

Democratic Decentralised Governance in an Indian State of Mizoram

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Abstract

Democratic decentralised governance aims at the empowerment of the people for their participation or involvement in the development processes of their respective local areas. In Mizoram, prior to the passing of the 73rd Constitutional Amendment Act by the Indian Parliament in 1992, democratic decentralised governance institutions in existence were only District Councils at the district level and Village Councils at the grassroots level. Meanwhile, the Town Committee Act, 1955 passed by the first District Council for the establishment of a Town Committee in Aizawl had been constitutionally strengthened by the 74th Constitutional Amendment Act, 1992.

Though the 74th Constitutional Amendment Act has the provision for establishment of appropriate Urban Local Bodies (ULBs) in all the urban centres of the State, the Mizoram Government has set up democratic decentralised urban governance institution only in Aizawl. So, in order to democratically decentralise responsibility and powers to the people for their participation in the development process, the State Government has to empower Village Councils and also set up democratic institutions in most of the urban centres for the benefit of urban dwellers in Mizoram.

Keywords: Decentralisation, Mahatma Gandhi, Town Committee, Village Councils, District Councils, Sixth Schedule, Urban Local Bodies, Mizo Chiefs.

Introduction

Democratic decentralisation aims at the empowerment of the people for their participation or involvement in the development processes of their respective local areas. However, this kind of empowerment of the people would not be possible unless there is a political commitment to transfer authority or powers -executive, legislative and judicial- from the national or state capital to local authorities or local bodies. It is, thus, evident that real empowerment of the people could take place only when the people are provided with local self-government institutions, at least, at the village and the district levels. Until the people are provided with self-

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governing democratic institutional representative machineries at the grassroots level, their enthusiasm for participation in the implementation of various developmental activities in their respective areas could not be effectively translated into a reality. It is, therefore, essential on the part of the Central or the state governments to devolve authority or powers to enable the people to associate themselves, in one way or the other, with development administration, either at the district or the village levels, in their respective areas of abode.

The concept of political and economic decentralisation, in the Indian context, has always been associated with Mahatma Gandhi's concept of decentralisation of powers among the people in the small village republics. Gandhiji wanted the people of India not only to formulate development policies to serve their local needs but also to directly participate in the running of the government to implement those policies at the lowest level. Unfortunately, Gandhi's concept of democratic decentralisation was not entertained by the by the Constituent Assembly at the time of framing the Constitution for India and was incorporated only in the Directive Principles of State Policy to form a non-justifiable Part IV of our Constitution. Despite the fact that Directive Principles of State Policy are advisory and instructional in nature, the people at the grass root level have, at least, been given a constitutional provision for the establishment of Village Panchayats as 'units of local self-government.' In this connection, Article 40 under Part IV of our Constitution stipulates thus: "The State shall take steps to organise village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government."(*Constitution of India, 2005:18*).

After independence, the Government of India, under the leadership of Jawaharlal Nehru, had adopted the strategy of planned socio-economic development for the people of India and, in 1952, launched an ambitious programme, called 'Community Development Programme,' which virtually formed an integral part of the First Five Year Plan. Unfortunately, the Programme could not bring about rapid socio-economic rural development due to the poor performance of the implementing agencies of the Government in making an optimum utilisation of local human and material resources for achieving local objectives. It was against this background that the Balwantrai Mehta Committee was appointed by the Government of India to study the problem of rural development and suggest measures thereof.

In November 1957, the Mehta Committee submitted its Report to the Union Government which had strongly recommended a scheme of real decentralisation of powers and resources to these local self-government

institutions. The core of Mehta Committee's recommendation was 'democratic decentralisation' of 'adequate powers' and 'appropriate finances' to the democratically elected local institutions with an objective of evolving local initiative and excite local participation in the field of development. (*Mehta Committee Report, 1957:41*). The Committee was under strong impression that no development could practically take place without people's participation in the development process. Hence, the Mehta Committee, in its Report, had recommended a three-tier structures of Local self-government as indispensable devices for devolving responsibility, authority and powers to the rural people for their active participation in the development process, namely, Village or Gram Panchayat at the village level, Panchayat Samiti at the Sub-divisional level and Zilla Parishad at the district level. Ultimately, Panchayati Raj system was introduced in India to operationalize the concept of democratic decentralisation and devolution of real powers and responsibility to the local masses for their development in their respective areas. In this way, Mehta Committee's Report had laid the foundation of real 'democratic decentralisation' in India. This scheme of 'democratic decentralisation' was later called 'Panchayati Raj' by Pundit Jawaharlal Nehru. In short, it is not erroneous to maintain that 'Panchayati Raj' is an embodiment of democratic decentralisation with a set of institutions operating at different levels to carry out the multiple tasks assigned to them for the development of the rural dwellers.

Democratic Decentralised Governance Institutions in Mizoram

There are three kinds of democratic decentralised governance institutions operating at different levels within the length and breadth of Mizoram, namely, Autonomous District Councils (ADCs) at the district level and Village Councils (VCs) at the grassroots level. Besides, one urban governance institution, called Aizawl Municipal Corporation, is operating in the state capital.

District Level Democratic Governance Institution-Autonomous District Councils (ADCs)

In the Post-Independent period, the whole of Mizoram became one of the Autonomous Districts of Assam in 1952 under the Sixth Schedule to the Constitution of India. 'Aijal,' but with a new spelling 'Aizawl,' continued to be the Headquarter of the new Autonomous District. Within the Mizo Autonomous District, in 1953, an Autonomous Region had been formed for the two indigenous communities, namely, *Pawis* and *Lakhers*, now called *Lais* and *Maras* respectively.

Under the Constitution, both the District and the Regional Councils were given the law-making powers with respect to (a) the allotment, occupation or use, or setting apart, of land other than any land which is a

reserved forest, for the purposes of agriculture or grazing or for residential or other non-agricultural purposes or for any other purposes likely to promote the interests of the inhabitants of any village or town;(b) the management of any forest not being a reserved forest;(c) the use of any canal or water-course for the purpose of agriculture;(d) the regulation of the practice of ‘jhum’ or other forms of shifting cultivation;(e) the establishment of village or town committees or Councils and their powers; (f) any other matter relating to village or town administration, including village or town police and public health and sanitation;(g) the appointment or succession of chiefs or headmen;(h) the inheritance of property;(i) marriage; and(j) social customs.(*Constitution of India*, Paragraph 3).

In view of Mizo National Front (MNF) insurgency going on in the Mizo Autonomous District, the Government of India had taken steps to put the trouble-torn district directly under its control. With this objective in view, the hitherto Mizo Autonomous District had been elevated to a Union Territory status on 21st January 1972. Meanwhile, preparations were underway for the division of Chhimtuipui District into three Autonomous Regions with separate Regional Councils which took place on 2nd April 1972. Subsequently, the three Regional Councils were upgraded to the status of full-fledged Autonomous District Councils on 29th April 1972. (Hnialum, 1988: 7-8 and DOUNGEL, 2006:50). Following are the three Autonomous District Councils in Mizoram as per 2001 Census. (*Statistical Handbook, 2004:1*).

Sl.no.	Name of the District Council	Headquarter	Population
1.	Mara Autonomous District Council (MADC)	Saiha	73620
2.	Lai Autonomous District Council (LADC)	Lawngtlai	61056
3.	Chakma Autonomous District Council (CADC)	Chawngte	*

** The figure of LADC includes MADC and no separate figure.*

It is pertinent to note that Chhimtuipui District, with headquarter at Saiha, was created comprising areas of the erstwhile Pawi-Lakher Regional Council (PLRC). (Government of Mizoram’s *Notification No.GAD 13/72/82*). Astonishingly, along with the transformation of the Pawi-Lakher Regional Council into Chhimtuipui District as strongly recommended by S. J. Das, who was the Chief Commissioner of Mizoram Union Territory, there was a secret move for the abolition of a democratic decentralised governance institution, called ‘Mizo District Council,’ for the two districts, namely Aizawl and Lunglei. At the end of the day, Aizawl district and Lunglei district had lost their earlier

Autonomous District status and become mere administrative districts devoid of any democratic decentralised governance institution. In the meanwhile, the new Autonomous District Councils in the southern part of the State were empowered to inherit all those powers and functions of the erstwhile Autonomous District Council of the Mizo Hills.

The signing of the historic Mizoram Peace Accord on June 30, 1986 between the Union Government and the M.N.F Supremo, Laldenga, provided, *inter alia*, full statehood for Mizoram which was inaugurated by the then Prime Minister, Rajiv Gandhi, on February 20, 1987. The conferment of statehood to Mizoram was followed by modification of the names of the two Autonomous District Councils- Pawi Autonomous District Council (PADC) as Lai Autonomous District Council (LADC), Lakher Autonomous District Council (LADC) as Mara Autonomous District Council (MADC). (Doungel, 2006:50). However, Chakma Autonomous District Council (CADC) retains its original name.

Village Councils

In Mizoram, grassroots democracy was followed by the capture of the first District Council by the Mizo Union whose policy was the diminution of the powers and privileges of their traditional Chiefs for the improvement of the socio-economic and political conditions of the common people. S.K.Chaube also pointed out the socio-economic programme of the Mizo Union and said: "Except the Mizo Union ... practically no party spelt out any socio-economic programme." (Chaube, 1973: 229).

The installation of an autonomous District Council by the Mizo Union was immediately followed by the reiteration of its original demand for "the immediate introduction of the Village Councils all over the district in the wake of the elections, in place of the present autocratic regime of the Chiefs." (*Demi-Official Letter*, 1951). On the contrary, the Chiefs had decided to adopt an attitude of non-cooperation with the District Council which was instantly interpreted by the state government "as an act of defiance of lawful authority." (*Confidential Note*, 1952). As a token of their appreciation of the government's attitude towards the Chiefs, the President of Mizo Union, in his correspondence with the Chief Minister of Assam, stated: "Mizo Union is happy in the knowledge that you acknowledge the welfare of the Hill Tribals of Assam as your sacred duty and it feels secure in the confidence that you, the father of our State, are ever ready to nurture this district at this critical juncture of its infantile stage of development in this great venture of democratic autonomy." (*Demi-Official Letter*, 1952).

Accordingly, by way of establishing grassroots democracy within the jurisdiction of the Mizo District Council, the Government of Assam had

enacted the Assam-Lushai Hill District (Acquisition of Chiefs' Rights) Act of 1954 which became operative within the entire jurisdiction of the Mizo District Council from 1st April, 1954. Ultimately, democratic elections to the Village Councils were conducted in different villages in accordance with the famous Act passed by the District Council known as "the Lushai Hills District (Village Council) Act, 1953." (*Zoram Hriattirna*, 1953:15). Thus, the first batch of Village Councillors was democratically elected by the people in their respective villages on the basis of adult franchise. As a result, the Mizo Union had proved their complete sway all over the district by winning all the Village Council elections. In this way, Village Councils, hitherto unknown in the Mizo society, were set up by the District Council as a democratic institution in different villages to supplant the traditional system of administration at the grassroots level. In pursuance of the order issued by District Authority, the first sitting of all the Village Councils in Mizoram was held on August 16, 1954. (*LAD's Official Records*). After the installation of democratic decentralised governance institutions at the grassroots level, "from 15th April, 1956, the rights and interests of 259 Mizo (Lusei) Chiefs and 50 Pawi-Lakher Chiefs were abolished in favour of the Government." (Poonte, 1965: 4-5).

According to the provisions of the Village Council Act of 1953 (as amended from time to time), the Village Councils, except those inside the three Autonomous Districts in Mizoram, shall have members according to the number of houses it contains. (The Lushai Hills District (Village Council) Act 1953). Every Village Council will normally continue for 3 (three) years from the date of its first sitting unless dissolved under the provision of Section 25 of the said Act. (*Ibid.*). According to the same Act, only the legitimate members of the scheduled tribes permanently residing in Mizoram can participate in the election of Village Council members. Similarly, only *bonafide* residents of Mizoram can contest Village Council elections. (*Ibid.*, Chapter II, 3(2)).

Each of the Village Councils is entrusted with numerous functions but without powers and authority. However, their functions can broadly be divided into three groups- administrative, executive and judicial.

1. Executive and administrative Functions

According to the Village Council Act of 1953, as amended from time to time, no distinction is specifically drawn between the executive and the administrative functions of the Village Council. Meanwhile, the same Act paradoxically provides that the executive functions of the Council are vested exclusively in the office bearers, namely, President, Vice President and Secretary. After analysing the powers and functions as provided in the aforesaid

Act, it is possible for one to identify the following as the executive functions of the Village Councils: (a) Allotment of land within the boundaries of the village for jhum or shifting cultivation and then distribution of jhum plots to the villagers. (b) Enforcement of ‘*Hnatlang*’¹ in public interest whenever the situation so demands. (c) clearance of inter-village roads and maintenance of internal roads of the village. (d) maintenance of water-tank. (e) clearance of jhum-roads and fencing of jhum areas. (f) planning of the village. (g) keeping record of birth and death. (h) fixation of rates of paddy and supply to other villages. (i) maintenance of graveyards. (j) searching out missing persons and sending out messengers. (k) prohibition of ‘*Zu*’.² (l) construction of small minor bridges, (m) construction of fish dyke for community fishing, (n) looking after the poor and handicapped person etc.

2. *Legislative Functions*

Though Village Council serves as democratic machinery of governance for the people at the grassroots level, Section 23(2) of the Lushai Hills District (Village Council) Act of 1953, in clear terms, sanctions certain rule-making powers to the Village Councils pertaining to the following subjects: (*Ibid.*, Chapter III, Section 23, (2)). (a) Control, preservation and use of timbers and other forest products except of the reserved forests, ordinarily utilised for building purposes.³ (b) Maintenance, preservation and improvement of good water supply. (c) Control of stray animals within its jurisdiction and at night within the village *Ram*.⁴ (d) Prevention and control of fire within the village and the village *Ram*. (e) *Ngawidawh*.⁵ (f) Sanitation and cleanliness of the village. (g) Extraction of *Khamkhuai*.⁶

3. *Judicial Functions*

Section 6 of the Lushai Hills Autonomous District (Administration of Justice) Rules, 1953 clearly gives judicial authority and functions to the Village Council to constitute within it the ‘Village Council Court’ to try petty cases- both civil and criminal. The relevant paragraph of the said Act runs thus, “either the entire Village Council or at least three members of the Village Council, representing the entire Village Council, shall sit as a Village Council Court. If the entire Village Council sits as the Village Council Court, at least three of the Village Council members or more than half of its members shall be treated as forming the quorum.” However, it is necessary to note that the Village Council Court is competent to try ‘Civil cases’ arising between or among the tribals only. In addition, the Village Council Court can try Criminal cases like robbery, inflicting physical pains to other

fellow human beings, broil due to intoxication, without amounting to imprisonment. Over and above, the Village Council Court can try Criminal cases contained in the following Sections of Indian Penal Code (IPC): *Section 160-* fighting or violence. *Section 290-* public nuisance. *Section 323-* infliction of physical pains by mistakes. *Section 341-* restriction and confinement by force. *Section 352-* hurting other human beings. *Section 379-* robbery. *Section 426-* misconduct. *Section 447-* trespass. *Section 510-* disturbance of peaceful public life due to intoxication.

The Village Council Court can impose Rs.500/ (Rupees Five hundred) as the maximum penalty on the loser of the case. Though the Village Council is made competent to try minor criminal cases, it cannot give jail term to the loser of the case.

Municipal Council

The Sixth Schedule to the Constitution of India had given the erstwhile Autonomous District Council of the Mizo (Lushai) Hills the authority to establish Town Committee or Council for the Urban Centres in the Mizo Hills and this authority of the Autonomous District Council of the Mizo Hills was clearly inserted in Articles 244(2) and 275(1) of the original Constitution of India. Unfortunately, the first District Council formed by the Mizo Union (MU) did not realise the need for setting up of a proper Urban Governance Structure for the people in Aizawl. However, the positive step taken by the first District Authority in this regard was the passing of ‘The Town Committee Act, 1955’ for the establishment of a Town Committee. But, the successive Authorities of the Mizo District did not take any concrete step for the implementation of the Town Committee Act, 1955.

In January 1975, for convenience of delegation of administrative powers and effective implementation of development programmes, four new administrative Subdivisions were created in the Aizawl district. These are: (1) Aizawl (Sadar) Subdivision with headquarters at Aizawl, (2) Mamit Subdivision with headquarters at Mamit, (3) Champhai Subdivision with headquarters at Champhai, and (4) Kolasib Subdivision with headquarters at Kolasib. (Government of Mizoram’s *Notification No.GAD 13/72/pt/65-68*). In Lunglei district, two Subdivisions were also created as follows: (1) Lunglei (Sadar) Subdivision with headquarters at Lunglei, and (2) Tlabung Subdivision with headquarters at Tlabung. (Government of Mizoram’s *Notification No.GAD 13/72/pt/69-71*). Even after more than a decade from the passing of the 74th Constitutional Amendment in 1992, all the urban centres in Mizoram, excepting Aizawl, have, unlike in other parts of the country, been using “Village Councils” for managing urban affairs till today. Strictly speaking, “Village

Councils” in Mizoram are democratic governance structures exclusively for the people in the rural areas.

The 74th Constitutional Amendment Act 1992 could not easily have a positive impact on the State Government for more than a decade. However, the sanctioning of Rs.20/- crores exclusively for Village Councils and Rs.10/- crores exclusively for Municipality Governments in Mizoram by the Central Government had shown a positive sign for the establishment of Municipal Governments in Mizoram due to the fact that the Sanction Order prohibited the State Government from expending any Rural Development Funds for the 23 (twenty-three) Urban Centres in Mizoram. Ultimately, the State Legislative Assembly had passed the Municipalities Bill which received the assent of the Governor of Mizoram to become “The Mizoram Municipalities Act 2007 (Act No.6 of 2007)” on April 16, 2007. Of all the urban centres in Mizoram, only Aizawl has been provided with municipal government with effect from 4th November 2010. Out of the 18 (eighteen) powers and obligatory functions of Municipality contained in the Twelfth Schedule to the Constitution of India, the new Act has assigned only the 15 (fifteen) powers and obligatory functions to the proposed Aizawl Municipal Council (AMC): (1) Urban Planning including town planning. (2) Regulation of land use and construction of buildings. (3) Construction of Roads and Bridges. (4) Public Health, Sanitation Conservancy and Waste Management. (5) Fire Services. (6) Urban Forestry, Protection and Promotion of Environment and Ecology. (7) Urban Poverty Alleviation. (8) Provision of urban amenities and facilities such as Parks, Gardens, Playgrounds. (9) Burials and burial grounds; Cremations and cremation grounds; and electric crematoriums. (10) Vital Statistics for control of immigrants. (11) Public amenities including Street light, Parking lots for commercial vehicles, bus stops and public conveyances. (12) Regulation of Slaughter houses and tanneries. (13) Traffic Management. (14) Market Management. (15) Disaster Management. (*The Mizoram Municipalities (Amendment) Act 2009*).

Conclusion

To conclude, the Mizos began to experience democratic decentralised governance through democratisation of their traditional institutions of chieftainship for the benefit of the common masses. *Firstly*, democratic governance institutions like District Councils and *secondly* Village Councils were installed both at the district and the grassroots levels in Mizoram. Strictly speaking, these democratic governance institutions have not yet merited the status of self-governing institutions. Hence, it is necessary on the part of the State Government to devolve more powers to democratic governance structures for empowering the people to

participate in the development processes both at the district or the village levels. Only then, the State Government would be in a position to expect the people to zealously implement the development programmes with a sense of belonging. However, the State Government has a long mile to go with regards to democratic decentralised urban governance in Mizoram. To be more specific, of all the eight district headquarters in the State of Mizoram, only Aizawl, the State Capital headquarter, has democratic decentralised governance institution and other urban centres are devoid of appropriate decentralised urban governance institutions till today.

Notes:

- ¹ ‘*Hnatlang*’ in English means Community Works convened and enforced for the village by the Village Councils.
- ² ‘*Zu*’ means local drink made of fermented rice.
- ³ ‘*Siallu*,’ ‘*thilthek*,’ ‘*laisawral*,’ are big leaves in the jungle used for roofing typical Mizo houses.
- ⁴ ‘*Ram*’ in English means land.
- ⁵ ‘*Ngawidawh*’ means construction of a trap or device in the river by the villagers for trapping and collecting fishes
- ⁶ ‘*Khamkhuai*’ in English means bees found in the cliff whose honey used to be extracted by the Mizos.

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