to be clothed with plenary power of legislation. The State Legislature has a sort of overall superintendence over the *District Councils* and the executive authority of the State extends to the autonomous districts. Consequently, the Governor exercises his functions with the aid and advice of the Council of Ministers under the *Sixth Schedule*. The administration of justice is

achieved by the *District Council* through their own agencies(village councils or courts) except that in serious offences the Governor has to decide whether to invest the Councils and the Courts set up by the Councils with jurisdiction to try them. The *District Council* Courts (village council or courts) are performing judicial functions under the supervision of the High Court. The councils enjoy the powers of taxation and have their own funds. As regards the applicability of the Parliamentary law or law enacted by the State Legislature is concerned, all such laws which are not occupied by the provisions contained in paragraph 3 of the *Sixth Schedule* shall *proprio vigor* become operative in the tribal areas. All rules contained in procedural laws which are of universal application and are in accordance with the principles of justice, equity and good conscience are applicable in the trial suits in the *District Council* Courts. The *District Council* officials are not employees under the State Government. Some actions of the *District Councils* are capable of being annulled by the Governor and the Governor may even dissolve the Councils. There is complete autonomy as far as the powers of jurisdiction of the Councils go. A check is supplied by the Governor and the Legislature of the State comes into picture only when the Governor takes action against the Councils to revoke their acts or resolutions or dissolves them and takes over the administration himself.

#### **4.3.4 (b) Powers and functions of the District and Regional Councils in Mizoram:**

Under the provisions of the Sixth Schedule to the Indian Constitution, the Mizo District Council and the Pawi-Lakher Regional Council had been given wide extensive powers-- Legislative, Executive, Financial and Judicial.

As regards the Legislative powers, the Councils had the powers to make laws on the allotment, occupation and use or setting apart of land other than reserved forests, for



the purpose of agriculture, grazing or for residential or other non-agricultural purpose in the interests of the inhabitants of any village or town, management of unreserved forests, the use of any canal or water course for agriculture purposes, regulation of the practice of *jhum* or other forms of shifting cultivation, establishment of village councils and town committees, and matters relating to their constitution, powers and functions, appointment or succession of Chiefs or headman, inheritance of property, marriage, divorce and social customs. The District Council had also the power to control money-lending and trading by non-tribals within the District. All laws in respect to matters enumerated above framed by the District Council are put up before the Governor of the State for its consent or signature and afterwards become valid and are applicable to the tribal people.<sup>50</sup>

According to Para fourth (Sub-paragraph 6), the Councils had the executive powers to construct or manage primary schools, dispensaries, markets, cattle pounds, ferries, fisheries, roads and waterways and also to prescribe the medium and manner of primary education in the Mizo district. The Council had no legislative or regulatory power over the later subjects.<sup>51</sup>

Regarding the judicial powers, the Councils had authority in accordance with paragraph 4 of the Sixth Schedule to constitute Village Council courts, District Council courts within the autonomous areas for the adjudication or trial of suits and cases on customary laws in which both the parties were tribals. However, no case involving offences punishable by death, transportation of life or imprisonment for not less than five years were heard or adjudicated upon by the courts. The District Council court and the Regional Council court were courts of appeal in respect of all suits and cases tried by the Village Council and the subordinate District Council

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<sup>50</sup> The Constitution of India, pp.155.

<sup>51</sup> Ibid., pp.157-58.

courts. No other court except the High Court and the Supreme Court of India had jurisdiction over suits and cases decided by the Council courts. The authority of the Parliament as well as that of Assam Legislature extended over these areas under the general provision of Article 245(1) unless the Governor by notification directed to the contrary. Thus, only certain classes of laws made by the Parliament and the Assam Legislature were automatically applicable to Mizoram. The Councils with the prior approval of the Government might also frame rules and regulations for the constitution of these courts.<sup>52</sup>

IN regard to finance, the District Council and the Regional Council were entrusted with the responsibility to constitute the Council funds and frame rules for their management with the approval of the Governor. They were also given mutually exclusive powers to collect land revenue, levy and collect taxes on lands, buildings, shops, entry of goods into market and tolls on persons, residents, forests within their respective jurisdictions. But the Mizo District Council had the concurrent power on the taxes, on the professions, trades, callings, employments, animals, vehicles and boats, tolls on passengers and goods carried in ferries and maintenance of schools, dispensaries or roads. Under paragraph 9, the royalty on mines in the autonomous district shared with the State Government went to the District Council. The Pawi-Lakher Regional Council as per the Sixth Schedule had no jurisdiction over it.<sup>53</sup> But as regards the tax on motor vehicles, it was assessed and collected by the Government of Assam on behalf of the District Council. Similarly the forest revenue of the Pawi-Lakher Region was also assessed and collected by the State Forest Department.<sup>54</sup> The Councils also derived their income from grants-in-aid, loans and advances etc from the Government of Assam.

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<sup>52</sup> Ibid., pp.155-56.

<sup>53</sup> Pakyntein, E.H., **Census of India**, (Assam District Census Hand Book: Mizo Hills 1961), p.11.

<sup>54</sup> Brochure on the Mizo District Council, p.12.

In addition, grants were given to these Councils for their administration and certain purposes, such as the development of the roads and communications, rural water supply, rural communications, rural health and sanitation, maintenance of forest development schemes which were in auditable.

Not all of these powers had been entrusted to the Pawi-Lakher Regional Council. It exercised only those functions and powers, which had been conferred. In brief both these Councils derived their powers and functions from Acts, rules and regulations passed by them which had been assented to by the Governor, Assam. It thus appears from the above functions that there were some subjects where the Mizo District Council had powers to make laws for the whole district. There were again some subjects where the Mizo District Council and the Pawi-Lakher Regional Councils separately exercised law making powers independently of each other.<sup>55</sup>

#### **4.3.5 Comparative analysis between the Inuit and the Mizos:**

Canada did not have a proper policy with regard to the Inuit for a very long time. A 1939 Supreme Court of Canada ruling proclaimed them to belong to the category of Indians, thus making them a federal responsibility. Before that, there were disputes as to who was responsible for them, the provincial government or the federal government. The losers due to this confusion were the Inuit, who suffered from many ills in the midst of abject poverty.

In the case of the Mizos, the British had a clear policy. The Expeditions carried out to subjugate the Mizo tribe achieved its aim by 1895. It can be said that the British all along followed a policy of expediency in which tribal interests were subordinated to

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<sup>55</sup> Prasad, R.N., *Government and Politics in Mizoram*, (Northern Book Centre:New Delhi 1987),pp.134.

larger British interests. Traditional authority structure under the Chiefs was left undisturbed. The British aim was to run the administration with the least minimum costs. It had no intention of bringing about modernization for the Mizos.

It can be seen from the chapter that both the Inuit and the Mizos belonged to a distinct class of citizens in Canada and India. This distinct status is recognized by the law of the respective state, i.e., the Constitution. A number of reasons could be said to be responsible for this situation. Circumstances of history could be said to be a major reason for the Inuit being recognized as 'indigenous', since they had settled in the land now called Canada before the French and English settlers came. This gave them the bargaining chip needed for land claims settlement with the national government in Ottawa, based on use and occupancy of the land. It can be said that they were helped in their claim immensely by the growing International and domestic opinion which favour indigenous rights and settlement of associated claims.

In the case of the Mizos, it was the circumstances happening within the Mizo society, where the newly educated elites who favour the abolition of Chiefship, saw their salvation by remaining a part of India that made them accept a District Council status under Assam state at the dawn of Indian Independence. With time, feeling of being neglected and relatively deprived by the Central and Assam government, who are seen as out-group members, propelled by the *Mautam* famine of 1960 set the course for the violent military movement for Independence. In their striving for Independence from India, they found allies in Pakistan, China and Myanmar. Thus, for the Mizos too, International factors did play their part in charting out a course of their history. In the end, the Inuit and the Mizos remain an integral part of Canada and India under the innovative asymmetric federal arrangement.

## Conclusion

Both Arctic Canada and the North-East of India, home to the Inuit and the Mizos respectively, were *isolated* for most of their history. A number of similarities could be observed between the two groups, some of which are:

It can be seen from the previous chapters that the Inuit and the Mizos were distinct from their fellow citizens of Canada and India. And they were recognized as being distinct by the law of the land that operates in Canada and India. In Canada, the Inuit were recognized as one of the 'aboriginal peoples,' alongwith the Indians and the Metis by the *Constitution Act, 1982*. This Act also recognized the existing aboriginal and treaty rights of the aboriginal peoples of Canada. With the creation of the Nunavut territory in 1999, the Inuit enjoyed many provisions not available to other citizens of Canada, including its counterpart aboriginal population like the Indians and the Metis. The Mizos are recognized as a 'Scheduled Tribe' by the Constitution of India, 1950. The Constituent Assembly agreed to reserve seats for them in the legislative bodies, educational institutions and public services, in proportion to their numerical size in the total population. Accordingly, 7.5% of seats were reserved for them in the identified areas. Reservations were a measure intended to counter the possibility of tribal populations being excluded on account of their cultural way of life, historical location or past (colonial) policies. For the protection and recognition of separate administrative processes for tribals, a part in the Constitution, viz, Part X was included. Article 244 of Part X dealt with the administration of Scheduled Areas and Tribal Areas.

For both the Inuit and the Mizos, pre-contact collective identity was *weak*. It was contact with out-group members which helped in the crystallization of collective identity consciousness for both groups. It was this collective identity consciousness that chart the course of future political and developmental processes for both the groups.

Both Arctic Canada and the North-East of India lie in a *strategically important zone*, important for the security of Canada and India. Canada historically had administered its arctic territories in a state of 'benign neglect'. It was not until the beginning of the twentieth century that, alarmed by intensified efforts on the part of the American and Norwegian explorers to register claims to arctic territories, Canada decided to wave a flag on its own behalf. The Eastern Arctic Patrol was revived in 1922 and the Royal Canadian Mounted Police established a number of posts that were to become 'a symbol of Canada's sovereignty over the North.' Airfields and weather stations were constructed at strategic points during World War II, and in early 1950s the United States and Canada co-operated in constructing the Distant Early Warning System ( the DEW Line), a radar line that ran from eastern Arctic to Alaska to act as a deterrent to Russian invasion. The North-East of India saw the beginning of British Rule in the region with the signing of the Treaty of Yandaboo on 24th February, 1826 by the English East India Company and the Kingdom of Burma. While the fertile plains of the North-East were annexed one after another, the British authority was reluctant to touch the hill territories. With an aim to secure peaceful relationships with the tribes, the British India government enacted the 'Bengal Eastern Frontier Regulation I of 1873'. The regulation drew an imaginary line called the 'Inner Line' to serve as a unilateral boundary with the frontier tribes. The government's policy was to exercise political influence only without direct interference

or administrative control on these border tribes; therefore, it prohibited all British subjects from going beyond the line without permission. In the case of Mizoram, the Inner Line was applied to its Cachar boundary in 1875 and continued to be in effect even after the official annexation in 1895 and the Independence of India in 1947. One of the reasons for the annexation of Mizo Hills was to explore and open out the region between Burma and Chittagong. After Indian Independence, the North-East region was surrounded by foreign countries on all sides and remains a strategically important zone.

The formation of Nunavut in Canada is influenced by *international* factors, which increasingly empathized with indigenous rights and self-government. A pan-Eskimo movement was formalized in June 1977 with the first Inuit Circumpolar Conference held at Barrow, Alaska, and attended by Inuit from Alaska, Canada and Greenland. In 1983, ICC was accepted by the United Nations as a non-governmental organization. Beginning with 'Convention (no.107) concerning the protection and integration of Indigenous and other tribal and semi-tribal populations in Independent countries,' adopted by the International Labour Conference at its 40th session at Geneva on 26th June 1957, international opinion slowly empathized with rights of the indigenous people. This in turn propelled the agenda of the Canadian indigenous population at the center stage of governmental policies. The Canadian public was also becoming increasingly sympathetic to the cause of its indigenous population. The Inuit by virtue of having a numerical majority in the Eastern half of the Arctic stood in a better position from its indigenous counterparts like the Indian and Metis, by gaining a territory of Nunavut in 1999 which paved the way for Inuit self-government in a number of areas. The Mizo National Front

launched an Independence Movement for the Mizos in 1966. The immediate cause is usually attributed to the famine of 1960, where aid was not forthcoming from the Assam government. Frustration and alienation ran high amongst the general Mizo populace, which widened the gulf between them and their plains Indians. MNF capitalize on the issue and demanded secession from India. It trained its cadres in its hideouts in East Pakistan. And when East Pakistan was liberated by India to become an independent country of Bangladesh in 1970-71, the MNF shifted its military base to the Arakan Hills of Burma. Later, the MNF cadres got their training in China. Arms supply was received from both Pakistan and China. Though the Mizos armed struggle for Independence ended with the signing of the Mizo Accord in 1986 between the Government of India, Government of Mizoram and the MNF, the role played by foreign countries in the armed struggle of the Mizos for Independence cannot be undermined.

The Inuit and Mizo societies faced *drastic* social change due to contact with outside forces. The first clear reports of European and Inuit contact are from the early eighteenth century, when three French established seal and cod fisheries in southeastern Labrador. Then, the whalers came, followed by the traders, missionaries and police. The whalers and traders main interest were the economic. The Royal Canadian Mounted Police was sent to give legitimacy to Canada's claim over the Arctic. The missionaries intend to spread the message of the gospel. The Mizo society too was transformed with the establishment of British Rule. The missionaries played a major role in the social change of the Mizos. Schools were set-up which produced the newly educated elites who challenged the legitimacy of the traditional authority of the Chiefs. Trade too was expanded. In both the cases, social change was drastic. New social classes emerged, and



with it, new leadership structure. Both societies are in the midst of transition, and faced many upheavals due to the transition.

In spite of some similarities, a number of *differences* could be observed, such as:

The Inuit had a longer history which is traceable, mostly through the writings of explorers and other early visitors to the Arctic region. The Mizos due to *lack* of written records can trace their history only to a few centuries earlier. This remains an impediment in tracing the real origin of this group.

The Traditional Inuit society *did not* have a secular head in the form of *Chief* as in the case of the Mizos. This could be because of their nomadic lifestyle and the necessity of seasonal hunt for food. The Mizo social structure is more elaborate with the Chief as a secular head, aided by his Council of Elders (*Upas*) and other officials such as the blacksmith (*thirdeng*), the village crier (*tlangau*) etc. Though the village site is shifted after some years, the character is more stable as compared to the Inuit.

The Inuit are a *hunting-gathering* group, and did not practice agriculture like the Mizos do. The Mizos practiced *shifting* cultivation on the hill slopes. The snow-laden climate of the Arctic did not permit any form of agriculture for the Inuit.

Arctic Canada was *not* so much *conquered*, with initial outside visitors to the area being the explorers, the whalers, fur traders, missionaries and finally the Canadian State apparatus, the Royal Canadian mounted Police to give legitimacy to Canada's Claim over the Arctic territories. The Mizo Hills, lying in the North-East of India was finally *annexed* by the British in 1890 to subdue the Mizo tribe who carried out frequent raids in the British villages lying in the Cachar plains.

Initially, the Arctic territories attracted outside visitors mainly for *economic* reasons. The interests of the whalers, the fur traders etc were to exploit the natural resources plentifully available in the region. Later, programmes introduced by Ottawa, such as the Arctic Co-Operatives were also economic in character. India's interest in the North-East and its predominantly tribal occupants including the Mizos, could be said to be more of a *strategic* compulsion, right from the Treaty of Yandaboo signed on the 24th February 1826 between the Burmese and the British, till the present time.

Inuit realized a territory of 'Nunavut' where they formed a majority in Canada through *peaceful* means. The much awaited elevation of the territorial status of Nunavut into a full-fledge provincial status is also expected to be largely peaceful.

The Mizo Hills was a district in the state of Assam in 1947. It took *violent* political strive for attainment of statehood for the Mizos, with hundreds of lives lost and thousands displaced. The Inuit were content to be a part of Canada right from the emergence of political consciousness on their part by the end of the 1970s. This has been their stated objective. The Mizo National Front (MNF) demanded secession from the Indian Union in 1966. Though it cannot be claimed that the whole Mizo population was won over by the MNF in its struggle for Independence, the increasingly repressive measures adopted by the Indian State to suppress the violent outbreak widened the gap between the Mizos on the one hand and the Indian Union on the other. This is because to the average Mizo villager, the Indian Army was India, and he has never seen any part of India except this repressive soldier. At the peak of the violent struggle, the MNF largely succeeded in being a representative of Mizo ethnic solidarity.

Inuit are the *only* indigenous group in Canada to have realized a territory where they

constitute a majority, recognized by the Constitution of Canada. There could be a number of reasons which work in favour of the Inuit, the most discerning being their concentrated population in the Eastern Arctic. The Mizos are one *amongst* a number of tribal groups in India to have realized statehood for themselves under the Indian Union.

In terms of physical geography, Nunavut region is filled with ice for most part of the year, lying as it is in the Tundra region. The North-East Region, and Mizoram along with it, lies in the Tropical zone, characterized by Hills.

**Critical Analysis:**

The Nunavut Agreement will not be fully operational until 2008, hence predictions of its success are extremely premature. Currently, Nunavut reports the lowest literacy rates of the three territories. The resource industries, requiring a fair percentage of highly-trained personnel, will offer high salaries attractive to outsiders. It is just conceivable that the Inuit population of Nunavut could lose their political majority. This is very much possible since there is no restriction on the movement of outsiders into Nunavut, while outsiders moving into Mizoram were restricted through the Inner Line Regulation of 1930. Earlier too, the Mizo Hills was declared an Excluded Area, where only the Governor of Assam and not the Legislature had control over it, as a representative of the British Crown. All these measures more or less protected the Mizo Hills from being swarmed by outsiders.

It has been argued that the control of non-renewable resource development will not necessarily be entirely under Inuit control. The Inuit do not have a veto over the activities of the resource management boards on which they will have to share power with representatives of the federal government. Many funding, personnel and informational problems are foreseen for these boards. In the case of the Mizos too, currently existing

National Planning Commission which addresses the developmental needs of each Indian states has been addressing Mizoram developmental needs. The North Eastern Council (NEC), which was established to address the developmental needs of the North East as a region has not been as effective as expected. This is largely due to the peculiarities of each North Eastern states. Keeping this in mind, Mizoram would enjoy a fairer asymmetric federal arrangement if it has a separate Planning Commission.

There is lack of local investment opportunities in the Canadian North. An entrepreneurial class amongst the Inuit is in a nascent stage of development, and much capital is leaving the North. The Nunavut economy is likely to experience severe fluctuation in resource income that has hindered stable economic growth in the NWT. Mizoram, along with most states in the North-East is industrially backward, and no major local investment is seen till the present day. This made the Central government in New Delhi the major investor of developmental projects in Mizoram. The situation is made more precarious by the innumerable insurgent groups that operate in the soil of the North-East, which discouraged or fail to attract outsiders to invest in the region.

Nunavut will not be a homeland for all the Inuit— it excludes Inuit communities in the western Arctic, Labrador, northern Quebec and Greenland, and will be just one segment in the geo-politics of the Canadian North where matters of defence and sovereignty remain a major federal concern. The removal of some Quebec Inuit to the uninhabited High Arctic in the 1950s, when Canadian sovereignty was at stake, comes readily to mind. The Mizos of Mizoram constitute just a portion of the larger Mizo nation spread out in various Indian states such as Assam, Tripura, Manipur and onto the international

boundary of Bangladesh and Myanmar. The political unification of all these contiguous areas remains a dream of many Mizos. Thus, both the Inuit and the Mizos were frontier groups, who stand on guard for the territorial sovereignty of Canada and India, subsuming the larger interests of both groups for kinship integration.

Real autonomy eludes both the Mizos and the Inuit under the asymmetric federal arrangements of India and Canada respectively.. The word ‘autonomy’ appeared in the Sixth Schedule of the Indian Constitution, but in reality, it was far from the people’s wish for the ‘maximum autonomy’ expressed to the Bordoloi Committee. To quote Animesh Ray, “The proposed autonomy (in the Sixth Schedule) was only in respect of (sic) the peculiar tribal customs and it was not to disturb the unity of administration.” Correspondingly, asymmetric federal arrangement for Nunavut in Canada falls short of real autonomy for the Inuit.

However, inspite of all odds, it is undeniable that federalism as a form of government succeeded in incorporating distinct and divergent groups within the same constitutional arrangement. The essence of federalism is not to be found in a particular set of institutions but in the institutionalization of particular relationship among the participants in political life. Consequently, federalism is a phenomenon that provides many options for the organization of political authority and power; as long as the proper relations are created; a wide variety of political structures can be developed that are consistent with federal principles. The simplest definition of federalism is the institutional arrangement that combines self-rule with shared-rule. Federalism thus defined involves some kind of a contractual linkage of a presumably permanent character that—

(a) provides for power sharing

(b) cuts around the issue of sovereignty, and

(c) Supplements but does not seek to replace or diminish prior organic ties where they exist.

Nation-states characterized by multi-ethnic identities can resolve the issue by the application of federal principles that will combine kinship (the basis for ethnicity) and consent (the basis for democratic government) into politically viable, constitutionally protected arrangements involving territorial and non-territorial polities.

Asymmetry connotes an uneven distribution of elements along a common axis. Asymmetric federalism is in essence a calibrated institutional response to the diversity of constituent units, permitting variations. It is the operationalization of shared-rule and self-rule.

Self-rule or self-government requires, not a general decentralization of power, but the explicit recognition of national groups, through such things as language rights, land claims, an asymmetric distribution of powers, and the redrawing of boundaries.

Group rights may be accommodated within the framework of democracy when they are aimed at countering social patterns of discrimination. Democracies must be concerned about the possibility of groups being excluded or disadvantaged by societal practices. Accordingly, special consideration or collective group rights may need to be granted in pursuit of the ideal of non-discrimination. Group rights of this nature have a legitimate space within democracy.

According to the Canadian academician Will Kymlicka, States should aim at ensuring that all national groups have the opportunity to maintain themselves as a distinct culture,

if they so choose. This ensures that the good of cultural membership is equally protected for the members of all national groups. In a democratic society, the majority nation will always have its language and societal culture supported, and will have the legislative power to protect its interests in culture-affecting decisions. The question is whether fairness requires that the same benefits and opportunities should be given to national minorities. The answer, for Kymlicka, is clearly yes.

Hence, group-differentiated self-government rights compensate for unequal circumstances which put the members of minority cultures at a systemic disadvantage. This is one of the many areas in which true equality requires not identical treatment, but rather differential treatment in order to accommodate differential needs.

Government decisions on languages, internal boundaries, public holidays, and state symbols unavoidably involve recognizing, accommodating, and supporting the needs and identities of particular ethnic and national groups. Nor is there any reason to regret this fact. The only question is how to ensure that these unavoidable forms of support for particular ethnic and national groups are provided fairly—that is, how to ensure that they do not privilege some groups and disadvantage others. In so far as existing policies support the language, culture, and identity of dominant nations and ethnic groups, there is an argument of equality for ensuring that some attempts are made to provide similar support for minority groups, through self-government and polyethnic rights.

Self-government rights set limits on the authority of the federal government over a national minority. On the other hand, in so far as self-government reduces the jurisdiction of the federal government over a national minority, self-government seems to entail that

the group should have reduced influence (at least on certain issues) at the federal level. To over-simplify, then, self-government for a national minority seems to entail guaranteed representation on intergovernmental bodies, which negotiate, interpret, and modify the division of powers, but reduced representation on federal bodies which legislate in areas of purely federal jurisdiction from which they are exempted.

Will Kymlicka, along with other contemporary liberals maintain that liberal principles of justice are consistent with, and indeed require, certain forms of special status for national minorities. Relations between national groups should be determined by dialogue. Contemporary liberals maintain that it is the responsibility of the state to take care of obstacles that arise from natural endowments or social circumstance. Being born with a handicap or being disadvantaged because of the social environment in which one is born justifies special consideration because these are the consequences of a 'natural lottery' and not individual choice. The general commitment to the ideal of social equality makes democracies sensitive to group practices and social identities.

It has always been recognized that a majoritarian democracy can systematically ignore the voices of minorities. In cases where minorities are regionally concentrated, democratic systems have responded by intentionally drawing the boundaries of federal units, or of individual constituencies, so as to create seats where the minority is in a majority. The familiar practice of defining geographic constituencies in such a way as to ensure representation of 'communities of interest' is not seen as a threat to national unity—on the contrary, it is rightly seen as promoting civic participation and political



legitimacy. The basic impulse underlying representation is integration, not separation.

The basic claim underlying self-government rights is not simply that some groups are disadvantaged within the political community (representation rights), or that the political community is culturally diverse (polyethnic rights). Instead, the claim is that there is more than one political community, and that the authority of the larger state cannot be assumed to take precedence over the authority of the constituent national communities. If democracy is the rule of 'the people', national minorities claim that there is more than one people, each with the right to rule themselves.

Self-government rights, therefore, are the most complete case of differentiated citizenship, since they divide the people into separate 'peoples', each with its own historic rights, territories, and powers of self-government; and each, therefore with its own political community. They may view their own political community as primary, and the value and authority of the larger federation as derivative.

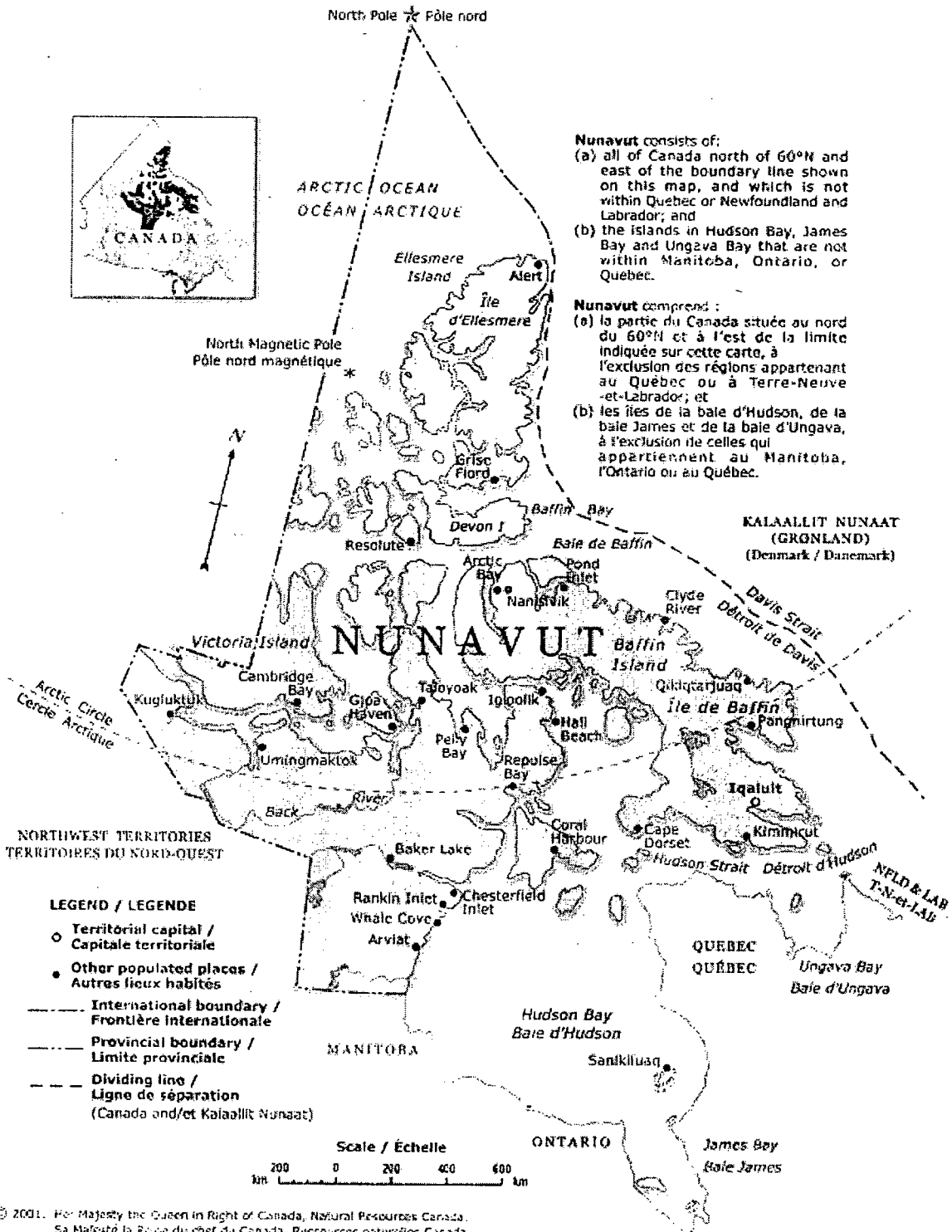
John Rawls, a liberal theorist, claims that the source of unity in modern societies is a shared conception of justice. According to Rawls, 'although a well-ordered society is divided and pluralistic—public agreement on questions of political and social justice supports ties of civic friendship and secures the bonds of association.' It is true that there often are shared political values within multination states, including a shared conception of liberal justice. However, it is not clear that these values, by themselves, provide a reason for two or more national groups to stay together in one country.

Shared values are thus not sufficient for social unity. The need is for a shared identity. In nation-states, shared identity derives from commonality of history, language, and maybe religion.

But in many multination countries, history is a source of resentment and division between national groups, not a source of shared pride. The people and events which spark pride amongst the majority nation often generate a sense of betrayal amongst the national minority. Moreover, the reliance on history often requires a very selective, even manipulative, retelling of that history. Ernst Renan once claimed that national identity involves forgetting the past as much as remembering it. To build a sense of common identity in a multination state probably requires an even more selective memory of the past.

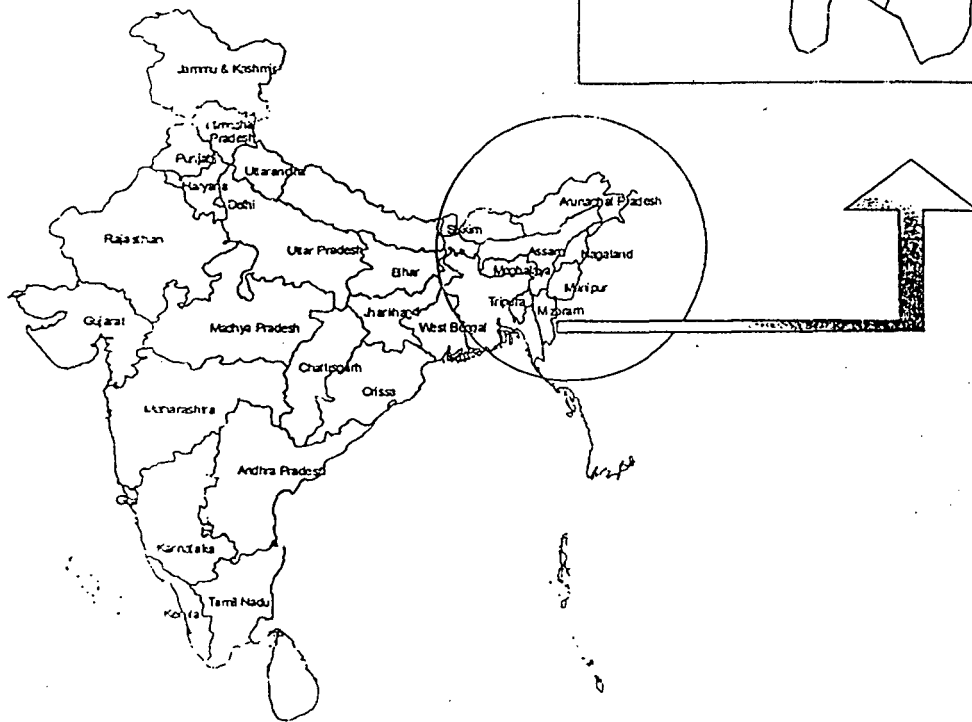
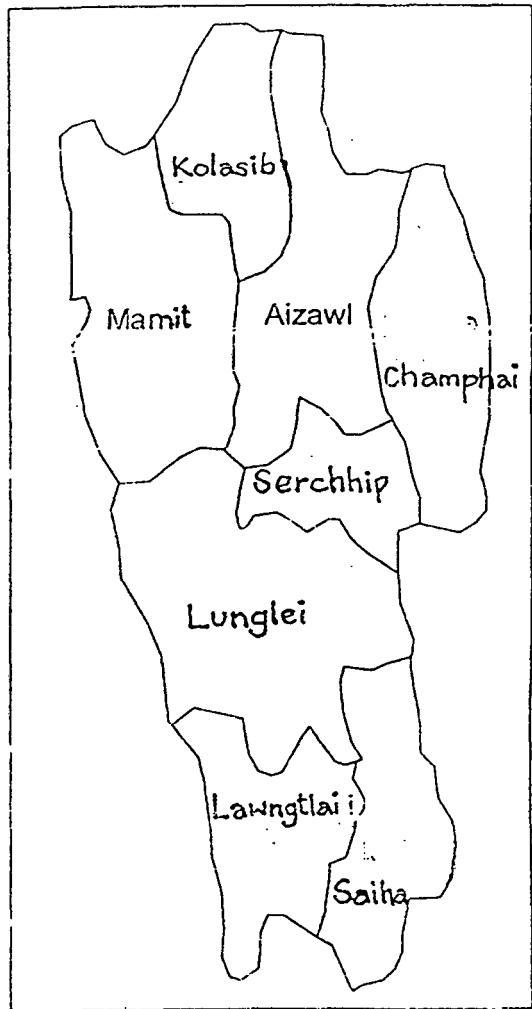
A fundamental challenge facing liberal theorists, therefore, is to identify the sources of unity in a democratic multination state. The nineteenth-century English theorist A.V.Dicey once said that a stable multination federation requires 'a very peculiar state of sentiment' among its citizens, since 'they must desire union, and must not desire unity.' Henry Bourassa made a similar point when he said that the 'special development' of the French-Canadian nation 'must come about in conjunction with the development of a more general patriotism that unifies us, without fusing us'.

The above ideal can be realized through asymmetric federal arrangements for groups, as had been done with the Inuit and the Mizos in Canada and India respectively. Asymmetric federalism, thus, is the answer, which provide for an atmosphere of union without necessarily entailing unity.

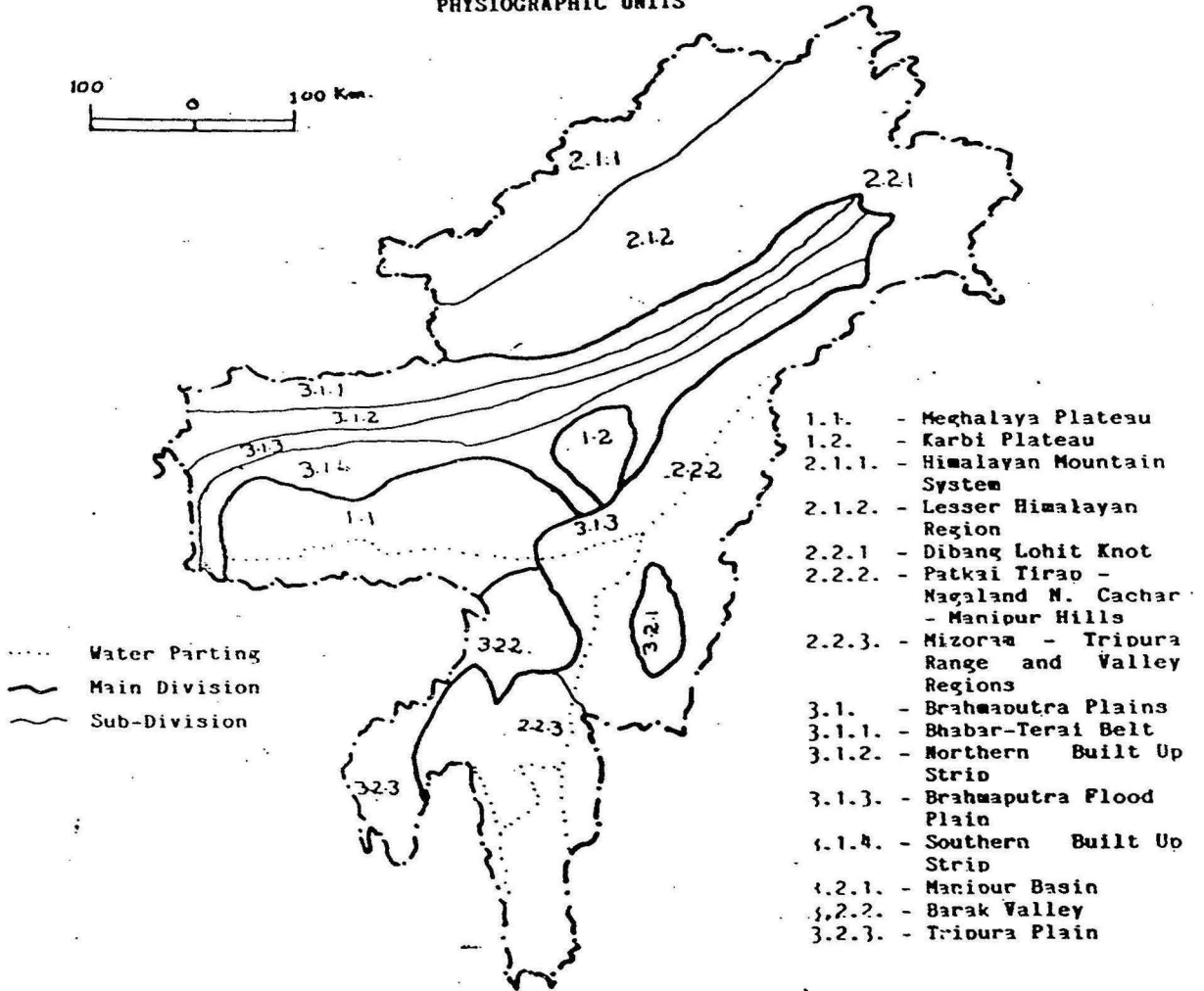


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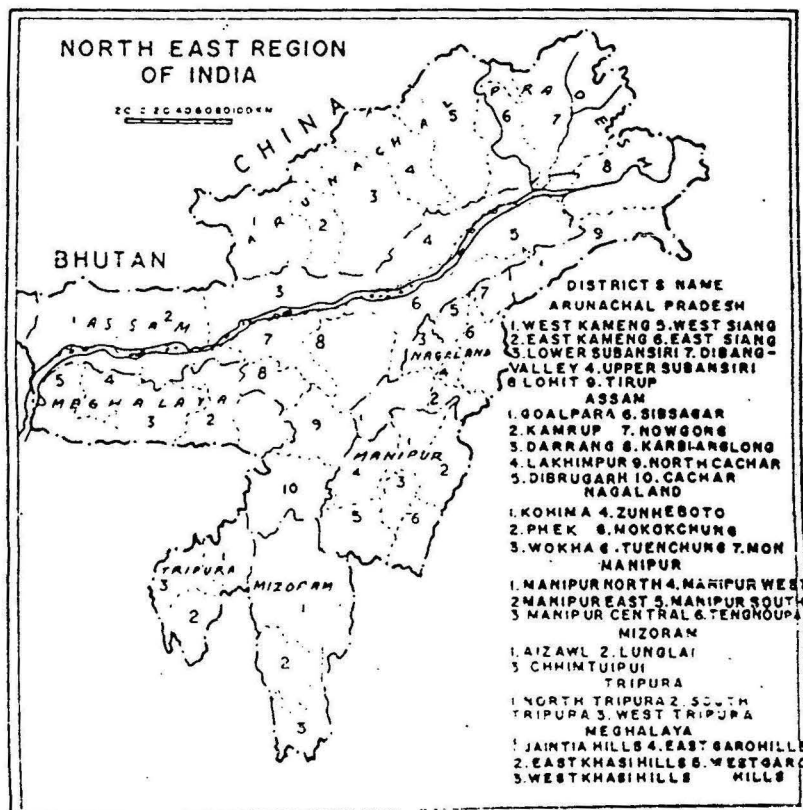
# MIZORAM LOCATION MAP



NORTH EAST REGION  
PHYSIOGRAPHIC UNITS



Based on M. Taher, 1986. "Physiographic Framework of North East India", North-Eastern Geographer, Vol. 18 (1 & 2), pp. 1-19.



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**Appendix A**  
**Text of the MNF Declaration of Independence on 1.3.1966**

In the course of human history, it becomes invariably necessary for mankind to assume their social, economic and political status to which the law of nature's God entitle them. We hold truth to be self-evident that all men are created equal, and that they are endowed with inalienable fundamental human rights and dignity of human persons and to secure these rights governments are instituted among men deriving their just power from the consent of the government and whenever any form of government becomes destructive to this, it is the right of the people to alter, change, modify and abolish it, and to institute the new government laying its foundations on such principles and organize its power in such forms as to them shall seem most likely to affect their right and dignity. The Mizos, created and moulded into a Nation and nurtured as such by nature's God have been intolerably dominated by the people of India in contravention of the law of nature.

The leaders of the Mizo National Front had many a time, verbally and in writing put forward to the Government of India their desire to self-determination for creation of free and independent Mizoram for bringing about protection of human rights and dignity, which the Mizos by nature ought to have, but the Government of India by violating the Charter of the United Nations and its declaration of universal human rights reaffirmed in the principle of the Bandung Conference, have ignored the right of the Mizoram people and are determined to continue domination and colonization ruling over us with tyranny and despotism by instituting self-designed administrative machinery with which they endeavour to mislead the world to their confidence.

Our people are despised, persecuted, tortured, manhandled, murdered without displaying justice where they preached and confessed before us and throughout the world that they have instituted for us a separate administrative set up in conformity with their principle of democracy. To conceal their evil selfish design, religious assimilation and Hindu indoctrination, they preached to have established secularism which cannot be accepted as it leads to suppression of Christianity.

To prove this, let facts be submitted to the candid world.

1. They have instituted Government to rule over us in our own country without any respect for human rights and dignity even in the face of the present candid world, which is committed to these rights and dignity.
2. They have been following a policy of exploitative measures in their attempts to wipe out Christianity, our sole religion and no consideration has even been paid to our national way of life.
3. They have been preaching through the world as if they have instituted a separate administrative machinery in conformity with the principles of democracy to conceal their degeneration of our national morality and of assimilation while what had been instituted for us is a pattern of colonial administration.
4. They refuse not only to procure supply of food and arrange other forms of assistance in times of famine, but also prohibited us from seeking and receiving assistance from friendly countries, which resulted in the death of many people.
5. They have instituted a multitude of officers and sent hitherto swarms of Indian officers, who lead an immoral life, cruelly appeasing (sic) our womenfolks to



- commit immorality with them by taking advantages of their official capacity and of the position they occupy in the administrative machinery.
6. Taking advantage of economic frustration of the people, they subject us to economic slavery and force us to enter into the door of poverty.
  7. Curbing freedom of expression, our patriots are arrested and kept in jails without displaying any form of justice.
  8. The export facilities which we used to enjoy during the pre-Indian domination have been totally closed.
  9. Without exploring our country's economic resources in agriculture, industries and mining and giving no consideration for their development, they maintain suppressive measures against our economic rights.
  10. Realizing the importance of our country to India in its defence strategy, the Government of India is establishing military base throughout our country and thereby creating an atmosphere of cold war while nothing is done for its economic and social development.
  11. In spite of our repeated appeals for peaceful settlement of our rightful and legitimate demand for full self-determination, the Government of India is bringing exploitative and suppressive measures employing their military might and waging war against us as done in the case of the Nagas and the Kashmiris.
  12. Owing to absence of medical facilities in our country, our people died without having medical facilities and attention.

For these and all innumerable causes, we declare to the candid world that India is unworthy and unfit to rule over us, the civilized Mizo people who are created and moulded into a Nation and nurtured as such and endowed with territorial integrity by nature and nature's God.

We, therefore, the representatives of the Mizo people meeting on this day, the First of March in the year of our Lord 1966 appealing to the Supreme Judge of the world authority of the good people of this country, solemnly publish and declare that Mizoram is and out of right ought to be free and independent, that they are absolved from all allegiance to India and its Parliament of all political connections between them and the Government of India is and ought to be dissolved and that as free and independent state, they have full power to levy war, conclude peace, contract allegiance, establish commerce and to do all other acts and things which independent state may of right do. And for the other support of this declaration, we mutually pledge with each other with a firm reliance on the protection of Divine Providence, our lives, our fortunes and our sacred Honour. We appeal to all freedom-loving nations and individuals to uphold human rights and dignity and to extend help to the Mizo people for realization of our rightful and our legitimate demand for self-determination. We appeal also to all independent countries to give recognition to the Independence of Mizoram.

#### Signatories

- |                   |                  |                   |
|-------------------|------------------|-------------------|
| 1. Laldenga       | 2. Lalnunmawia   | 3. Lianzuala      |
| 4. Sainghaka      | 5. Lalkhawliana  | 6. Thangkima      |
| 7. Lalhmingthanga | 8. Zamawia       | 9. Ngurkunga      |
| 10. Bualhranga    | 11. Sakhawliana  | 12. Ngunhulha     |
| 13. Lalhmuaka     | 14. Saikunga     | 15. Lalchhawna    |
| 16. Lallianzuala  | 17. Malsawma     | 18. Thangmawia    |
| 19. Vanmawia      | 20. Ngurchhina   | 21. Hrangchhinga  |
| 22. Thangchhuaka  | 23. Chuailokunga | 24. V.L.Nghaka    |
| 25. Zoramthanga   | 26. Thangzika    | 27. Khawlrathanga |

28. Hlunsanga  
31. Dokhuma  
34. Hnuna  
37. Thanghnuai  
40. Vansiama  
43. Lalchhawna  
46. Challiana  
49. Rochhinga I  
52. Lalhruai  
55. Vankunga  
58. Zanenga

29. Vala  
32. Rosanga  
35. Thangbuaia  
38. Lalluta  
41. Thatthiauva  
44. Vanlalzika  
47. Pachhunga  
50. Rochhinga II  
53. Vanlalliana  
56. Rohmingthanga  
59. Lalnundawta

30. Thanghuta  
33. Thangkhuma  
36. Lamputa  
39. Lalchhuanga  
42. Vanhnuai  
45. Kapthanga  
48. Zamanthanga  
51. Rangkhuma  
54. Thanglawra  
57. Duma  
60. Lalkhawhena

## **Appendix B**

### **Mizo Accord (1986) ( Memorandum of Settlement)**

#### **Preamble**

1. Government of India have all along been making earnest effort to bring about an end to the disturbed condition in Mizoram and to restore peace and harmony.
2. Towards this end, initiative was taken by the late Prime Minister Smt. Indira Gandhi on the acceptance by Shri Laldenga on behalf of the Mizo National Front (MNF) of the two conditions, namely, cessation of violence by MNF and to hold talks within the framework of the Constitution. A Series of discussions were held with Shri Laldenga. Settlement on various issues reached during the course of talks is incorporated in the following paragraphs.

#### **Restoration of Normalcy**

3.1 With a view to restoring peace and normalcy in Mizoram, the MNF party, in their part undertake within the agreed timeframe, to bring out all underground personnel of the MNF with their arms, ammunitions, and equipments, to ensure their return to civil life, to abjure violence and generally to help in the process of restoration of normalcy. The modalities of bringing out all underground personnel and the deposit of arms, ammunitions and equipments will be as worked out. The implementation of the foregoing will be under the supervision of the Central Government.

3.2 The MNF party will take immediate steps to amend its articles of Association so as to make them conform to the provisions of law.

3.3 The Central Government will take steps for the settlement and rehabilitation of underground after considering the scheme proposed in this regard by the Government of Mizoram.

3.4 The MNF will not undertake to extend any support to the Tripura National Volunteer (TNV), Peoples' Liberation Army of Manipur (PLA) and any other such group by way of training, supply of arms or providing protection or in any other matters.

#### **Legal Administration and Other steps**

- 4.1 With a view of satisfying the desires and aspirations of all sections of the people of Mizoram, the Government will initiate measures to confer Statehood on the Union Territory of Mizoram subject to the other stipulation contained in this Memorandum of Settlement.
- 4.2 To give effect to the above, the necessary legislative and administrative measures will be undertaken, including those for the enactment of Bills for the amendment of the Constitution and other laws for the conferment of Statehood as aforesaid, that will come into effect on a date to be notified by the Central Government.
- 4.3 The amendment aforesaid shall provide, among other things, for the following:
  - I. The territory of Mizoram shall consist of the territory specified in Section 6 of the North Eastern Areas (Re-organization ) Act, 1971.
  - II. Notwithstanding anything contained in the Constitution, no act of Parliament in respect of (a) Religion or social practices of the Mizos, (b)Mizo Customary Law or procedure, (c) Administration of Civil and

Criminal Justice involving decisions according to the Mizo Customary Law, (d) Ownership and transfer of land, shall apply to the State of Mizoram unless the Legislative of Mizoram, by a resolution, so decides.

Provided that nothing in this Clause shall apply to any Central Act in force in Mizoram immediately before the appointed day.

III. Article 170 Clause (1) shall, in relation to Legislative of Mizoram, have effect as if for the word sixty the word forty has been substituted.

5. Soon after the Bill of Conferment of Statehood becomes Law, and when the President is satisfied that normalcy has returned and that conditions are conducive to the holding of free and fair election, elections to the Legislative Assembly will be initiated.

6. (a) The Centre will transfer resource to the new Government keeping in view the change in status from a Union Territory to a State and will include resources to cover the revenue gap for the year.

(b) Central assistance for Plan will be fixed taking note of any residuary gap in resources so as to sustain the Approved Plan outlay and the pattern of assistance will be as in the case of Special Category State.

7. Border trade in locally produced or grown agricultural commodities should be allowed under a scheme to be formulated by the Central Government subject to international arrangement with neighbouring countries.

8. The Innerline Regulation, as now in force in Mizoram, will not be amended or repealed without consulting the State Government.

#### **Other Matters**

9. The rights and privileges of the minorities in Mizoram as envisaged in the Constitution, shall continue to be preserved and protected and their social and economic advancement shall be ensured.

10. Steps will be taken by the Government of Mizoram at the earliest to review and codify the existing customs, practices, law or other usages relating to the matters specified in Clauses (a) to (b) of Para 4.3 (ii) of the Memorandum, keeping in view that an individual Mizo may prefer to be governed by Acts of Parliament dealing with such matters and which are of general application.

11. The question of unification of Mizo inhabited areas of other State to conform one administrative unit was raised by the MNF delegation. It was pointed out to them, on behalf of the Government of India, that Article 3 of the Constitution of India describes the procedure in this regard but that the Government cannot make any commitment in this respect.

12. It was also pointed out on behalf of the Government that as soon as Mizoram becomes a State:

(i) The provisions of Part XVII of the Provision of the Constitution will apply and the State will be at liberty to adopt any one or more language to be used for all or any of the official purposes of the State.

(ii) It is open to the State to move for the establishment of the separate University in the State in accordance with the prescribed procedure.

(iii) In the light of the Prime Minister's statement at the Joint Conference of the Chief Justices, Chief Minister and Ministers held at New Delhi on 31<sup>st</sup> August 1985 Mizoram will be entitled to have a High Court of its own if it so wishes.

13. (q) It was noted that already there is a scheme in force for payment of ex-gratia amount to heirs/ dependents of persons who were killed during disturbances in 1966 and thereafter in the Union Territory of Mizoram. Arrangement will be made to

expeditiously disburse payment to those eligible persons who have already applied but who had not been made such payment so far.

(b) It was noted that consequence on verification done by a joint team of officers, the Government of India had already made arrangement for payment of compensation in respect of damage to crops, buildings destroyed/ damaged during the action in Mizoram, and rented charges of building and land occupied by security forces. There may, however, be some claim which were referred and verified by the above team but is not yet settled expeditiously. Arrangement will also be made for payment of pending claim of rented charges on land/ building occupied by the security forces.

Sd/- Laldenga

On behalf of the Mizo National Front

Sd/-R.D.Pradhan

Home Secretary

Government of India

Dated: 30<sup>th</sup> June, 1986

Place: New Delhi.

Sd/- Lalkhama

Chief Secretary

Govt. of Mizoram

## **Appendix C**

### **Panama Declaration of Principles of Indigenous Rights**

Adopted by the Fourth General Assembly of the World Council of Indigenous peoples, Panama, Sept. 1984. Reprinted in U.N. Doc. E/ CN.4/ 1985/22, Annex 2 (1985).

#### **Principle 1**

All indigenous peoples have the right of self-determination. By virtue of this right they may freely determine their political status and freely pursue their economic, social, religious and cultural development.

#### **Principle 2**

All states within which an indigenous people lives shall recognize the population, territory and institutions of the indigenous people.

#### **Principle 3**

The cultures of the indigenous peoples are part of the cultural heritage of mankind.

#### **Principle 4**

The tradition and customs of indigenous people must be respected by the states, and recognized as a fundamental source of law.

#### **Principle 5**

All indigenous peoples have the right to determine the person or groups who are included within its population.

#### **Principle 6**

Each indigenous people has the right to determine the form, structure and authority of its institutions.

#### **Principle 7**

The institutions of indigenous peoples and their decisions, like those of states, must be in conformity with internationally accepted human rights both collective and individual.

#### **Principle 8**

Indigenous peoples and their members are entitled to participate in the political life of the state.

#### **Principle 9**

Indigenous people shall have exclusive rights to their traditional lands and its resources: Where the land and resources of the indigenous peoples have been taken away without their free and informal consent such lands and resources shall be returned.

#### **Principle 10**

The land rights of an indigenous people include surface and subsurface rights and interior and coastal waters and rights to adequate and exclusive coastal economic zones within limits of international law.

#### **Principle 11**

All indigenous peoples may, for their own needs, freely use their natural wealth and resources in accordance with Principles 9 and 10.

#### **Principle 12**

No action or course of conduct may be undertaken which, directly or indirectly, may result in the destruction of land, air, water, sea ice, wildlife, habitat or natural resources without the free and informed consent of the indigenous peoples affected.

**Principle 13**

The original rights to their material culture, including archaeological sites, artifacts, designs, technology and works of art lie with the indigenous people.

**Principle 14**

The indigenous peoples have the right to receive education on their own language or to establish their own educational institutions. The languages of the indigenous peoples are to be respected by the states in all dealings between the indigenous people and the state on the basis of equality and non-discrimination.

**Principle 15**

The indigenous peoples and their authorities have the right to be previously consulted and to authorize the realization of all technological and scientific investigations to be conducted within their territories and to be informed and full access to the results of the investigation.

**Principle 16**

Indigenous peoples have the right, in accordance with their traditions, to move freely and conduct traditional activities and maintain kinship relationships across international boundaries.

**Principle 17**

Treaties between indigenous nations or peoples and representatives of states freely entered into, shall be given full effect under national and international law.

These principles constitute minimum standards which States shall respect and implement.

## Appendix D

### Geneva Declaration of Principles on the rights of Indigenous Peoples

Adopted by representatives of indigenous peoples and organizations meeting in Geneva, July 1985, in preparation for the fourth session of the United Nations Working Group on Indigenous Populations; as reaffirmed and amended by representatives of indigenous peoples and organizations meeting in Geneva, July 1987, in preparation for the working group's fifth session. Reprinted in U.N.Doc.E/CN.4/Sub.2/1987/22,Annex 5 (1987).

1. Indigenous nations and peoples have, in common with all humanity, the right to life and to freedom from oppression, discrimination, and aggression.
2. All indigenous nations and peoples have the right to self-determination, by virtue of which they have the right to whatever degree of autonomy or self-government they choose. This includes the right to freely determine their political status, freely pursue their own economic, social, religious and cultural development, and determine their own membership and/or citizenship, without external interference.
3. No State shall assert any jurisdiction over an indigenous nation and people, or its territory, except in accordance with the freely expressed wishes of the nation and people concerned.
4. Indigenous nations and peoples are entitled to the permanent control and enjoyment of their aboriginal ancestral-historical territories. This includes air space, surface and subsurface rights, inland and coastal waters, sea ice, renewable and non-renewable resources, and the economies based on these resources.
5. Rights to share and use land, subject to the underlying and inalienable title of the indigenous nation or people, may be granted by their free and informed consent, as evidenced in a valid treaty or agreement.
6. Discovery, conquest, settlement on a theory of *terra nullius* and unilateral legislation are never legitimate bases for States to claim or retain the territories of indigenous nations or peoples.
7. In cases where lands taken in violation of these principles have already been settled, the indigenous nation or people concerned is entitled to immediate restitution, including compensation for the loss of use, without extinction of original title. Indigenous peoples' right to regain possession and control of sacred site must always be respected.
8. No State shall participate financially or militarily in the involuntary displacement of indigenous population, or in the subsequent economic exploitation or military use of their territory.
9. The laws and customs of indigenous nations and peoples must be recognized by States legislative, administrative and judicial institutions and, in case of conflicts with State laws, shall take precedence.
10. No State shall deny an indigenous nation, community, or people residing within its borders the right to participate in the life of the State in whatever manner and to whatever degree they may choose. This includes the right to participate in other forms of collective action and expression.
11. Indigenous nations and peoples continue to own and control their material culture, including archaeological, historical and sacred sites, artifacts, designs, knowledge, and works of art. They have the right to regain items of major



- cultural significance and in all cases, to the return of the human remains of their ancestors for burial according with their traditions.
12. Indigenous nations and peoples have the right to education, and the control of education, and to conduct business with States in their own languages, and to establish their own educational institutions.
  13. No technical, scientific or social investigations, including archaeological excavations, shall take place in relation to indigenous nations or peoples or their land, without their prior authorization, and their continuing ownership and control.
  14. The religious practices of indigenous nations and peoples shall be fully respected and protected by the laws of States and by international law. Indigenous nations and peoples shall always enjoy unrestricted access to, and enjoyment of sacred sites in accordance with their own laws and customs, including the right to property.
  15. Indigenous nations and peoples are subjects of international law.
  16. Treaties and other agreements freely made with indigenous peoples shall be recognized and applied in the same manner and according to the same international laws and principles as treaties and agreements entered into with other States.
  17. Disputes regarding the jurisdiction, territories and institutions of an indigenous nation or people are a proper concern of international law, and must be resolved by mutual agreement or valid treaty.
  18. Indigenous nations and peoples may engage in self-defence against State actions in conflict with their right to self-determination.
  19. Indigenous nations and peoples have the right freely to travel, and to maintain economic, social, cultural and religious relations with each other across State borders.
  20. In addition to these rights, indigenous nations and peoples are entitled to the enjoyment of all human rights and fundamental freedoms enumerated in the International Bill of Human Rights and other United Nations instruments. In no circumstances shall they be subjected to adverse discrimination.
  21. All indigenous nations and peoples have the right to their own traditional medicine, including the right to the protection of vital medicinal plants, animals and minerals. Indigenous nations and peoples also have the right to benefit from modern medical techniques and services on a basis equal to that of the general population of the States within which they are located. Furthermore, all indigenous nations and peoples have the right to determine, plan, implement, and control the resources respecting health, housing, and other social services affecting them.
  22. According to the right of self-determination all indigenous nations and peoples shall not be obligated to participate in State military services, including armies, paramilitary or "civil" organizations with military structures, within the country or in international conflicts.

**Appendix E**  
**Sections of the Constitution Act, 1982, Pertaining to Aboriginal Peoples**

- 25 The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including
- (a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1963, and
  - (b) any rights or freedoms that may be acquired by the aboriginal peoples of Canada by way of land claims settlement.
- 35 (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.
- (2) In this Act, 'aboriginal peoples of Canada' includes the Indian, Inuit and Metis peoples of Canada.
- 36 (1) A constitutional conference composed of the prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada within one year after this Part comes into force.
- (2) The conference convened under subsection (1) shall have included in its agenda and item respecting constitutional matters that directly affect the aboriginal peoples of Canada, including the identification and definition of the rights of those peoples to be included in the Constitution of Canada, and the Prime Minister of Canada shall invite representatives of those peoples to participate in the discussions on that item.
- (3) The Prime Minister of Canada shall invite elected representatives of the governments of the Yukon Territory and the Northwest Territories to participate in the discussions on any item on the agenda of the conference convened under subsection (1) that, in the opinion of the Prime Minister, directly affects the Yukon Territory and the Northwest Territories.

**Appendix F**  
**Royal proclamation of 1763**

And whereas it is just and reasonable, and essential to our Interests, and the Security of our Colonies, that the several Nations or Tribes of Indians with whom We are connected, and who live under our Protection, should not be molested or disturbed in the Possession of such Parts of our Dominions and Territories as not having been ceded to or purchased by Us, are reserved to them, or nay of them, as their Hunting Grounds.- We do therefore, with the Advice of our privy Council, declare it to be our Royal Will and Pleasure, that no Governor or Commander in Chief in any of our Colonies of Quebec, East Florida, or West Florida, do presume, upon any Pretence whatever, to grant Warrants of Survey, or pass ant Patents for Lands beyond the Bounds of their respective Governments, as described in their in their Commissions; as also that no Governor, or Commander in Chief in any of our other Colonies or Plantations in America do presume for the present, and until our further Pleasure be known, to grant Warrants of Survey, or pass Patents for any Lands beyond the Heads or Sources of any of the Rivers which fall into the Atlantic Ocean from the West and North West, or upon any Lands whatever, which, not having been ceded to or purchased by Us as aforesaid, are reserved to the said Indians, or any of them.

And We do further declare it to be Our Royal Will and Pleasure, for the present as aforesaid, to reserve under our Sovereignty, Protection and Dominion, for the use of the said Indians, all the Lands and Territories not included within the Limits of Our said Three new Governments or within the Limits of the Territory granted to the Hudson's Bay Company, as also all the Lands and Territories lying to the Westward of the Sources of the Rivers which fall into the Sea from the West and North West as aforesaid.

And We do hereby strictly forbid, on Pain of our Displeasure, all our loving Subjects from making any Purchases or Settlements whatever, or taking Possession of any of the Lands above reservéd, without our especial leave and Licence for that purpose first obtained.

And We do Further strictly enjoin and require all Persons whatever who have either willfully or inadvertently seated themselves upon any lands within the Countries above described, or upon any other Lands which, not having been ceded to or purchased by Us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such settlements.

And whereas great Frauds and Abuses have been committed in purchasing Lands of the Indians to the great Prejudice of our Interests and to the great Dissatisfaction of the said Indians, in order therefore to prevent such Irregularities for the future, and to the end that the Indians may be convinced of our justice and determined Resolution to remove all reasonable Cause of Discontent, We do, with the Advice of our Privy Council, strictly enjoin and require, that no private Person do Presume to make any Purchase from the said Indians of any Lands reserved to the said Indians, within those parts of our Colonies where We have thought proper to allow Settlement, but that if at any Time any of the said Indians should be inclined to dispose of the said lands, the same shall be Purchased only for Us in our name, at some public Meeting or Assembly of the said Indians, to be held for that Purpose by the Governor or

Commander in Chief of our Colony respectively within which they shall lie; and in case they shall lie within the limits of any Proprietary Government, they shall be purchased only for the Use and in the name of such Proprietaries, conformable to such Directions and Instructions as we or they shall think proper to give for that Purpose, and we do, by the Advice of our Privy Council, declare and enjoin that the Trade with the said Indians shall be free and open to all other Subjects whatever, provided that every Person who may incline to Trade with the said Indians do take out a Licence for carrying on such Trade from the Governor or the Commander in Chief of any of our Colonies respectively where such Person shall reside, and also give Security to observe such Regulations as We shall at any Time think fit, by ourselves or by our Commissaries to be appointed for this Purpose, to direct and appoint for the Benefit of the said Trade.

And we do hereby authorize, enjoin, and require the Governors and Commanders in Chief of all our Colonies respectively, as well those under Our immediate Government as those under the Government and Direction of Proprietaries, to grant such Licences without Fee or Reward, taking especial Care to insert therein a Condition, that such Licence shall be void, and the Security forfeited in case the Person to whom the same is granted shall refuse or neglect to observe such Regulations as We shall think proper to prescribe as aforesaid.

And we do further expressly enjoin and require all Officers whatever, as well Military as those Employed in the Management and Direction of India Affairs, within the Territories reserved as aforesaid for the use of the said Indians, to seize and apprehend all Persons whatever, who standing charged with Treason, Misprisions of Treason, Murders, or other Felonies or Misdemeanors, shall fly from Justice and take Refuge in the said Territory, and to send them under a proper guard to the Colony where the Crime was committed to which they stand accused, in order to take their Trial for the same.

Given at our Court of St James', the 7<sup>th</sup> Day of October, 1763, in the Third Year of our Reign.

GOD SAVE THE KING

## Appendix G NUNAVUT ACT

An Act respecting an Agreement between the Inuit of the Nunavut Settlement Area, and Her Majesty the Queen in right of Canada. (Assented to 10<sup>th</sup> June, 1993)

Whereas the Inuit of the Nunavut Settlement Area have asserted an aboriginal title to that Area based on their traditional and current use and occupation of the lands, waters and land-fast ice therein in accordance with their own customs and usages;

Whereas the Constitution Act, 1982 recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada;

Whereas her Majesty the Queen in right of Canada and the Inuit of the Nunavut Settlement Area have negotiated an Agreement based on and reflecting the following objectives—

to provide for certainty and clarity of rights to ownership and use of lands and resources and of rights for Inuit to participate in decision-making concerning the use, management and conservation of land, water and resources, including the offshore,

to provide the Inuit with wildlife harvesting rights and rights to participate in decision-making concerning wildlife harvesting,

to provide Inuit with financial compensation and means of participating in economic opportunities,

to encourage self-reliance and the cultural and social well-being of Inuit;

Whereas Her Majesty the Queen in right of Canada and the Inuit of the Nunavut Settlement Area, through their duly mandated representatives, have entered into the Agreement through which Inuit shall receive defined rights and benefits in exchange for the surrender of certain claims, rights, titles and interests based on their assertion of an aboriginal title.

Whereas the Agreement provides that it will be a land claims agreement within the meaning of section 35 of the Constitution Act, 1982.

Whereas the Inuit of the Nunavut Settlement Area have ratified the Agreement in accordance with the provisions of the Agreement;

And whereas the ratification by Her Majesty under Article 16 of the Agreement requires the enactment by Parliament of a statute ratifying the Agreement;

Now, therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows—

### SHORT TITLE

This Act may be cited as the Nunavut Land claims Agreement Act.

### INTERPRETATION

In this Act,

“Agreement” means the land claims agreement between the Inuit of the Nunavut Settlement Area and Her Majesty, the Queen in right of Canada, signed on May 25/15, 1993 and tabled in the House of Commons for the Minister of Indian Affairs and Northern Development on May 26, 1993 and includes any amendment to that agreement made pursuant to the agreement.

“Nunavut Settlement Area” means the Area described in section 5.1.1 of the Agreement.

#### HER MAJESTY

3. This Act is binding on Her Majesty in right of Canada as a province.

#### AGREEMENT

4. (1) The Agreement is hereby ratified, given effect and declared valid

(2) For greater certainty, the Agreement is binding on all persons and bodies that are not parties to the Agreement.

(3) For greater certainty, any person or body on which the Agreement confers

(a) rights, privilege, benefit or power or imposes

(b) duty or liability may exercise the right, privilege, benefit or power, shall perform the duty or is subject to the liability, to the extent provided for by the Agreement.

5. The region and benefits of the Inuit of the Nunavut Settlement Area under the Agreement do not merge in this Act or any other law.

6. (1) In the event of an inconsistency or conflict between the Agreement and any law, including this Act, the Agreement prevails to the extent of the inconsistency or conflict.

(2) In the event of an inconsistency or conflict between this Act and any other law, this Act prevails to the extent of the inconsistency or conflict.

7. The Minister of Indian Affairs and Northern Development shall cause a certified copy of the Agreement and any amendments to the Agreement and any amendments to the Agreement to be deposited in—

(a) National Archives of Canada;

(b) The library of the Department of Indian Affairs and Northern Development that is situated in the National Capital Region.

(c) The Legislative library of the territorial government that has jurisdiction over the Nunavut Settlement Area, and

(d) such other places as the Minister considers advisable,

8. The Governor-in-Council may make such orders and regulations as are necessary for the purpose of carrying out any of the provisions of the Agreement,

#### APPROPRIATION

9. There shall be paid out of the Consolidated Revenue Fund the sums required to meet the monetary obligations of Her Majesty under Articles 25 and 29 of the Agreement that arise after the coming into force of this Act.

## NUNAVUT WILDLIFE MANAGEMENT BOARD

10. (1) The Nunavut Wildlife Management Board established by the Agreement is hereby constituted as a corporation, and, as such, the Board has, for the purposes of carrying out its functions under the Agreement, the capacity, right, powers and privileges of a natural person.

(2) The Nunavut Wildlife Management Board is not an agent of Her Majesty in right of Canada.

11. The Head Office of the Nunavut Wildlife Management Board shall be in Iqaluit or in such other place in the Nunavut Settlement Area as the Governor-in-Council may designate.

12. The remuneration of the members of the Nunavut Wildlife Management Board shall be set by the Governor-in-Council.

### COMING INTO FORCE

13. This Act shall come into force on December 31, 1993 or such earlier date as may be fixed by order of the Governor-in-Council.

