

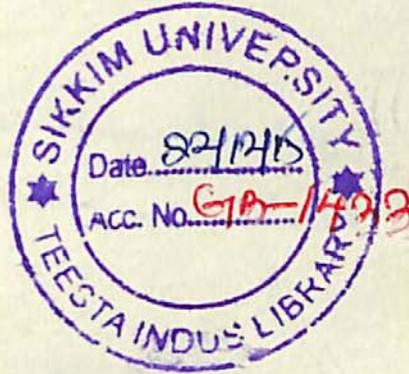
VERRIER ELWIN

DEMOCRACY

IN NEFA

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# DEMOCRACY IN NEFA



By  
VERRIER ELWIN

*With a foreword by*  
SHRI P. N. LUTHRA  
Adviser to the Governor of Assam

*A. Sinha*  
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## CONTENTS

	PAGE
FOREWORD ... ..	ix
PREFACE ... ..	xi
CHAPTER ONE:	
THE TRIBAL COUNCILS IN INDIA ... ..	1
(i) Assam ... ..	2
(ii) Andhra Pradesh ... ..	4
(iii) Bihar ... ..	8
(iv) Bombay ... ..	10
(v) Madhya Pradesh ... ..	11
(vi) Orissa ... ..	13
(vii) Manipur ... ..	15
(viii) Tripura ... ..	16
CHAPTER TWO:	
THE TRIBAL COUNCILS IN NEFA ... ..	17
CHAPTER THREE:	
TRIBAL IDEAS OF GUILT AND PUNISHMENT IN NEFA ... ..	27
CHAPTER FOUR:	
THE COUNCILS AND THE STATUTORY PANCHAYATS ... ..	38
(i) The Statutory Panchayats ... ..	39
(ii) Functions of the Statutory Panchayats ... ..	40
(iii) Sources of Revenue ... ..	43
(iv) The Adimjatiya Panchayats ... ..	45
(v) Revival of the Tribal Councils ... ..	46
CHAPTER FIVE:	
THE MONPA TSORGENS ... ..	56
CHAPTER SIX:	
THE SHERDUKPEN JUNG ... ..	67

	PAGE
CHAPTER SEVEN :	
THE AKA MELE ... ..	70
(i) The Village Council ... ..	71
(ii) Principles of Justice ... ..	72
(iii) The Chief of the Village ... ..	74
(iv) Inter-Village Meeting ... ..	76
CHAPTER EIGHT :	
A BUGUN COUNCIL ... ..	77
CHAPTER NINE :	
THE APA TANL BULIANG ... ..	81
CHAPTER TEN :	
THE DAFLA GINGDUNGS ... ..	87
(i) Yosinee ... ..	94
(ii) Thefts and Murders ... ..	96
(iii) Note on the Hill Miris ... ..	99
CHAPTER ELEVEN :	
THE KEBANGS OF SIANG ... ..	101
(i) Part I ... ..	101
(ii) Part II ... ..	103
(iii) Part III ... ..	106
(iv) Part IV ... ..	108
(v) Part V—The Ramo-Pailibo Gembus ... ..	112
(vi) Part VI—The Ashings and Shimongs ... ..	119
(vii) Part VII—The Boris ... ..	128
CHAPTER TWELVE :	
THE IDU MISHMI ABBALA ... ..	135
(i) Customary Law and Justice ... ..	136
(ii) Homicide ... ..	138
(iii) Murder ... ..	139
(iv) Punishment ... ..	142
(v) Hurt ... ..	143
(vi) Rape ... ..	143
(vii) Abduction ... ..	143
(viii) Offences committed without Intention ... ..	144
(ix) Theft ... ..	145
(x) Defamation ... ..	145

	PAGE
(xi) The case of Moja Mepo of Engalim ...	149
(xii) The case of Locho Mimi and Sadru Mimi of Kano ...	150
(xiii) The case of Singga Mele of Aprunyi ...	151
(xiv) The case of Muke Mili and Tongka Mili ...	152
 CHAPTER THIRTEEN :	
THE KAMAN MISHMI PHARAI ...	159
 CHAPTER FOURTEEN :	
THE KHAMPTI MOKCHUP ...	167
 CHAPTER FIFTEEN :	
THE NOCTE NGOTHUN ...	170
(i) The Nocte Councils ...	170
(ii) The Ngongba ...	171
(iii) The Ramba ...	171
(iv) The Tanba ...	172
(v) Other Elderly Persons ...	172
(iv) Nocte Customary Law and Justice ...	173
 CHAPTER SIXTEEN :	
THE WANGCHU-WANGCHA ...	177
(i) Functions of the Council ...	178
(ii) Nature of Disputes ...	179
(iii) Customary Law and Justice ...	180
(iv) Rules of marriage ...	182
(v) Divorce ...	183
 CHAPTER SEVENTEEN :	
THE TANGSA COUNCILS ...	184
 CHAPTER EIGHTEEN :	
THE SINGPHO COUNCIL ...	186
(i) Crime, Customary Law and Methods of Punishment ...	187
 CHAPTER NINETEEN :	
OATHS AND ORDEALS ...	190

## FOREWORD

A few years ago a great experiment was launched in Rural India which has come to be known as Panchayati Raj. The achievement of Independence in 1947 saw the establishment of democratic Governments at the Centre and in States. But this was not enough. To the millions of India, it appeared that the functional shape of Government had not changed ; it remained as before, ridden with red tape and with all the power centralised in the hands of Government officials. It was evident that to disseminate a feeling of freedom in the country side, the people must be free to manage their own affairs and have some measure of delegated authority to deal with their problems in the economic, welfare, judicial and such like fields. Thus came Panchayati Raj seven or eight years ago.

It is axiomatic that whenever the Central Government is strong and effective, the people tend to lose their self-reliance and lean heavily on the Government. In India's recent history which is crowded with centuries of alien rule exercised from the Centre, there has been gradual decay of the age-old village authority which in ancient times used to manage the affairs at the village and community levels. Happily in the North East Frontier Agency the inherent urge of its people to take stock of their problems and deal with them has remained in tact. The daily humdrum of life in NEFA is by and large, managed by its own people who over the past centuries have come to evolve their own codes and customary laws to adjudicate over disputes and the

sharing of Nature's resources available to them. Research has shown that there is a wide measure of indigenous democracy in the prevailing patterns of social customs and laws of the people. Dr Verrier Elwin has compiled copious information on the indigenous forms of authority at the village level and above in NEFA. This information has great value as it will provide the base on which the future development and expansion of local self-Government can be built. As progress comes to NEFA its ancient model of village authority will need change and reconstruction but it would be well to remember that the change inevitable as indeed it is, should be built on the sure roots of indigenous system and concept of democracy so that the new and imported patterns of local self-Government may not be out of harmony with its past in respect of basic principles.

P. N. LUTHRA

Adviser to the Governor of Assam.

Shillong,  
The 24th June, 1965.

## PREFACE

*Democracy in NEFA* is a source-book, a summary record of what information we have about the political and judicial institutions of the North-East Frontier Agency of India. Many people have contributed to it and their names are acknowledged, very gratefully, in the pages that follow. In some cases I have abridged or rewritten what I have borrowed, but this does not in any way lessen my debt. The book has been prepared in the first instance to assist the officials of the Administration as they try to strengthen and develop the Tribal Councils, but since the subject in itself is interesting and has recently gained new importance by the introduction of Statutory Panchayats all over India, I have tried to make it accessible, and intelligible, to a wider audience.

Shillong  
26.1.64

VERRIER ELWIN

## THE TRIBAL COUNCILS IN INDIA

In 1959, a committee was appointed by the Ministry of Home Affairs, of which I had the honour of being chairman, to evaluate the working of what were then called Special Multipurpose Tribal Blocks which were designed to accelerate progress in certain remote and neglected areas. There were only forty-three of them then, though there are several hundreds (partly as a result of our recommendations) now, but they were distributed throughout the country and our enquiries gave a fair sample of conditions throughout the tribal districts.

One of the matters which we were asked to examine was the prosperity or otherwise of the traditional tribal councils. We issued a questionnaire and made many enquiries on the spot. In our Report we summarized the result of our investigations and I give an extract from it in this chapter, for it provides a useful introduction to our study of the village (tribal) councils in NEFA.<sup>1</sup> Let us then glance at these councils, arranged

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<sup>1</sup> *Report of the Committee on Special Multipurpose Tribal Blocks*, published by the Ministry of Home Affairs in 1960, pp. 156-165.

In this book the expression 'tribal council' (with tribal spelt with a small 't') refers to a council that is tribal in composition and tradition, as contrasted with the statutory panchayat. This will usually be a village council. Only when 'tribal' is spelt

State by State, according to the Blocks where they may be found, remembering that this is the situation as it was in 1959-60. There may be some changes now.

#### ASSAM

In the Assam Blocks in the hills which come under the Sixth Schedule of the Constitution, district councils, of which all but a few nominated members are tribal, have been established and naturally manage the affairs of the district in the interest of the tribes and to a considerable extent according to their customary laws and functions. Statutory panchayats have, however, been introduced in the autonomous districts.

Below these district councils there are village or Tribal councils which deal with local disputes.

*Dambuk-Aga Block*—Under existing conditions and circumstances the traditional tribal way of administration by Tribal councils in each Garo village, which deal with all disputes and differences among the people, is very simple and effective and checks wastage of money and property in litigation.

'The powers and functions of the Tribal councils are to maintain peace and tranquillity and to settle petty disputes by simple tribal ways. The introduction of statutory panchayats, which are foreign to the people, will complicate the present administration by a simple tribal method.'

*Diyung Block*—The village elders dispose of disputes according to their customary laws.

*Lungleh Block*—Formerly all the tribes except the Chakmas were under their own chiefs. The chiefs

with a capital, as in 'Tribal council,' will it refer to a body having authority over a whole tribe or at least a section of it.

with their selected village elders administered the village through a village court. They could impose fines to the extent of Rs 40. Now after the district has attained autonomy the villages are administered by an elected village council which sits both as a Council and as a Court.

*Mairang Block*—There is a Khasi darbar (council) of which all male adults of the village are members. Decisions of these darbars are binding on everyone living within their jurisdiction and disobedience is punishable with fines or expulsion from the village. These darbars actually direct and guide the whole social and administrative functions of the village. Above them there are syiems' or chiefs' courts which regulate their affairs and hear appeals.

*Rongkhong Block*—A form of government exists which is concerned with religious, social and judicial matters. The earliest system of government was that the king (lindokpo) was at the apex. Under him there were 25 pinpomers (religious devotees and administrative agents) and under them again there were 30 habais, each habai being in charge of a few villages. The habais still have considerable influence and even now the Mikirs usually settle petty disputes themselves with their assistance.

*Saipung-Darrang Block*—'A democratic form of government has existed among the Khasis of this Block from time immemorial. Each village has its own darbar (council) where important decisions are taken on matters affecting the general interest. Petty cases of dispute are taken up for settlement by the elders before any reference is made to a statutory court. A group of villages form an elaka with a dolloi as its

head. The dolloi is elected on an adult franchise basis with, however, the provision that only members of certain clans are eligible to contest as candidates. The dolloi performs both executive and judicial functions in his elaka, besides collecting house-tax and land revenue on behalf of Government. Under the autonomous set-up of administration for the Hills Districts of Assam, village courts have been formed by the District Council in each dolloiship to assist the dolloi in the trial of cases referred to him.'

#### ANDHRA PRADESH

*Araku Block*—Formerly there was the Mustajari system of administration throughout the Agency, according to which the muttadar or headman of a certain number of villages, exercised such powers as the collection of land revenue and settlement of disputes. He was assisted by a chalan and a bariki. Since the abolition of the Mustajari system of administration, the villagers are forming village councils consisting of the naikes or headmen, trained gram-sahayakas and men of public spirit, for the settlement of their disputes, the most common being quarrels over land or 'moganali' cases (matrimonial disputes arising from elopements). The tribal people rarely seek the help of the courts. There are at present no statutory panchayats here.

*Narsampet Block*—The following interesting account of the Koya Tribal councils comes (slightly abridged) from the Aiyappan Report of 1948.

'Koya society is controlled by an extremely democratic organization, the kula panchayat. The village is a unit of administration and over it is a pinna pedda. This office is hereditary but a democratic principle is

applied to it. When a pinna pedda dies, his heir is usually elected in an assembly of village elders, but if the heir is unfit due to minority or incapacity, the villagers elect a regent to officiate for him. Above him is the kula pedda or patel who is recognized by the Government; the office is hereditary, corresponding to village munsifs elsewhere. The Government also appoint talayaris but since they appoint only a small number, one for seven or eight villages, each village appoints and pays for its own vetti.

A group of some ten or twelve villages forms a samutu in the Koya country. Over the samutu presides the samut dora, kula dora or pedda kapu, but he is only a chairman of the council and has to be guided by the opinion of his colleagues. The samutu is appealed to against the pinna pedda or the patel, who is also liable to tappu (fine) like any ordinary citizen. The introduction of a government-paid hereditary patel appears to have created a confusion of functions, but the democratic will of the Koya is strong enough to bend the patel too to be a mere president over debates.

In kula panchayats, the fines are levied in three equal parts as kula tappu, guru tappu and raja tappu or the fines payable to the community, to the religious head and to the state, each being Rs 6, totalling Rs 18. There used to be a 'guru' who was a Jangam. The Reddis are Saivas. There is no more any raja. Therefore, all the Rs 18 are appropriated by the commune. It is used for tobacco and drink. The money is divided among the kula peddas. Since the elders of several villages assemble, the division is immediate. There is a kula pedda above all peddas. Pedda means an elder.

All disputes in a village are settled by the kula

pedda whose decision is normally final. The fine is usually utilized by the whole community for drinking. The fine may sometimes be heavy, amounting to Rs 100 in cases in which violations of social restrictions are involved. Social boycott is the sanction of the society against a person who refuses to pay the fine imposed. It is reported that the panchayat conducts its enquiries in an orderly and dignified manner. To quote Shri Durba Venkattapayya: "I have witnessed several enquiries by these panchayats myself and have got great regard for the manner in which questions are logically put and answered and the enquiry done in a judicial manner and have no hesitation in saying that the panchayat system, as it now exists among the tribesmen, is a glorious survival of the ancient Hindu panchayats. It would be a very great blunder if this panchayat system is in any way disturbed except in the matter of the utilization of the fines which are collected. It has got a healthy tone for discipline over the entire community. They are a very tenacious people. Though they appear very meek, they are very sensitive of any outside interference with their rights or regulations. All the surrounding Koya villages will join in one voice at the whistle of the pedda kapu and will put up a fight and will not tolerate any remark against their womenfolk or seizure of their grains or occupation of their lands. So they have needed so far no courts of law to assert and enjoy their rights.'

*Utnur Block*—At the village level the custom of holding a particular individual in respect still continues, and he is generally the patel (headman). He is usually consulted and his advice respected in matters of individual or group interest. On occasion he may

call a few other individuals to consider the matter along with him as an informal panchayat. Tradition requires that any differences or disputes should be settled in the village itself.

But when this is not possible or parties to the dispute belong to different villages, the matter is brought before the Tribal panchayat, which is a statutory body formed under the provisions of the Tribal Area Regulation.

The Tribal panchayats, which are four in all, covering about 40 villages each, are vested with criminal jurisdiction for certain offences, and revenue jurisdiction in respect of certain sections of the Revenue Laws.

These panchayats can inflict fines up to Rs 50 but no kind of imprisonment. Verbal orders or notices can be issued by them and the proceedings of the panchayats need not be recorded in writing. They can be authorized under the Regulation to spend the income realized from fines for such purposes as they may deem fit, including compensation payable to the aggrieved party.

The jurisdiction of these panchayats in respect of different laws is in terms of the Indian Penal Code:

Section 159	Affray
„ 269/270	Negligence
„ 277	Fouling water
„ 289	Negligent conduct with respect of animals
„ 294	Obscene acts and songs
„ 428	Mischief by killing or maiming animals
„ 494	Marrying again during lifetime of husband or wife

They also have jurisdiction under other acts.

The panchayats can exercise this jurisdiction provided both the parties in a case are tribal. In practice, however, the panchayats do not exercise all these powers, but deal mainly with matrimonial cases and to a lesser extent with cases of misconduct and negligence.

#### BIHAR

*Bishunpur*—Every village within this Project area has a system of traditional government. Each tribal council has a pahan or baiga, mahto, choukidar, panbarah and some other members. They decide socio-religious cases, and generally impose fines on the culprits, which are readily paid. The fine money is mostly spent on a special feast. The statutory panchayats do not clash with the Tribal councils, because the former mostly decide civil, criminal and revenue cases and assist in development activities.

*Borio Block*—The unit of tribal administration is a village of which all the adult male members form the village council. It is presided over by the handi manjhi. He need not necessarily be, though he often is, the village pradhan who is responsible for the collection of revenue. The manjhi is assisted by the jog manjhi, the naiki, the paramik and the godet. The paramik officiates in the absence of the manjhi. The jog manjhi has important functions to perform during marriages and is generally in charge of the morals of the young boys and girls. The naiki is the priest, while the godet is the village messenger.

Meetings are presided over by the manjhi and are convened to determine all sorts of important matters and disputes in the village. A decision to fine or inflict

any other punishment must be strictly obeyed. If there is any failure in this the person concerned suffers a social boycott. When a fine is realized, it is used to purchase salt or a goat and the entire village is entitled to an equal share. This is the old traditional Santhal way of village administration. The village councils, however, nowadays are not as powerful as they used to be. Any person dissatisfied with the decision of the council generally takes the matter to the panchayat or to the courts. The panchayats have, to some extent, already weakened the Tribal councils.

*Monoharpur Block*—There was formerly a Munda Manki system of government among the tribal people. The munda was the head of the village and he or the mukhi tried even murder cases. In short, they were in charge of maintaining law and order among the tribal people.

After the introduction of the Indian Penal Code and Criminal Procedure Code, their powers were largely curtailed, but they were in practice maintaining some of their powers till very recently. Moreover, they were entrusted with the collection of land revenue, on which they received a commission, which they are doing even up till now.

By the introduction of statutory gram panchayats all the traditional powers have been taken away, except the collection of land revenue. In some of the panchayats the elders have been elected as mukhias and accordingly they are retaining some powers but naturally have to work under the provisions of the Gram Panchayat Act.

*Simdega Block*—In the tribal areas there is a mahto or pahan (headman) for each village. When there is

any sort of trouble, it is referred to them and their decision is binding on all the people involved. Thus in one village, where there are Mundas, Kharias, Uraons and so on, the Mundas have their own pahan and the other groups have their own pahans or mahtos. If there is any friction between two groups, it is referred to the parha raja (president), whose decision is binding on the tribal groups of all the villages involved in the trouble. Thus for a group of villages, the mahto and pahans elect their president, who is locally known as parha raja. This president is helped in his administration by a dewan (secretary) and a kotwar (peon).

But the presence of these old traditional councils has not materially affected the position of the statutory gram panchayat, for the former deal primarily with the religious and social affairs of the tribal people, and do not take any special interest in development work.

#### BOMBAY

*Aheri Block*—There is a council in every tribal village, which looks into its affairs. The head of the village council is called the gaita. There is another council with jurisdiction over groups of from 50 to 70 villages which is called the patti, its head being the gumashi. It consists of the representatives of the gaitas of the village councils. Above this patti there is a sort of supreme council consisting of representatives of the pattis. And finally the ex-zamindar, himself a Gond, is the ultimate authority to whom matters are referred for decision when no agreement can be reached, for he is considered to be the religious head of the zamindari area, which consists of about 500 villages. All matters regarding social life and customs are

dealt with by these councils and the zamindar. The decisions taken by them are binding.

*Akrani Mahal Block*—There exists a Karbhari system whereby a village headman is appointed whose word is obeyed by the villagers, and who settles their disputes. If there is a dispute between two villages, karbharis of both the villages settle it between them.

These karbharis, however, do not settle disputes which come within the purview of offences under the Penal Code, confining themselves to those of a religious and social character. Such settlements by karbharis do not involve any written work. The karbharis only exercise a moral influence upon the offender, relying on traditional sanctions.

#### MADHYA PRADESH

*Bhawani Block*—In each village there is a traditionally recognized headman, called the village patel, who plays a very important and peculiar role in the tribal life of this area. He is the natural and hereditary leader of the village, and is the symbol of tribal government, his orders and instructions being binding on the entire village community as a result of a very old convention.

He is generally the arbitrator in various kinds of disputes—civil, criminal, social or religious—between two villages or groups. The tribal people here rarely seek the help of the police or the courts (including the nyaya panchayats constituted under the Panchayat Act), but try rather to settle their disputes through the patel.

The patel, however, invariably consults certain important and influential persons of the village before he issues any instructions or takes any decision. The

persons he consults include the pujara or priest and some other natural and traditional village leaders who usually represent different falias or groups of huts.

In case of disputes between the inhabitants of two different villages, the patels of both the villages and their counsellors assemble together and the dispute is settled through a long process of discussion.

The patel, as well as his counsellors, are paid fixed 'fees' for their services as well as a 'tax' for performing certain functions such as marriages. The patel of Silawad in the Block area enjoys a position superior to other patels. He is a sort of appellate authority to whom disputes which cannot be compromised by the village Patels are taken for settlement.

*Pondi-Uprora Block*—This Block is in an ex-zamindari area. The zamindar belonged to the Tamar-Chhatri tribe, which claims its origin from the famous Rajput king Prithviraj Chauhan. There are both tribal and village panchayats. The tribal panchayats deal only with their own problems and sometimes cover a group of villages. They impose fines in cash or feasts failing which the defaulter is excommunicated.

The tribal panchayats have great influence, but their jurisdiction is limited. The village panchayats deal with problems affecting all the inhabitants of a village, which here are generally mixed. They are run by the village or tribal elders as the case may be.

*Pushparajgarh Block*—The headman of the village is the gaontia. He is assisted by a dewan and a kot-war, who generally works as a messenger. The orders of the gaontia are generally respected by all. 'This system of village administration has been working very successfully, but there are signs of disintegration as a

result of detribalization and the mixing of the tribal and non-tribal populations. In the mixed villages the cohesion and homogeneity of single-tribe villages is lacking'.

#### ORISSA

*Bhuyanpirh Block*—The traditional type of tribal government is still in existence in all the tribal villages, in each of which is a mandaghar, darbar or community hall. Here all the elderly persons of the village assemble to discuss important matters concerning the village. In each mandaghar and darbar a fire is kept burning continuously. This they use for lighting their pipes, essential accessories to judicial deliberations. Petty disputes and small thefts are brought to the notice of the elders and they discuss the matter and give a judgement which is always accepted by the person at fault. The headman sometimes imposes fines for petty offences and thefts, and the fines thus collected go to a common fund. The strength of these organizations, however, is gradually becoming weaker as a result of the introduction of the gram panchayats. The headman of the village (pardhan) is disqualified from being a member of the new panchayats. The statutory panchayat and its members are, therefore, coming more into prominence than the headman. Even then the unity of the village as a whole has not been lost and offences such as petty thefts, quarrels, disputes with regard to the produce of a particular tree or a piece of land are almost always settled by the headman and the members of the village darbar. Disputes about partition and inheritance of property or the amount of dowry which a groom of one village has to give to the bride of another are still all settled here.

'The statutory panchayat comes to the picture when more important questions are to be settled, thus weakening the traditional form of tribal administration.'

*Raruan Block*—The main tribes in this Block are the Hos and Gonds and each has its own system of tribal government. The Hos elect a sort of president called the marang gonke from the villages of a particular area and he, assisted by other headmen, regulates the religious and social practices of the tribe. This council fixes the dates of religious functions and marriages, dances and festivals. In the case of any matrimonial irregularity it steps in to prevent or penalize it. It has recently taken up the question of abolishing the dowry system which presses very heavily on the poorer people. It is also encouraging literacy among the Hos.

An annual meeting of all the village headmen under the chairmanship of the marang gonke is held every year at which social affairs are discussed and directives are issued. The offices of the village headmen and the marang gonkes are not hereditary but depend on their continued influence or popularity among the people.

The Gonds, with their different tribal organization, manage things a little differently. They are divided into six classes according to their gotras (clans) each of which is believed to have descended from a different stock. Each gotra has its own council under a headman who belongs to a family which is believed to have founded the clan. This office is hereditary and the family is generally known as bara bansha, the oldest family. Annual meetings of all the six groups are held, in which offences involving any breach of social custom are discussed and decided. If anyone is dissatisfied

with the decision of this general meeting, selected members from all the different clans are summoned to what is known as a desa-loka darbar and are invited to review the matter and their decision is final. Members of the darbar are not elected, but hold their position through their education and influence. Whichever member is outstanding among them naturally assumes the leadership. It is evident that there is scope for the development of these institutions, for they seem to have considerable influence and the Hos are already taking up social reforms and the spread of literacy through them.

#### MANIPUR

*Tamenglong Block*—The traditional tribal government differs in the case of the Nagas and the Kukis. Among the Kukis, each village has a chief, whose position is hereditary and he is succeeded only by his sons. The eldest son succeeds his father and if a chief has no male child the chieftainship goes to the nearest relation who may be from a distant village. In theory, the chief is all powerful: all the lands and everything within them rest in him. His house is the village court and he presides in all matters. He has a group of elders nominated and retained by him at his pleasure, though in this selection he gives a fair representation to the various clans in his village. His court has all powers to decide any case. The punishment inflicted is a fine ranging from a jar of rice-beer or a pig to mithuns or expulsion from the village. In a case of murder the amount of the fine is sufficient to compensate the bereaved family. The village elders meet as often as the chief desires. In this group the village priest is an important member of the Tribal council.

Among the Kabui Nagas the khumbu, who is the founder or descendant of the founder, of the village, is the chief, his office being hereditary but powerless. The real power is exercised by the khulakpa who is chosen by a body of village elders called thoupei. The khulakpa so elected often continues for life and is succeeded by his son if the latter is approved by the thoupei, which is the administrative body and also sits as a court. The observance of ceremonies, taboo (genna) days during which the people are to abstain from work, is left to the khumbu to decide. The punishment for crimes is the same as among the Kukis. The land of the village is regarded as belonging to the community, within which there is individual ownership.

There were no written rules for a long time about the village administration in tribal areas. The village customs and precedents which are compatible with modern concepts of jurisprudence were adopted. In 1947, a regulation was enacted by the then State Government which did not give details of the village administration. In 1956, the Hill Villages Authorities Act was passed by Parliament but has not proved effective. The tribal village administration still continues in the same manner as before.

#### TRIPURA

*Amarpur Block*—The people here live in small villages known as paras. The para has a traditional leader, the sardar, who has considerable influence and under his guidance and control the communal activities of the villages are carried on. He is responsible for the observance of the customs and laws of tribal society. This traditional leadership is, however, disintegrating rapidly owing to external influence.

## THE TRIBAL COUNCILS IN NEFA

The spirit of the tribal councils of NEFA is well illustrated in the traditional speech recorded by Roy, which is recited by the leaders of the kebang (Adi council) in Siang at the beginning of their meetings.

'Oh! villagers and brethren, let us strengthen our customs and our council, let us improve our regulations; let us make the laws straight and equal for all. Let the leaders who can speak best stand up and speak out for our betterment; let them speak out in a bold voice unabashed and undaunted like a cock crowing. Let our laws be uniform; let our customs be the same for all. Let us not decide differently for different persons; let us be guided by reason and see that justice is done and a compromise reached that is acceptable to both the parties. Let us keep nothing pending, let us decide while the dispute is fresh, lest small disputes grow big and continue for a long time. Let the fine be levied reasonably. Let it be commensurate with the guilt and be just. Poverty should have compassion and justice be tempered with mercy. We have met in this sacred place of justice; we have come together for a council-meeting and let us speak in one voice and decide on one verdict. Here are the iron pots and brass pots brought by the accuser and the accused; here stands the mithun. So let us decide and mete out justice