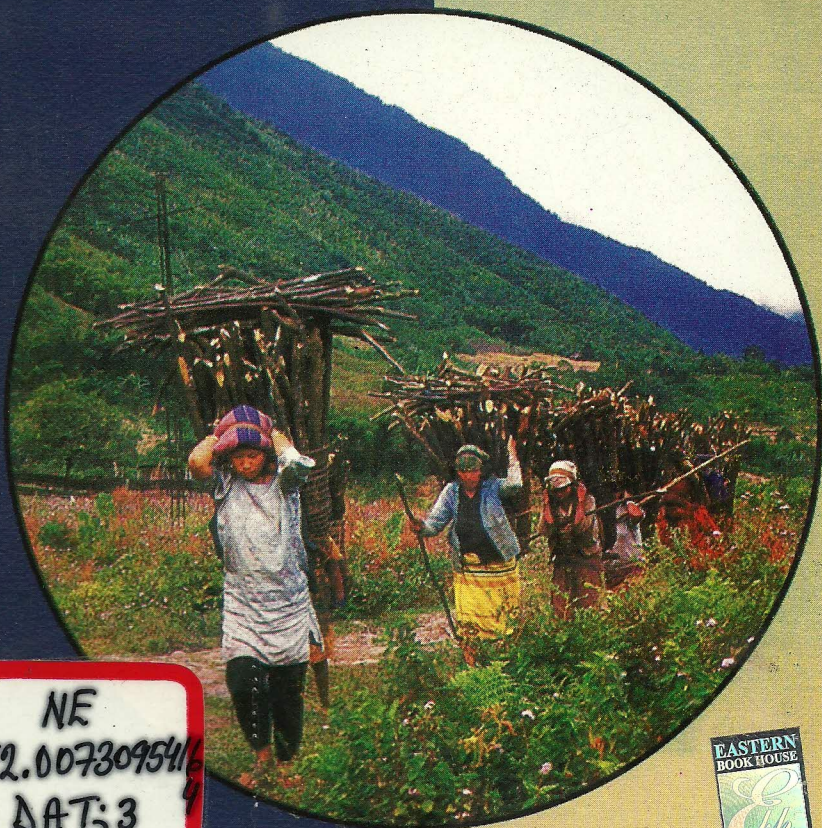


FUNCTIONING OF AUTONOMOUS DISTRICT COUNCILS IN MEGHALAYA



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Sujit Kumar Dutta

Functioning of Autonomous District Council in Meghalaya is the burning question of the day. However, any person who wants to understand the problem by asking the functionaries of District Councils of Meghalaya about its status may get a very rosy picture. From the available detailed-recorded account of the functioning of District Councils one might have an idea that District Council has been functioning as well as any other existing local government in the country. But this seems to me paradoxical as the empirical findings show that the existing District Council in Meghalaya is not at all fulfilling the local needs; rather it seems to have been created to fulfil the interest of a few affluent people and not for the welfare or benefit of the mass as pointed out by a good number of traditional Khasi Chiefs. In fact it is an institution which has created more factional conflicts and cleavages within the Khasi Society today. Hence, the creation of District Council is a controversial issue in Meghalaya. Much analysis is done and presented in the text. The study presents a number of recommendations and suggestions to make District Council a true representative local government by resolving the disputes and conflicts with the grass root level institutions and discontentment of the true functionaries at the grass root level.

Rs. 195/-

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Contents

<i>Preface</i>	vii
1. Introduction	1
2. The Existence and Functioning of ADC in Meghalaya	48
3. Methodology	18
4. Set Up of Khasi States and Non-States	23
5. Village Council: An Institution of Grassroot	42
6. <i>Raid</i> Council	56
7. Conclusion with Recommendations	62
<i>Notes</i>	67
<i>References</i>	70
<i>Appendix I</i>	71
<i>Appendix II</i>	72

Preface

Functioning of Autonomous District Council in Meghalaya is the burning question of the day. However, any person who wants to understand the problem by asking the functionaries of District Councils of Meghalaya about its status may get a very rosy picture. From the available detailed-recorded account of the functioning of District Councils one might have an idea that District Council has been functioning as well as any other existing local government in the country. But this seems to me paradoxical as the empirical findings show that the existing District Council in Meghalaya is not at all fulfilling the local needs; rather it seems to have been created to fulfil the interest of a few affluent people and not for the welfare or benefit of the mass as pointed out by a good number of traditional Khasi Chiefs. In fact it is an institution which has created more factional conflicts and cleavages within the Khasi Society today. Hence, the creation of District Council is a controversial issue in Meghalaya. Much analysis is done and presented in the text. The study presents numerous recommendations and suggestions to make District Council a true representative local government by resolving the disputes and conflicts with the grass root level institutions and discontentment of the true functionaries at the grass root level.

The author is indebted to those chiefs who gave the true information and unveiled the truth. He is also indebted to Dr. B.K. Thapliyal, Director, NIRD-NERC for his

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NIRD-NERC, Guwahati

Sujit Kumar Dutta

Dy. Director

1

Introduction

Survival of the traditional institutions of Khasi Hills of Meghalaya is the question of the day. The struggle is more to prove the strength through fraudulent method on one hand while on the other a section of Khasi elites are desperately trying to crucify the traditional institutions in the name of so called reforms and progress. This is the general remark of most of the Khasi States Chiefs. However, it has become imperative to understand the discontentment of these Chiefs first rather than to understand the local government's functional role. The District Council today stands on a plank with the support of the Sixth Schedule of the Constitution. The drafting committee of the Constitution also comprised persons like Rev. Nicholas Roy, Rup Nath Brahma, Kuladhar Chaliha and Rohini Kumar Choudhury who were also closely associated with the Bordoloi Committee. The master of making the draft of the Sixth Schedule was late G.N. Bordoloi. Bordoloi Committee's recommendations however, did not say anything about the future status and position of 25 Khasis States except advocating the Sixth Schedule. Hence, the Chiefs of the Khasi States felt ignored. In fact immediately after the independence, the necessity of enlarging the content of the accession of the Khasi States was more acutely felt by the Ministry of States. The then Governor of Assam and the Agent to the Dominion of India including his assistant had to utilise all their diplomatic resources to convince the standing committee of the Federation of Khasi States¹ to enlarge the scope of the Instrument of

Accession. The rulers of the Khasi states ultimately agreed to sign a new Instrument of Accession along with the Annexed Agreement. It was on December 15, 1947, that nineteen² out of the twenty-five rulers signed the Instrument of Accession. The other six states, however, expressed their inability to sign the same without the consent of their state *Darbars*. The main reason for not signing the merger agreement initially was that the rulers of the Khasi states were not Zamindars as they were not owners of the land. They were merely elected heads but cannot claim any right of control over the land (Lyngdoh, 1996:25). It is interesting to note that both the Khasi hills and the Jaintia hills land never belong to the Chiefs, *Syiem* or *Rajas*. Naturally the Jaintia *Raja* could not impose any tax on the land of the *pnars*, and the *Syiems* or other heads can not levy taxes on the Khasi people for the use of the land (Pugh, n.d :32). These six states ultimately could not escape but had to sign the Instrument of Accession due to the persistent negotiation from the Dominion Agent and his party.

By this instrument, the Chiefs acceded to India. Accordingly all existing administrative arrangements were made. The position continued till the institution came into force; the Chiefs lost whatever administrative power they had by the merger of these 25 states in Assam and the governance of these states began to be carried on henceforth according to the provisions of the Sixth Schedule.(Cajee, 1960) Naturally, the Khasi States did not get a place in the purview of the Sixth Schedule. Even the drafting committee did not consult Dr. G.S. Guha who was the representative of the Khasi in the Constituent Assembly. As a result the Khasi States with long persuasions with the Ministry of States came with an agreement that the future position of the Khasi States should be decided by the Khasi States themselves in close association with the Dominion Agent. The Dominion Agent demanded a constitution-making *Darbar* of the Khasi States consisting of all the heads of the Khasi States and other members elected by the people. *Darbar*

was also to have power to nominate some members. The Dominion Agent framed rules for the election.

The first election to the constitution-making *Darbar* of the Khasi States was held during December 1948. This *Darbar* consisted of 89 members – 25 heads of the States, 56 elected and 8 nominated members. It was inaugurated by the then Governor of Assam who thanked the rulers of the Khasi States for having signed the Instrument of Accession and Standstill Agreement. He also indicated the possibility of including the Khasi States within the purview of the Sixth Schedule of the Draft Constitution.

The second session of the *Darbar* was held on May 16, 1949, where Dr. H. Lyngdoh and Prof. R.R. Thomas were elected as Chairman and Vice-Chairman of the *Darbar*. Jor Manik Syiem, the Secretary of the Federation of the Khasi States was elected secretary of this *Darbar*.

Meanwhile A. Alley, member of The Draft Constitution Committee of The Sixth Schedule initially intended to move the resolution before the Assam Government to allot at least 5 seats for the District of Khasi and Jaintia Hills including the Khasi States and one more seat for the Town of Shillong in the Assam Legislative Assembly and also to take steps to prepare electoral rolls for the people in the Khasi States. A Alley ultimately did not move the resolution as he felt that the resolution prepared by Rev. Nichols Roy was according to him, a better one.

The main issue that came up for discussion in the 3rd session of the Khasi States Constitution-Making *Darbar* was to introduce a united administration for the State and non-State Areas of Khasi and Jaintia Hills as advocated by Nichols Roy in view of the fact that the people of the district belonged to the same Khasi race.

4 Functioning of ADC in Meghalaya

In fact they wanted to establish a separate status quo on one hand and to bind the society together with traditional values on the other. Properties were undivided and maintained by the community or individual, and the traditional heads such as *Syiem, Lyngdoh, Sirdar or Wahadadar* were the custodian of these lands and property of those people who live under this jurisdiction. These bodies are apolitical, but for survival they formed Federation of Khasi States and the non-states, which was established in 1933.

Now the question arises whether this plank (based on Sixth Schedule) is a sufficient condition to sustain those traditional institutions or not? Thinkers, administrators, scholars have diverse opinions regarding the provision of Autonomous District Councils in the Constitution. Some of their views are:

Kuladhar Chaliha, Rajeswar Prasad and Rohini Kumar Choudhury gave opinion against the formation of Autonomous District Councils. Mr. Chaliha feels that "we still have British Mentality – a separatist tendency to keep them (the tribals) away. In future it will be a Tribalstan, just like Pakistan". Rajeswar Prasad opined that they would lead to the establishment of another Pakistan in this country. He is a staunch believer of Unitary State. But Rohini Kumar Choudhury is a staunch protagonist of the policy of assimilation. Hence, he advocates the assimilation of Tribal and Non-Tribal (Constitution Assembly Debate, n.d:1008).

However, Nichols Ray, Gopinath Bordoloi, Lakshminarayan Sahu, A.V. Thakkar and Jaipal Singh supported the formation of District Councils and therefore supported the spirit of the Sixth Schedule. The only argument these people have is that the hill people will not only be safeguarded by this Sixth Schedule, but it will satisfy hill people in many ways and they will be able to come closer to the rest of the country.

In fact those who are in favour of the of assimilation want to assimilate the tribal people by force. Naturally they hold an imperialist attitude and suffer from superiority complex. They failed to see the distinction between integration and assimilation. In fact assimilation involves total loss of cultural identity of the group as a result of its complete absorption into the dominant group. Instead of assimilation, integration must be encouraged.

However, the arguments advanced by Dr. B.R. Ambedkar were so realistic that the Constituent Assembly understood the full justification for the creation of the District Councils (*Ibid*).

The age-old rivalry between the traditional institutions (Khasi States and non-states) and the Autonomous District Council created under the Sixth Schedule is well known. Even today it is eluding a solution. At times distrust attitudes among them lead to conflict. In such circumstances the autonomy of the tribal institutions is jeopardised and the struggle sustained. This is the turmoil within the Khasi society and their institutions today. Most of the Chiefs feel that they are now under the control of District Councils. By enquiry it has been found that all the Chiefs are now under the jurisdiction of District Councils. The District Councils under the Act of 1959 wholly regulate the succession and appointment of Chiefs and headmen (Appointment of Succession of Chief Act). The Supreme Court of India observed in 1960 that *Syiem* was a functionary under the District Council. All the Chiefs were now presiding officers of the Additional Subordinate District Council Courts. But their decisions are subject to appellate jurisdiction of the Subordinate District Council Court at Shillong. As regards financial matters, the Chiefs pay one-eighth of the total income to the District Council. The Council has also certain control over the budget of the Chiefs. Overall it has been found that the Chiefs are today under hard pressure in many ways; even their status has become subordinate. In such a situation

6 *Functioning of ADC in Meghalaya*

many of them have become aggressive and are preparing for a revolt.

Forty-seven years have passed since the time when the autonomous district councils were established under the framework of the Sixth Schedule of the Constitution, but no sincere attempts have so far been made to have a full-ranged in-depth study of the traditional institutions. Many legislations have been enacted, but instead of improving them, these legislations seem to have come into direct confrontation with the well-established customary laws and practices which are attached to the existing traditional institutions. At present these institutions are in need of a positive dynamic leadership which possesses a sense of balance and proportion coupled with a sense of direction. It is easy to destroy whatever they have in their possession rather than to preserve the best and to make progressive improvement upon them; it is just impossible to re-build and reconstruct any good thing, which they have destroyed. The need of the hour, they feel, is wisdom and political sagacity to pave the way for the future generations. This is what some very aggrieved chiefs of the Khasi States have felt.

In spite of all these the traditional Khasi political structure still prevails in Meghalaya, though with the advent of the British rule and the promulgation of the Constitution of India later it has undergone modification to a certain extent. But District Councils have weakened the function of tribal courts in Meghalaya so much so that the Khasi states have virtually come under the domination of the state officials as well as the District Councils. Naturally the Khasi states have come to occupy the subordinate position.

The basic differences between the British administration and the Independent India in dealing with the Khasis are:

- i. While dealing with the Khasis the British administration did not interfere in the tribal customs and laws. The

judicial powers of the *Syiem* and traditional political authority were curtailed only to a limited extent. As against this the establishment of District Council court after independence has eroded the Chief's judicial powers to a considerable extent.

- ii. The overall impact of the British rule was that although the *Syiem* and his *Myntries* and other officials remained in their offices, they were divested of their real power which was then vested in the Deputy Commissioner. At present the authority structure is organised at the level of District Council, Deputy Commissioner (only in certain Khasi area of the city) and finally the High Court.

However, the *Syiem* as the chief of the tribe, is always respected. He still receives different forms of tributes from his people. Despite the erosion of his powers and rights, he still plays a vital role in the administrative affairs of the tribe. He supervises the conduct of his subordinate authorities at the *raid* and village level. If a village headman or a commune headman is found incompetent and charged with abusing his powers, the *Syiem* can order fresh elections in order to replace him. He still protects the rights of the people, administers justice and punishes the culprits. After the formation of District Councils all *Syiem*s have been given the powers of Additional Magistrates in their respective *Syiemships*. Accordingly they are empowered to try civil and criminal cases except murder case.

The present study focuses mainly on this aspect as stated. The approach taken to study the different institutions existing within these communities is very systematic and new. The study would find out the reasons behind their problems of existence and non-sustenance as an institution of self-government. Finally it will try to know why these institutions are not taken into confidence so as to involve them in the development work of the state, which is a debatable and controversial issue of the day.

7

Conclusion with Recommendations

This study on 'Functioning of Autonomous District Council in Meghalaya', is based on facts and ground realities. The author took particular care to avoid any controversies as well as wrong information. The data generated were properly verified so that it can be an authentic write-up.

The study focuses on the existence and functioning of ADC in Meghalaya. The main purpose of the discussion was to find out the reason and justification of creation of Autonomous District Council in the State of Meghalaya. The very purpose of creating District Council was to protect the tribal people with their cultural heritage as well as their socio-economic life and living. But on the contrary the committee responsible for setting up such bodies failed to understand the sentiment of the local chiefs as a result of which the conflict between District Council, i.e. the functionaries of District Council and the Chiefs of the Twenty-Five Khasi States and non-states started. However, this is yet to take a violent form but internal non-cooperation is very much prevalent. Naturally, the District Council does not get sufficient cooperation from the chiefs although the chiefs have been given magisterial powers to function with limited capacity. But the chiefs feel that their major powers have been snatched away and they are not at all involved in development programmes of government. After attaining

statehood, the District Council is standing alone with all its functions, powers and privileges. Further, the Khasi states and the Autonomous District Council are unable to maintain mutual cordial relation. To wither away District Council is not possible, as it is a statutory body under the provision of the constitution. On the other hand, the state has been created on the choice of the people of Meghalaya. But the Chiefs of the Khasi states and non-states claim their major stake. Whatever the reasons may be the Khasi states and non-states stand on their traditional values, wherein people feel more comfortable. Someone may have wrong conception about Khasi Chiefs; in fact they are neither autocrat nor feudal. They do not control the means of production of the people. People are allowed to possess any amount of land in their individual name. Customary laws framed by the people through consensus control all community land, clan land, forestland or sacred lands. The Chiefs are just titular heads who enjoy some tributes according to the desire of the local people. Hence, they are just custodians.

The situation, as such, is a very complex one. In order to find out the truth, several case studies were conducted at the Chiefs (Syiem, Lyngdoh, Sirdar, Wahadadar and Dolloi) level, Commune (raid) level as well as Darbar level. The system was found to be quite coherent and integral. The existing customary laws have no doubt bound the society to a self-content republic. What is important at this stage is to find out a solution to the problem of the inter – intra dispute and conflict. Instead of looking at the personal interest it would be wise to see the general interest which might benefit everyone. Constitutional provision for creating a statutory local govt. is no doubt very much important but at the same time it should adhere to the needs and aspirations of local people. If this is not done, then there may be anomaly in the society, and I am afraid, this might lead to destruction. However, the local government also faces some problems in its progress which are mentioned below:

Local self-government is the foundation of democracy. Now the question is whether we have made any progress in the right direction even after the creation of statutory local self-government in Meghalaya. Quantitatively, yes, there is some progress. Qualitatively there is absolute not.

1. The local authorities were entrusted with a variety of functions. Legislative, executive, and judicial. They were entrusted with some delegated functions. But most of them did not exercise all the functions entrusted to them. Particularly in regard to taxation the local authorities hesitated to take any action.
2. In Khasi Hills, the *Syiems* continued to function as independent rulers and realised revenues from markets, fines, from the administration of justice and occasional ceases levied for state purposes. They also received fifty percent of the rents realised from exploitation of the natural resources. The District Council did not exercise any control in regard to markets. Although there are many markets owned by the *Syiems*, the District Council received a very small amount from them.
3. The expenditure of District Councils was excessive on the establishment like the Meghalaya Secretariat.
4. Finally there was chronic political instability in the Khasi Hills. Leadership was changed very frequently.

In view of the above stated problems the following recommendations are made as remedial measures for better functioning of ADC:

1. The composition of local government was not completely democratic. They contained nominated members. The authority to nominate members was the Minister of Tribal Affairs. Very often he nominated persons who

would support the party in power. Sometimes nominations were made to enable a minority party to become a majority party and from the government. Sometime nominations were made to enable a person to become the CEM. There we think there is no need for nomination. It is suggested that all the members of a local authority must be elected.

2. Double membership – both in local authorities and the members parliament or legislative assembly. This is an undesirable provision. If an M.D.C. is also a member of parliament or the legislative assembly, he would draw salary in two places. It prevents some persons from participating in decision making. Double membership enables some persons to exercise influence on the government.

If an M.D.C. is also a cabinet members, then he controls the District Council completely. Hence, double membership should be abolished. As in general cases the MLAs are not permitted to become members of parliament.

3. Qualifications and disqualifications for Members of District Council.
 - i. Residential qualification should be insisted upon.
 - ii. Members who failed to pay their dues in time should be disqualified.
 - iii. Members who interest themselves in a subsisting contract with a local authority should be disqualified from being members.
 - iv. Persons who had been removed by the government from membership should be disqualified from contesting elections within the prescribed period.

4. The District Council should enhance their capacity to implement Government sponsored programmes.
5. The ways should be found out in order to resolve the age long conflicts with the Khasi States.
6. General elections to the local authorities should be held at regular intervals like the Lok Sabha and Legislative Assembly. If the elections are not held at regular intervals, local authorities cease to be representative in character.

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