

**DEMAND FOR CONSTITUTIONAL
RECOGNITION OF THE KHASI STATES:
ROLE OF THE SYIEMS OF
KHYRIM AND MYLLIEM**

ABSTRACT

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ABSTRACT

INTRODUCTION

Political activities occur within the framework of the most encompassing and embracing organization, the state. This organization was by no means a universal feature of all societies. Studies undertaken on political organizations of ethnic groups across the world have revealed a spectrum ranging from well developed states at one end to stateless or acephalous societies at the other. These academic and research oriented studies have today produced a voluminous wealth of literature containing a crucial component in theoretical models and formulations. It is from this vast array of available literature that a study on Khasi traditional political institutions and state formation can draw inference.

Traditional political institutions are an important component of the tribal milieu of North-East India. Such institutions evolved in tribal societies to bring order to and to regulate settled life among the inhabitants. In the case of the Khasi and Jaiñtia people the development of traditional political institutions in the pre-colonial period has been gradual. These institutions evolved beyond the confines of village settlements to higher forms

exhibiting foresight in the village leaders and their kin groups. The highest territorial principality that evolved was the *Hima*, that is, the state. The term 'state' is used because like the state the *Hima* too has some very discernible features. The Khasi state is administered by a leader designated by various names, *Syiem*, *Lyngdoh*, *Sirdar* or *Wahadadar*. The highest traditional political office among the Khasi is that of the *Syiemship*, *Lyngdohship*, *Sirdarship* or *Wahadadarship*. Presently there are 25 Khasi states (*ki Hima Khasi*), the important states being Khyrim, Myllem and Cherra. The Shillong state, that is, *ka Hima Shillong* was one of the oldest Khasi states among the traditional Khasi principalities. This *Hima* no longer exists; it was bifurcated in 1853 into two *Himas*, *Hima Khyrim* and *Hima Myllem*.

Prior to the advent of the British, the Khasi states (*ki Hima Khasi*) exercised independent control over their respective areas. Visible commercial relations between the Khasi states and the British took place after 1765. In due course, principal Khasi states granted the English East India Company strategic concessions in 1824 to preempt the possible advancement of the Burmese army through the Khasi and Jaintia Hills. With the conclusion of the Anglo-Burmese war through the Treaty of Yandaboo, further concessions, in the form of communication routes traversing through

the Khasi and Jaiñtia Hills to connect the Surma valley and the Brahmaputra valley, ultimately ensured a growing British presence in the principal Khasi states of Cherra, Khyrim and Nongkhlaw. However, the simmering discontentment with this growing presence of an unfamiliar foreign power finally flared into open insurrection across the Khasi Hills in 1829. The British suppressed all the insurrections (occurring between 1829 and 1839) of the Khasi states that had opposed their authority. The Khasi states ultimately came to be under the authority of the English East India Company and later the British Government. The British introduced new changes in the administration and organization of these states. The British administrative policy was designed throughout their rule to keep these areas isolated and to rule them cheaply through a multi-tier administrative system involving the traditional chiefs as agents of colonial interests. Even in matters relating to customary laws like those governing the succession of chiefs, they did not hesitate to interfere ruthlessly. The Khasi states came under the control and authority of the British government through a pattern of subsidiary alliance administered by the Deputy Commissioner of the Khasi and Jaiñtia Hills district (created in 1854) who functioned as Political Agent to the Khasi

states. This was the status that the Khasi states enjoyed till India's independence in 1947.

OBJECTIVES OF THE STUDY

The objectives of the study are:

1. To examine the existing traditional political institutions of the Khasi, with special reference to *Hima Khyrim* and *Hima Myllem*;
2. To analyze the Anglo-Khasi relations, the position of the Khasi states between 1946 to 1950 in relation to India;
3. To examine the events that affected the position of the Khasi states after the enactment of the Constitution of India in 1950, the relations between the Khasi states and the Autonomous District Councils (with special emphasis on *Hima Khyrim* and *Hima Myllem*);
4. To analyze the current demand for constitutional recognition of the Khasi states and the role played by the *Syiem* of Khyrim and *Syiem* of Myllem in this regard;
5. To critically analyze the various memoranda submitted by the Federation of Khasi States to the National Commission to Review the Working of the Constitution.

Of late, this issue relating to the demand for constitutional recognition of the Khasi states has generated considerable interest among scholars, local institutions and non-governmental organizations. A number of organizations have also held seminars and workshops to examine the functioning and relevance of traditional tribal organizations in North-East India. In addition, newspaper articles written by various scholars have also contributed their part in creating awareness amongst the public on the relevance of these traditional political institutions in the modern political framework. The study undertaken attempts to gauge the opinion of the stake holders, that is, the Khasi states and their administrative heads, the Khasi Hills Autonomous District Council (hereafter KHADC) and the Government of Meghalaya on these issues and to examine whether the Khasi states will be able to adjust to this political framework.

REVIEW OF LITERATURE

Earlier writings on the traditional institutions in North-East India lie buried in journals and official documents which are beyond the reach of scholars. Attempts were made by British officers to document their experiences while travelling throughout North-East India. However these

documents have their limitations as they were prepared to serve in general, the functional needs of British administration.

Research activity, with reference to North-East India, has witnessed a remarkable increase in the last few decades. Today, there is an immense wealth of material available on various aspects of the Khasi society. However, the constitutional position of the Khasi states after 1950 and the subsequent changes that followed, have not received the desired attention. The attempt of this study is to analyze the remedial measures that the Khasi states have taken (especially after 1950) in order to regain the position and identity within the Indian political framework. The emphasis will be on two Khasi states in particular, *Hima Khyrim* and *Hima Myllem*.

Studies on the political organizations of various societies under taken by Claessen and Skalnik, Krader and Fortes and Pritchard have revealed a spectrum of political organizations ranging from early states to stateless societies. These societies exhibit a variety of political organizations depending on their level of economic development, social stratification and the presence of a centralized authority.

Polity formation in the pre-colonial tribal regions of Eastern and North-Eastern India has also attracted the attention of many scholars. Sinha's edited volume is of particular interest to this research study for the case studies on polity formation among the Jaiñtia and Khasi people. Among writings in Khasi, the account of Lyngdoh is perhaps one of the earliest that narrates the genesis of the Khasi and Jaiñtia rulers. He examines the emergence of the Shillong state, the subsequent bifurcation of the state in 1853, and the emergence of the Nongkrem rulers, that is, *ki Syiem* Nongkrem (who are known today as *ki Syiem* Khyrim) and the Myllichem rulers, that is, *ki Syiem* Myllichem.

The writings of Bareh, Giri, Lyngdoh and Syiemlieh, amongst other scholars, have provided a rich source of information on various aspects of Khasi society which includes the development of traditional political institutions among the Khasi, the relations of the Khasi states and the British, the position of the Khasi states on the eve of India's independence and after. These scholars, with the exception of Giri, have also examined the relations of the Khasi states with the Indian Dominion till the inauguration of the Constitution of India in 1950. Shullai examines the Khasi states under British rule and their accession to the Indian Union through the various

agreements. The book also examines in detail the establishment of the Khasi States Constitution Making Durbar. However, none of these scholars have examined the position of the Khasi states after 1950 and the subsequent developments that have taken place in the Khasi and Jaiñtia hills.

DATA COLLECTION AND METHODS

To understand the genesis and organization of the Khasi states, primary data has been collected from existing works on these traditional political institutions, archival and government records, folklore and tradition. A visit to the National Archives, New Delhi was also undertaken in 2007 to examine recorded material relevant to Anglo-Khasi relations. Interviews and personal meetings with traditional heads and members of their councils especially those of *Hima* Khyrim and *Hima* Myllem were also undertaken to understand how these traditional political institutions exist today. These interviews were conducted in a very cordial atmosphere and the statements recorded have been very informative to the research work undertaken. While examining the relations between the British and the two Khasi states, Khyrim and Myllem and the constitutional developments between 1946 and 1950 relating to these two Khasi states, secondary sources have also been made use of. A number of visits have also been made to the office of the

Khasi Hill Autonomous District Council to collect data and documents and to interact with a number of officers on issues which affect the relations between the KHADC and these traditional political institutions and which are relevant to the research work undertaken. As this study is of current significance, newspaper reports, articles, seminar papers and proceedings of various organizations, correspondences between the Government of India, the Government of Meghalaya and the Khasi states and Autonomous District Council records have also been used as sources of data. To collect data from the field (which includes interaction with the respective *Syiem*, members of their councils, government officials, scholars, social activists and members of the general public) the following methods were used - unstructured interviews and structured interviews. In the unstructured interview method a broad framework of questions was prepared under which the interview was conducted. During the interview further questions were spontaneously formulated and the information as well as the answers provided enriched the interview.

CHAPTERISATION

This study has been divided into five chapters.

Chapter I Introduction.

Chapter II Traditional Political Institutions of the Khasi: Anglo-Khasi relations and their position between 1946 to 1950 (with special reference to *Hima Khyrim* and *Hima Myllem*).

Chapter III Constitutional Position of the Khasi states after 1950.

Chapter IV Demand for Constitutional Recognition.

Chapter V Conclusion.

CHAPTER I

In introducing the topic of research, the first chapter briefly examines the territorial location of the Khasi states of *Hima Khyrim* and *Hima Myllem*. The chapter briefly examines the composition of the highest political office among the traditional political institutions of the Khasi, that is, the office of the *Syiem*, the relations between the British government and the Khasi states following the Khasi insurrection of 1829, the political events on the eve of India's independence and

after that affected the position of the Khasi states and the position of the Khasi states after the inauguration of the Constitution of India in 1950.

The first chapter also includes:

- a) the objectives of the study undertaken;
- b) a review of literature;
- c) methods to collect data and information on the research study;
- d) chapterisation of the proposed study.

CHAPTER II

This chapter examines the emergence of the Khasi state and its administrative head, the *Syiem*, with particular reference to *Hima* Khyrim and *Hima* Myllem. The chapter discusses the Khasi insurrection against British growing influence in the Khasi Hills and the measures taken by the British to quell this insurrection. The chapter examines the administrative measures undertaken by the British to establish their authority as the paramount power over the Khasi Hills. The heads of the Khasi states came under the authority of the British through treaties, agreements and *sanads*. These agreements clearly depicted the subordinate position that the Khasi

states occupied in this relation with the paramount power, till India's independence in 1947.

With India's independence approaching, a States Department was created on July 5th, 1947 to deal with matters of common concern to the Indian states. The Governor of Assam was entrusted with the task of negotiating with the Khasi states. On August 8th, 1947 the Federation of Khasi States signed the Standstill Agreement ensuring that all administrative arrangements continued in force for two years or until new or modified arrangements were made. The arduous task of getting the Khasi states to sign the Instrument of Accession finally concluded when Nongstoin signed the Instrument on March 19th, 1948. Through these Instruments, the Khasi states acceded to the Dominion of India. A number of legal steps were undertaken by the new government at New Delhi to give effect to the Instrument of Accession and subsidiary agreements. To enable the Khasi states discuss their place under the new Constitution of India, (which was being drafted) the Dominion Agent issued a notification providing for the establishment of a Khasi States Constitution Making Durbar. The primary task of the Khasi States Constitution Making Durbar was to determine the future administrative arrangements of the Khasi and Jaintia Hills district in

relation to the Province of Assam and to the Dominion of India. Difference of opinion over this issue emerged between the more progressive members supporting J.J.M. Nichols Roy and those supporting the Khasi states. Before these differences could be addressed, the draft Constitution of India was adopted by the Constituent Assembly on November 26th, 1949. The Khasi states failed to address their concerns before the Constituent Assembly which had approved the Sixth Schedule. The Sixth Schedule was the outcome of the proposal prepared by the Bardoloi Sub-Committee which was submitted to the Constituent Assembly. The Sixth Schedule was incorporated in the Constitution of India to provide for a special administrative machinery, in the form of District Councils, to the hill districts of Assam. An executive order of the Government of Assam brought the short life of the Federation of Khasi States to an abrupt end from January 25th, 1950. When the Constitution of India was inaugurated on January 26th, 1950 the Khasi states were constitutionally reconciled to the provisions of the Sixth Schedule. The Constitution read that the territory of Assam “shall comprise the territories which immediately before the commencement of the Constitution were comprised in the Province of Assam, the Khasi States and the Assam Tribal Areas”.

CHAPTER III

The dawn of an independent India strengthened by the inauguration of a new Constitution which had embodied, amongst other features, special provisions for the administration of tribal areas of the erstwhile Assam, further affected the cause of the Khasi states. Two events in particular diverted the citizens' attention from the cause of the Khasi states – first, the inauguration of the Autonomous District Councils effected through electoral politics, and second, the emergence of the movements demanding statehood for the territory which came to be known as Meghalaya.

This chapter discusses the establishment of the Autonomous District Councils in the hill districts of Assam particularly the United Khasi-Jaiñtia Hills Autonomous District Council which was inaugurated on June 27th, 1952. This Autonomous District Council comprised the entire geographical areas (except the municipality and cantonment areas of Shillong) of the erstwhile Khasi and Jaiñtia Hills District. For the first time the Khasi states and former British areas were brought together under one administration.

To exercise its legislative powers under various sections of the Sixth Schedule, the United Khasi-Jaiñtia Hills Autonomous District Council

passed a number of Acts, Rules and Regulations. These Regulations passed by the United Khasi-Jaiñtia Hills Autonomous District Council brought the Khasi states under its supervision and control. These Regulations ultimately brought to the fore the serious differences between the traditional political institutions and the United Khasi-Jaiñtia Hills Autonomous District Council (and later the Khasi Hills Autonomous District Council). The principal Act which received the considerable attention of the public and which witnessed continuous acrimony between these two authorities was the United Khasi-Jaiñtia Hills Autonomous District (Appointment of Chiefs and Headmen) Act, 1959. This Act laid down detailed provisions for scrutinizing the functioning of the Khasi states principally through the method of appointing, removing and conduct of the Chiefs. The implementation of this Act has on numerous occasions brought the two authorities, that is, the Autonomous District Council and the Chiefs, in sharp conflict over their jurisdictions as defined by law and traditions, respectively. It was the judiciary that always had to intervene and to confirm the jurisdiction of the respective authorities. The important observations made by the judiciary in this altercation are



- a) the Chief was no more than an administrative officer appointed by the District Council under paragraph 2(4) of the Sixth Schedule and working under its control;
- b) once the powers of appointment fall within the power of the administration of the district, the power of removal of officers and others so appointed would necessarily follow as a corollary;
- c) the Governor in the first instance and the District Council thereafter were vested with the power to carry on the administration and this included the power to appoint and remove the personnel for carrying on the administration.

It took the judgement of the Supreme Court to reiterate that after the coming into force of the Constitution of India, whatever ruling or administrative powers that the Chiefs had were reduced when the twenty-five Khasi states were merged into Assam, and the governance of these states was to be carried on according to the provisions of the Sixth Schedule.

The demand for a separate state for the hill areas of Assam and the subsequent reorganization of the State of Assam saw the formation of the Autonomous State of Meghalaya on December 29th, 1969 and finally, the formation of the full fledged State of Meghalaya on January 21st, 1972. As

these events transformed the political and territorial contours of the Khasi Hills, the Khasi traditional political institutions and their leaders realized that they would inevitably be swept by these events which had eventually shifted public focus and opinion to new political challenges and to new emerging classes of interest. The traditional political institutions of the Khasi Hills were left with no alternative but to support the mass movement for a separate hill state with the hope that their interests would be secured and maintained in the proposed framework.

The inauguration of the new State of Meghalaya did not see any legal or constitutional improvement in the status of the traditional political institutions. They continued to exist as they did after the creation of the Autonomous District Council. No effort or initiative was undertaken either by the state government or by the Khasi Hills Autonomous District Council (hereafter KHADC) to recognize their contributory role to the society. These traditional political institutions continued to exist amidst the adversity of modern democracy, revered by their declining number of steadfast residents and proponents.

CHAPTER IV

Realizing that their grasp over the community and their relevance to the society was slowly slipping away, these traditional political institutions sought to revive their place amidst this avalanche of political change that had taken place in the Khasi hills since 1950. The simmering undercurrent of discord that was visible for decades finally overflowed into the public arena when heads of traditional political institutions came together to demand for constitutional recognition.

This chapter discusses the demand for constitutional recognition of the Khasi states. This demand for constitutional recognition was mobilized principally by the *Syiem* of Khyrim, the *Syiem* of Myllem and their respective councils, *ki Dorbar*. The Khasi states questioned the Government of India's failure to honour clauses of the Instrument of Accession when it instead approved the establishment of the Autonomous District Council. This demand assumes significance as it was after many decades that many Khasi states came together to support this demand even at the cost of inviting the displeasure of the KHADC.

The decision of the Government of India to constitute a National Commission to Review the Working of the Constitution (hereafter NCRWC) provided the Khasi states, through the Federation of Khasi States, an opportunity to draw attention to their grievances. The Khasi states submitted a memorandum to the Advisory Panel on “Decentralisation and Devolution: Empowerment and Strengthening of Panchayati Raj Institutions”. The memorandum placed before the Advisory Panel two issues for consideration:

- a) to initiate constitutional measures aimed at restoring and preserving the traditional status and powers of the traditional institutions by a suitable constitutional amendment;
- b) that, the constitutional amendment will define the legislative, administrative and judicial jurisdiction of the Khasi traditional chiefs in *Dorbar* in accordance with the customs and usages practiced and respected by the Khasis since time immemorial.

The suggestions put forward by the Advisory Panel (to place them as the first tier of governance under the ADC and to nominate 5 members, from among the traditional heads of the Khasi states, to the KHADC) were not acceptable to the Khasi states. Such suggestions they felt overlooked the real

issues confronting traditional political institutions which had all along been averse to the very creation of the Autonomous District Council and which functioned as partyless institutions. Taking a rigid stand, the Federation of Khasi States opposed the recommendations of the NCRWC while reiterating that they desired nothing short of the proposed Thirteenth Schedule to the Constitution of India.

The traditional political institutions of Meghalaya took different measures to ensure that their demand for constitutional recognition was heard at various platforms. They received the support of the former Member of Parliament (Rajya Sabha) Robert Kharshiing who initiated the formation of the Rajya Sabha Grassroots Democracy Advisory Council, (hereafter RSGDAC) a platform activating democracy at the grassroots. It was for the first time that traditional heads of the Khasi, Jaintia and Garo communities came together under one platform, the RSGDAC, to discuss and address their concerns including the demand for constitutional recognition of these traditional political institutions. To raise an awareness and participation of people in this demand for constitutional recognition a People's Assembly, *ka Dorbar Ri*, was organized by the RSGDAC on January 14th, 2004 at Smit, East Khasi Hills. A second People's Assembly was also organized at

Mawphlang, East Khasi Hills on October 6th, 2007. Both these Assemblies received wide media coverage and also witnessed the attendance of important public figures.

The KHADC could no longer keep the issue of its relations with traditional political institutions away from public view and scrutiny. To re-establish and reaffirm its legal authority over the traditional political institutions the KHADC assumed the path of negotiation and consensus. It initiated the creation of the Federation of Khasi Traditional Institutions (hereafter FKTI) as a positive step in re-establishing cordial relations with traditional political institutions that, for decades, had been deficient. The KHADC also formulated the Khasi Hills District (Constitution of The Federation of The Khasi Traditional Chiefs) Bill, 2006. The Bill in its imperfect form presently lies inconclusive. It remains to be seen how far reaching is this initiative of the KHADC in ushering a lasting, cordial relationship between both these authorities.

CHAPTER V

A critical examination of this demand for constitutional recognition of the Khasi states would not be complete if the views of representatives of these states and of public figures are not ascertained. To gather information on the present status and functioning of the two *Himas*, Khyrim and Myllem, a number of visits were undertaken to the offices of the *Syiems* located at Smit, East Khasi Hills and Mawkhar, Shillong, respectively. To elicit the views of a number of respondents on issues relevant to traditional political institutions today, a structured interview schedule was employed. In response to the question whether the respondents support the Khasi traditional political institutions' demand for constitutional recognition, a majority of respondents answered in the affirmative. They observed that traditional political institutions should be provided adequate safeguards from the negative effects of electoral politics. Members of the ADCs should not politically interfere with the administration and functioning of these traditional political institutions.

The respondents who did not support this demand interestingly observed that the Khasi traditional political institutions are already recognized through the operation of the Sixth Schedule. Traditional political

institutions and the KHADC should work under the present set up mandated by the Sixth Schedule. There is immense scope for experimentation to improve their relations, which has not been explored.

A majority of the respondents suggested that the Khasi traditional political institutions' demand for constitutional recognition should be fulfilled by including special provisions in the Constitution of India, by making provision for direct funding for development projects in the respective areas of these traditional political institutions and by creating an Upper House in the Meghalaya Legislature. The following observations and suggestions were also made:

- a) traditional political institutions are recognized by the Constitution of India through the Sixth Schedule. Capacity building of traditional political institutions will enable them to effectively exercise their functions;
- b) constitutional provisions empowering traditional political institutions should be considered by amending the 73rd Amendment Act;
- c) traditional political institutions should be given legal recognition by the Government of Meghalaya through an Act of the State.

Alternatively, traditional political institutions could be a part of the local administrative system under the direct control of the Government.

CONCLUDING OBSERVATIONS

The Khasi states today continue to exist amidst adversity. The heightened activities which they witnessed between 1946 and 1950 and which accorded them legal recognition, were shortened. The new administrative machinery introduced through the Sixth Schedule of the Constitution of India favoured a new emerging leadership which was conditioned by electoral politics and adult franchise. On the other hand, the social recognition accorded to them however continues but is visible more in the interior parts of their states than in urban areas, which have come under jurisdiction of new administrative authorities. It was only in the late 1990s that the Khasi states once again questioned their legal status under the Constitution of India. In demanding for constitutional recognition, the Khasi states not only made a bold admission of the lacuna in the constitutional arrangements that were arrived at in 1950 but were also willing to openly challenge their subordinate position under the Sixth Schedule thereby inviting the displeasure of the KHADC. Through the years that followed this

demand was raised at the various memoranda submitted to the NCRWC, to the Government of India, to Members of Parliament from Meghalaya and also to Chief Ministers of Meghalaya.

Neither the KHADC nor the Government of Meghalaya has seriously considered the Khasi states' demand for constitutional recognition which is accompanied by a number of legal and financial considerations. To be considered viable institutions which engage development in a participatory mode at the grassroots, the Khasi states must be willing to accommodate healthy democratic practices, sound financial management and a transparent and accountable working environment.

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Charles Reuben Lyngdoh



Submitted in fulfillment of the requirement for
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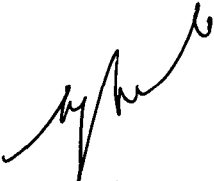
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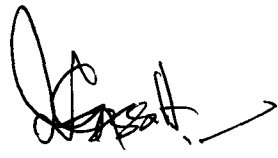
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Declaration

I, Charles Reuben Lyngdoh, hereby declare that the subject matter of this thesis is the record of work done by me, and that the contents of this thesis did not form the basis for the award of any previous degree to me or, to the best of my knowledge, to anybody else, and that the thesis has not been submitted by me for any research degree in any other university/institute.

This is being submitted to the North-Eastern Hill University for the degree of Doctor of Philosophy in Political Science.


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Preface

Political activities occur within the framework of the most encompassing and embracing organization, the state. This organization was by no means a universal feature of all societies. Studies undertaken on political organizations of ethnic groups around the world reveal a spectrum - well developed states at one end and stateless or acephalous societies at the other.

Traditional political institutions are an important component of the tribal milieu of North-East India. The development of such institutions among the Khasi and Jaiñtia people in the pre-colonial period has been gradual. The highest territorial principality that evolved was the *Hima*, that is, the state, administered by a leader designated by various names, *Syiem*, *Lyngdoh*, *Sirdar* or *Wahadadar*. Presently there are 25 Khasi states (*ki Hima Khasi*), the important states being Khyrim, Myllem and Cherra. The contacts that these states established with external powers and authorities brought them first, under the British through a relationship of subsidiary alliance, second, under the Dominion of India through the Standstill Agreement and the Instrument of Accession, third, under the Indian Union

through the operation of the Sixth Schedule of the Constitution of India and lastly, under the State of Meghalaya through the North-Eastern Areas (Re-organisation) Act, 1971 and through the operation of the Sixth Schedule.

This study examines these events that affected the position of the Khasi states in their relations with the various external powers and authorities. The study focuses on the demand for constitutional recognition of the Khasi states and the role played by the *Syiem* of Khyrim and *Syiem* of Myllem in this regard. The issue relating to the demand for constitutional recognition of the Khasi states has generated considerable interest among scholars, local institutions and non-governmental organizations. The study undertaken attempts to gauge the opinion of the stake holders, that is, the Khasi states and their administrative heads, the Khasi Hills Autonomous District Council (hereafter KHADC) and the Government of Meghalaya on these issues and to examine whether the Khasi states will be able to adjust to the existing political framework.

This study could not have been undertaken without the assistance and support of many individuals, institutions and organizations. At the outset, I express my gratitude to Professor L.S. Gassah, my supervisor for his meticulous guidance, his encouragement and most of all for his patience,

which has enabled me to complete this doctoral research. I express my gratitude to the Head, Professor B.J. Deb, Professor R. Borgohain, Dr. Pascal Malngiang, the faculty and staff of the Department of Political Science for their constructive suggestions and for their support. I express my gratitude to the Principal of Synod College, Shillong, Dr. D. Wanswett for not only granting me permission to undertake this research work but for his constant encouragement.

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My family has always been my constant source of support in this academic journey. Their overwhelming encouragement, patience and prayers have enabled me to complete this research work. For this, I am deeply grateful to my dear wife, Kezha, my children, Rachel and Ianna, my Dad and my Mom for their love and for constantly reminding me of the urgent need

to fulfill this academic obligation, and to all my near and dear ones who have resolutely stood by me.

Praise and honour be to the Almighty Father who makes all things possible.

Shillong

4th November, 2009.



Charles Reuben Lyngdoh

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CHAPTER I

INTRODUCTION

The hill tract, a region of uplands formed by a detached part of the Deccan Plateau, lying between the Bangladesh plains to the south and the Assam plains to the north, is the State of Meghalaya. One of the 28 states of India, Meghalaya became the full fledged 21st State of India on January 21st, 1972. Meghalaya shares its boundaries with Assam (on the east and the north) and with Bangladesh (on the west and the south). The State has a total area of 22,429 square kilometers and a population of 23,18,822¹ of which 11,76,087 are male and 11,42,735 are female. Meghalaya is now divided into seven administrative districts namely – Jaiñtia Hills, Ri Bhoi, East Khasi Hills, West Khasi Hills, East Garo Hills, West Garo Hills and South Garo Hills. The State has a sixty member unicameral legislature, the Meghalaya Legislative Assembly and a twelve member Council of Ministers. Meghalaya is under the jurisdiction of the Gauhati High Court,

¹ *Statistical Hand-Book, Meghalaya*, Directorate of Economics and Statistics, Government of Meghalaya, Shillong, 2007, p.1.

Assam and a circuit bench of this court is located at Shillong, the capital of the State.

TABLE 1.1 Basic Features of Meghalaya as on January 21st, 1972.

	Districts		State
	United Khasi & Jaiñtia Hills	Garo Hills	
Area (in sq. kms.)	14405	8084	22489
Population	605084	406615	1011699
No. of Civil Sub-Divisions	2	1	3
No. of Community Development Blocks	13	11	24

Source: *Meghalaya Socio-Economic Review*, Directorate of Economics and Statistics, Government of Meghalaya, Shillong, 2003.

Meghalaya is predominantly inhabited by the three tribal communities namely, the Khasi, the Jaiñtia and the Garo. These three tribes practice matriliney with some variations. These tribes belong to the “Indo-Chinese Linguistic Family” of which two important sub-families are the Mon-Khmer and the Tibeto-Burman². The Mon-Khmer includes among other communities, the Khasi and the Jaiñtia while the Tibeto-Burman includes the Garo. The Khasi have been classified into five main sub-divisions corresponding to certain geographical areas of Meghalaya –

² Singh, K.S. (Ed.): *People of India, Meghalaya*, Vol.XXXII, Seagull Books, Calcutta, 1994, p.9.

- a) Khyntiam, that is, the Khasi who inhabit the central plateau;
- b) Pnar or Synteng, that is, the Jaiñtia who inhabit the eastern area;
- c) Bhoi who are concentrated in the northern area;
- d) War who inhabit the southern area;
- e) Lyngngam, who inhabit the western area bordering the Garo hills.

TABLE 1.2 Basic Features of Meghalaya as on January 21st, 2009.

Former Districts	Name of New Districts	Date of Creation	Area in sq. kms.	Population (2001 Census)
United Khasi & Jaiñtia Hills	Jaiñtia Hills	February 21 st , 1972	3819	299108
	East Khasi Hills	October 28 th , 1976	2820	660923
	West Khasi Hills	October 28 th , 1976	5247	296049
	Ri-Bhoi	June 4 th , 1992	2376	192790
Garo Hills	East Garo Hills	October 23 rd , 1976	2603	250582
	West Garo Hills	October 23 rd , 1976	3715	518390
	South Garo Hills	June 18 th , 1992	1849	100980
Meghalaya		January 21 st , 1972	22429	2318822

Source: *Statistical Hand-Book, Meghalaya*, Directorate of Economics and Statistics, Government of Meghalaya, Shillong, 2007.

While trying to ascertain the origin of the Khasi people, scholars have presented a number of views. These views range from the cultural and linguistic affinities that the Khasi share with other communities in South East Asia (as highlighted by P.R.T.Gurdon, Hamlet Bareh, G.A.Grierson

among others) to the views that rest on oral tradition (as highlighted by R.T. Rymbai, Hamlet Bareh among others). Speaking on the origin of the Khasi, Suniti Kumar Chatterjee makes an important observation, “they appear to be descended from some of the earliest Mongoloid immigrants into India who changed their language through contact with Austric speakers, either in Burma or in the soil of India, in pre-historic times”³.

Traditional political institutions are an important component of the tribal milieu of North-East India. Such institutions evolved in tribal societies to bring order and to regulate settled life among the inhabitants. In the case of the Khasi and Jaiñtia people the development of traditional political institutions in the pre-colonial period has been gradual. These institutions evolved beyond the confines of village settlements to higher forms exhibiting remarkable foresight in the village leaders and their kin groups. The highest territorial principality that evolved was the *Hima*, that is, the state. The highest political office among the Khasi is that of the *Syiemship* under an administrative head called a *Syiem*, *Lyngdoh*, *Sirdar* or

³ Chatterji, S.K.: *Kirata Jana-Krti, The Indo-Mongoloids: Their Contribution to the History and Culture of India*, The Asiatic Society, Calcutta, 1974, p.166.

*Wahadadar*⁴. At present there are 25 Khasi states (*ki Hima* Khasi), the important states being Khyrim, Myllem and Cherra.

The term “state” is used to refer to traditional Khasi principalities as these principalities cannot be referred to by any other English term. Hence the term “state” is used in a very general sense because like the state the *Hima* too has some very discernible characteristics – a demarcated territory, a stratified population, a system of administration and independence especially in the pre-British period. The *Hima* is a territorial conglomeration of communes and independent villages falling under the jurisdiction of administrative heads known as *Syiem*, *Lyngdoh*, *Sirdar* or *Wahadadar*. The usage of the term ‘state’ to refer to traditional Khasi principalities was made popular by the British who referred to these principalities as ‘Cossyah’ states or ‘Kasia’ states. In terms of administration, the Khasi states were differentiated from the 33 villages (also known as British Areas) which were directly taken over by the British. Subsequently, the term Khasi state continued to be used till the time of India’s independence and after and also after the inauguration of the Constitution of India. The United Khasi-Jaintia Autonomous District Council and later the Khasi Hills Autonomous District

⁴ Lebar, M. Frank (et.al.): *Ethnic Groups of Mainland Southeast Asia*, Human Relations Area Files Press, New Haven, 1964, p.110.

Council replaced the use of the term Khasi state with the term *Elaka* to signify any administrative unit in the districts under its jurisdiction as specified in Appendix I, II and III in the United Khasi-Jaintia Hills Autonomous District (Appointment of Chiefs and Headmen) Act, 1959. (The usage of the term 'state', in the present study, as far as the Khasi states are concerned will be in small and not in capital letters).

The *Hima* underwent a gradual process of evolution spanning centuries. In its evolution it was able to adjust and adapt itself to changing needs and circumstances. The *Syiem*, in exercising his functions as head of his *Hima* is assisted by a Council, *ka Dorbar*. There are two types of Councils, a) a State Council, that is, *ka Dorbar Hima* which is a popular Assembly; b) an Executive Council, that is, *ka Dorbar Synshar* composed of a smaller group of councilors designated as *Basan, Lyngdoh, Myntri* who are vested with executive powers.

The Shillong state, that is, *ka Hima Shillong* was one of the oldest Khasi states among the traditional Khasi principalities. According to tradition the Shillong administrative heads, *ki Syiem Shillong* were of divine

origin and were called *ki 'syiem blei'* or ruler gods⁵. This *Hima* no longer exists; it was bifurcated in 1853 into two *Himas*, *Hima Khyrim* and *Hima Myllem*. In both these *Hima* the respective *Syiem* is elected from his clan (that is, the *syiem* clan) by a small electoral college by a simple majority. The electoral college of Khyrim consists of a total number of thirty electors, while the electoral college of Myllem consists of a total number of forty-eight electors. The present *Syiem* of Khyrim is Balajied Singh Syiem, while the present *Syiem* of Myllem is Latho Manik Syiem.

Prior to the advent of the British, the Khasi states (*ki Hima Khasi*) exercised independent control over their respective areas. The arrival of the British at the periphery of the Khasi Hills, a consequence of the receipt of the right of *Dewani* over the Bengal *Subah*, brought the English East India Company into trade relations with the Khasi people. The British suppressed all the insurrections (occurring between 1829 and 1839) of the Khasi states that had opposed their authority. The Khasi states ultimately came to be under the "protection and authority of the Government" (that is, the British government) and were bound to "obey without demur all the mandates of the

⁵ Lyngdoh, H.: *Ki Syiem Khasi bad Synteng*, (2nd Edn.), Ri Khasi Press, Shillong, 1952, p.81.

Government”⁶. Some of the Khasi states were categorized as semi-dependent (these were Cherra, Khyrim, Nongstoin, Langrin and Nongspung) and others as dependent (there were twenty states in this category each of which was under an administrative ruler designated either as *Syiem*, *Lyngdoh*, *Sirdar* and one Khasi state, a confederacy was under a *Wahadadar*)⁷. In addition to these Khasi states, there were thirty-three villages that were under the direct control of the British (these included the Shillong British Portion, Jowai Sub-division, Nongpoh, Myrdon among others)⁸. Thus the British introduced new changes in the administration and organization of these states. The British administrative policy was designed throughout their rule to keep these areas isolated and to rule them cheaply through a multi-tier administrative system involving the traditional chiefs as agents of colonial interests. Even in matters of customary laws like those

⁶ Allen, W.J.: *Report on the Administration of the Cossyah and Jynteah Hills*, 1858, p.26.

⁷ *Ibid.*, pp. 26-28.

also Dutta P.N.: *Impact of the West on the Khasis and Jaintias: A Survey of Political, Economic and Social Changes*, Cosmo Publications, New Delhi, 1982, pp.131-132.

⁸ Shullai, L.G.: *Ka Ri Hynniewtrep Bad Ka Sixth Schedule*, Lyngwiar Press, Shillong, 1998, pp.4-5.

governing the succession of chiefs they did not hesitate to interfere ruthlessly⁹.

OBJECTIVES OF THE STUDY

The objectives of the study are:

1. To examine the existing traditional political institutions of the Khasi, with special reference to *Hima Khyrim* and *Hima Myllem*;
2. To analyze the Anglo-Khasi relations, the position of the Khasi states between 1946 to 1950 in relation to India;
3. To examine the events that affected the position of the Khasi states after the enactment of the Constitution of India in 1950, the relations between the Khasi states and the Autonomous District Councils (with special emphasis on *Hima Khyrim* and *Hima Myllem*);
4. To analyze the current demand for constitutional recognition of the Khasi states and the role played by the *Syiem* of Khyrim and *Syiem* of Myllem in this regard;

⁹ Syiemlieh, D.R.: *British Administration in Meghalaya: Policy and Pattern*, Heritage Publishers, New Delhi, 1989, p.195.

5. To critically analyze the various memoranda submitted by the Federation of Khasi States to the National Commission to Review the Working of the Constitution.

While examining the traditional political institutions of the Khasi with special reference to the Khasi states, *ki Hima* Khasi, the objective of this study is to examine and analyze the events on the eve of India's independence and after that had affected the position of the Khasi states. The emphasis of the study is on the role played by *Hima* Khyrim and *Hima* Myllem in attempting to actively revive and spearhead the Federation of Khasi States (hereinafter FKS), the umbrella organization of the Khasi states, especially in the late 1990's. This attempt is undertaken by the two *Himas* with a view to regain their position and status that constitutionally felt short of their expectations.

With India's independence drawing near, a serious question arose as to the status of the 25 Khasi states. When British paramountcy was almost drawing to an end in 1947, the Khasi states were faced with two possibilities - to either join any of the new Dominion governments (that is, India or Pakistan) or to remain independent. In July 1946, the Federation of Khasi

States was revived to seriously discuss this impending situation. During this period, Sardar Vallabhai Patel headed the States Department which was entrusted with the task of negotiating with the 550 odd Indian states¹⁰. He urged these states to join the Indian Union, and thereby maintain the unity of the country in the realm of three important subjects – defence, foreign affairs and communications. On August 8th, 1947, the Khasi states signed an agreement to accede into the Indian Union on the three subjects. On August 8th, 1947, the Khasi states signed the Standstill Agreement. They agreed that from August 15th, 1947, all existing administrative arrangements between the Province of Assam and the Indian Dominion on one hand and the Khasi states on the other, should continue for two years or until modified arrangements are arrived at by the concerned authorities. Thus during this period the federated states enjoyed judicial, administrative, legislative and revenue powers¹¹. By August 17th, 1948, all the constituents of the Federation of Khasi States had signed the Instrument of Accession thereby acceding to India, though they refused to merge. The concerns of the Cabinet Mission (1946) on the future of the minorities after independence were addressed when the Constituent Assembly of India created an Advisory

¹⁰ Syiemlieh, D.R.: *op.cit.*, p.60.

¹¹ *Ibid.*, p.61.

Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas headed by Sardar Vallabhai Patel. A Sub-Committee was also set up for the North-East, the North-East Frontier Tribal Areas and Assam Excluded and Partially Excluded Areas Sub-Committee. This Sub-Committee was headed by Gopinath Bordoloi and J.J.M.Nichols Roy was one of the members. One of the recommendations that this Sub-Committee proposed in 1947 was for the creation of District Councils to look after the affairs of the six principal hill areas of Assam, including the Khasi and Jaiñtia Hills. A very vexed question arose before the Khasi people, “whether it would be better for the Khasis to be directly associated with the Indian Dominion in Delhi in terms of the Instrument of Accession signed by the Khasi states, or by their being under the Government of Assam under the provisions of the proposed Sixth Schedule of the Constitution”¹². Before these differences could be resolved, the Constituent Assembly in November 1949 adopted the provisions of the draft Sixth Schedule with several modifications. An executive order of the Government of Assam brought the

¹²Simon, I.M. (Ed.): *Meghalaya District Gazetteers: Khasi Hills District*, Government of Meghalaya, Directorate of Art and Culture, Shillong, 1991, p.43.

short life of the Federation of Khasi States to an abrupt end from January 25th, 1950¹³.

When the Constitution of India came into force on January 26th, 1950, the Khasi states were reconciled with the state of Assam, without any agreement of merger and disregarding the provisions of the Standstill Agreement¹⁴. The Constitution read that the territory of Assam “shall comprise the territories which immediately before the commencement of the Constitution were comprised in the Province of Assam, the Khasi States and the Assam Tribal Areas”¹⁵. The Khasi states and non-state areas became a part of the United Khasi-Jaiñtia Hills District. With the implementation of the provisions of the Sixth Schedule, the Khasi states became a part of the United Khasi-Jaiñtia Hills Autonomous District. Moreover with the creation of the Autonomous District Council, the powers and functions of the Khasi states were further reduced. The Khasi states became functionaries under the authority of the Autonomous District Council, the United Khasi-Jaiñtia Hills Autonomous District Council and later the Khasi Hills Autonomous District Council.

¹³ Simon, I.M. (Ed.): *op.cit.*, p.43.

¹⁴ Pakem, B.: *Regionalism in India*, Har Anand Publications, New Delhi, 1993, p.155.

¹⁵ Sen-Verma, S.P.: *The Constitution of India*, Ministry of Law, Delhi, 1967, p.158.

Since 1950, the Khasi states under the umbrella organization, the Federation of Khasi States have been making representations to the Union Government as well as to the State Government of Meghalaya to highlight their cause and how they have been constitutionally undermined. They have petitioned the said governments on numerous occasions to constitutionally recognize and restore their rights and privileges. During the last few years this movement for constitutional recognition has gained momentum. A National Commission to Review the Working of the Constitution (hereafter NCRWC) was set up by the Union Government on February 22nd, 2000. Among the various issues that this Commission was entrusted to examine, was the issue on “Decentralisation and Devolution: Empowerment and Strengthening of Panchayati Raj Institutions”. The Advisory Panel of the NCRWC entrusted with the mentioned issue prepared a Consultation Paper, “Empowering and Strengthening of Panchayati Raj Institutions/Autonomous District Councils/ Traditional Tribal Governing Institutions in North East India” on the basis of inputs it had compiled and collated from various sources. The Federation of Khasi States under the leadership and guidance of *Hima Khyrim* and *Hima Myllem*, has been actively involved in forwarding its views and recommendations to the Commission.



Of late, this issue relating to the demand for constitutional recognition of the Khasi states has generated considerable interest among scholars, local institutions and non-governmental organizations. A number of organizations have also held seminars and workshops to examine the functioning and relevance of traditional tribal organizations in North-East India. In addition, newspaper articles written by various scholars have also contributed their part in creating awareness amongst the public on the issues at hand. The present position of the Khasi states, *ki Hima* Khasi, has its roots in the past when they exercised independent control over their respective areas. An important question that arises today is that, if these traditional political institutions are given constitutional recognition, how well will they adjust and adapt themselves to the changed political environment?

REVIEW OF LITERATURE

In present day society, political activities occur within the framework of the most encompassing and embracing organization, the state. This organization was by no means a universal feature of all societies. Studies undertaken on political organizations of ethnic groups across the world have

revealed a spectrum ranging from well developed states at one end to stateless or acephalous societies at the other. These academic and research oriented studies have today produced a voluminous treasure of literature containing a crucial component in theoretical models and formulations. It is from this vast array of available literature that a study on Khasi traditional political institutions and state formation can draw inference. It may also be pointed out that the emergence, development and experience of Khasi polity formation does not follow any distinct theoretical formulation but rather, strikingly exhibits features of various models of polity development across the world.

The difficulty that a research scholar faces while studying traditional institutions of North-East India is that the earlier writings on the subject lie buried in learned journals, official documents which are beyond the reach of general readers. Nevertheless, attempts had been made by British officers to document their experiences while travelling throughout North-East India. While throwing light on the different facets of tribal life in North-East India, these documents however have their limitations. They had been prepared to serve in general, the functional needs of British administration.

Research activity, with reference to North-East India, has witnessed a remarkable increase in the last few decades of the previous century. Scholars of various disciplines have been able to successfully compile and document their findings on research activity in the various North-Eastern states of India. Such findings are of immense value for they introduce a research scholar to the richness and diversity of research activity in the region.

Today, there is an immense wealth of material available on various aspects of the Khasi society. The emergence of the Khasi states as traditional political institutions has also received adequate attention of scholars. However, the constitutional position of the Khasi states after 1950 and the subsequent changes that followed, have not received the desired attention. The attempt of this study is to analyze the remedial measures that the Khasi states have taken (especially after 1950) in order to regain the position and identity within the Indian political framework. The emphasis will be on two Khasi states in particular, *Hima Khyrim* and *Hima Myllem*.

In *The Early State*¹⁶, Claessen and Skalnik argued that there exists a socio-political organization called the early state in between the non-state

¹⁶ Claessen, Henri J.M. and Skalnik, Peter (Ed.): *The Early State*, Mouton, The Hague, 1978, p.21.

and state organizations respectively. The early state manifests certain characteristics – a sizeable population that makes social categorization, stratification and specialization possible; population is stratified and the emerging classes can be distinguished; government is centralized, it has sovereign power to maintain law and order; a common ideology exists, which gives legitimacy to the ruling stratum. On the basis of these characteristics, twenty-one case studies of early states were presented by various scholars and inferences were drawn about their functioning.

In an article written in *Current Anthropology*, Claessen¹⁷ examines how four aspects condition the internal dynamics of the early state, and how with effective implementation, they would contribute to the transformation of the early state into a mature state. These aspects include societal format, level of economic development, type of legitimation and degree of bureaucratic organization.

¹⁷Claessen, Henri J.M.: 'The Internal Dynamics of the Early State', *Current Anthropology*, Vol.25, No.4, August-October 1984, The Wenner-Gren Foundation for Anthropological Research, 1984, pp.365-379.

Lawrence Krader¹⁸ examines a number of societies according to the relative complexity of their governmental arrangements – simple societies (Eskimos, Bushmen); societies with institutions leading to the state (Crow, Kpelle); emerging states where central power is more developed and more articulate (Ankole); states fully formed (Egypt, Mongols) by integrating all parts of society under one sovereignty and all geographic localities and provinces in one polity.

*African Political Systems*¹⁹ is a comparative study undertaken by various scholars, it deals with the social organizations and political institutions of a number of African societies. Max Gluckman in his study of the Kingdom of the Zulu, observes that the Zulu nation is a federation of tribes whose separate identities were symbolized by their respective chiefs. This nation was headed by a king chosen from a powerful aristocratic Zulu lineage. In exercising his authority the king was assisted by his councilors, *Idunas*. The chiefs of the various tribes scattered throughout Zulu land were appointed by the king from amongst his close relatives. These chiefs were bound to the king by strong kinship ties of mutual assistance and by their

¹⁸Krader, Lawrence: *Formation of the State*, Prentice Hall Inc., New Jersey, 1968, pp.6-8.

¹⁹Fortes, M. and E.E.Evans Pritchard (Ed.): *African Political Systems*,(Reprint), Oxford University Press, London, 1975, pp. 29-42, 58-64.

common membership of royal lineage. I.Schapera while studying the political organization of the *Ngwato* of the Bechuanaland Protectorate, notes that the lowest political unit is the family group, *Kgotlana* where descent is traced from a male ancestor. Every family group is under the leadership of an elder or *Mogolwane*. The ward or village, *Motse* represents the second tier of political organization. It is under the authority of either a hereditary headman, a *Dikgosana* (descendant of the royal family) or a common headman, a *Motlhanka* who is appointed by the chief of the tribe from amongst the commoners. Finally at the top is the office of the tribal chief who belongs to the ruling dynasty and claims authority to royalty. These case studies have been highlighted to show that certain African societies have been organized as primitive states where there exists a centralized authority and judicial system.

In contrast to these two tribes is the Nuer²⁰, a pastoral people of Sudan which represents a stateless society (there is absence of a central institutional authority). The basic unit among the Nuer is the family. Related lineages form clans and the combination of clans form Nuer tribes. Lineages play a

²⁰ Pritchard, E.E.Evans: *The Nuer: A Description of the Modes of Livelihood and Political Institutions of a Nilotic People*, Oxford University Press, London, 1968, pp.5-6, 172-174.

strong political role, members of every lineage can participate in decision-making, share territorial rights and have common rights and obligations. Among the Nuer, there is no specialized governmental structure, there are no laws or law-givers. Influential men in Nuer society usually come from a dominant clan. The position most resembling a political office is that of the leopard-skin chief. His main function is the settlement of blood-feuds. He is simply a mediator in specific social situations and his mediation is successful because it is acknowledged by the warring parties. The African tribes reviewed above demonstrate the central role of the kinship in the integration and decision-making process of both primitive states and the so-called stateless societies.

The process of polity formation in India and the North-Eastern part of India has also received adequate attention at the hands of scholars of various disciplines. In her book *From Lineage to State*²¹, Romila Thapar makes an attempt to historically examine the development of the pastoralist, Rig Vedic society of the mid-first millennium B.C. in the Ganges valley. The study explores the changes that take place from a lineage based society to the

²¹ Thapar, Romila: *From Lineage to State: Social Formation in the Mid-First Millennium B.C. in the Ganga Valley*, Oxford University Press, Bombay, 1984, pp.21-24.

establishment of the state system in an emerging peasant economy. The use of the term 'lineage' society in preference to 'tribal' society emphasizes the centrality of lineage in all aspects of society, particularly in relation to power and access to resources.

A.S. Altekar²² has made a comprehensive attempt to examine various aspects of ancient Indian polity encompassing the origin, types, nature and functions of the state, state administration and the administrative machinery at various levels and the relationship between the state and the citizen. He has brought about a synthesis of data and information drawn from widely divergent sources which include theoretical and literary works on the subject as well as inscriptions and historical records. Hindu polity working under a society characterized by the caste system dictated that government was primarily the function and duty of the *Kshatriyas* assisted to some extent by the *Brāhmanas*.

²² Altekar, A.S.: *State and Government in Ancient India* (3rd Edn.), Motilal Banarsidass, Delhi, 1958, pp. ii, 5, 36-41, 377.

Surajit Sinha²³ in an edited volume presents ten case studies on polity formation in the pre-colonial tribal regions of Eastern and North-Eastern India. The growth of these polities has been decisively conditioned by various factors such as ecology, patterns of surplus generation and extraction, military organization, warfare and conquest and networks of socio-cultural interaction among chiefdoms, principalities and states. The case studies on polity formation among the Jaiñtia and Khasi are of particular interest to this study being undertaken.

In the *Impact of the West on the Khasis and Jaintias*²⁴, P.N. Dutta presents an exhaustive account of the relations between the British and the Khasi and Jaiñtia. The book examines the subsequent developments that take place between 1765 A.D. and 1874 A.D. and the changes in the political, administrative and material aspects of the Khasi and Jaiñtia society. In his description of the Khasi political institutions, Dutta has not attempted to trace their origin and development. He only discusses the office of the *Syiem*, making a passing reference to the concept of *Syiemlieh* and *Syiemiong*.

²³ Sinha, Surajit (Ed.): *Tribal Polities and State Systems in Pre-Colonial Eastern and North Eastern India*, K.P. Bagchi & Co., Calcutta, 1987, pp. xxii-xxiii, 254-305.

²⁴ Dutta, P.N.: *op.cit.*, pp.vi-vii, 21.

P.R.G. Mathur²⁵ also examines certain features of Khasi society which include cultural contacts, traditional political system, the Muslim Khasis among others. His emphasis has been to examine the impact of western civilization and the role of Christian missionaries. His discussion on the Khasi solidarity movements pays very little attention to the activities of the Federation of Khasi States (especially after 1950) and places more emphasis on the genesis of political parties in Meghalaya and their role in the hill state movement.

*Tribal Institutions of Meghalaya*²⁶ is a collection of articles contributed by various scholars to discuss the various facets of tribal culture. The papers related to the Khasi traditional political institutions (such as the *Syiemships*, *Lyngdohships*) provide valuable background and analysis to the origin and development of the institutions, their relations with the British and the events that followed after India's Independence.

²⁵ Mathur, P.R.G.: *The Khasi of Meghalaya: Study in Tribalism and Religion*, Cosmo Publications, New Delhi, 1979, pp.106-111.

²⁶ Chattopadhyay, S.K.(Ed.): *Tribal Institutions of Meghalaya*, Spectrum Publications, Guwahati, 1985, pp.12-10, 24-27, 43-46, 66-67.

D.R. Syiemlieh²⁷ provides a deep and rich source of information on the relations between the British and the tribal inhabitants of Meghalaya. This book examines the indirect system of administration that the British had carried on in the hills through the traditional chiefs. It takes a look at the effects of this administration on the social, economic and political ethos of the people. It also examines the position of the Khasi states on the eve of independence, and also their position between 1947 and 1950.

Helen Giri²⁸ examines the impact and consequence of British administration on the Khasis (up to 1947), while also including a profile of the Khasi and Jaiñtia and their early contacts with other communities. The book provides a practical and detailed account of the factors that interplayed on the fate of the Khasi states till 1947 A.D.

R.S. Lyngdoh²⁹ presents an exhaustive account of the traditional institutions that exist among the three tribal communities of Meghalaya. He examines the political and constitutional developments that took place after the annexation of the hill areas by the British, the developments that took

²⁷ Syiemlieh, D.R.: *op.cit.*, pp. x,16, 69,152-164,194-205.

²⁸ Giri, Helen: *The Khasis under British Rule: 1824-1947*, Regency Publications, New Delhi, 1998, pp.5-8, 32-33, 224-225.

²⁹ Lyngdoh, R.S.: *Government and Politics in Meghalaya*, Sanchar Publishing House, New Delhi, 1996, pp. vi, 127,145,228-234.

place between the period 1935 to 1947, the framing and implementation of the Sixth Schedule, the Autonomous District Councils, the movement for a separate Hill state and the creation of Meghalaya. His views are interesting in so far as he provides an analysis to the various developments including the reasons behind the Federation's failure in realizing the objectives of the Khasi states.

A close analysis of the above mentioned reviews (which include those of Mathur, Chattopadhyay, Syiemlieh, Giri and Lyngdoh) reveals that the scholars have dwelt at length in examining the genesis of Khasi traditional political institutions, their relations with the British, and their relations with India after independence. However, none of these scholars have examined the position of the Khasi states after 1950 despite the fact that their writings have been published only recently between 1982 and 1998 A.D.

*Power to People in Meghalaya*³⁰ is a collection of papers contributed by various scholars. These papers critically examine the Sixth Schedule, the functioning of the Autonomous District Councils while also dwelling on the relevance of the 73rd Amendment to the tribal areas of North-East India.

³⁰ Karna, M.N. (et.al.): *Power to People in Meghalaya: Sixth Schedule and the 73rd Amendment*, Regency Publications, New Delhi, 1998, pp.21, 32, 80-81.

These papers also attempt to ascertain whether the provisions of the 73rd Amendment are in conflict with or complementary to the provisions of the Sixth Schedule and how would the provisions of the former contribute to maintaining the traditional tribal ethos. Juanita War's paper on "Panchayati Raj and Traditional Khasi Institutions: A Comparison" examines a revivalist role that the traditional Khasi institutions can play under a new political framework at the grassroot level.

*Ka Lawei U Khasi*³¹ examines, though briefly some aspects of Khasi society namely the origin of the Khasi, the concept of clanship and matriliney, language, land ownership and traditional administration and occupation. The author notes that a Khasi constructs his racial identity on three important tenets: his clan, his dialect and his association with the land. *U Khasi u tei ia ka jaidbynriew ha ki lai tylli ki mawbyrsiew: ka kur, ka ktien bad ka khyndew*. The author's views on the traditional form of governance are very brief. He examines the present system of electoral politics, its vices and concludes that these vices are responsible for the rot that exists in Khasi society today. With regard to the origin of the Khasi, he shares the same views that have been offered by earlier scholars.

³¹ Kharkongor, I.: *Ka Lawei U Khasi*, Shandora Press, Shillong, 1998, pp.5-8.

*Khasi Heritage*³² is a collection of essays that have been contributed by different scholars on Khasi thought, religion and culture. This book examines the establishment of *Ka Seng Khasi*, the important personalities associated with this organization, many aspects of Khasi religion and culture, the various Khasi festivals, music and certain customs among the Khasis. An essay on the position of the Khasi and Jaiñtia hills upto 1874 has also been presented including the pledge of Balajied Singh Syiem, the *Syiem* of *Hima Khyrim* on his assumption to office as *Syiem* (on 26th August, 1978).

*Ki Syiem Khasi bad Synteng*³³ is perhaps one of the earliest writings available in Khasi that throws light on the genesis of the Khasi and Jaiñtia rulers. The author examines sixteen such states beginning with the state founded by the Malngiang rulers, that is, *ki Syiem Malngiang*. He examines the emergence of the Shillong rulers, that is, *ki Syiem Shillong*, the subsequent bifurcation of this state in 1853, and the emergence of the Nongkrem rulers, that is, *ki Syiem Nongkrem* (who are known today as *ki Syiem Khyrim*) and the Myllem rulers, that is, *ki Syiem Myllem*. The author has relied on the earlier writings of a number of scholars such as Gait, Wade,

³² Roy, H. (Ed.): *Khasi Heritage*, Ri Khasi Press, Shillong, 1996, pp. i-iii, 10.

³³ Lyngdoh, H.: *op.cit.*, pp.ii-x. 81-102, 103-114.

Gurdon in addition to folklore which has been handed down from generation to generation.

*Ka Pomblang Nongkrem*³⁴ is a small booklet, the contents of which have been extracted from *Ka Niam Khasi* by Homiwell Lyngdoh. This booklet throws light on the emergence of the *Syiem* and the *Lyngdoh* clans, *Ki Jait Syiem bad Jait Lyngdoh* and the religion and investiture ceremonies associated with the appointment of a *Syiem* or a *Lyngdoh*. This book makes an interesting observation, that the *Syiem* as well as the *Lyngdoh* clans are not original or founding clans of either the village (*Shnong*), the commune (*Raid*) or the state (*Hima*). These clans (the *Syiem* and the *Lyngdoh*) have been ordained by the elders and citizens for performing the sole purpose of administration. “*Ki jait syiem bad ki jait Lyngdoh ki long ki jait jong ki kam raid ki kam hima, kiba ki bakhrav bad ki khun ki hajar ki la pynkhamti ha ki*”.

*Ki Hima Khasi hapoh ka India Union*³⁵, is perhaps the earliest written and often quoted publication that examines (both in English and Khasi) the

³⁴ Diengdoh, D.P.: *Ka Pomblang Nongkrem*, Ri Khasi Offset Printers, Shillong, 1995, pp.68-81.

³⁵ Basan, LL.D.: *Ki Hima Khasi Hapoh ka India Union*, Jaiaw, Shillong, 1948, pp.1-3, 6-8, 11-19.

agreements entered into between the Khasi states and the Indian Dominion. These included the Instrument of Accession, Annexed Agreement among others. The author of this publication raises his concern about the emergence of a number of political parties (in 1948) whose objectives though seem to be the same, to firmly establish, improve and maintain continuity of the Khasi land and its people, '*ban pynneh pynsah pynbha ia la ka Ri ka Jaid bynriew la jong*'. The content of the publication is however limited, it could have served a better purpose to the general reader and to the research scholar had it included more information and published at a later period.

*Ki Hima Khasi*³⁶ briefly examines the Khasi states under British rule and their accession to the Indian Union through the various agreements. This book also examines in a more detailed manner the establishment of the Khasi States Constitution Making Durbar, the proceedings of this *Dorbar* and the members of the *Dorbar*. The book has also examined the general apprehensions of some of the members of this *Dorbar* with regard to the proposals of the Sixth Schedule.

³⁶ Shullai, L.G.: *Ki Hima Khasi*, (2nd Edn.) Ri Lum Printing House, Shillong, 2000, pp.1-4, 30-31, 9-19.

In *Ka History Ka Ri Hynniewtrep*³⁷, the author examines the history of the *Hynniewtrep* people, their position before and after the advent of the British, the period before independence and the emergence of a number of Khasi organizations, the relations of the Khasi states with the Indian Dominion between 1947 and 1950, the Fifth and Sixth Schedule of the Constitution of India, the Autonomous District Councils and the General Elections of 1952. The contributions of Nongbri to the subject are not new and have been covered by earlier scholars. He has however examined in detail a controversial yet important subject – the role played by *Hima Nongstoin* during the period of accession of the Khasi states to the Indian Union. He has also examined in brief the reasons which accounted for the Federation of Khasi States' failure to achieve its objectives.

*Khanasmari: U Khun U Hajar Ka Ri Hynniewtrep*³⁸, examines the sixteen traditional administrative zones that exist in the East Khasi Hills, West Khasi Hills, Jaintia Hills and Ri Bhoi districts. This book has compiled basic statistics with regard to the district and block that each village is under and the population of each village (ST and non ST). The efforts of the editor

³⁷Nongbri, I.: *Ka History Ka Ri Hynniewtrep*, Vol. I, *Haduh 1952*, Seven Huts Enterprise, Shillong, 1992, pp.1-2, 14-19, 92-117, 125-129.

³⁸Sawian, S.S. (Ed.): *Khanasmari-U Khun U Hajar Ka Ri Hynniewtrep*, Apphira Publications, Shillong, 1998, pp.i-iv, 1-6.

are innovative and are in addition to the efforts of Shullai who had published his hypothetical *Ki Khadhynriew Tylli Ki 'Zone' Ka Ri Hynniewtrep*³⁹.

DATA COLLECTION AND METHODS

To understand the genesis and organization of the Khasi states, primary data has been collected from existing works on these traditional political institutions, archival and government records, folklore and tradition. A visit to the National Archives, New Delhi was also undertaken in 2007 to examine recorded material relevant to Anglo-Khasi relations. Interviews and personal meetings with traditional heads and members of their councils especially those of *Hima Khyrim* and *Hima Myllem* were also undertaken to understand how these traditional political institutions exist today. These interviews were conducted in a very cordial atmosphere and the statements recorded have been very informative to the research work undertaken. While examining the relations between the British and the two Khasi states, *Khyrim* and *Myllem* and the constitutional developments between 1946 and 1950 relating to these two Khasi states, secondary sources have also been

³⁹Shullai, L.G.: *Ki Khadhynriew Tylli Ki 'Zone' Ha Ri Hynniewtrep*, K.J. Press, Shillong, 1994, pp. 1-8.

made use of. A number of visits have also been made to the office of the Khasi Hill Autonomous District Council to collect data and documents and to interact with a number of officers on issues which affect the relations between the KHADC and these traditional political institutions and which are relevant to the research work undertaken. As this study is of current significance, newspaper reports, articles, seminar papers and proceedings of various organizations, correspondences between the Government of India, the Government of Meghalaya and the Khasi states and Autonomous District Council records have also been used as sources of data. To collect data from the field (which includes interaction with the respective *Syiem*, members of their councils, government officials, scholars, social activists and members of the general public) the following methods were used - unstructured interviews and structured interviews. In the unstructured interview method a broad framework of questions was prepared under which the interview was conducted. During the interview further questions were spontaneously formulated and the information as well as the answers provided enriched the interview. In the structured interview method a set of ten pre-determined, sequenced questions were used to elicit the views of the respondents. Both

these methods were conducted through a person-to-person interaction by the research scholar himself.

CHAPTERISATION

This study has been divided into five chapters.

Chapter I Introduction.

Chapter II Traditional Political Institutions of the Khasi: Anglo-Khasi relations and their position between 1946 to 1950 (with special reference to *Hima Khyrim* and *Hima Myllem*).

Chapter III Constitutional Position of the Khasi states after 1950.

Chapter IV Demand for Constitutional Recognition.

Chapter V Conclusion.

CHAPTER II

TRADITIONAL POLITICAL INSTITUTIONS OF THE KHASI

In examining the traditional political institutions that exist among the Khasi people, it is imperative to observe the context under which these three terms – traditional, political and institution are used. “Traditional” refers to tradition, those customs and practices observed by the community that have evolved over a long period of continuous usage. They are uncodified and unwritten and have been verbally passed on from one generation to the next. These customs and practices are revered and upheld by one and all. In course of time they have been collectively denoted as *ka Riti*, a body of rules, regulations and guidelines - an unwritten constitution embodying all facets of Khasi culture and society which have grown out of past usages and practices. *Ka Riti* in its original conception implies the exaltation of the sovereign popular will at the constriction of the power and authority of the sovereign. To cite an example of the ever binding influence of tradition on Khasi society, there is an old Khasi saying “*long jait na ka kmie, long rynieng na u kpa bad ka ktien u ñi u kong ka dei ka ãin*”. This translation

implies that one's title is taken from the mother, one's stature is taken from the father while the spoken words and vows of the maternal uncle are law. "Political" refers to those activities and processes that attempt to regulate and administrate the external political behaviour of members of a group in commodious living. This attempt at regulated behaviour begins at the level of the clan when settled life becomes visible and is magnified with the growth of complex political organizations commencing with the village, (*ka Shnong*) and finally culminating in the state, (*ka Hima*). "Institution" on the other hand refers to a mechanism, informal or formal established to maintain social and political cohesiveness. This mechanism also begins at the level of the clan and finally culminates at the level of the state, *ka Hima*.

In attempting to answer the question of origin and migration of the Khasi people, scholars have suggested a labyrinth of diverse and even conflicting views. These views range from the cultural and linguistic affinities that the Khasi share with other communities in South East Asia to the views that rest on oral tradition. Nevertheless, it would suffice to say that the Khasi belong to one of the earliest batches of Indo-Mongoloids to have occupied their present habitat, though this period of occupation is still debatable. Pakem describes the Khasi-Jaintia people as racially Mongoloids,

linguistically Austro-Asiatic and culturally proto-Australoids¹. Speaking on the origin of the Khasi, Suniti Kumar Chatterjee makes an important observation, “They appear to be descended from some of the earliest Mongoloid immigrants into India who changed their language through contact with Austric speakers; either in Burma or on the soil of India, in pre-historic times”².

EVOLUTION OF THE KHASI STATE: *KA HIMA*

It is generally believed that the first waves of migration of the Khasi into these hills, which now comprise of three districts, the East Khasi Hills, West Khasi Hills and Ri Bhoi, occurred in batches. Each batch comprised of a clan (*Kur*) which was led usually by the eldest maternal uncle, *u Knyi* or *Rangbah Kur*, chosen by all the adult male members of the clan. This leader and head of the clan was entrusted with the responsibility of performing the necessary rites and rituals when the clan first settled or appropriated a

¹ Pakem, B: ‘Jaiñtia Tribe of Meghalaya’ in a seminar on *Social and Political Institutions of the Hill People of North East India*, North East Indian Council of Social Science Research (hereafter NEICSSR), Shillong, 1977.

² Chatterji, S.K.: *Kirata-Jana-Krti, The Indo-Mongoloids: Their Contribution to the History and Culture of India*, The Asiatic Society, Calcutta, 1974, p.166.

portion of land³. Another view observes that the eldest male or any other male member who was chosen by a council of male adults became the leader, *Saidña* or *Lyngdoh* of the clan⁴. This authority was vested with both religious and administrative duties. All deliberations must be carried out in the clan meetings and all decisions arrived at by consensus. In due course, clans grew in number and size, other clans were accommodated into the fold of the original clans thereby paving way for a more settled life. It is in this phase of polity evolution that the village, *ka Shnong*, comes into existence, to administer affairs of common concern of all its subjects and residents. The head of the village was chosen from among the members of the original or founding clans of the village. In certain instances, two centres of authority emerged during this phase of socio-political development. The temporal powers were vested with a new authority, the *Basan*, an elder who was the leader and representative of the founding clan which had claimed possession and ownership of the land; the spiritual powers were vested with the *Lyngdoh*, a priest who was chosen from the priestly clan⁵. The

³ Costa, G.: *Ka Riti Jong Ka Ri Laiphew Syiem, (Ka bynta ka ba-ar)*, (Reprint), Don Bosco Publications, Shillong, 1999, p.81.

⁴ Singh, K.: 'Syiems and Durbars in Khasi Polity', in S.K.Chattopadhyay (Ed.), *Tribal Institutions of Meghalaya*, Spectrum Publications, Guwahati, 1985, p.13.

⁵ Bareh, H.: *The History and Culture of the Khasi People*, (2nd Ed.), Spectrum Publications, Guwahati, 1985, p.39.

administration of the village was carried on with the assistance of a council of elders designated as *ki Bakhraw* or *ki Tymmen ki San*. The term *Lyngdoh* is applicable in different settings to different authorities and units in the polity evolution of the Khasi. At the first instance, it may be used to refer to an office of a secular head exercising administrative powers. Secondly, it may be used to refer to an office of a religious head bestowed with the responsibility of solely performing religious ceremonies. Lastly, it may also refer to a clan, the *Lyngdoh* clan from which the incumbent to the secular or religious office may be respectively chosen.

As villages grew in size and the art of governance became complex, many villages merged to form a commune, *ka Raid*. The *Raid* administers subjects of common concern of its constituents (that is, the villages comprising it). The administration of the *Raid* was carried on by the *Basan* and the *Lyngdoh* with the assistance of a council, *ka Dorbar* comprising of councilors such as *Matabors*, *Majis*, *Pators*⁶ and *Malehangots*. The councilors were appointed by the *Basan* or the *Lyngdoh* subject to the approval of the residents of the *Raid* who comprised of all adult male

⁶ The existence of councilors designated as *Pators* in traditional political institutions of the Khasi appears to have been overstressed by Hamlet Bareh. This office is clearly associated with the traditional polity formation of the Jaiñtia people.

citizens⁷. Another opinion observes that in course of time, due to necessity and complexity of administration, villages federated to form a commune, *ka Raid*. A new leader eligible to lead this nascent political entity was chosen either from the members of the original clans or the clans of nobility, the *Basan* clans or the *Lyngdoh* clans which already existed and co-habited those villages of which the newly emerging commune comprised of⁸. This leader is conferred the title *Basan Raid* or *Lyngdoh Raid* and the performance of all administrative functions is bestowed upon this office. Similarly, realizing the complexity and magnitude of religious functions that were required to be performed at the level of the *Raid*, the elders and the councilors of the commune ordained an existing clan with the title *Lyngdoh* or *Langdoh* (the latter in the case of Jaiñtia people) and transferred all religious and sacerdotal functions of the commune to this clan⁹.

In the third phase of polity formation, as the communes grew in size and population, new developments emerged which necessitated the creation of a central and common authority to manage state affairs of a larger magnitude which the then existing socio-political authorities could not

⁷ Bareh, H.: *op.cit.*, p.39.

⁸ Lyngdoh, H.: *Ka Niam Khasi*, (3rd Ed.), Sawlyer Printing Press, Shillong, 1990, pp.243-244.

⁹ *Ibid*, p.245.

execute. It is under these circumstances that the clans, villages and communes federated to create a state, *ka Hima*. There is no substitute in English for the term *Hima*. Hence the term ‘State’ is used because like the state the *Hima* too has certain discernible characteristics - a demarcated territory, a stratified population, a system of administration and independence especially in the pre-British period of development of the *Hima*. (In the course of this thesis the terms ‘state’ and ‘territorial principality’ are used interchangeably to refer to the Khasi states.) Thus, the final phase in the evolution of Khasi polity can be seen in the emergence of a state, *ka Hima*, under a ruler and administrative head designated by the following terms in different territorial principalities, *Syiem*, *Lyngdoh*, *Sirdar* or *Wahadadar*. The *Hima* is a “territorial conglomeration of communes and independent villages falling under the jurisdiction of administrative heads known as *Syiem* or *Lyngdoh* or *Sordar* or *Wahadadar*”¹⁰.

The institution of *Syiemship* emerged as the apex political organization of the Khasi. It was devised to “amalgamate identical pursuits,

¹⁰ National Commission to Review the Working of the Constitution: Consultation Paper, Empowering and Strengthening of Panchayati Raj Institutions/Autonomous District Councils/Traditional Tribal Governing Institutions in North East India, 2001, accessed through, <http://ncrwc.nic.in>, p.62, on 25.12.03.

interests and necessities of clans and units near and far. It was instituted on the spirit of reciprocity along with a consolidation of other intimate relations amongst different sections of people who made up their units”¹¹. This rudimentary stage of state formation evolved into the institution of *Syiemship* which probably arose out of the voluntary association of clans, villages and communes when new developments took place¹². To these new developments are attributed the opening of markets, execution of marriage laws, appointment of judicial authority, reorganization of the incongruous land tenure, maintenance of police power and so on¹³. The *Syiem* was appointed only from a pre-ordained royal clan, the *Syiem* clan and heirship to this office is in all cases traced through the female offspring of the *Syiem* clan. The investiture of this office of the *Syiem* with royalty was conditioned by the necessity of performing certain functions which were considered low, menial and despicable and which were never prescribed by custom, usage and traditions upon the already existing socio-political and religious authorities. These relate to –

¹¹ Bareh, H.: *op.cit.*, p.41.

¹² Syiemlieh, D.R.: *British Administration in Meghalaya: Policy and Pattern*, Heritage Publishers, New Delhi, 1988, p.4.

¹³ Bareh, H.: *Ibid.*

- a) the administration of justice, pronouncement of judgement and verdict which includes imprisonment and capital punishment;
- b) the collection and disposal of the wealth and property of a resident whose lineage has become extinct;
- c) the performance of cremation rites of those residents who have passed away and without relatives;
- d) and the settlement of issues associated with witchcraft and black magic.

Khasi tradition also speaks of the divine origin of the earliest states of Malngiang, Sutnga and Shillong whose rulers were regarded as *ki Syiem blei*, literally meaning 'ruler gods'. It was also necessary to envelop this office of the *Syiem* with the aura of divinity to ensure that –

- a) he is revered and accepted by the people, *ki Khun ki Hajar*, and also by the federating units, the clans, the villages and the communes;
- b) this office is also acceptable to the incumbent who had to perform certain duties not assigned to other residents of the state;
- c) it is divinity that will provide him with a spiritual shield against any defilement, curse or taint on him, his family and his clan for all his

actions and those of his predecessors, in the execution of all their functions.

It is this aura of divinity that provides legitimacy to the ruling authority. Thus, to fulfill the deterrent need of society and at the same time to circumvent the spiritual interdiction, the institution of *Syiemship* was introduced¹⁴.

Today there exist twenty five Khasi states¹⁵, *ki Hima* Khasi, each of which is under an administrator designated by various names as already mentioned (see Appendix). The method of election of an administrator may be direct or indirect. For example, in states like Langrin all adult males of the state have the right to vote in the election of a *Syiem*. However, in states like Khyrim, Myllem and Sohra (that is, Cherrapunjee), the *Syiem* is elected by an electoral college comprising of the representatives of the founding clans and clans of nobility of the respective state, who have in turn been elected by all the adult males of their respective clans. In exercising functions of the state, a *Syiem* is assisted by a council, *ka Dorbar*. In terms

¹⁴ Singh, K.: *op.cit.*, p.17.

¹⁵ *The United Khasi-Jaintia Hills Autonomous District (Appointment and Succession of Chiefs and Headmen) Act, 1959*, (as amended), I bani Printing Press, Shillong, 1995, p.19.

of the administration of a *Hima*, there are two types of councils which assist the *Syiem*; these are –

- a) *Dorbar Hima* or state council which is a popular assembly comprising of all adult male citizens of the *Hima*. It is “recognized by tradition as the highest body in the administrative set up of the Khasi *Hima*”¹⁶.
- b) *Dorbar Synshar Hima* or state executive council comprising of a small group of councilors, *ki Bakhrav* designated as *Basan, Lyngdoh, Myntri* who are vested with executive powers.

Though a Khasi *Syiem* is the head of his state, he exercises powers in accordance with “ethical instructions, prescribed by customary rules, laws and regulations, as well as customs, traditions and usages”¹⁷. His policies and prerogatives must conform to the resolutions of the *Dorbar*. His acts and decisions can be vetoed by the councils if they contravene prevailing customary practices and usages. Similarly, the councils have also to come to the rescue of their administrative head whenever they felt that his position as

¹⁶ National Commission to Review the Working of the Constitution: *op.cit.*, p.62.

¹⁷ Gassah, L.S.: “Traditional Self-Governing Institutions Among the Hill Population Groups of Meghalaya”, in A.Goswami, (Ed.), *Traditional Self-Governing Institutions Among the Hill Tribes of North East India*, Akansha Publishing House, New Delhi, 2002, p.181.

a traditional authority was threatened. In all acts of legislation and executive decisions, the *Syiem* is assisted by the *Dorbar Synshar Hima*. Similarly, in judicial matters, the *Syiem* has the power to try cases and pass sentences in consultation with the *Dorbar Synshar Hima*. Thus, in the trial and execution of cases, while the *Syiem* acts as a judge, his *Dorbar* acts as the jury¹⁸. If the necessity arises, the *Syiem* may also appoint a *Syiem Khynnah* or junior *Syiem* to assist him in managing the affairs of the state if he is temporarily indisposed or to even succeed him if he is deposed or removed from office. As a ruler, the *Syiem* does not enjoy any entitlement to land holdings as land belongs to the clan and to the people. Hence, he cannot claim land revenue. Nevertheless, a certain amount of *Raid* or commune land may be apportioned to him for his personal use. His revenue is derived from fines collected in settling cases, tolls or *khrong* collected from the market within his jurisdiction and also from the issue and renewal of *patta* for land holdings. Revenue may also accrue as a license fee collected for the sale of country-made liquor¹⁹.

¹⁸ Gurdon, P.R.T.: *The Khasis*, (Reprint), Low Price Publications, New Delhi, 1993, p.69.

¹⁹ Rao, V.V.: "The Khasi Political System – The Syiemship", in S.K.Chattopadhyay (Ed.), *Tribal Institutions of Meghalaya*, Spectrum Publications, Guwahati, 1985, p.43.

THE SHILLONG STATE: *KA HIMA SHILLONG*

The origin of the Shillong state, *ka Hima Shillong*²⁰ is wrapped in the essence of divinity and mythology. One tradition narrates that a nymph, *ka Pah Syntiew*, believed to be the daughter of the Shillong deity, *u Lei Shillong* (whose abode is the Shillong Peak) was the root ancestress, *ka Iawbei Tynrai* of the Shillong *Syiem* (both of the Khyrim and Mylliem lineages of the ruling *Syiem* clan). She was lured out of her abode at the Marai cave by a man from the Mylliem-Ngap clan and was given in marriage to a resident of Bisi village, *u Kongor Nongjri*²¹. The three offsprings of this union (two sons and a daughter) were regarded as god's children, *ki khun blei*. Thus, the noble and ruling clans of the communes and villages in the vicinity held council and agreed to form an alliance, to federate and merge their existing principalities into a political organization higher and more centralized than those already in existence. They established the Shillong state, *ka Hima Shillong* and ordained the children of *ka Pah Syntiew* with the royal title of *Syiem*. *Ka Pah Syntiew* was believed to

²⁰ While referring to the Shillong state, the word 'Shillong' and not 'Shyllong' will be employed. The former has been commonly used in the writings of earlier scholars such as G. Costa, H. Lyngdoh and H. Elias.

²¹ Lyngdoh, H.: *Ki Syiem Khasi bad Synteng*, (2nd Edn.), Ri Khasi Press, Shillong, 1952, p.85.

be the first high priestess, *ka Syiem Sad*, and her children, the first rulers, *ki Syiem*, of the Shillong state. The Shillong state was believed to be established around the 14th century A.D.²². Thus, the Shillong state was established on a firm sacerdotal and religious order, through the investiture of the necessary rites and ceremonies.

The Shillong state also came to be known as the state of ‘four communes and three *lyngdohs*’, *ka Hima Saw Kher Lai Lyngdoh*, signifying the communes that had federated to form the state. *Ki Raid Saw Kher* comprised of four communes, Nongkseh, Nongumlong, Swer and Synrem and five villages: Marbisu, Sadew, Markhan, Mawshanlang and Nongbsap. These communes and villages were represented by the following elders in the state council, *ka Dorbar Hima*, of the Shillong state:

- a) *Raid* Nongkseh by a *Basan*, *u Basan* Nongkseh, chosen from the Thangkhiew clan;
- b) *Raid* Nongumlong by a *Basan*, *u Basan* Nongumlong, chosen from the Nongneng clan;
- c) *Raid* Swer by a *Basan*, *u Basan* Swer, chosen from the Swer clan;

²² Syiemlieh, D.R.: *Constitutional Development in the Khasi and Jaintia Hills, 1824 – 1850*, Unpublished M.Phil. Thesis, NEHU, 1979.

- d) *Raid Synrem* by a *Basan, u Basan Synrem*, chosen from the Synrem clan;
- e) *Shnong Marbisu* by a *Myntri, u Myntri Marbisu*, chosen from the Sun clan;
- f) *Shnong Markhan* by a *Myntri, u Myntri Markhan*, chosen from the Rapsang clan;
- g) *Shnong Sadew* by a *Myntri, u Myntri Sadew*, chosen from the Pathaw clan;
- h) *Shnong Mawshanlang* by a *Myntri, u Myntri Mawshanlang*, chosen from the Majaw clan;
- i) *Shnong Nongbsap* by a *Lyngdoh, u Lyngdoh Nongbsap*, chosen from the Lyngdoh Nongbsap clan.

Similarly, *ki Raid Lai Lyngdoh* comprised of three communes, Myllem, Nongbri and Pongrup and five noble clans, *ki San Kur*, Myllemngap, Sohtun, Kurkalang, Nongkhlaw and Rynjah. These communes and clans were represented by the following elders in the state council, *ka Dorbar Hima*, of the Shillong State:

- a) *Raid Myllem* by a *Lyngdoh*, *u Lyngdoh Myllem*, chosen from the Lyngdoh Myllem clan;
- b) *Raid Nongbri* by a *Lyngdoh*, *u Lyngdoh Nongbri*, chosen from the Lyngdoh Nongbri clan;
- c) *Raid Pongrup* by a *Lyngdoh*, *u Lyngdoh Nongbet*, chosen from the Pongrup clan;
- d) An elder, *u Lyngskor*, chosen from the Myllem-Ngap clan;
- e) A *Myntri*, *u Myntri Sohtun*, chosen from the Sohtun clan;
- f) A *Myntri*, *u Myntri Kurkalang*, chosen from the Kurkalang clan;
- g) A *Myntri*, *u Myntri Nongkhlaw*, chosen from the Nongkhlaw clan;
- h) A *Myntri*, *u Myntri Rynjah*, chosen from the Rynjah clan²³.

As the Myllem-Ngap clan played an important role in the process of state formation of the Shillong state, the representative of this clan was conferred with the title and office, *u Lyngskor*. In state affairs the *Lyngskor* acts as a Deputy and spokesman of the *Syiem* and also functions as the President of the State Assembly²⁴. It appears from traditions that heiress to the office of the high priestess in most cases fell upon the eldest daughter and direct descendant of *ka Pah Syntiew*, while heirship to the office of the

²³ Lyngdoh, H: *Ki Syiem Khasi bad Synteng*, *op.cit.*, pp.85-88.

²⁴ Bareh, H: *op.cit.*, p.67.

Syiem followed the law of primogeniture. The eldest brother of the high priestess was by established traditions the rightful heir to the office of the *Syiem*, to be followed by the second brother and so on. In the absence of male siblings, the eldest son of the high priestess was by established traditions the rightful heir to the office of the *Syiem*, to be followed by the second son and so on.

In course of time as this ruling clan, the *Syiem* clan grew, there emerged two lineages, the Khyrim and Myllichem, who were entitled to claim by traditions, the right to occupy the office of the *Syiem*. There appears to have been a division in the royal house of the Shillong *Syiem*. Differences between two siblings *ka Peiñkiri* I also called *ka Peiñ Rmen* (the elder sister) and *ka Pah I*²⁵ (the younger sister) necessitated their parting ways to finally settle at different locations, with the descendants of the former finally settling in Khyrim and those of the latter in Myllichem. Thus, there emerged two royal lineages each representing their respective ancestress and at the same time claiming the right to represent the office of the Shillong *Syiem*. The history of the Shillong state was plagued by unrest and civil wars

²⁵ The genealogy of the rulers of the Shillong state, *ka Hima Shillong*, has been listed in Capt. D. Herbert's *Report on Succession to Siemships in the Khasi States* and also in H. Lyngdoh's *Ki Syiem Khasi bad Synteng*.

initially instigated by and between the representatives of the federating units and later between the two lineages of the *Syiem* clan, each aspiring for control of the office of the *Syiem* and supported by their respective communes, villages and clans. This period of civil war in the history of the Shillong state witnessed a constant struggle between the ruler and the nobility, between factions of the federating units at various levels and between groups and village leaders and peasants, who sought to destabilize, control and even direct the course of the *Hima* as well as the office of the *Syiem*.

The arrival of the British into the Khasi Hills saw the Shillong state coming into direct relations with and finally, under the control of this new authority. The differences within the Shillong state that had been simmering for centuries finally culminated in its bifurcation by the British, in 1853, into the Nongkrem or Khyrim state and the Myllem state. The privilege and authority of performing religious rites and ceremonies associated with *Hima* Shillong which was established centuries ago at Nongkseh, was vested and remained with the Nongkrem or Khyrim lineage of the Shillong *Syiem* clan. This is due to the fact that the Khyrim rulers, *ki Syiem*, are the direct descendants of those women of the royal Shillong *Syiem* clan who actually

held the office of the high priestess of the Shillong *Syiem*, before the entitlement to *Syiemship* passed on to the Myllem lineage²⁶.

THE KHYRIM STATE – COMPOSITION AND STRUCTURE

The rulers, *ki Syiem*, of the Khyrim state are direct descendants of *ka Peiñkiri* I also called *ka Peiñ Rmen*. The Khyrim state today is conglomeration of numerous villages and six communes. The six communes and their representatives are:

- a) *Raid* Nongkrem represented by:
 - i) a *Lyngskor* from the Myllemngap clan;
 - ii) a *Lyngdoh* from the Pyngrope clan;
 - iii) a *Myntri* from the Pyngrope clan;
 - iv) a *Myntri* from the Khyriemujat clan;
 - v) a *Myntri* from the Warbah clan;
 - vi) and a *Myntri* from the Myllem Pdah clan.

²⁶ Lyngdoh, H.: *op.cit.*, p.102.

- b) *Raid* Nongbri represented by:
 - i) a *Lyngdoh* from the Lyngdoh Nongbri clan;
 - ii) a *Myntri* from the Mawthoh clan;
 - iii) a *Myntri* from the Swer clan;
 - iv) a *Myntri* from the Kharumnuid clan;
 - v) and a *Myntri* from the Synnah clan.

- c) *Raid* Mawlieh represented by:
 - i) a *Lyngdoh* from the Lyngdoh clan;
 - ii) a *Myntri* from the Khongsngi clan;
 - iii) a *Myntri* from the Khongwir clan;
 - iv) a *Myntri* from the Nongrum clan;
 - v) and a *Myntri* from the Khongsti clan.

- d) *Raid* Mawshai represented by:
 - i) a *Lyngdoh* from the Lyngdoh clan;
 - ii) a *Myntri* from the Nongspung clan;

iii) a *Myntri* from the Muwa clan;

iv) a *Myntri* from the Mawthoh clan;

v) and a *Myntri* from the Rangtong clan.

e) *Raid* Lawai represented by:

i) a *Lyngdoh* from the Lyngdoh clan;

ii) a *Myntri* from the Kharsati clan;

iii) a *Myntri* from the Sohtun clan;

iv) a *Myntri* from the Lawai Sawkher clan;

v) and a *Myntri* from the Warmalai clan.

f) *Raid* Nongkynrih represented by:

i) a *Lyngdoh* from the Nongkynrih clan;

ii) a *Myntri* from the Rynjah clan;

iii) a *Myntri* from the Myllem clan;

iv) and a *Myntri* from the Nongrum clan.

The village is the primary unit²⁷ of settled life and is under the administration of a council, *ka Dorbar*, and a village headman, *u Tymmen/Rangbah Shnong* or *u Sordar Shnong*. Each commune, *ka Raid*, is administered by a *Lyngdoh* and four councilors, *ki Myntri*, (except in the case of *Raid Nongkynrih* which has only three councilors) who collectively constitute the commune council, *ka Dorbar Raid*. However, Nongkrem is the only commune that has the office of the *Lyngskor*²⁸ in addition to the mentioned office bearers of the commune council. In the case of the Mawshai commune it is a conglomeration of eleven sub-communes known as *Raid Sarikrai* and eight sub-communes known as *Phra Blang*. Similarly, the Mawlieh commune comprises of twelve sub-communes. The administrative heads of these communes and their councilors are appointed to office by male members of their respective clans which are the founding clans of the commune. The appointment should have the approval of the *Syiem* of Khyrim. Today these appointments are confirmed by the Khasi

²⁷ Today the secondary unit of community life is the locality, *ka Kyntoit Shnong* under the administration of a locality headman, *u Rangbah Kyntoit*. Several localities make up a village.

²⁸ The *Lyngskor* is the spokesperson of the Khyrim state. He is chosen from among the male members of the Myllemngap clan. He occupies the second position in the hierarchy of the Khyrim state, the first being held by the *Syiem*.

Hills Autonomous District Council (hereafter KHADC)²⁹. In addition to these communes, three administrative units, *ki Lai Shnat*, are jointly administered by the Nongkrem and Nongbri communes. These are:

1. *Shnat* Sohryngkham – It is under the administration of two heads, *ki ar Basan* chosen from the Nongbri and Warshong clans.
2. *Shnat* Mawlynrei – It is under the administration of two heads, *ki ar Basan*, chosen from the Synteng Nongdhar and Pyngrope clans.
3. *Shnat* Mawpdang – It is under the administration of two heads, *ki ar Basan*, chosen from the Pyngrope and Nongbri clans³⁰.

The jurisdiction of the heads of these three administrative units extends over fifteen villages, *ki Khadsan Shnong*. With the establishment of the Autonomous District Council the office of the *Basan* however disappeared and was replaced by the office of the *Sordar*. Further, there are three areas in

²⁹ With the enactment and subsequent enforcement of the provisions of the Sixth Schedule since 1952 all appointments and succession of traditional heads in the Khasi states came under the purview of and required confirmation of the United Khasi & Jaintia Hills Autonomous District Council and later the Khasi Hills Autonomous District Council.

³⁰ Pdah, S.M.: *Khasi Polity with special reference to the Syiemship*, Unpublished M.Phil Thesis, NEHU, Shillong, 1981, pp.36-37.

the Khyrim state that are directly administered by the *Syiem* and his council.

These are:

1. *Ri Shong Syiem* – It comprises of the villages of Smit and Langkyrdem which have traditionally been the seat of residence of the *Syiem* of Khyrim.
2. *Raid 'Lang Shi Khlieh'* – This commune comprises of a group of villages which have traditionally been a constant source of support to rulers of the Shillong state and later the Khyrim state. The villages are Nongjri, Massar, Mukhim, Rasong and Rymphang.
3. *Ri Umsnam* – The administrative unit comprises of the Mukertilla area comprising of the villages of Umkren, Umsyiem, Kongwang, Mawriang, Wahkdait, Nohksiar and Soklong³¹.

The above discussed villages, communes and administrative areas comprise the Khyrim state. The legislative body of the Khyrim state is the *Dorbar Hima* also called the *Dorbar Pyllun*. It comprises of all adult male residents of the *Hima*. The executive council of the Khyrim state is the *Dorbar Synshar* also called *ka Dorbar Myntri*. It comprises of thirty one

³¹ Pdah, S.M.:*op.cit.*, pp.37-38.

members - the *Syiem*, the *Lyngskor*, the heads of six communes, *ki hynnriew Lyngdoh* and the twenty three councilors representing the six communes, *ki arphew lai Myntri*³². Today the activities of the Khyrim state are carried out by an administrative branch comprising of the *Syiem* and eight council members.

The *Syiem* of the Khyrim state executes his duties and responsibilities with the concurrence and approval of his council. His administrative functions include (a) maintaining law and order in the state (b) collecting revenue from various sources (c) granting approval for expenses incurred to maintain a small office and staff (d) settling boundary issues between communes, villages and even between states (e) observing religious festivals associated with the state (f) conducting the election of administrative heads at various levels (g) maintaining cordial administrative relations with the KHADC. In exercising these functions *Hima* Khyrim does not receive any financial assistance either from the KHADC or the Government of Meghalaya but has to generate its own financial resources.

³² S.K. Dutta in his article in *Indigenous Perspectives India* 2005, (p. 214) has erred in stating that the executive council of the *Khyrim* state comprises of thirty five members. Further, there is no provision of nominating members to the *Dorbar Synshar* as stated by him.

THE MYLLIEM STATE – COMPOSITION AND STRUCTURE

The rulers, *ki Syiem*, of the Myllem state are descendants of *ka Pah* I the younger sister of *ka Peiñkiri* I. Today it has been legally recognized that a person is eligible to occupy the office of the *Syiem* if he is a natural descendent of any of the three wombs, *ki Lai Kpoh*, of the *Syiem Myllem* clan, that is, the Myllem womb, the Laitkor womb and the Mawlai womb³³. The Myllem state, *ka Hima Myllem* today comprises of eighteen communes, *ki khadphra Raid*. Of these, three are located in the central plateau of the East Khasi Hills and are known as the highland communes, *ki Raid Lum*. These include:

- a) *Raid Myllem* – represented by *u Lyngdoh Raid* and a council of fifteen elders, *ki khadsan Myntri*;
- b) *Raid San-Shnong* – represented by two administrative heads, *ki ar Basan*, and a council comprising of three elders, a *Lyngdoh* and two *Myntri* and twenty three other councilors, *ki ar phew lai Myntri* chosen from twenty three clans;

³³*The Khasi Hill Autonomous District (Appointment And Succession Of Syiem, Deputy Syiem, Electors And Rangbah Shnong Of Myllem Syiemship) Act, 2007, The Gazette of Meghalaya (Extraordinary), No. 78, April 9, 2008, pp. 244.*

- c) *Raid* Saw Kur Nongbet – represented by a Lyngdoh and a council comprising of three elders, *ki lai Myntri*.

The other remaining fifteen communes are located on the northern slopes and plains of the East Khasi Hills and Ri Bhoi areas and are also known as the plain communes, *ki Raid Them*. They are:

- d) *Raid* Mawthoh – represented by *u Syiem Raid* and a council of six elders, *ki hynriew Longsan*;
- e) *Raid* Narleñ – represented by *u Syiem Raid* and a council of twelve elders, *ki khadar Longsan*;
- f) *Raid* Nongbri – represented by *u Syiem Raid* and a council of twelve elders, *ki khadar Longsan*;
- g) *Raid* Nongtluh – represented by *u Syiem Raid* and a council of twenty two elders, *ki arphew ar Longsan*;
- h) *Raid* Bhoilasa – represented by *u Lyngdoh Raid* and a council of five elders, *ki san Longsan*;
- i) *Raid* Mathan – represented by *u Lyngdoh Raid* and a council of twelve elders, *ki khadar Longsan*;

- j) *Raid Marngar* – represented by *u Syiem Raid* and a council of eight elders, *ki phra Longsan*;
- k) *Raid Umwang* – represented by *u Bongthe*³⁴*Raid* and a council of five elders, *ki san Longsan*;
- l) *Raid Kharpati* – represented by *u Bongthe Raid* and a council of seven elders, *ki hynñiew Longsan*;
- m) *Raid Nongsohbar* – represented by *u Lyngdoh Raid* and a council of four elders, *ki saw Longsan*;
- n) *Raid Marmaiñ* – represented by *u Bongthe Raid* and a council of four elders, *ki saw Longsan*;
- o) *Raid Khuswai* – represented by *u Bongthe Raid* and a council of four elders, *ki saw Longsan*.
- p) *Raid Mawbuh* – represented by *u Syiem Raid* and a council of four elders, *ki saw Longsan*;

³⁴ The term '*Bongthe*' is unique and used only in certain communes under *Hima Myllem*. It is a term derived from the language of the Mikir/Karbi people meaning a ruler or chief. Today it is popularly used in four communes, Umwang, Kharpati, Marmain and Khuswai, which have sizeable non-Khasi residents within the communes and constituent villages.

q) *Raid Marwet* – represented by *u Syiem Raid* and a council of five elders, *ki san Longsan*;

r) *Raid Nongkharai* – represented by *u Lyngdoh/Bongthe Raid* and a council of five elders, *ki san Longsan*.

The Myllem state is today a conglomeration of eighteen communes. The three communes, *ki Raid Lum* located on the central plateau of the Khasi Hills are represented by administrative heads designated as *Lyngdoh, Basan* and by councilors designated as *Myntri*. The fifteen communes, *ki Raid Them*, located on the northern slopes of the Khasi Hills are represented by administrative heads designated as *Syiem, Lyngdoh and Bongthe* and by councilors designated as *Longsan*. The administrative heads of these communes and their councilors are appointed to office by male members of their representative clans which are the founding clans of the communes. The appointment should have the approval of the *Syiem* of *Hima Myllem* and should subsequently be confirmed by the Khasi Hills Autonomous District Council.

At the level of the Myllem state, *ka Hima Myllem*, there are two councils, the general council, *ka Dorbar Hima*. It comprises of the *Syiem*,

the Deputy *Syiem*, the *Basan*, the *Myntri*, the *Lyngdoh*, the *Syiem Raid*, the *Lyngdoh Raid*, the *Longsan*, the *Rangbah Shnong* along with elders/representatives of villages and urban localities and *ki khun ki hajar* of the *Hima*³⁵. It is a popular assembly recognized by traditions as the highest body in the administrative set up of the Khasi state³⁶. The second council is the smaller executive council, *ka Dorbar Synshar Hima*, comprising of the *Syiem* and his councilors³⁷. It is also called the Executive *Dorbar* and comprises of the *Syiem*, Deputy *Syiem* and some members chosen from among the electors chosen to run the day-to-day affairs of the *Hima*.

ANGLO - KHASI RELATIONS

Visible relations between the British and the Khasi states took place after 1765. Through a treaty signed in 1765 between Robert Clive, the Governor of Bengal and Shah Alam II, the titular Mughal emperor, the

³⁵ The Khasi Hill Autonomous District (Appointment And Succession Of Syiem, Deputy Syiem, Electors And Rangbah Shnong Of Myllem Syiemship) Act, 2007, *op.cit.*, p.244.

³⁶ "Memorandum seeking constitutional recognition and protection of the traditional institutions of the Khasi race", accessed through, [http://lawmin.nic.in/ncrwc/final report/volume2book2.htm](http://lawmin.nic.in/ncrwc/final%20report/volume2book2.htm)., p.58, on 24.10.08.

³⁷ "Memorandum seeking constitutional recognition and protection of the traditional institutions of the Khasi race": *op.cit.*, p.56.

English East India Company (hereafter EEIC) acquired “amongst other things a *Farman* which granted in perpetuity the *Diwani* (or the collection of revenue) of Bengal, Bihar and Orissa. As part of the Bengal *Subah* then, Sylhet thus passed under the authorities at Fort William”³⁸. A number of Khasi states shared a common border with Sylhet as “the southern slopes of the Khasi upland descended to meet the frontiers of the district of Sylhet”³⁹. The relations that the Khasi people, inhabiting the region bordering the province of Sylhet had with the people inhabiting Sylhet appeared to be primarily commercial. The Khasi people belonging to various Khasi principalities, *ki Hima* Khasi that bordered Sylhet had to descend to the plains and in particular to the market town of Pandua for the purpose of trade in essential commodities. “The Khasis carried down iron and cotton goods to this market, and exchanged them for rice, salt and dried fish”⁴⁰. Secondly, under the Mughal empire, taking advantage of the weakening administration in Sylhet, the Khasi people (referred to as the hillsmen) “conducted frequent raids into the fertile plains at the foot of their hills and

³⁸ Kharpuri, E.C.S.: *European Traders in Sylhet in the 18th Century*, M.Phil., 1993, North Eastern Hill University, Shillong, p.31.

³⁹ Chowdhury, J.N.: *The Khasi Canvas: A Cultural and Political History*, Navana Printing Works Pvt. Ltd., Calcutta, 1978, p.253.

⁴⁰ Chowdhury, J.N.: *op.cit.*, p.254.

during such forays, crops and cattle were carried away..."⁴¹. Thus, the task of restoring order and security to Sylhet was left to the English East India Company, the successor of the Mughal empire. The southern region of the Khasi Hills bordering Sylhet was also rich in limestone deposits. Trade in this essential commodity had commenced even before 1765. After the acquisition of the *Diwani* of Bengal in the same year (1765), the English East India Company appropriated the monopoly of the trade in lime⁴². Thus British merchants as well as officers posted in Sylhet and other European merchants were drawn into commercial relations with the Khasi mine owners and chiefs. Coal was also found both in the Khasi and Jaiñtia hills (Coal was discovered in 1814 by James Stark, an Anglo-Indian trader. Through an agreement with the Khasi chiefs of the *Laur* hills he secured the exclusive right to mine coal for five years). On April 20th 1840, the Political Agent took a perpetual lease of the Cherra mines from the *Rajah* of Cherra Poonjee. On September 25, 1844, the Government leased these mines to Captain J. R. Engledue, Agent of the Peninsular and Oriental Company for a

⁴¹ Kharpuri, E.C.S.: *op.cit.*, p.24.

also Dutta, P.N.: *Impact of the West on Khasis and Jaiñtias*, Cosmo Publications, New Delhi, 1982. pp. 36-37.

⁴² Dutta, P.N.: *Ibid.*, p.28.

also Syiemlieh, D.R.: *British Administration in Meghalaya: Policy and Pattern*, Heritage Publishers, New Delhi, 1989, p.11.

period of twenty years⁴³. The Khasi states also shared a common border with the then *Ahom* kingdom. The Khyrim state maintained commercial, administrative and diplomatic relations with the *Ahom* kings. The first contact appears to have taken place during the reign of the *Ahom* king, Rudra Singha (1696-1714 A.D.)⁴⁴. Another embassy from the Khyrim state visited Gauhati in the year 1786 A.D. during the reign of the *Ahom* king Gaurinath Singha⁴⁵. The initial concerns of the English East India Company were:

- a) to consolidate its presence in the frontier as the new emerging political and administrative authority;
- b) to evolve a policy to keep a check on the raids committed by the hill men on the plains of Sylhet;
- c) to regulate the commercial activities between the people of the hills and those of the plains especially those with European merchants and traders;

⁴³ Allen, W.J.: *Report on the Administration of the Cossyah and Jynteah Hills Territory*, Calcutta, 1858, (Reprinted), Shillong, 1903, pp.60-61.

⁴⁴ Chowdhury, J.N.: *op.cit.*, p.250.

⁴⁵ *Ibid.*, p.251.

- d) to develop a proper system of revenue collection in Sylhet including the areas lying adjacent to the Khasi hills;
- e) to adopt a policy of minimal interference with regard to the Khasi principalities, *ki Hima* Khasi, in the hills.

British interests in the Khasi states were renewed with the outbreak of the first Burma War in 1824. Realizing the imminent danger that lay to the province of Sylhet if the Burmese troops marched through the Jaiñtia state, David Scott, Agent to the Governor-General of Bengal was able to tactfully convince the *Rajah* of the Jaiñtia state in entering into a treaty of alliance with the British. The said treaty was concluded on March 10th, 1824⁴⁶ and in early April in the same year, David Scott marched through the Jaiñtia Hills “with an escort of three companies of the 23rd Regiment Native Infantry, under Captain Horsburgh”⁴⁷ to arrive “at Raha on the Kalang River, in what is now the Nowgong district”⁴⁸. Earlier on March 21st, 1824, Scott concluded an arrangement with the *Syiem* of Khyrim to establish a road, a *dak* route

⁴⁶ Barooah, N.K.: *David Scott in North-East India 1802-1831: A Study of British Paternalism*, Munshiram Manoharlal, New Delhi, 1970, p.82.

⁴⁷ Pemberton, R.B.: *The Eastern Frontier of India*, Mittal Publications, Delhi, 1979, p.212.

⁴⁸ Gurdon, P.R.T.: *The Khasis*, (Reprint), Low Price Publications, New Delhi, 1993, p.xvii.

across the *Hima* so as to link Assam with Sylhet, on the agreement that a certain sum would be paid for the road. The *Syiem* also agreed to bear the cost of maintenance of this road if a small lowland estate, *jagir*, was restored to him by the British⁴⁹. In 1826, following the expulsion of the Burmese from Assam and the occupation of Assam by the English East India Company through the Treaty of Yandaboo 1826, the British renewed their interest in the Khasi Hills. It was the Government's desire to open direct communication links between Sylhet and Assam through the territories of the *Syiem* of Cherra, Khyrim and Nongkhlaw. Scott entered into negotiations with the *Syiem* of Cherrapunjee, Dewan Sing and the *Syiem* of Nongkhlaw, Tirot Sing. He received permission to construct a road through their respective territories, to provide free passage for British subjects⁵⁰ and to also build a few bungalows for the proposed sanatoria at Nongkhlaw⁵¹. The supplementary agreement to grant the British the right to establish a sanatorium at Nongkhlaw was reluctantly adhered to⁵². The agreement concluded with the *Syiem* of Nongkhlaw on November 30th, 1826 exhibits the initial attempts made by the government to extract permanent

⁴⁹ Barooah, N.K.: *op.cit.*, pp.83,193-194.

⁵⁰ Syiemlieh, D.R.: *op.cit.*, p.46.

⁵¹ Barooah, N.K.: *op.cit.*, p.199.

⁵² Dutta, P.N.: *op.cit.*, p.61.

concessions from the Khasi states whereby the *Syiem* “voluntarily agreed to become subject to the Hon’ble Company and places his country under their protection”⁵³. Other conditions of this agreement required the *Syiem* of Nongkhlaw:

- a) to give free passage for British movement between Sylhet and Assam;
- b) to furnish materials on payment, to construct the road and to keep the same under maintenance;
- c) in return for his services the *Syiem* would receive the Company’s protection from his enemies;
- d) to offer assistance, both men and material, to the Company for undertaking military expeditions;
- e) to administer his people in accordance with the customary practices and
- f) to deliver enemies of the British government should they take refuge in the *Hima* of Nongkhlaw.

⁵³ Foreign Department, P.C., No.56, 4th September 1834.

Such attempts received the firm backing of the “Hon’ble Company” especially after the “Nongkhlaw massacre”⁵⁴.

KHASI INSURRECTION

Relations between the British and the Khasi states, *ki Hima* Khasi reached their ebb in 1829 when on April 4th, the inhabitants of Nongkhlaw took to arms against the British and in the ensuing encounters two British officers, Lieutenants Richard Bedingfield and Phillip Burlton lost their lives with about 50 or 60 native subjects⁵⁵. The cause for this violent eruption in Anglo-Khasi relations was attributed to the inciting remarks of a Bengali peon/*chuprassee* that the ultimate purpose of the British was to subjugate and tax the Khasi states, *ki Hima* Khasi. As Sylhet and Assam had already passed under the possession of the English East India Company, “there must be some truth that the British intended to integrate these hills into their expanding Indian possession”⁵⁶. While this statement may have been the spark which ignited the flames of insurrection that were to span the Khasi Hills for the next decade, yet it cannot be denied that the embers of

⁵⁴ Foreign Department, P.C., No.56, 4th September 1834.

⁵⁵ Pemberton, R.B.: *op.cit.*, p.223.

⁵⁶ Syiemlieh, D.R.: *op.cit.*, p.47.

displeasure and discontentment had been simmering in the hearts and minds of the Khasi people at the rapid influence and growth of the British interest and intervention in the hills. "Neither the insolent speech of the Bengalee chaprasi, nor the disrespectful demeanour of the subordinate native agents towards the tribesmen - though they might have hastened the conflict - were the real causes of the Khasi insurrection; the real cause lay deeper. It was their universal antipathy towards a foreign domination that caused a general flare up in the Khasi hills"⁵⁷. Another observation continues further, "The presence of the Europeans, and their transit through the hills, were exceedingly distasteful to all classes; and the feeling was said to be aggravated by the extortion and insolence of the native subordinate officers in their treatment of the Kasyas, who they forcibly compelled to assist in the labour of making roads and constructing cantonments"⁵⁸.

Thus, this confrontation at Nongkhlaw saw a number of Khasi states combine forces to bear arms against the British. These include *Hima* Nongkhlaw under Tirot Sing, *Hima* Myllem under Bor Manik, *Hima*

⁵⁷ Lahiri, R.M.: *The Annexation of Assam*, (Reprint), Firma K.L.Mukhopadhyay, Calcutta, 1975, p.79.

⁵⁸ Mills, James and H.H.Wilson: *The History of the British India from 1805 to 1835*, Volume IX, Wertimer Lea and Co., London, M.DCC. LVIII, p.225.

Mawsmat under Muken Sing, *Hima* Rambrai under Luber Sing and *Hima* Myriaw under Lar Sing. The British immediately commenced military operations to quell the Khasi insurrection adopting several measures which included the policy of 'hot pursuit', economic blockade of the hills, offering rewards for the capture of principal leaders and even negotiations and conciliatory measures to win over some leaders against others. Bor Manik, the *Syiem* of Myllem was captured on September 1829 and was taken to Gauhati to stand trial. He was later released and reinstated in his ancestral position with diminished powers and possessions⁵⁹. The continuation of hostilities against the British proved to be daunting especially with the capture, surrender and changing alliances of his former allies in this protracted struggle. After several negotiations on his behalf with the British (between August 1832 and January 1833) by his close aide and principal negotiator, Sing Manik, *Syiem* of Khyrim, Tirok Sing finally submitted himself before Captain Henry Inglis on January 13th, 1833 "on the single condition of his life being spared"⁶⁰. He was sent to Gauhati and finally to Dacca where as a state prisoner he spent the initial months "in confinement

⁵⁹ Lahiri, R.M.: *op.cit.*, p.86.

⁶⁰ Syiemlieh, D.R.: *op.cit.*, p.49.

in an apartment within the Common Jail”⁶¹. From May 1833 he was then placed under house arrest and received a monthly allowance of sixty three rupees⁶² till his demise on July 17th, 1835⁶³. Even after the submission of Tirot Sing to the British, the resistance movement was to continue till 1839 when the *Syiem* of Maharam, Sngap Sing laid down arms in February of the same year. “The expectation entertained of the speedy submission of the Maram Cosyahs who were lately in arms against our Government has been realized”⁶⁴, wrote T.C. Robertson to the Court of Directors. With this final chapter of Khasi insurrection coming to a close, the British were able to finally secure the pacification of the hills and exercise control over the region through varying administrative policies.

These political and military engagements that took place in the Khasi hills between 1829-1839 witnessed several attributes:

- a) there was a lack of complete unity among the Khasi states to rally together and prevent the extension of British interests into the Khasi hills;

⁶¹ Foreign Department, P.C., No.55, 19 March 1833.

⁶² Foreign Department, P.C., No.64-65, 30 April 1833.

⁶³ Syiemlieh, D.R.: *op.cit.*, p.49.

⁶⁴ Foreign Department, I.P. dispatch to Court of Directors, No.62 of 1839.

- b) the actions of these Khasi states and their rulers ranged from acceptance and submission to open defiance and military engagements;
- c) the understanding of the text of the agreements that the Khasi rulers had entered into with the British was also limited due to their lack of mastery over the English language. It was only when provisions of the agreements were executed whereby they were denied permission to take certain actions (such as collection of levies from the dwellers of the plains) that the Khasi rulers realized they had become dependents and subjects of the British government.
- d) The Khasi principalities had been skillfully drawn into submission through powerfully loaded words and phrases in these agreements.

**ADMINISTRATIVE MEASURES UNDERTAKEN BY THE
BRITISH 1st PHASE (1829-1853)**

While the war of resistance raged, the British realized that they needed a firm foothold in the Khasi hills in order to keep a check on the recalcitrant Khasi principalities, *ki Hima* Khasi. Having found an ally in the

Syiem of Cherrapunjee, David Scott, Agent to the Governor General, was able to secure a sizeable plot of land east of Cherrapunjee at a place called Saitsohpen from Dewan Sing on September 10th, 1829⁶⁵. Further, the successor of Dewan Sing, Subha Sing provided additional land to the British south-east of Cherrapunjee for their establishments⁶⁶. Thus, in course of time Cherrapunjee became a civil station. The British Government in Bengal considered the appointment of a Superintending Officer at Cherrapunjee who in addition to his military functions would also be vested with civil authority (political, fiscal and judicial). This officer would assist the Agent to the Governor General in discharging his local duties and in the absence of the Agent, administer the current business of the settlement⁶⁷. Captain John Brodhurst was the first officer appointed as Superintending Officer at Cherrapunjee in 1830 to be replaced by Major Thomas Watson and then by Lieutenant E.D. Townshend⁶⁸. By 1834 with most of the Khasi principalities having been subdued and having accepted British suzerainty, the British began making new arrangements to administer the Khasi Hills. In 1834, the

⁶⁵ Aitchison, C.U.: *A Collection of Treaties, Engagements and Sanads, Vol.XII.*, Calcutta, 1931, pp.126-127 c.f. in D.R.Syiemlieh: *British Administration: Policy and Pattern*, Heritage Publishers, New Delhi, 1989, p.50.

⁶⁶ *Ibid.*, p.132.

⁶⁷ Syiemlieh, D.R.: *op.cit.*, pp.59-60.

⁶⁸ Syiemlieh, D.R.: *Ibid.*

Khasi Hills were placed under the political supervision of the Agent to the Governor General. Matters of a local nature were to be addressed by Lieutenant Townshend who was also vested with magisterial powers. He was to offer the least interference in the internal affairs of the Khasi principalities and even in matters of a serious nature his jurisdiction should be limited only to that of a friendly mediator⁶⁹. On February 11, 1835 a separate Political Agency for the Khasi Hills was created with its headquarters at Cherrapunjee and Captain Lister was appointed the first Political Agent. This office was bestowed with magisterial powers to try cases which involved a fine up to five hundred rupees or a sentence of imprisonment upto two years. However, criminal cases of a more serious nature were to be decided by the *Nizamat Adalat* while in civil cases the ultimate authority on appeal would lie with the *Dewani Adalat*⁷⁰.

In the Khasi states which were acquired by the British through conquest (Mawsmal, Mawmluh and Sohbar were made British territories,

⁶⁹ Barpujari, H.K.: *Problem of the Hill Tribes: North East Frontier*, Vol. I, (Reprint), North Eastern Hill University, Shillong, 1998. p.81.

also Dutta, P.N.: p.77.

⁷⁰ Mills, A.J.M.: *Report on the Khasi and Jaintia Hills*, 1853, NEHU Publications, Shillong. p.8.

also Syiemlieh, D.R.: *op.cit.*, p.62-63.

also Barpujari, H.K.: *op.cit.*, pp.81-83.

the first two by conquest and the third by a treaty), the Political Agent was advised to exercise complete jurisdiction. These areas may have been some of the most elevated and fertile spots that were set apart to come under British control for future use which would have been included in Scott's plans of military and civilian colonization of the Khasi Hills, establishing cantonments, grazing lands for domestic animals, cultivation of vegetables for supply to meet local needs of the proposed European colonies needs and so on⁷¹. In so far as the other two categories are concerned - those which did not enter into any formal agreement with the Government but remained friendly (these include Cherrapunjee and Myllem) and those which were taken possession of by the Government and formally restored back to the rulers through bonds of agreement (these include Khyrim and Nongkhlaw), the Political Agent was advised to exercise only political control⁷². Thus, a distinction was sought to be maintained between the dependent chiefs who explicitly declared their subservience to the British Government and those who had submitted but had not compromised their independence yet. In course of time this line of distinction was slowly obliterated and all the

⁷¹ Barooah, N.K.: *op.cit.*, p.208.

⁷² Dutta, P.N.: *op.cit.*, p.77.

Khasi states were reduced to the position of dependent principalities⁷³. By the Act VI of 1835, the judicial functions of the Political Agent of the Khasi Hills were placed under the control and superintendence of the *Dewani Adalat* (for civil cases) and *Nizamat Adalat* (for criminal cases)⁷⁴.

THE AFTERMATH OF THE RESISTANCE MOVEMENT

Having firmly secured a foothold at Saitsohpen, the British were then in a better position to carry out their military operations. The vigorous policy of reprisals yielded speedy results. By April 1830 a vast tract of the Khasi hills extending upto the plains of Assam had been subdued. These included the whole of Myllem, Rambrai, Myriaw and Nongkhlaw. Similarly, the areas on the southern part of the Khasi hills which were under the Khasi principalities of Mawmluh, Laitkynsew, Mawsmi, Sohbar and Byrong were also occupied by the British⁷⁵. Realising the practical difficulties in administering all the occupied principalities, Scott proposed that the former heads, *ki nongsynshar*, of these principalities be reinstated and that *sanads*

⁷³ Chowdhury, J.N.: *op.cit.*, p.300.

⁷⁴ Mills, A.J.M.: *op.cit.*, p.8.
also Syiemlieh, D.R.: *op.cit.*, p.64.

⁷⁵ Barooah, N.K.: *op.cit.*, p.207.

be granted to them by the government. This would allow the government to have a greater degree of control over these principalities while the chiefs would enjoy a reduced internal autonomy to administer their principalities in accordance with local customs and usages.

In so far as the Khasi principality of Shillong, *ka Hima* Shillong, was concerned, the principal architect of the resistance movement, Burmanik (*u Syiem* Bor Manik) was captured at Laitkroh by a party of the Sylhet Light Infantry towards the middle of September 1929⁷⁶. Bound in chains he was sent to Gauhati to stand trial. He was later released on condition that he entered into an agreement with and received a *sanad* from the English East India Company. On January 15th, 1830 by an agreement, Bor Manik ceded a stretch of land to the south east of the Umiam river, relinquished his claim over Desh Dumaria, agreed to become dependent on the Company, to pay a fine of Rs.5000 and promised to apprehend and deliver to the authorities Tirot Sing and others who were still in arms⁷⁷. As Burmanik was unable to

⁷⁶Lahiri, R.M.: *op.cit.*, pp.86-87.

⁷⁷Syiemlieh, D.R.: *op.cit.*, p.48.

also Lyngdoh, R.S.: *Government and Politics in Meghalaya*, Sanchar Publishing House, New Delhi, 1996, pp.47-48.

Syiem, J.M.: *Ka Jingiathuh Khana-Pateng Shaphang ki Syiem jong ka Hima Mylliem: Naduh 1830 haduh 1960*, Shillong, 1984. pp.11-12.

Mills, A.J.M.: *op.cit.*, p.49.

pay the fine imposed upon him by the government the responsibility fell upon his heir presumptive Chand Manik (*u Syiem Saiñ Manik*). Accordingly, in an agreement with Captain Francis Jenkins, Agent to the Governor General, on March 20th, 1834, Chand Manik agreed to pay rupees one thousand in cash while the remaining amount was to be paid in kind by engaging “to construct a tolerably good road from Cherra to Myrung (Mairang) by Moleen (Myllichem) fit for the passage of cattle...”⁷⁸. It is clear that in the initial phase of preparing and adapting a pattern of administration for the Khasi Hills, the British wanted to follow the system of indirect rule cementing it through subsidiary alliances. Here the heads of various principalities would serve as the intermediary administrators between the local populace and the British government. They would be expected to act in favor of the British government so that the latter would not have to assume the entire burden of administration. The heads of the Khasi principalities were bound to the British (through treaties and agreements) to administer their respective principalities on behalf of the paramount power. Fines were imposed on most of the Khasi principalities for having abetted the resistance movement. The heads of these principalities agreed to conduct the

⁷⁸ Foreign Department, P.C. No. 208, 10th July 1834/ P.C. No. 78, 22nd May 1834. also Mills, A.J.M.: *op.cit.*, p.50.

administration of their respective states according to tradition and custom, to deliver those responsible for heinous crimes to the British authorities at Cherrapunji and to deliver asylum seekers who were wanted for trial before British courts. Moreover, differences between heads of various principalities were to be settled through the mediation of British officers⁷⁹.

BRITISH ASCENDANCY IN THE KHASI HILLS

A review of the administration in the Khasi and Jaintia Hills in 1853 by A.J.M.Mills received the observation that the instructions given to Lt. Col. Lister when the Political Agency was established were not definite. Further, no steps were taken by the British Government to make them more precise⁸⁰. Similarly W.J.Allen in his report in 1858 had noted that “the relations between the British Government and the Cossyah Chiefs, Village *Sirdars* and Elders have never been formally defined. In order to prevent any future misunderstanding, this should be done without delay.....”⁸¹. It was thus proposed by the Governor of Bengal, Lord Dalhousie that the paramount and direct authority of the British government over the Khasi

⁷⁹ Syiemlieh, D.R.: *op.cit.*, pp.69-70.

⁸⁰ Mills, A.J.M.: *op.cit.*, p.115.

⁸¹ Allen, W.J.: *op.cit.*, p. 26.

heads and their principalities should be asserted and proclaimed in legal form⁸². This was necessary in order to legalize the power which had all along been exercised by the Political Agent at Cherrapunjee. One of the first steps undertaken by the British government was to recognize 25 Khasi principalities as 'states'.

The initial steps undertaken were to categorize the Khasi principalities on the basis of the relations they shared with the British government and the position they enjoyed there under. Accordingly, five principalities were categorized as "Semi-independent states"⁸³[namely, Cherra Poonjee (Sohra), Khyrim, Nutseng (Nongstoin), Lungree (Langrin) and Nuspoong (Nongspung)]. All these principalities were under rulers known as *Syiem*. These "states" were accorded a more superior rank in so far as their relations with the British government were concerned. With the exception of Cherrapunjee, the rest had no written agreement or formal engagements with the government. The semi-independent states were permitted to exercise judicial authority only in civil and criminal matters over local residents of their respective territories in accordance with established customs and usages. However, matters (civil, political and criminal) involving residents

⁸² Mills, A.J.M.: *op.cit.*, p.116.

⁸³ Allen, W.J.: *op.cit.*, p.26.

of other states or British subjects were to be addressed to and tried by the British authorities stationed at Cherrapunjee. By according these states independence and authority over their residents in matters of a civil or criminal nature did not imply that they enjoyed a co-equal status with the British government. They were “under the protection and authority of the government” and were expected “to obey, without demur, all the mandates of the British Government”⁸⁴. While the government had no intention of involving itself in the internal administration of these principalities, yet it had every intention of playing the role of arbiter and enforcer in inter-principality/state relations. In 1849 Sing Manik, the *Syiem* of Khyrim, on the Political Agent’s orders, was compelled to produce those residents of his principality, *ka Hima*, who were accused of committing a criminal offence (the offence was that they harvested crops in a village in Jaiñtia hills) in Jaiñtia hills and at the same time had to pay for the expenses of the military expedition sent against him⁸⁵. On the other hand, twenty principalities were categorized as “dependent states”. These states were accorded a lesser position in so far as their relations with the British government were concerned. These were principalities that were engaged in the insurrection

⁸⁴ Allen, W.J.: *op.cit.*, pp.26-27.

⁸⁵ *Ibid.*

against the British and were subsequently conquered. They were restored to their rulers after written agreements were given acknowledging their submission to the British. The dependent states included ten principalities under rulers designated as *ki Syiem*: Nungklow and Lykenso (Nongkhlaw and Laitkynsew), Moleem (Mylliem), Murriow (Myriaw), Ramrye and Mowlie (Rambrai and Mawlieh), Mawsenraw (Mawsynram), Mahram (Maharam), Mullai Chummut (Malai Sohmat), Bhawul (Bhowal), Mowyang (Mawiong) and Nobo-Sopho (Nobosohphoh); one principality under rulers designated as *ki Wahadadar*: Cheyla (Shella); two principalities under rulers designated as *ki Lyngdoh*: Syung (Sohiong) and Moflang Poonjee (Mawphlang) and seven principalities under rulers designated as *ki Sirdar*: Dowarrah Notoormen (Dwara Nongtyrnem): two Poonjees, Mawdun Poonjee (Mawdon), Seenai Poonjee (Sinai), Lyngkhom Poonjee (Lyngkhom), Jeerang (Jirang), Mowlong Poonjee (Mawlong) and Lyksom Poonjee (Lyngiong)⁸⁶. The relations of these dependent states with the British government were different from those shared by semi-dependent states in so far as criminal jurisdiction in matters related to murder, homicide

⁸⁶ Allen, W.J.: *op.cit.*, p.28, also *Report Of The Land Reforms Commission For Khasi Hills*, Government Press, Shillong, 1974. pp.10-11.

and accidental deaths were concerned. Matters related to these three types of cases could not be investigated by the authorities of dependent states but were to be brought before the government to be “investigated by the Government police” and “disposed of by the Cherrapunjee Courts”⁸⁷. Thus, dependent states were to “conduct the affairs of their respective districts in strict subordination to the Government”⁸⁸.

The paramount power of the British government was slowly but firmly extended to succession of heads in Khasi principalities. Competing claims to succession on the death of a ruling head opened the doors thereby enabling the British authorities to formally gain control over this ancient, established customary institution of succession. The final authority of according approval and recognition to a succeeding head was taken away from the traditional council of elders (*ki Bakhraw, ki Basan*) and was vested with the British authority at Cherrapunjee. A claimant’s formal recognition of succession in a dependent state was recognized only after the Principal Assistant Commissioner was satisfied and that no objection was raised from the particular state’s residents. If objections were raised the matter was decided through a voting procedure either in favor of the claimant or in favor

⁸⁷ Allen, W.J.: *op.cit.*, p.28.

⁸⁸ *Ibid.*

of any other member of the late ruling head's family, who was eligible in accordance with established customs and practices⁸⁹. Taking due advantage of such claims as and when they occurred in various Khasi principalities (such as Nongkhlaw, Mawlong and Cherrapunjee)⁹⁰, the British government sought to formalize their relations with the Khasi rulers once more, this time through their intervention in the procedure of succession of Khasi rulers. It was observed that "all these Cossyah States, by whatever distinctive appellation they are known, acknowledge the supremacy and are defacto under the authority and control of the British government". In his report Allen suggested that succession to the semi-independent and four dependent states of Myllem, Maharam, Myriaw and Nongkhlaw should be reported to the Government for recognition. Each succeeding head in the above mentioned principalities should be required to present a *nuzzur (huzzur)* to and receive a *khilut* from the Government. Further, every head should execute an *ikrarnamah* and receive a *sunnud (sanad)* of appointment from the Government. With regard to succession of rulers in other dependent principalities the matter should be reported to the Agent of the Governor General who should be empowered to grant *sunnuds (sanads)* to these rulers.

⁸⁹ Allen, W.J.: *op.cit.* pp.29-30.

⁹⁰ Syiemlieh, D.R.: *op.cit.*, pp.84-85.

The report also recommended that residence of the head in his principality should be made compulsory to ensure that he delivers impartial administration over his people⁹¹.

MODEL AGREEMENT OF 1867

To streamline all the future engagements between the British government and the Khasi states, a model agreement was prepared by the Government of Bengal. This agreement proposed that in future all heads of the Khasi states would be designated by the title “*Seem*” (*Syiem*). The *Syiem* will be appointed by the Government and will remain in office at the pleasure of the Government. The Government would issue the *Sunnuds* and *Khilluts* to the nine specified states while the dependent states would receive their *Sunnuds* from the Agent to the Governor General. The traditional heads, *ki Syiem* of the Khasi states were placed under the “orders and control” of the Deputy Commissioner and had to lawfully submit to his orders. The progressive interpretation of treaties and agreements entered into by the Government and the Khasi states and the subsequent enactment of

⁹¹ Allen, W.J.: *op.cit.*, pp.77,79-80.

these treaties and agreements into binding rules enabled the Government to assume over-riding powers over the Khasi states⁹². Three important issues emerged from this model agreement:

- a) all Khasi chiefs were to be designated by the title *Syiem*;
- b) the government was the sole authority in appointing and removing a *Syiem*. The council (*dorbar*) and the residents of that particular principality (*ki khun ki hajar*) were ultimately relegated to a position of little importance;
- c) the government exercised its authority over the *Syiem* and the Khasi state through the Deputy Commissioner who had been given over-riding powers to act in his political capacity and was not even amenable to the authority of the High Court.

The relations between the Khasi states and the British were exercised through the operation of paramountcy and political practice from 1828 to 1947. As the paramount power, the British government exercised its authority over the Khasi states through treaties, agreements and *sanads*. The Khasi states and their chiefs were expected to be completely loyal to the

⁹² Dutta, P.N.: *op.cit.*, pp.138-144.

paramount power and should this loyalty be doubted, the British government reserved the sole discretion and authority to intervene. Following the first war of independence in 1857 and the subsequent assumption of power over India by the British Crown in 1858 (from the English East India Company), a more formal and definite relationship was established between the Khasi states and the British government. Allen's recommendations with reference to political relations between the British government and the Khasi states were implemented from 1859. Subsequent changes were made from 1864 onwards in terms of the agreements executed/renewed with the Khasi chiefs as well as with the authorized signatory on behalf of the British government. "Further changes were made in 1910 when it was decided that the position and status of Syiems was not such as to warrant the issue to them of sanads by the head of the province and that in future the sanads should be given by the Commissioner of the Surma Valley and Hills districts Division"⁹³.

⁹³ Syiemlieh, D.R.: *op.cit.*, p.153.

ADMINISTRATIVE CHANGES IN THE KHASI HILLS
2ND PHASE (1854-1946)

While the political relations of the Khasi states and the British government were conducted through subsequent official documents such as *sanads* and *parwanas*, the territorial contours of the Khasi and Jaiñtia Hills were never to remain static. These contours changed with the passage of time and in accordance with subsequent acts and regulations passed by the British government from time to time. In so far as British rule was concerned, there emerged two distinctive categories of administration. The first was a district, the Khasi and Jaiñtia Hills district (created in 1854) and administered by officers, the Principal Assistant Commissioner and the Junior Assistant Commissioner duly appointed by the government and who was later designated as the Deputy Commissioner (after 1861). This district comprised of the annexed territories of the Jaiñtia Hills and 32 villages including Shillong (British area - Cantonment and Municipal) directly under the administration of the British government. The second concerned the collective of 25 Khasi states which had direct relations with the British government. Their relations were administered by the Deputy Commissioner who however acted as the Political Agent to the Khasi states. These two

administrative units were initially part of the Bengal province. Later, they became part of the Assam province after it was constituted as a Chief Commissioner's province on February 6th, 1874⁹⁴. The political and administrative contours of Assam especially before independence also changed. On February 6th, 1874, Assam became a scheduled district and then on September 1st, 1905 it became part of the Lieutenant Governor's Province of Eastern Bengal and Assam. On April 1st 1912, it was separated from this province and was made a Chief Commissionership with a legislature. Assam was finally made into a Governor's province in 1921. Thus, whatever acts and regulations that were enforced in Assam were also made applicable to the hill districts including the Khasi and Jaiñtia Hills district.

The administration of the Political Agency at Cherrapunjee failed to satisfy both the government and the people. This was primarily attributed to the close connection between the Political Agent, Lt. Col. Lister and his assistant, Harry Inglis, who also happened to be his son-in-law. Inglis, in addition to holding a government appointment, was also the most powerful and influential trader in the Khasi hills who on numerous occasions was

⁹⁴ Chaube, S.K.: *Hill Politics in Northeast India*, (Updated Edn.) Orient Longman, Hyderabad, 1999, pp. 11-13.

found to have used the services of the Political Agency to his commercial benefit and advantage. In 1853 A.J.M. Mills was deputed to Cherrapunjee to enquire into the functioning of the Agency and to look into the complaints (allegations of favouritism/intimidation/misuse of government resources) leveled against it. Following the recommendations made by Mills in his report, the civil functions of the Political Agent were separated from his command (military functions) of the Sylhet Light Infantry. The government noted that the command over both military and civil administration should no longer come under the jurisdiction of the Political Agent. Thus the Political Agency in the Khasi Hills came to an end with Lt. Col. Lister's promotion and subsequent retirement from his civil employment. In place of the Political Agency, the Cossyah and Jynteah Hills District was created to be administered by an officer designated as Principal Assistant Commissioner. Mr. C.K. Hudson was appointed as the first Principal Assistant Commissioner of this newly created district on April 10, 1854⁹⁵. Probably a Junior Assistant Commissioner was also appointed to administrate over the British possessions of the Khasi and Jaiñtia Hills while

⁹⁵ Allen, W.J.: *op.cit.*, p.1.
Syiemlieh: *op.cit.*, p.80.
also Giri, Helen: *op.cit.*, p.125.

simultaneously functioning as the Political Agent to the Khasi states. The jurisdiction of this newly created District was transferred to the Commissioner of Assam. In 1861 the office of the Junior Assistant Commissioner was changed to that of Deputy Commissioner. Major E.A. Rowlatt took over the administration of the Cossyah and Jynteah Hills District as the first Deputy Commissioner⁹⁶. In 1869 the government passed the Garo Hills Act (Act XXII of 1869). This Act clearly defined the newly created Garo Hills District and removed the district from the purview of civil, criminal and revenue courts and other offices established under the Bengal Regulations and Acts. The relevant portions of this Act were extended to the Khasi and Jaintia Hills district on November 1st, 1871⁹⁷.

By the 1870's the administration of Assam and its neighboring districts appeared to have become a burgeoning responsibility for the Lieutenant Governor of Bengal. A proposal was mooted that Assam and certain eastern districts of Bengal should be constituted into a Chief Commissionership to be placed under the Governor General. This proposal was accepted by the Governor General, Lord Northbrook and the Chief

⁹⁶ Giri, Helen: *op.cit.*, p.128.

⁹⁷ Chaube, S.K.: *op.cit.*, p.14.
also Syiemlieh, D.R.: *op.cit.*, p.142.

Commissionership of Assam comprising of five districts of the Brahmaputra valley, the Naga Hills, the Khasi and Jaiñtia Hills, the Garo Hills, Goalpara, Cachar and Sylhet was created on February 7th, 1874 with Colonel R.H. Keating as the first Chief Commissioner⁹⁸.

On 8th December 1874, the Governor-General passed the Scheduled Districts Act (Act XVI) of 1874. By this Act the Chief Commissionership of Assam was to be a scheduled district. The Act came into force in Assam on 3rd November 1877 and with its enforcement the Act VI of 1835 and the Garo Hills Act of 1869 were repealed. In 1880 the Assam Frontier Tracts Regulation (Regulation 2) of 1880 was enacted. This regulation sought to exempt certain frontier tracts of Assam from the operation of enactments presently in force. This regulation did not cover the hills areas (including Khasi and Jaiñtia Hills) of Assam. Thus the Assam Frontier Tracts Regulation (Regulation 3) of 1884 was enacted to extend the Assam Frontier Tracts Regulation of 1880 to the hill areas of Assam⁹⁹. Under its provisions, the operation of the enactments relating to civil and criminal procedure, court fees, stamps, transfer of property and registration were barred. The

⁹⁸ Chaube, S.K.: *op.cit.*, p.11.
also Syiemlieh, D.R.: *op.cit.*, p.137.

⁹⁹ Chaube, S.K.: *op.cit.*, pp.17-18.

Regulation came into force in the Garo hills and Khasi and Jaiñtia hills districts on 5th November, 1884¹⁰⁰.

The first four decades of the twentieth century witnessed a realignment of the province of Assam and the demarcation of districts into categories of hill and plain areas. It also saw the appointment of various commissions and committees which amongst other pre-occupations discussed the level of development both in the hill and plain areas and the financial and administrative implications of setting in a reformed structure of governance. The subsequent acts and regulations brought forward by the British government were to a certain extent reflective of the views and observations contained in the findings of these committees and commissions. The Government of India Act 1919 was passed by the English Parliament on November 23rd, 1919. This Act (under section 52A) authorized the Governor-General-in-Council to declare any territory within British India as a backward tract. In exercising his powers under this section, the Governor-General on January 3rd, 1921 declared the British portion of the Khasi and Jaiñtia Hills (excluding the Shillong Municipal and Cantonment areas) among other hill districts of the North-East India as

¹⁰⁰ Chaube, S.K.: *op.cit.*, p.18.
also Syiemlieh, D.R.: *op.cit.*, p.146.

backward tracts. The laws of the Indian legislature as well as of the Assam Legislature would apply to these areas only as directed by the Governor-General-in-Council or the Governor-in-Council¹⁰¹. This declaration was contrary to expectations that the Khasi and Jaiñtia Hills would not be included in this proposed category but included in the Reformed Council. Moreover, the Khasi and Jaiñtia people had expressed a desire to be represented in the Assam Legislative Council though the Khasi rulers were averse to their inclusion under the Reformed Council¹⁰². The appointment of the Indian Statutory Commission (Simon Commission) and the Indian States Commission in 1928 accorded a special interest in the province of Assam. It provided a platform and an opportunity for both the government and non-government organizations to express their opinions on the future of the administration of Assam. The Indian States Commission did not visit the Khasi Hills, hence no representation could be made before it by the newly emerging Khasi educated elite. In sharing its opinions with the Simon Commission, the Government of Assam was of the view that the backward tracts within the province should be excluded from Assam. They should

¹⁰¹ Chowdhury, J.N.: *op.cit.*, p.338.

also Syiemlieh, D.R.: *op.cit.*, p.177.

¹⁰² Rao, V.V.: *A Century of Tribal Politics in North East India, 1874-1974*, S. Chand & Company Ltd., New Delhi, 1976, p. 51.

instead be administered “by the Governor-in-Council, as agent of the Governor-General-in-Council at the cost of the central revenues”¹⁰³. In its findings the Indian Statutory Commission noted that certain backward tracts, in particular the Khasi and Jaiñtia Hills were very advanced. The Commission was of the opinion that special treatment accorded to such areas may be discontinued, special provisions may be made for their administration and they could be categorized instead as excluded areas¹⁰⁴. A clearer formula of new forms of administration to be implemented became visible in the Proposals for Indian Constitutional Reform which were presented to the British Parliament in 1933. Reference was made to evolve two separate administrative categories that should not come under the proposed constitutional reforms. These were the partially excluded areas and excluded areas. The Crown was the sole authority to declare, by Orders-in-Council, an area within a province as partially excluded or excluded. An act of the proposed Federal Legislature or the Provincial Legislature will not apply to such areas unless directed so by the Governor. The Governor was also empowered to make necessary regulations for both these areas with the prior assent of the Governor-General. The excluded areas would be under

¹⁰³ Chaube, S.K.: *op.cit.*, p. 21.

¹⁰⁴ Syiemlieh, D.R.: *op.cit.*, p.183.

the exclusive executive control of the Governor while the partially excluded areas would be subject to ministerial control of the provincial executive with the Governor having overriding powers. Both these areas were inserted in the Sixth Schedule of the proposed Bill¹⁰⁵. This Bill was introduced in the British Parliament on December 19th, 1934. On finally receiving royal assent on August 2nd, 1935 it became the Government of India Act, 1935. This Act, a lengthy document containing 321 Sections and 10 Schedules was the last major parliamentary legislation initiated by the British aimed at introducing limited constitutional reforms in India. In accordance with section 91 (1) of this Act, an Order in Council, the Government of India (Excluded and Partially Excluded Areas) Order of 1936 was passed on March 3rd, 1936. This order declared the Khasi and Jaiñtia Hills District (excluding Shillong Municipality and Cantonment Areas), the Garo Hills District, the Mikir Hills and the North Cachar Hills as partially excluded areas. The remaining hill areas within the province of Assam were declared as excluded areas. The partially excluded areas were given franchise. Thus, the process of electoral politics was directly introduced into the Khasi and Jaiñtia Hills. The Government of India Act, 1935 allotted three single member constituencies

¹⁰⁵ Syiemlieh, D.R.: *op.cit.*, p.184.

to the Khasi and Jaiñtia Hills. One seat was allotted to Jowai, the second to Shillong while the third, the Shillong-Women constituency was reserved for women. In the first elections held in 1937 under the new Act, Lowell Gatphoh won the Jowai seat, James Joy Mohan Nichols Roy (hereafter J.J.M.Nichols Roy) won the Shillong seat while Mavis Dunn won the Shillong-Women constituency seat. All the three candidates won as independents and not as party candidates.

CONSCIOUSNESS AND PARTICIPATION – NEW POLITICAL INITIATIVES

A new sense of awareness and engagement became apparent among the local populace in the Khasi and Jaiñtia Hills. Members of the Assam Legislative Council who were mostly from the plains were generally indifferent to the administration of the hill areas then categorized as backward tracts. They saw the hill areas a financial burden in the administration of the province and a number of notable legislators were not in favor of including the hill areas in any constitutional reforms of the government. Prior to 1920 no member represented the hill areas in the



Assam Legislative Council. After 1920 only a single non-official nominated member represented the backward tracts in the Assam Legislative Council. This single representative was inadequate to represent the myriad needs of the backward tracts including the Khasi and Jaiñtia Hills. Political consciousness and political articulation in the Assam legislature received a boost for the Khasi and Jaiñtia Hills when James Joy Mohan Nichols Roy was elected to the Assam Legislative Council in 1920 from the Shillong – Karimganj constituency. Through his long and uninterrupted career in politics till 1959, he was able to articulate the political and administrative concerns of the Khasi and Jaiñtia Hills within the legislature as well as at different forums and organizations.

In addition to J.J.M.Nichols Roy's engagement with the Assam legislature, this consciousness and articulation was also cultivated among the representatives of the Khasi states as well as the Khasi gentry. They realized the need to work together under one organization for the interest of the people. Realizing the impending constitutional changes that were to follow in the shape of a reformed government, the administrative heads and elders of the Khasi states as well as some of the educated Khasi gentry desired to prepare a roadmap for the unified progress of the Khasi states. In a well

informed, well prepared and documented meeting convened at Shillong between September 4-6, 1923, notable Khasi leaders met to establish the Khasi National *Dorbar* on September 4th, 1923¹⁰⁶. The following leaders were elected office bearers at this first convention of the Khasi National *Dorbar*: President- Joiñ Manik, *Syiem* of *Sohra* (Cherrapunjee), Vice President- Rai Sahib Hormu Rai Diengdoh, Secretary- J.J.M. Nichols Roy, Assistant Secretary- Hajom Kissor Sing, Treasurer- Chandra Nath Roy¹⁰⁷.

With the appointment of the Indian Statutory Commission and the Indian States Commission to look into the question of further political and constitutional reforms in India, a certain degree of eagerness and anticipation prevailed in the Khasi Hills. The visit of the Indian Statutory Commission to the Khasi Hills afforded the government and the public to interact with the Commission. However on March 9th, 1928 the Khasi National *Dorbar* then under the presidency of Olim Singh (O.B.E.) the *Syiem* of Khyrim, decided against submitting any memorandum to the Indian Statutory Commission on the political position of the Khasi states. It observed that the appropriate

¹⁰⁶ *Ki Proceedings Jong Ka Khasi National Dorbar (Dorbar Hima Khasi)*, Shillong Printing Works, Shillong, 1923, p.1.
also Kharakor, S.: *Ki Khun Ki Ksiew U Hynñiew Trep*, Rita Printers, Shillong, 1981, p.70.

¹⁰⁷ *Ki Proceedings Jong Ka Khasi National Dorbar (Dorbar Hima Khasi)*, *Ibid.*, p.16.

authority to receive a representation from the Khasi states was the Indian States Commission which however did not visit the Khasi Hills. Despite this general view that prevailed in the Khasi National *Dorbar*, certain members namely Joab Solomon, Rai Sahib Hormu Rai Diengdoh and Rai Mohan Diengdoh submitted a representation to the Indian Statutory Commission. This representation was signed by Joab Solomon as the Secretary, Khasi National *Dorbar*. The representation put across the displeasure of the Khasi people against the method of issuing *sanads* to rulers of the Khasi states as it put them under the absolute authority of the Deputy Commissioner of the district. Further, this method enabled the local government to occupy vast tracts of land in the Khasi Hills and entitled the rulers of Khasi states to a certain portion of profit derived from the lease, sale or disposal of minerals from these tracts. This derivation of profit from lands customarily held by private individuals and clans was never a privilege of the ruler of a Khasi state and was never sanctioned either by law or custom. This representation demanded the discontinuation of this practice which granted economic benefit to the ruler and the restoration of ancient rights benefitting the actual owner of the land. The representation also petitioned the following demands:

- a) establishment of a central *dorbar* to function as a federation of all states;
- b) legalization of the Khasi National *Dorbar* as the authorized representative of the Khasi states and the Khasi people;
- c) recognition of the draft constitution for the proposed *dorbar*, contained in the representation;
 - i) this *dorbar* should, with the assent of the Governor, be vested with the power to make laws,
 - ii) it should be vested with the power to levy taxes with a view to improve the administration of the Khasi states,
 - iii) it should be vested with the power to frame rules for conducting its meetings and those of the Executive Council.
- d) modification of the clauses contained in the *sanads* which granted Khasi rulers rights to derive profit from the lease, sale and disposal of minerals within their territories¹⁰⁸.

¹⁰⁸ Chaube, S.K.: *op.cit.*, p.70.

The representation was one of the earliest attempts to form a federation of all Khasi states on the principle of equality irrespective of size or status. This attempt was clearly still visible even in recent times in the Memorandum submitted by the Steering Committee of *Dorbar Hima Myllem* to the Advisory Panel on “Decentralisation and Devolution: Empowerment and Strengthening of Panchayati Raj Institutions” of the National Commission to Review the Working of the Constitution in 2001. This representation called for the establishment of a central *durbar* of all Khasi states with commensurate legal powers. The Memorandum of 2001 also made similar observations which were however more refined.

This all comprehensive claim made on behalf of the Khasi National *Dorbar* by Joab Solomon was questioned by another influential group led by Babu Sib Charan Roy. This group challenged the claim made by Solomon and others that the Khasi National *Dorbar* represented the Khasi people including the Khasi states. They denounced the representation submitted to the Indian Statutory Commission reiterating this claim. At the initiative of this group which also had the support of the Khasi rulers, an organization, the Khasi-Jaiñtia Youngmen’s Association was established. This Association organized a public meeting on December 22nd, 1928 at the Seng

Khasi Hall, Shillong and invited Joab Solomon to clarify his stand on the submission of the representation to the Indian Statutory Commission. The meeting passed a number of resolutions relevant to the traditions and practices prevalent in the Khasi hills:

- a) it denied the existence of any valid right of the Khasi ruler to land;
- b) it turned down the demand of the Khasi National *Dorbar* for a central *dorbar* which ran contrary to the spirit of the Khasi customs and contrary to their traditional political organization which emphasized on decentralization of powers;
- c) it demanded the extension of the appellate jurisdiction of the Calcutta High Court to the Khasi states¹⁰⁹.

A second memorandum was submitted to the Indian Statutory Commission which included the above demands. The Khasi National *Dorbar* had regular annual meetings between 1923 and 1942. Its formation was the first attempt to bring together all the Khasi states under one organization and to extensively discuss and document important socio-cultural and political

¹⁰⁹ Chaube, S.K.: *op.cit.*, p.71.
also Chowdhury, J.N.: *op.cit.*, pp. 343-345.

issues such as those relating to land rights, residency rights and rights on ancestral property.

The residents of the British portions of the Khasi Hills were equally concerned about their political future. On October 29th, 1928 a Conference of British subjects (Khasi) was held at Shillong. This conference was presided over by Lowell Gatphoh and it discussed the possible exclusion of certain British areas from the proposed constitutional reforms. The conference resolved to oppose the Government of Assam's recommendation to the Indian Statutory Commission to exclude the Khasi and Jaiñtia Hills district (British portion) from the proposed reforms. It demanded the inclusion of this district in the proposed reforms with all the burdens, rights and privileges connected therewith¹¹⁰.

Despite the differences of opinion that had emerged among the cross-section of Khasi people on the purpose of the Khasi National *Dorbar*, it cannot be denied that the Khasi states were motivated by its collective, organizational impetus. After 1932, the Khasi states made renewed attempts to come together under a single assembly. A conference of the administrative heads of the Khasi states was held at Shillong between

¹¹⁰ Bareh, H.: *op.cit.*, pp.225-226.

January 28-30 and February 11-15, 1932. The purpose was to prepare a statement on the future position of the Khasi states and to submit the same for the consideration of the Governor of Assam, the Viceroy of India, the Secretary of State of India and the Indian States Inquiry Committee. This statement examined the relationship that existed between the Khasi states and the British government since the presence of the English East India Company. It recommended that for future relations all the twenty-five states should be treated as an inseparable group. Opportunity should be given to those villages which had earlier separated themselves from their parent Khasi states, to be reconciled with their former principalities. This conference also resolved to urge upon the government to place the Khasi states in direct relations with the Viceroy through the local Political Agent (that is, the Deputy Commissioner) or the Agent with or without the Governor of the Province as the Agent to the Viceroy. This Political Officer should be exclusively stationed to coordinate relations with the Khasi states¹¹¹. Enduring this renewed hope of securing a favorable place within the proposed constitutional changes of the government, representatives of the Khasi states met the Viceroy and Governor General of India, Freeman

¹¹¹ Lyngdoh, R.S.: *op.cit.*, p.161.

Thomas, Earl of Willingdon (Lord Willingdon) at Shillong on October 3rd, 1933 and presented him with an address. The address observed, “the impending constitutional changes are expected to clearly define the position of the Indian States all over India and we hope that the position of the Khasi States which are ‘in subsidiary alliance with the British Government’ may also be defined and that they may also find place among the units of the Indian States which may be members of the Federal Legislature”¹¹². In his reply to this address Lord Willingdon made the following observations, “I understand that for the time past you have been considering the feasibility of a close association amongst yourselves with a view to constituting a Federation of the Khasi states. I would commend this time to your most earnest attention, as this is obviously the first and most useful step which should have the way towards your entry into the greater federation”¹¹³. Taking note of this observation of Lord Willingdon as practical to their intended objective, the Khasi states once again met on December 16th, 1934 and formally established the Federated Khasi States (hereafter FKS). The objectives of this federation were:

¹¹² Ka Address ba la ai ki Siem bad kiwei ki khlieh jong Ki Hima Khasi Ha u Viceroy ka Ri India: Ka jubab u Viceroy de ia ka Address ha ka 3rd October, 1933, R.K. Press, Shillong, p.5.

¹¹³ *Ibid*, p.8.

- a) to discuss political questions and matters of common concern to all Khasi states and to take collective decisions on such matters especially when submitting them before the consideration of the British Government;
- b) to take control of matters of common concern to Khasi states themselves and matters common to India, which are shared with some popular element in the Government;
- c) to request the British Government that in dealing with the Native States in India, the position of the Khasi states which are in subsidiary alliance with the government, should be taken into account;
- d) to claim a higher status and increased judicial powers commensurate with their progress, advancement and changing times;
- e) to encourage a closer association among the Khasi states for the welfare, progress and advancement of the people and good governance of the states;
- f) to amicably settle disputes between the states through mediation of chiefs specially chosen from among the administrative rulers of the Khasi states;

- g) to show their allegiance and loyalty to the British;
- h) to meet at least twice a year to discuss and deliberate matters of common interest;
- i) to send a copy of this instrument to the Deputy Commissioner of the Khasi and the Jaiñtia Hills and the Governor of Assam for approval and recognition and that the Federated Khasi States be recognized as a unit among other Indian states in the Federal Council;
- j) to secure representation in the Federal Legislature of India¹¹⁴.

To carry forward the intended objectives, a Standing Committee was constituted. The Federated Khasi States requested the government to recognize this Standing Committee as the authorized executive body to deal with the government on its behalf. The political ambitions of the Federated Khasi States were short-lived. The Government of India Act, 1935 did not define their position or status in relation to the Government. The Federated Khasi States was excluded from the Chamber of Princes and could not send a common representative along with other small Indian states. This proposed

¹¹⁴ Cantlie, K.: *Notes on Khasi Law*, (Edited and reprinted by A.S. Khongphai), Ri Khasi Press, Shillong, 1974, pp. 183-184.
also Bareh, H.: *op.cit.*p.227.

scheme for the participation of Indian states in the Indian federation itself did not materialize. Further, the recognition granted to them by the government in May 1934 was withdrawn after a brief period. Even their request for establishing a direct relationship with the Viceroy through a Political Agent or Agent was not granted. Probably the observations made by Keith Cantlie on the future of the Federated Khasi States also weighed on the government's decision to refrain from constitutionally empowering this association after 1935. Cantlie raised certain basic questions on the organization and composition of the member states in the Federated Khasi States, their inability to take collective decisions without first seeking informed consent of their respective state councils, the question of surrender of individual power and authority by each member state to the Federated Khasi States from where then emerges a central authority and the question of submitting to this authority. In spite of these obstacles, the Federated Khasi States was an alternative step collectively taken by the Khasi states to establish themselves a visible political platform under proposed constitutional reforms. Despite its failure in this regard, it functioned as a social platform of Khasi states as well as non-Khasi states till 1946 when

renewed attempts were made to politically revive it under circumstances of impending independence.

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**POSITION OF THE KHASI STATES BETWEEN 1946 TO 1950 WITH
SPECIAL REFERENCE TO *HIMA* KHYRIM AND *HIMA* MYLLIEM**

In the years prior to India's independence, the Khasi and Jaiñtia Hills district comprised an area of 6145 square miles, a population of 3,32,251 residents which included 30,000 non-Khasi residents living mostly in Shillong¹¹⁵. The administration comprised of two categories as described earlier in the chapter. The first comprised of areas directly under British rule which included Shillong Municipality and Cantonment Areas, Jowai subdivision with a population of 85,807 and thirty-one British villages with a total population of 39,048¹¹⁶. The second comprised of 25 Khasi states (with a population of 2, 01,647) administered by traditional rulers, whose relations with the British were stipulated by treaties and agreements. The political interests in the district comprised of two assemblages - the traditional and

¹¹⁵ *Census of India*, 1941, c.f., H.Giri, p. 224.

¹¹⁶ Roy, J.J.M.Nichols: Proposed Draft Constitution of a part of Assam, namely, The Khasi and Jaiñtia Hills, submitted to the sub-committee of the Advisory Committee for Minorities of the Constituent Assembly of India, p.1.
also Giri,H.: p. 224.

the modern. The traditional political interests were represented by the rulers of Khasi states who wanted to preserve the continuity of existing systems of governance against the rising tide of political change. The modern political interests were represented by elected representatives to the Assam Legislature who wanted greater participation in the modern system of governance. The progress of these two opposing political interests was to unfold through various events across the late 1940's till the enactment of the Constitution of India in 1950. By 1946, it became exceedingly clear that India's independence from British rule was just a turn away. On February 19th, 1946, the British Prime Minister, Clement Attlee announced that a Cabinet delegation (Cabinet Mission) was visiting India. The Cabinet Mission team consisted of Lord Pethick-Lawrence, the Secretary of State for India, Sir Stafford Cripps, President of the Board of Trade, and A. V. Alexander, the First Lord of the Admiralty. This announcement was subsequent to His Majesty King George's address to the British Parliament on August 15th, 1945 stating that, "In accordance with the promises already made to My Indian peoples, My Government will do their utmost to promote in conjunction with the leaders of Indian opinion, the early realization of full

self-government in India”¹¹⁷. Atlee hoped that “the statesmen of British India and of princely India will be able to work out a solution of the problem of bringing together in one great policy these desperate constituent parts. There again we must see that the Indian States find their due place...”¹¹⁸. On March 15th, 1946 the Prime Minister made another announcement which referred to complete independence as a possible goal of the Indian constitutional development¹¹⁹.

On its arrival in India in March 1946, the Cabinet Mission toured various parts of the country and held a series of conferences where numerous memoranda were submitted eliciting views on the future of India’s constitutional development. The transfer of power from Britain to the Dominion of India and Pakistan was laid in the Cabinet Mission Plan 1946. The Cabinet Mission and the Viceroy of India in consultation with the British Government issued a statement which reflected their recommendations on India’s political future. The immediate concern of this exercise was to address the position and future of the Indian states for which the Cabinet Mission made several important observations:

¹¹⁷ *Address by King George VI on opening of Parliament*, August 15, 1945, accessed through <http://www.ibiblio.org/pha/policy/1945/450815a.html> on 7.02.09.

¹¹⁸ *The Cambridge History of India*, Vol.VI pp.909-910, c.f., H. Giri, p.226.

¹¹⁹ Lyngdoh, R.S.: *op.cit.*, pp.170-171.

- a) To allay fears on the future of the Indian states the Cabinet Mission observed that with the attainment of independence by British India the relationship which has existed between the states and the British Crown would no longer be possible, though it was expected that the states would co-operate with the new Government in building up a new constitutional structure.
- b) It observed that His Majesty's government has now declared that if the Succession Government or Governments in British India desire independence, no obstacle would be placed in their way.
- c) The Chamber of Princes has confirmed that the Indian states fully share the general desire in the country for the immediate attainment by India of her full stature.
- d) During the interim period, which must elapse before the coming into operation of a new Constitutional structure under which British India will be independent or fully self-governing, paramountcy will remain in operation. But the British Government could not and will not in any circumstances transfer paramountcy to an Indian Government.

- e) In the meantime the Indian states are in a position to play an important part in the formulation of a new Constitutional structure for India, and His Majesty's Government has been informed by the Indian states that they desire, in their own interests and in the interests of India as a whole, both to make their contributions to the framing of the structure, and to take their due place in it when it is completed.

- f) Where adequate standards cannot be achieved within the existing resources of the state they will no doubt arrange in suitable cases to form or join administrative units large enough to enable them to be fitted into the constitutional structure. It will also strengthen the position of states during this formative period if the various governments which have not already done so take active steps to place themselves in close and constant touch with public opinion in their state by means of representative institutions.

- g) When a new fully self-governing or independent Government or Governments come into being in British India, His Majesty's Government will cease to exercise the powers of paramountcy. The rights of the states which flow from their relationship to the Crown

will no longer exist and that all the rights surrendered by the states to the paramount power will return to the states. Political arrangements between the states on the one side and the British Crown and British India on the other will thus be brought to an end. The void will have to be filled either by the states entering into a federal relationship with the successor Government or Governments in British India, or failing this, entering into particular political arrangements with it for them.

- h) During the interim period it will be necessary for the states to conduct negotiations with British India in regard to the future regulations of matters of common concern. Such negotiations which will be necessary will occupy a considerable period of time and some of these negotiations may well be incomplete when the new structure comes into being. To avoid administrative difficulties it will be necessary to arrive at an understanding between the states and the succession Government or Governments that for a period of time the then

existing arrangements as to these matters of common concern should continue until new arrangements are completed¹²⁰.

The Cabinet Mission further recommended that there should be a Union of India, embracing both British India and the states, which should deal with the following subjects: Foreign Affairs, Defence and Communications. This Union should have the necessary power to raise finances for the above subjects. On the other hand the states will retain all the subjects and power other than those ceded to the Union. The states should also be appropriately represented in the final Constituent Assembly, by a total number of 93 members and the method of selection will be through consultations. In the preliminary stages of negotiations with this Union, the states would be represented by a Negotiating Committee¹²¹. On June 19th, 1946 the Chamber of Princes appointed a Negotiating Committee to discuss constitutional matters with the Government. Its mandate was (a) to fix the distribution of seats in the Assembly not exceeding 93, (b) to fix the method by which representatives of the Indian states should be returned

¹²⁰ Mansergh, N: *Constitutional Relations between Britain and India-The Transfer of Power, 1942-1947*, Vol.VII, The Cabinet Mission, 23 March-29 June 1946, Her Majesty's Stationery Office, London, 1977, pp.522-523.

¹²¹ *White Paper on Indian States*, Manager of Publications, Govt. of India Press, Delhi, 1950, p. 154.

to the Constituent Assembly. Accepting the Cabinet Mission Plan, the Standing Committee of the Chamber of Princes on January 29th, 1947 made the following observations:(a) the states shall become part of the Union only through the basis of negotiation (b) all rights surrendered by the states to the paramount power will return to the states. The Union will exercise its power only on subjects delegated or assigned to it by the states. States on the other hand will continue to retain their sovereignty and all the rights and powers except those assigned to the Union (c) the Union shall not interfere with the constitution of the states nor with their territorial integrity and method of succession of reigning dynasties¹²². On February 20th, 1947 the British Government announced its intention to quit India by June 1948. It appointed Lord Mountbatten, Viceroy of India as its representative to prepare for this smooth transfer of power.

The Cabinet delegation's visit to India also accorded an opportunity to the hill districts of Assam to express their political views and aspirations in the light of impending independence. The views and observations in the Khasi Hills though articulate were not uniform. There emerged a number of organizations which expressed their political and administrative objectives

¹²² *White Paper on Indian States: op.cit.*, p.30.

on behalf of the people of the district. In early 1946 the Khasi Jaiñtia Political Association (hereafter KJPA) was established at Shillong. This association had the support of the administrative heads of the Khasi states. In March 1946, the KJPA submitted a memorial to the Cabinet Mission which highlighted the distinctiveness of the Khasi race, having preserved its characteristic independence and ancient democratic institutions from time immemorial. This memorial asked for the creation of a federation of all the Khasi areas within a 'Sovereign Assam' with adequate 'cultural and political autonomy'¹²³. In the case of the Khasi Hills, J.J.M.Nichols Roy represented that section of the populace who favored a parliamentary form of governance instituted on the principle of elections and franchise. His travels and experience had convinced him of the need to formulate a comprehensive political and administrative plan for the Khasi and Jaiñtia Hills district which was in tune with the prevalent systems around the world at that time. In 1945, J.J.M.Nichols Roy formed his own organization - the Khasi and Jaiñtia Federated State National Conference (hereafter the KJFSNC) with a view to formulate clear cut proposals for the said hill district. To express his views on proposed administrative changes, he submitted a memorandum to

¹²³ Chaube, S.K.: *op.cit.*, p.75.

the Cabinet Mission detailing a proposed administrative setup for the hill districts of Assam particularly the Khasi and Jaiñtia Hills. He observed that the Khasi people who had a distinct culture were far more advanced and hence the administration of the district should be accorded a special status in the new Constitution of India. He opposed the idea of a Crown Colony and emphasized the need to preserve the traditional and customary institutions of the Khasi consistent with the political progress. This memorandum put forward the following proposals:

- a) creation of a Khasi Jaiñtia Federated State (hereinafter the KJFS);
- b) annulment of the treaties and agreements entered into between the Khasi states and British India;
- c) reformed administration of the Khasi states;
- d) integration of British areas with the Khasi states to form one administrative unit - Khasi Jaiñtia Federated State;
- e) creation of a legislature, the National Council, comprising of 25 members to be elected from 25 single member constituencies created in the whole district;

- f) creation of an executive, the Federal Council whose three members were to be elected by the legislative body,
- g) creation of a judiciary, the Federal Court whose three elected judges were to hear and settle cases for all local authorities from the district;
- h) maintenance of closer ties with Assam especially in areas/subjects of common interest and maintenance of ties with India only in those areas/subjects in which Assam is also connected to India;
- i) representation of the Khasi Jaiñtia Federated State in the Assam legislature and the number of representatives to be fixed by law. However, every piece of legislation of the Assam legislature could be applied to the KJFS only after receiving the approval of the KJFS legislature and executive council;
- j) Shillong presently under the Myllem state is to be placed under the jurisdiction of the KJFS. Two seats of the Assam legislature are to be kept for Shillong, one seat reserved for a Khasi and the other being a

general seat. A third seat for a proposed women's constituency for Shillong was also recommended¹²⁴.

To garner public support for this demand for a unified Khasi Jaiñtia Federated State, a public meeting was held at Jaiaw, Shillong on August 2nd, 1946. This meeting passed a number of resolutions which were contained in the said memorandum and which affirmed the role of J.J.M.Nichols Roy as the leader of the people to guide the future destiny of the district under the new Constitution of India. The considerations put forward by J.J.M.Nichols Roy and the KJFS can be seen as the embryonic stages in the preparation of a blueprint for the proposed Sixth Schedule and the District Council which emerged as a distinct, legal administrative set up in the Constitution of India, 1950. The stand and the resolutions of the Khasi and Jaiñtia Federated State National Conference were questioned at another public meeting held on August 3rd, 1946 by the Khasi Jaiñtia Political Organisation (hereafter KJPO)¹²⁵. This organization observed that the Khasi states have their own

¹²⁴ Chaube, S.K.: *op.cit.*, p.76.
also Lyngdoh, R.S.: *op.cit.*, pp. 171-174.
Giri, H.: *op.cit.*, pp. 228-231.

¹²⁵ The KJPO is none other than the KJPA whose Secretary was Homiwell Lyngdoh. The name of this organization has been written by R.S. Lyngdoh and S.K.Chaube as the KJPA while H.Giri has written of it as the KJPO. Hence it appears to be two different organizations.

rights and customs which have been founded since ancient times. It questioned the claim of J.J.M.Nichols Roy as the representative of the Khasi states and noted that the Khasi states were able enough to speak for themselves¹²⁶.

THE REVIVED FEDERATION OF KHASI STATES

The Cabinet Mission's *Memorandum on States, Treaties and Paramountcy* and the *Cabinet Mission Plan* were circulated to the rulers of the Khasi states to elicit their views on the proposed constitutional changes. These rulers along with their councils, and prominent Khasi leaders including J.J.M.Nichols Roy met at three sittings on July 1st and 2nd and on August 22nd, 1946 at the residence of Kedro Manik, *Syiem* of Nongkhlaw. This gathering unanimously resolved to revive the Federated Khasi States which was formed in 1933, as the Federation of Khasi States (hereafter the FKS). The FKS appointed Olim Singh, *Syiem* of Khyrim and Jor Manik, *Syiem* of Myllem as Chairman and Secretary respectively. A Standing Committee comprising of seven members was also appointed by the FKS.

¹²⁶ Lyngdoh, R.S.: *op.cit.*, p.187.
also Giri, H.: *op.cit.*, p.231.

The Standing Committee was authorized to transform the Federation of Khasi States into an institution and to form a common government for all the federating Khasi states. This common government will administer common subjects without eroding the traditional customs, usages, conventions and institutions. Secondly, it was authorized to draft a Constitution which could then be discussed, finalized and adopted at the general body of the FKS. Thirdly, it was authorized to appoint an able representative, preferably one who been a member of the Chamber of Princes, to represent the Federation of Khasi States and to present its views before the said Chamber. The FKS further declared that with the transfer of power to a new Dominion, it would form a government for the Khasi states. Its position in relation to the new successor Government in India would be in line with that taken by the Indian States through the Chamber of Princes¹²⁷. On February 20th, 1947 the Standing Committee of the FKS met to prepare its draft constitution. This day coincided with the historic announcement made by the British Government of its declared intention to quit India. The draft constitution was circulated to all the Khasi states and they were requested to report back to the FKS and to send their comments and observations by March 25th, 1947.

¹²⁷ Lyngdoh, R.S.: *op.cit.*, pp.175-176.
also Giri, H.: *op.cit.*, pp.231-232.

The Standing Committee was also pleased to observe that due recognition was granted to it by the Chamber of Princes. This meant that as an umbrella entity it could demonstratively negotiate a political settlement with the future Government of India in the lines of the *Memorandum of States* and the resolutions of the Chamber of Princes. The Chamber of Princes passed a resolution on January 29th, 1947 which made a number of observations:

- a) The entry of states to the Union shall be on the basis of negotiation and the final decision shall rest with the states;
- b) All rights surrendered by the states to the Paramount power will return to the states. The proposed Union of India will exercise only those functions, in relation to the states, in regard to union subjects as assigned or delegated by the states to the Union;
- c) States will continue to retain their sovereignty in all matters and subjects except over those delegated by them to the Union;

- d) The territorial integrity of states, the procedure of succession of reigning dynasties in accordance with law, custom and usage of the states shall not be interfered with by the Union¹²⁸.

The duly approved draft constitution of the Federation of Khasi States contained a detailed preparation of the proposed federal setup. The FKS shall be a union of Khasi states who have collectively come together to achieve better and higher standards of administration. It shall be empowered to make laws on subjects of common concern to all Khasi states. The proposed Federal Government shall have all the three organs of government, the necessary heads and members to execute the powers and functions vested in each organ. The proposed Federal Government shall also have a Secretariat and the necessary staff to run all departments dealing with federal subjects. Thus, the proposed federal setup of the FKS was characteristic of partial democracy through a blend of adult manhood suffrage and nomination which still retained the strong elements of traditional polity reflected through heredity succession only from particular clans and the overarching influence of powerful and founding clans in the council of the traditional administrative ruler. On examining the draft constitution of the

¹²⁸ Giri, H.: *op.cit.*, p.232.

FKS, the Government found its approach too rigid. The FKS was requested to redraft its constitution, to make it more flexible and accommodative so as to allow greater participation of the people in the proposed Federal Legislature (state *Dorbar*). As the FKS was engaged in addressing these issues to arrive at an acceptable proposal, further developments were taking place in India. An informal meeting was convened by Lord Mountbatten, the Viceroy of India on June 13th, 1947. It was attended by a number of noted leaders namely Jawaharlal Nehru, Sardar Vallabhai Patel and J.B. Kriplani (Indian National Congress), Mohammed Ali Jinnah, Liaquat Ali Khan and Sardar Abdur Rab Nishtar (Muslim League) and Sardar Baldev Singh. This meeting proposed the setting up of a new Department called the States Department to deal with matters of common concern to the states. The new department should be divided into two sections ready for partition of the country and the existing Political Department and the Political Adviser should give all possible assistance and advice in the formation of the new Department¹²⁹. This proposal was accepted by the Interim Government¹³⁰ at its meeting on June 25th, 1947. A new department called the States Department was established on July 5th, 1947. It was headed by Sardar

¹²⁹ Lyngdoh, R.S.: *op.cit.*, pp.182-183.

¹³⁰ The Interim Government was sworn in on September 2nd, 1946.

Vallabhai Patel while V.P.Menon was the Secretary. The Muslim League nominated two members to the States Department, Sardar Abdul Rab Nishar and Ikramullah. The intention of the Muslim League was that with independence and the creation of a new Dominion (Pakistan), the two members should hold charge of the newly created States Department of Pakistan. On immediately taking over the States Department, Sardar Vallabhai Patel drew up a policy of the Government of India on the Indian states. He invited the states to accede to the Dominion of India on the three mentioned subjects – Defence, Foreign Affairs and Communications which concerned the national interests of the country. On the other subjects he noted that the States Department would respect the autonomous existence of the states. He further suggested that it would be better for all to make laws sitting together as friends than to make treaties as aliens. The common objective should be to understand each other's point of view and come to decisions acceptable to all in the best interest of the country. In this address to the Indian states Sardar Vallabhai Patel remarked, "We are at a momentous stage in the history of India. By common endeavour we can raise the country to a new greatness while lack of unity will expose us to fresh calamities. I hope the Indian states will bear in mind that the

alternative to co-operation in the general interest is anarchy and chaos which will overwhelm great and small in a common ruin if we are unable to act together in the minimum of common tasks. Let not the future generation curse us for having had the opportunity but failed to turn it to our mutual advantage. Instead let it be our proud privilege to leave a legacy of mutually beneficial relationship which would raise this Sacred Land to its proper place amongst the nations of the world and turn it into an abode of peace and prosperity”¹³¹. The Government of India had also entrusted Lord Mountbatten with the task of negotiating with the rulers of the Indian states. In his address to the rulers and representatives of the Indian states on July 25th, 1947 he declared that “the Indian Independence Act releases the States from all their obligations to the Crown. The States have complete freedom – technically and legally they are independent”¹³². This also meant that the administrative link between the British government and the Indian states will be broken. Hence two States Departments for the proposed new Dominions (India and Pakistan) were conceived to ensure that the administrative link would not be broken but rather continued with the Indian states, though through newly born Dominions. He dispelled any apprehension or misgiving

¹³¹ *White Paper on Indian States: op.cit.*, pp.158-159.

¹³² *Ibid*, p.161.

that their accession to either Dominion on the three subjects – Defence, External Affairs and Communication would involve any financial liability on their part. He also assured that in other matters there would be no encroachment on their internal sovereignty. On a concerned note Lord Mountbatten also reminded the States, “Remember that the day of the transfer of power is very close at hand and, if you are prepared to come, you must come before the 15th August, I have no doubt that this is in the best interests of the states, and every wise Ruler and wise Government would desire to link up with the great Dominion of India on a basis which leaves you great internal autonomy and which at the same time gets rid of your worries and cares over External Affairs, Defence and Communications”¹³³.

THE CONSTITUENT ASSEMBLY OF INDIA

While these events were unfolding, another proposal was taking form and appearance in the shape of the Constituent Assembly of India. The Constituent Assembly of India (hereafter the Constituent Assembly) was a body elected to compose, draft and adopt a new constitution for India. This

¹³³ *White Paper on Indian States: op.cit.*, p.163.

body also served as independent India's first Parliament. The Constituent Assembly was created as a result of negotiations between Indian national leaders and members of the Cabinet Mission. It met for the first time on December 9th, 1946 in Delhi and on this day Rajendra Prasad was elected the President of the Constituent Assembly. A total number of seventeen committees were set up under the Constituent Assembly to prepare the draft Constitution. These include the Steering Committee headed by Rajendra Prasad, the Drafting Committee headed by B.R. Ambedkar and the Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas headed by Sardar Vallabhai Patel. A sub-committee headed by Gopinath Bardoloi was also set up for the North East, the North-East Frontier Tribal Areas and Assam Excluded and Partially Excluded Areas Sub-Committee. The Constituent Assembly comprised of members elected indirectly by members of the Provincial Legislative Assemblies. Thus, 292 members were elected through the Provincial Legislative Assemblies, 93 members represented the Indian Princely states and 4 members represented the Chief Commissioners' Provinces. The total membership of the Constituent Assembly was to be 389 which however reduced to 299 as a result of partition when representatives of the provinces of Sindh, East

Bengal, Baluchistan, West Punjab and North West Frontier Province ceased to be members of the Constituent Assembly of India. They left and formed the Constituent Assembly of Pakistan in Karachi. Thus, as on December 31st, 1947, 229 members represented the Provinces while 70 members represented the Indian states. Assam was represented by eight members in the Constituent Assembly. They were Nibaran Chandra Laskar, Daranidhar Basumatari, Gopinath Bardoloi, J.J.M.Nichols Roy, Kuladhar Chaliha, Rohini Kumar Chaudhury, Muhammad Sa'adulla and Akbar Rouf. The Indian states of Tripura and Manipur along with the twenty five Khasi states were collectively represented by a single member, Girja Shankar Guha (hereafter G.S.Guha), in the Constituent Assembly. The Constituent Assembly took two years, eleven months and seventeen days to complete the historic task of drafting India's Constitution. In the process it held eleven sessions covering 165 working days of which 114 days were spent on consideration of the draft Constitution.

The Cabinet Mission that visited India in 1946 had recommended that there should be an advisory committee constituted to recommend measures for the protection of the rights of the citizens, minorities and tribes of excluded areas. Adhering to this recommendation the Constituent Assembly

appointed an Advisory Committee on January 24th, 1947. It was called the Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas and was under the chairmanship of Sardar Vallabhai Patel. The Constituent Assembly adopted a resolution that the Advisory Committee should consist of not more than 72 members. 50 members were elected while 22 members were to be nominated by the President of the Constituent Assembly, Rajendra Prasad. J.J.M.Nichols Roy and Rup Nath Brahma were elected, amongst others, to this Advisory Committee while Gopinath Bardoloi, the then Premier of Assam, was nominated to the Advisory Committee. The Advisory Committee in turn set up three sub-committees to recommend an appropriate administrative framework for tribal areas which will preserve their tribal institutions, their rights and self-government commensurate with political progress of the whole country. The three sub-committees were (a) the North-East Frontier Tribal Areas and Assam Excluded and Partially Excluded Areas Sub-Committee (b) the Excluded and Partially Excluded Areas (Other than those in Assam) Sub-Committee (c) the Tribal Areas in the North West Frontier Province and Baluchistan. The third sub-committee ceased to function and became redundant when India was partitioned in August 1947. The first sub-

committee was headed by Gopinath Bardoloi as Chairman. It also came to be known as the Bardoloi Sub-Committee. The other members of this Sub-Committee included J.J.M.Nichols Roy, Rup Nath Brahma, Aliba Imti and A.V.Thakkar. The Sub-Committee toured various districts and sub-divisions of Assam between April-May 1947. It co-opted two members from the tribes of each of the districts visited. The Sub-Committee also received witnesses and representations from those districts and sub-divisions that it could not visit. The Bardoloi Sub-Committee submitted its report on July 28th, 1947. At the suggestion of the Chairman of the Advisory Committee, the two sub-committees met and submitted a joint report to the Advisory Committee on August 25th, 1947. The final recommendations of Advisory Committee were accepted on February 24th, 1948. The reports of the two sub-committees along with the draft constitution were formally placed in the Constituent Assembly¹³⁴.

A number of representations were made to the Bardoloi Sub-Committee from the Khasi and Jaiñtia Hills. J.J.M.Nichols Roy though a member of the sub-committee, also submitted a representation on his

¹³⁴ Chaube, S.K.: *op.cit.*, p.85.

proposed Khasi-Jaiñtia Federated State¹³⁵. This representation was a refined draft of the memorandum submitted to the Cabinet Mission in 1946. It stressed on the unification of all territories within the district of Khasi and Jaiñtia hills (including the 20 Nongwah Khasi villages consisting of about 400 houses which though falling within the Kamrup district lay within a territory contiguous to the Khasi Hills) into one unit, the Khasi-Jaiñtia Federated State having commensurate legislative, executive and judicial authority. The proposed State shall be federated with the Province of Assam and connected in certain subjects – technical education, medical and public health, provincial communications, exports and imports and in all other subjects in which the Province of Assam as a whole is connected with the Central Government of India¹³⁶. Macdonald Kongor, on the other hand who favored the position taken by the Khasi states, urged the Bardoloi Sub-Committee to recommend full autonomy to the Khasi states to administer themselves as a single unit under the Federation of Khasi States¹³⁷. Neither the Khasi states individually nor the Federation of Khasi States made any

¹³⁵ Roy, J.J.M. Nichols: Proposed Draft Constitution of a Part of Assam, namely, the Khasi and Jaintia Hills, Submitted to the Sub-Committee of the Advisory Committee for Minorities of the Constituent Assembly of India, pp.1-7.

¹³⁶ Roy, J.J.M. Nichols: *Ibid*, p.3.

¹³⁷ Lyngdoh, R.S.: *op.cit.*, p.197.

representation before the Bardoloi Sub-Committee. This is probably because of their simmering differences with J.J.M. Nichols Roy on the proposed administrative set up for the Khasi and Jaiñtia Hills. Further, the Khasi states were in touch directly with the States Department through the Governor of Assam and hence did not deem it necessary to engage in discussions with the Bardoloi Sub-Committee. The information gathered from the views and representations enabled the Bardoloi Sub-Committee to formulate a comprehensive draft proposal for the administration of the hill districts of Assam. The sub-committee sought to reconcile the hill people's demand for 'political' autonomy with the Assam government's drive to integrate them with the plains¹³⁸. This proposal, a result of the labor of Bardoloi, Nichols Roy and Rau (constitutional adviser to the Constituent Assembly) took its final shape as the Sixth Schedule of the Constitution of India. In this proposal, the Bardoloi Sub-Committee recommended the setting up of the District Council as the administrative machinery for the people in the hill districts of Assam. The District Council would be vested with certain powers and responsibilities. These include:

¹³⁸ Chaube, S.K.: *op.cit.*, p.100.

- a) Power to legislate over occupation and use of land except reserved forests;
- b) Control over *jhum* cultivation;
- c) Administration and codification of customary laws;
- d) Management of primary schools and dispensaries;
- e) Power to legislate over the use of land, village forests, agriculture, village and town management in addition to the administration of tribal and local laws;
- f) Power to introduce a licensing system to regulate the activities of money-lenders and traders.

The Bardoloi Sub-Committee further recommended allocation of certain taxes and financial powers to the District Council, establishment of Regional Councils in those districts inhabited by more than one tribe, representation of all hill areas in the Assam legislature on the basis of adult franchise, power of the Governor to declare an Act or resolution of the District Council null and void if it threatened the safety of the country and power of the Governor to dissolve any District Council when and if

necessary¹³⁹. The Bardoloi Sub-Committee submitted its report to the Chairman of the Advisory Committee on Minorities, Fundamental Rights, Tribal Areas etc., on July 28th, 1947. The Drafting Committee of the Constituent Assembly thereafter drafted the provisions of the Sixth Schedule on the basis of the recommendations of the Bardoloi Sub-Committee. The views of the Khasi states were not reflected in the proposal prepared by the Bardoloi Sub-Committee. Further, a discussion on the future position of the Khasi states was not undertaken by the Bardoloi Sub-Committee in its report. The Drafting Committee of the Constitution of India did not consult G.S.Guha, the representative of the Khasi states in the Constituent Assembly. When the draft Constitution was presented to the Constituent Assembly no administrative arrangements were made for the Khasi states in any of the provisions. The only mention is to be found in paragraph 19 of the draft Sixth Schedule which highlights the territorial composition of the proposed United Khasi and Jaintia Hills district.

¹³⁹ Lyngdoh, R.S.: *op.cit.*, pp.204-207.

THE DAWN OF INDEPENDENCE

The task of negotiating with the Khasi states was undertaken by Akbar Hydari, the Governor of Assam. In July 1947 the Federation of Khasi States sent two of its advisors, A.S.Khongphai and Mavis Dunn Lyngdoh to Delhi to brief A.S.Guha, its representative, at the Constituent Assembly. Both these members also met Sardar Vallabhai Patel who assured them that except for Defence, Foreign Affairs and Communication the Khasi states individually and the Federation of Khasi States would enjoy internal autonomy. During her visit to Delhi, Mavis Dunn also sought an appointment with the Viceroy to place before him the demands of administrative heads of the Khasi Hills with reference to the new Constitution for British India and the Indian states. This meeting however did not take place due to the Viceroy's pre-occupation with public engagements¹⁴⁰. On July 14th, 1947 Akbar Hydari proceeded to negotiate with representatives of the Khasi states to try and reach an agreement. These negotiations culminated with the Federation of Khasi States signing the Standstill Agreement on August 8th, 1947 a week before India's independence. They agreed that with effect from August 15th, 1947 all

¹⁴⁰ *Political Department and Ministry of States, 1947, File No. 34 – P.R., p. 48.*

existing administrative arrangements between the Province of Assam and the Indian Dominion on the one hand and the Khasi states on the other should continue to be in force for a period of two years or until new or modified arrangements would be arrived at between the authorities concerned. Certain expectations contained in this agreement gave the Khasi states judicial, administrative, legislative and revenue powers. The agreement also contained a provision which stated that all possible help should be given to facilitate the unification of all territories. All Khasi villages which decide to rejoin the Khasi state of which they formerly formed a part, should be allowed to do so. Other parts of British India-Khasi territory (that is, the British areas) should if they desired, be allowed to join the Federation as units¹⁴¹. The Standstill Agreement that was executed ensured that a new administrative arrangement was already set in place before paramountcy of His Majesty's government lapsed. Understanding the limitations of time Akbar Hydari ably executed the Standstill Agreement with a recognized organization, the Federation Khasi States, which had the larger following and acceptance at that point of time, despite the existence of several other organizations especially the Khasi and Jaiñtia Federated State National

¹⁴¹ Basan, LL.D.: *The Khasi States under the India Union*, Shillong, 1948, pp.1-3.
also Syiemlieh D.R. : *op.cit.*, p.197.

Conference which had a more comprehensive character and whose members were elected through suffrage. The first option would have been to incorporate the Khasi states into the province of Assam. As this suggestion would not have received their consent and may have even influenced separatism, the next step was to retain similar measures of control which had then been exercised by the Crown Representative through the Agency of the Assam Government¹⁴². This is reflective in the conditions set upon the Khasi states by the Standstill Agreement. The Khasi states also signed the Instrument of Accession in August 1947. These include Khyrim whose Instrument of Accession was signed by *U Olim Singh, Syiem* of Khyrim on August 9th, 1947 and Myllem whose Instrument of Accession was signed by *U Sati Raja, Syiem* of Myllem on August 14, 1947. Through this Instrument the Khasi states (which signed it before August 15, 1947) acceded to the Dominion of India (the new country that emerged after independence and partition) and agreed to abide by the terms and conditions set by the Instrument of Accession.

- a) The concerned Khasi state acceded to the Dominion of India on August 15th, 1947 and granted the respective authorities of the

¹⁴² *Political Department and the Ministry of States, 1947, File No.34 – P.R., op.cit.,p.2.*

Dominion to exercise any function vested in them through the Government of India Act, 1935.

- b) The signatory assumed the obligation of ensuring that provisions of the Act were made effective in his state.
- c) The signatory agreed to accept the conditions laid down in the Schedule of the Instrument of Accession which empowered the Dominion Legislature to make laws on certain subjects – Defence, External Affairs, Communications and Ancillary matters.
- d) The signatory also agreed to accept that if any agreement is executed between the Governor General of the Dominion and the ruler of the state, in regard to the implementation of any law of the Dominion Legislature, such an agreement will be deemed to be part of the Instrument of Accession.
- e) The Instrument of Accession shall not be amended either by the Indian Independence Act 1947 or any Act. Any amendment proposed will be acceptable only if it is inserted as a supplement Instrument to the Instrument of Accession.

- f) The Instrument of Accession recognizes absolute right of the Khasi state over its lands. Should the Dominion require acquisition of land, the signatory will acquire the said land for the Dominion on agreed terms.
- g) The Instrument of Accession shall not bind the signatory to unconditionally accept any future constitution of India nor shall it restrict the signatory to enter into new arrangements with the Government of India under any such future constitution.
- h) The Instrument of Accession shall also be binding on the heirs and successors of the concerned Khasi state.

On August 11th, 1947 G.S.Guha, Constitutional Advisor to the Khasi states received a telegram from the Secretary of the Federation of Khasi States, *Syiem* Jor Manik, with the following message, "Khasi states have signed Instrument of Accession to be dispatched by Air Mail. You are authorized to sign Standstill Agreement on their behalf"¹⁴³. He immediately requested the States Department to provide him with the forms of the Standstill Agreements so that he may proceed with the necessary

¹⁴³ *Political Department and the Ministry of States: op.cit.*, p.58.

authorization. In the meantime fourteen copies of the Instrument of Accession signed by the rulers of the Khasi states were dispatched to the Secretary, States Department India Union, New Delhi, on August 28th, 1947. The Secretary of the Federation of Khasi States informed the States Department that the remaining eleven copies of the Instrument of Accession have not been returned by the rulers of the respective states. The delay was a result of the difficulty of communication due to heavy rainfall. It emerged that some of the Khasi states were not inclined to accede to the Indian Union, but due to their proximity to the Sylhet district, were inclined to accede to the Pakistan Union. Thus, on August 15th, 1947, the Khasi states never became independent. Though suzerainty of British paramountcy lapsed, the paramountcy of the Dominion of India took its place. Paramountcy of the Dominion of India was neither transferred nor inherited from the British, rather it was born when the Khasi states acceded to this new Dominion and agreed to abide by the terms stipulated in the Standstill Agreement and the Instrument of Accession. The agreements signed during this period sought to maintain the status quo ante with the difference that the Khasi states now formed an integral part of the Dominion of India through administrative relations with the province of Assam. Akbar Hydari attended

the first function of the Federation of Khasi States on August 16th, 1947 as Dominion Agent of the Dominion of India. In his address he pointed out that the Federation of Khasi States represents only those Khasi states that freely joined the Federation. He suggested that those Khasi states which were outside the Federation were free to negotiate separately with Assam and with the Indian Union. He also suggested that in any engagement which the Khasi states enter with the Federation, their rulers must take the people into confidence. This will ensure that the proposed Federation which the people have elected or may elect in the future will have the requisite authority¹⁴⁴. The arduous task that lay ahead of the Ministry of States, (formerly the States Department), Dominion of India was to get all the twenty-five Khasi states to sign the Instrument of Accession. Intense communication followed between the Ministry of States and Akbar Hydari on the political and legal status of the Khasi states. It was suggested that certain concessions ought to be given to the Khasi states to wean away any idea of associating with neighboring Pakistan while at the same time dispelling any doubt that the Dominion of India was attempting to infringe upon and deny rights of at

¹⁴⁴Speech made by H.E. Sir Akbar Hydari, Governor of Assam, in reply to the Address of welcome by the Federation of Khasi States, on 16.8.47., *Political Department and the Ministry of States: op.cit.,p.24.*

least local autonomy to a tribal people. A revised Instrument of Accession in the new form was prepared by the Ministry of States in consultation with Akbar Hydari. On December 2nd, 1947 Akbar Hydari informed the Khasi rulers that he had brought with him the Instrument of Accession from Delhi and that they should sign it. It was agreed that all the rulers would assemble at the Governor's residence on December 15th, 1947 and individually sign the Instrument of Accession on behalf of their respective states. Thus, nineteen Khasi rulers executed the Instrument of Accession on December 15th, 1947 on behalf of their states¹⁴⁵. These included Khyrim, Myllem and Cherra amongst others. Six rulers executed the Instrument of Accession between January and March 1948. The last two rulers of the Khasi states of Rambrai and Nongstoin procrastinated and after veiled persuasion from the Dominion Agent finally relented and executed the Instrument of Accession on March 17th and 19th, 1948 respectively.

Through these agreements the Khasi states acceded to the Dominion of India but expressed their reluctance to merge. The rulers of the Khasi states expressed their inability to sign the Merger Agreement on the

¹⁴⁵ *White Paper on Indian States: op.cit.*, p.216.
also Shullai, L.G.: *Ki Hima Khasi*, (2nd Edn.) *op.cit.*, p.32.
Lyngdoh, R.S.: *op.cit.*, p.209.

contention that they were merely elected heads and had neither claim nor right over the control of land in their respective states. The refusal of these rulers to sign the Merger Agreement coupled with the hesitation of rulers of six Khasi states (Mawlong, Myriaw, Nobosohphoh, Nongspung, Nongstoin and Rambrai) to sign the Instrument of Accession on December 15th, 1947, necessitated Sardar Patel's presence in Shillong on 1-2 January 1948. Representations and deputations were made to him during his brief stay at Shillong. In their address of welcome to Sardar Patel, the Federation of Khasi States observed that the covenant (the Instrument of Accession and the Annex Agreement), "opens the way by which we can retain our time-honoured rights and privileges, promote and consolidate the political institutions laid down by our forefathers, and co-operate with other members of the Dominion for strengthening and shedding luster to the great Dominion of India"¹⁴⁶. In their address of welcome to Sardar Patel the Khasi States Peoples Union pointed out the popular belief "that Native States are strongholds of feudalism characterized by extreme affluence and indulgence on the part of the ruling families and by extreme poverty and ignorance on

¹⁴⁶Address of Welcome to The Hon'ble Sardar Vallabhai Patel, Deputy Prime Minister and Minister i/c Ministry of States, Dominion of India – Presented by the Federation of Khasi States, Shillong, 1948, *Political Department and the Ministry of States: op.cit.*,p.45.

the part of the people and that these States are impediments in the progress of India has never been and can never be tenable with reference to the Khasi States. On the other hand when compared with the other parts of the Province of Assam they have proved much more progressive”¹⁴⁷. The representation submitted by a deputation of the Khasi-Jaintia Federated State National Conference to Sardar Patel called for a more urgent and pragmatic approach to the administration of the Khasi and Jaintia Hills under new terms and conditions. It called for one united administration for both the twenty-five Khasi states and non-state areas, creation of an elected body to frame the constitution for this united administration, the placing of the draft proposal for such a constitution prepared by J.J.M.Nichols Roy before this elected body and the establishment of a District Council for the Khasi and Jaintia Hills. The representation also demanded that the proposed district should be given representation in the Assam Legislative Assembly¹⁴⁸. Curiously neither these addresses and representations made to Sardar Patel

¹⁴⁷Address of Welcome to The Hon’ble Sardar Vallabhai Patel, Deputy Prime Minister and Minister i/c Ministry of States, Dominion of India – Presented by the Khasi States Peoples Union, Shillong, 2nd January, 1948, *Political Department and the Ministry of States: op.cit.*, p.71.

¹⁴⁸A Representation submitted by the Deputation of the Khasi-Jaintia Federated State National Conference to the Hon’ble Sardar Vallabhai Patel, Deputy Prime Minister, Dominion of India on the 2nd January 1948 at Shillong, *Political Department and the Ministry of States: op.cit.*, pp.52-53.

nor his address at Shillong referred to the vexed issue of merger of the Khasi states. This issue ended in a stalemate as the rulers of the Khasi states were reluctant to change their affirmed stand. To them, any further discussion on the future position of the Khasi states within the framework of the new *Constitution of India* should be referred to their people.

While these uncertainties unfolded a number of legal steps were undertaken by the new government at New Delhi to give effect to the Instrument of Accession and subsidiary agreements that were arrived at between the Khasi states and the Dominion government. On August 15th, 1947 the Provisional Constitution Order was issued by the Governor-General. This order abolished all references to 'tribal area' and the distinction between 'India' and 'British India'. On August 27th, 1947 the Extra-Provincial Jurisdiction Ordinance (No. XV of 1947) was issued by the Governor-General. This Ordinance re-established retrospectively the severed links which resulted from the first order. Under this Ordinance two notifications were issued. The first notification, The Assam Tribal Area Order, 1947, confirmed and gave effect to every instrument that is, rule, notification, and order etc., issued under Section 313 of the Government of India Act, 1935. The second notification authorized the Governor of Assam

to continue to discharge his former functions in or in relation to the tribal areas on the frontiers of the Province of Assam as the Agent to the Governor-General of India-in-Council. Before the end of the year the Ordinance was made into an Act of the Dominion Legislature¹⁴⁹.

THE KHASI STATES CONSTITUTION MAKING DURBAR

Though the issue of merger of the Khasi states to the Indian Union remained unsettled yet the need to forge better ties was reaffirmed. Provisions of the Instrument of Accession were given effect to enable the Federation of Khasi States exercise its mandate under this agreement. In exercise of powers conferred by section 4 of the Extra Provincial Jurisdiction Act, 1947, the Ministry of States, Government of India issued a special notification on June 16th, 1948, the Khasi States Federation (Administration of Justice) Order. This notification empowered the Federation of Khasi States to establish its own competent court in the whole territory of the Khasi States Federation excluding the Shillong Administrative Areas. It also defined the criminal and civil jurisdiction to be

¹⁴⁹ Chowdhury, J.N.: *op.cit.*, p.362.

also Shullai, L.G.: *From British India to Bharat India*, Ri Lum Printing House, Shillong, 1999, pp.15-19.

administered by the Federation court, its subordinate courts and the State courts. This notification was made effective by the Governor of Assam from July 1st, 1948¹⁵⁰. On October 4th, 1948 the Ministry of States issued a Supplemental Notification to the Khasi States Federation (Administration of Justice) Order, 1948¹⁵¹. It was agreed that the place of the Khasi states under the new Constitution of India (which presently was being drafted) should be decided by the Khasi states themselves in confidence with the Dominion Agent. To this effect the Dominion Agent issued a notification providing for the establishment of a Khasi States Constitution Making Durbar. The representative character of this Durbar was not lost as it would comprise of all the heads of the Khasi states, elected members (from demarcated constituencies) through adult franchise and nominated members which included women. To mitigate the sharp differences of opinion that emerged between the Federation of Khasi States and the Khasi-Jaiñtia Federated State National Conference in the process of establishing the Khasi States Constitution Making Durbar, a joint meeting of representatives of different Khasi organizations was convened by the Dominion Agent on July 15th, 1948. This meeting was attended by the Dominion Agent,

¹⁵⁰ Basan, LL.D.: *op.cit.*, pp.12-19.

¹⁵¹ Syiemlieh, D.R.: *op.cit.*, p.203.

representatives of the Federation of Khasi States, Khasi-Jaintia Federated State National Conference, the Khasi States Peoples Union, and a number of officials¹⁵². A number of resolutions were passed at this meeting and rules for election and nomination of members were framed. The joint meeting reiterated its call to facilitate the early re-unification of all territories in the Khasi and Jaintia Hills under one system of administration. The elections to the Khasi States Constitution Making Durbar were held between December 1948 and February 1949. In most constituencies it was fought between candidates of the KJFSNC and the KSPU. The Khasi States Constitution Making Durbar comprised of eighty nine members, twenty five members were heads of the respective Khasi states, fifty six members were elected from fifty six constituencies demarcated across the twenty five Khasi states, while eight members were nominated. Among these nominated members were four men recommended by the Khasi States Constitution Making Durbar and four women recommended by the Governor of Assam. Myllem sent twelve members to the Khasi States Constitution Making Durbar. These included Sati Raja, the *Syiem* of Myllem and eleven elected members from eleven constituencies – O.H. Rease, G.G.Swell, A.Alley, Dinet Syiem, Jum

¹⁵² Giri, Helen: *op.cit.*, pp. 249-250.

Singh Syiem, Owenton Roy, B.Kharsohnoh, Sporso Manik Syiem, Hormo Roy, Hidon and Jin Ram Mikir. Khyrim sent thirteen members to the Khasi States Constitution Making Durbar. These included Olim Singh, the *Syiem* of Khyrim and twelve elected members from twelve constituencies – James Lyngdoh, Lonsing Lyngdoh, Soni Kharpraw, Wenly, H.Cotton, Jwen Singh, Dulir Singh Syiem, Jrem Singh, Kynjai, Treshon, Ron Singh and Nilip Shadap¹⁵³. The nominated members elected by the Khasi States Constitution Making Durbar were Rai Bahadur D. Ropmay, H.Lyngdoh, J.J.M.Nichols Roy and R.R.Thomas. The four women nominated by the Governor of Assam were B. Khongmen, B.Taylor, L.Shullai and Mavis Dunn. H.Lyngdoh was elected Chairman, R.R.Thomas, Vice-Chairman and Jor Manik, Secretary of the Khasi States Constitution Making Durbar respectively¹⁵⁴.

The inauguration of the Khasi States Constitution Making Durbar took place on April 29th, 1949 and was attended by the Governor of Assam, Sri Prakasa. In his address the Governor urged upon the Durbar to consider the possibility of including the Khasi states within the purview of the Sixth

¹⁵³Shullai, L.G.: *Khasi States Constitution Making Durbar*, Sawlyer Printing Press, Shillong, 1997, pp.3-4.

¹⁵⁴ Shullai, L.G.: *op.cit.*, p.4.

Schedule of the draft Constitution of the Dominion of India. The second session of the Khasi States Constitution Making Durbar was held between May 16-20th, 1949. The business transacted during these five days included election of nominated members, election of office bearers of the Durbar, a discussion of the rules of procedure and other related matters. The third session of the Khasi States Constitution Making Durbar was held between July 11-21, 1949. During the first few days the Durbar devoted itself mostly to procedural matters. On July 14th, 1949 J.J.M.Nichols Roy with the permission of the Chair, moved a resolution urging for the formation of a union and one united administration for the Khasi and Jaiñtia Hills, comprising of both the twenty-five Khasi states and the non-state areas, within the province of Assam. The next day G.G.Swell proposed an amendment to Roy's resolution urging the establishment of one administration for the above areas but to be directly connected with the centre. Roy's resolution suggested the election of an eighteen member Committee to negotiate the manner in which this proposed union and united administration could be ushered in, while Swell's amendment suggested a committee of fourteen members. Swell withdrew his amendments when the proposed amendment of the *Syiem* of Jirang was moved. This amendment,

an improvement of Swell's proposal, demanded for a united administration outside Assam which was possible under the provisions of the Instrument of Accession and the Draft Constitution of the Dominion of India. When the proposed amendment of the *Syiem* of Jirang was put to vote at the Durbar, the motion was carried by a majority of 46-40 in favour of those members who supported the Khasi states. When the resolution moved by Nichols Roy was put to vote it was defeated by a 40-46 margin. The Chairman of the Durbar then placed before the members the task of appointing a Negotiating Committee. At this point Nichols Roy and his supporters (numbering to forty) refused to further participate in the proceedings and staged a walk-out. The Durbar then proceeded to appoint a 16 member Negotiating Committee which included amongst others Olim Singh and Sati Raja¹⁵⁵. The decisions taken at the Durbar were sent to the Drafting Committee of the Constituent Assembly to reconsider a unified administration for both the Khasi states and non-state areas. A memorandum was submitted by the Negotiating Committee of the Constitution Making Durbar of the Khasi states at a conference to the Governor of Assam and the Acting Chairman of the Drafting Committee of the Constituent Assembly on November 5th, 1949.

¹⁵⁵ Shullai, L.G.: *Ki Hima Khasi, op.cit.*, p.18.

The Durbar requested the incorporation of the following provision in the Constitution of India, “Provided that nothing in this Constitution shall be construed as empower any authority neither to interfere with, or undermine the democratic institutions and the traditional customs and usages of the Khasis nor to diminish their traditional rights and privileges”¹⁵⁶. The Durbar wanted to ensure “the continuance of the democratic system of the Government peculiar to the Khasi people, as well as the protection of their sacred rights and special privileges over the soil and sundry other rights may be guaranteed”¹⁵⁷.

CASE NO. V OF 1949

While elections to the Khasi States Constitution Making Durbar were being held across the twenty five Khasi states between December 1948 and January 1949, Sati Raja, *Syiem* of the Myllem State filed a suit on February 2nd, 1949 against the Dominion of India and Another (the Province of Assam) in the Federal Court of India. This appropriately drafted suit reviewed the relations and subsequent developments between *Hima Myllem*

¹⁵⁶ Giri, Helen: *op.cit.*, p.259.

¹⁵⁷ *Ibid.*

and the Dominion of India and Province of Assam especially after August 15th, 1947. It noted the arbitrary manner in which the Dominion of India and the Province of Assam had exercised their jurisdiction, through various legislative measures, over *Hima Myllem*. This exercise of jurisdiction was in contravention to the terms set forth by the Instrument of Accession. The suit therefore declared that *Hima Myllem* was entitled to recover full sovereign rights, powers, functions, authorities and jurisdiction over all the territories formerly belonging to it. Further, the suit declared that all duties, taxes, revenues realized or levied by the Dominion of India and the Province of Assam within the territories of the Myllem state should be payable to it¹⁵⁸. This case put both the Dominion of India and the Province of Assam in a difficult position as it was legally well founded. The legal and administrative position of the Shillong Municipal area would have been the focal point of this case and would have put the government in a difficult situation. Moreover, both these authorities could not have expected a leading Khasi state to file a suit against them when negotiations were proceeding both at the central as well as the provincial level.

¹⁵⁸ *Case No.V of 1949 in the Federal Court of India, New Delhi, c.f. in L.G.Shullai, Ryngkat bad ka Hima Myllem, Scorpio Printers, Shillong, 1994, p.5.*

Efforts were made to arrive at a compromise and an agreement was reached on December 31st, 1949 between Sri Prakasa, the Governor of Assam and Sati Raja, the *Syiem* of Myllichem. The *Syiem* of Myllichem ultimately withdrew his case against the Dominion of India and the Province of Assam. Through this agreement the *Syiem* of Myllichem ceded to the Dominion Government all rights, jurisdiction and sovereignty over his state. Sati Raja was entitled to receive a monthly allowance of Rs.2500 per month as long as he was recognized *Syiem* of Myllichem. Further, no enquiry could be instituted against Sati Raja (except by the authority of the Governor of Assam) for anything said or done by him before the execution of this agreement. Such an agreement was never deemed necessary with the other Khasi states. The agreement executed individually by the *Syiem* of Myllichem further strengthened the resolution and decision taken in the Constituent Assembly to collectively bring the Khasi states within the Province of Assam.

THE SIXTH SCHEDULE AND THE CONSTITUENT ASSEMBLY

The twenty five Khasi states both individually as well as collectively did not have resolute backing in the Constituent Assembly. The Sixth Schedule had been incorporated in the Draft Constitution in 1948 itself, even before the elections to the Khasi States Constitution Making Durbar were held. Nichols Roy was strongly in favor of the Sixth Schedule which included many concerns highlighted in his proposed draft constitution for the Khasi and Jaiñtia Hills Federated State. G.S.Guha who was also the representative of the Khasi states in the Constituent Assembly did not appear to have supported the stand of the Federation of Khasi States. The second reading of the Sixth Schedule was taken up on September 5-6, 1949. Strong observations were raised in the Constituent Assembly on the inclusion of the Sixth Schedule in the Constitution of India. Kuladhar Chaliha was against the inclusion of the Sixth Schedule when he said, "If you see the background of the Schedule you will find that the British mind is still there. There is the old separatist tendency and you want to keep them away from us"¹⁵⁹. Brajeshwar Prasad was also opposed to the creation of the District Council. He refused to be "a party to dividing Assam" and was not willing to

¹⁵⁹ *Constituent Assembly Debates*, Vol.IX, p.1008.

jeopardize the interest of India at “the alter of the tribals”¹⁶⁰. To him the idea of District Council “will lead the establishment of another Pakistan in this country”¹⁶¹. Rohini Kumar Choudhury was a staunch supporter of assimilation. In his address in the Constituent Assembly he remarked, “We want to assimilate the tribal people. We were not given that opportunity so far”¹⁶². He further questioned the rationale of the Sixth Schedule by adding, “Do you want an assimilation of the tribal people or do you want to keep them separate. If you want to keep them separate, they will combine with Tibet, they will combine with Burma, they will never combine with the rest of India, you may take it from me”¹⁶³. On the other hand a number of members supported the formation of the District Council. They appreciated the effort that had been put in by the Bardoloi Sub-Committee in the preparation of the Sixth Schedule. Jaipal Singh observed that, “It was after considerable difficulty and negotiations that the tribal people of Assam were persuaded to agree to the recommendations”¹⁶⁴. Similarly A.V. Thakkar noted that “The Committee tried its best and put forward the proposal which was acceptable not only to the Committee but also to the various tribes

¹⁶⁰ Constituent Assembly Debates, Vol.IX, *op.cit.*, p.1009.

¹⁶¹ *Ibid.*

¹⁶² *Ibid*, p.1005.

¹⁶³ *Ibid*, p.1015.

¹⁶⁴ *Ibid*, p.1017.

themselves – I mean this system of autonomous districts”¹⁶⁵. J.J.M.Nichols Roy strongly supported the spirit behind the Sixth Schedule. He justified the creation of the District Council as a special system of administration for the hill people who observed better culture and better policy than people of the plains. He also argued that the District Council would satisfy the hill people. He noted that, “To keep the frontier areas safe, people must be kept in a satisfied condition”¹⁶⁶. He was particularly happy that the Khasi states had been incorporated in the Sixth Schedule. In his address at the Constituent Assembly he remarked, “I am glad also Sir, that the Khasi States have been incorporated in the Sixth Schedule for that will enable the same people of the District of Khasi-Jaintia Hills and the Khasi States to have one administration. I am thankful to all those who have helped in this matter”¹⁶⁷. The Chairman of the Sub-Committee, Gopinath Bardoloi strongly supported the Sixth Schedule. To him the constitution of the District Council in the

¹⁶⁵ *Ibid*, p.1019.

¹⁶⁶ Constituent Assembly Debates, Vol.IX, *op.cit.*, p.1020.

¹⁶⁷ Constituent Assembly Debates, Vol.XI, pp.708-711.

also accessed through

[http:// 164.100.24.209/news/constituent/vol11p6.htm](http://164.100.24.209/news/constituent/vol11p6.htm) on 5.02.09.

tribal areas would enable the tribal people to come closer to the people of the rest of the country¹⁶⁸.

Another discussion ensued on September 7th, 1949 when the Chairman of the Drafting Committee, B.R.Ambedkar moved an amendment to paragraph 19, sub-paragraph (2) of the Sixth Schedule of the draft Constitution which states, “The United Khasi-Jaintia Hills District shall comprise the territories which before the commencement of this Constitution were known as the Khasi States and the Khasi and Jaintia Hills District, excluding any areas for the time being comprised within the cantonment and municipality of Shillong, but including so much of the area comprised within the municipality of Shillong as formed part of the Khasi State of Myllem: Provided that for the purposes of clauses (e) and (f) of sub-paragraph (1) of paragraph 3, paragraph 4 and paragraph 5 and sub-paragraph (2), clauses (a), (b) and (d) of subparagraph (3) and sub-paragraph (4) of paragraph 8 of this Schedule, no part of the area comprised within the municipality of Shillong shall be deemed to be within the District”¹⁶⁹. The discussion on this proposed amendment centered around two basic issues.

¹⁶⁸ Constituent Assembly Debates, Vol.IX, *op.cit.*,p.1010.

¹⁶⁹ *Ibid*, p.1057.

also accessed through

<http://parliamentofindia.nic.in/ls/debates/vol9p28a.htm> on 4.02.09.

The first issue was concerned with the inclusion, of the Myllem state areas falling within the Shillong Municipality, within the framework of the Sixth Schedule, while the second issue was concerned with the inclusion of the Khasi states within the purview of the Sixth Schedule. Participating in the discussions on the first issue Hriday Nath Kunzru expressed his reservations on the proposed inclusion which also received the concurrence of Rohini Kumar Choudhury and Kuladhar Chaliha. B. Das was very critical of this proposed amendment, “which disfranchises the civil liberties of the people of the Shillong Municipality and makes the people of the educated class depend on primitive people. Sir, I hate the provision of the Sixth Schedule whereby you are perpetuating primitive conditions of life.....”¹⁷⁰. B.R. Ambedkar brought to the notice of the members the legal complications that arise under the new provisions of paragraph 19 of the Sixth Schedule. The part of the Myllem state which is included in Shillong will form part of the United Khasi-Jaintia Hills District. Under the new provisions of paragraph 19 this part of the Myllem state will be subject to two separate jurisdictions – the territorial jurisdiction of the Shillong Municipality and that of the United Khasi-Jaintia Hills District. This double jurisdiction of one area

¹⁷⁰ Constituent Assembly Debates Vol.IX, *op.cit.*, p.1077.

might come in conflict in future. To mitigate such a possibility it was necessary to include a provision to sub-clause (2) of paragraph 19. The issue of including the Khasi states within the purview of the Sixth Schedule received the concurrence at the second reading. It is however surprising that the representative of the Khasi states at the Constituent Assembly, G.S.Guha did not participate in the discussions. When this proposed amendment of B.R. Ambedkar was put to motion, it was accepted. Thus, paragraph 19 became paragraph 20 of the Sixth Schedule as passed by the Constituent Assembly on November 26th, 1949¹⁷¹. This resolution adopted on September 7th, 1949 approved the creation of the United Khasi-Jaiñtia Hills District comprising the territories which before the commencement of the Constitution were known as the Khasi states and non-state areas¹⁷². Till this time there still had been no indication that the proposed United Khasi-Jaiñtia Hills District would be part of Assam. Any changes to this paragraph would have been made between the second and the third reading of the draft Constitution of India. The First Schedule of the draft Constitution relevant to

¹⁷¹ Paragraph 16 A was inserted in the Sixth Schedule and when approved by the Constituent Assembly it became paragraph 17. This necessitated every subsequent paragraph in the Schedule to move by a single numerical i.e. paragraph 17 thus became paragraph 18, paragraph 18 thus became paragraph 19 and so on.

¹⁷² Constituent Assembly Debates, Vol. IX, *op.cit.*, p.1078.

the State of Assam in its final form read as, "The territory of the State of Assam shall comprise the territories which immediately before the commencement of this Constitution were comprised in the Province of Assam, the Khasi States and the Assam Tribal Areas". How the Khasi states were merged without their consent and approval is a constitutional anomaly that remains unanswered but from which many possible inferences may be conjectured. Speaking at the third reading of the draft Constitution of India on November 21st, 1949, Muhammad Sa'adulla insightfully remarked, "Sir, the Khasi Hills have been relegated to the Sixth Schedule for which Rev. Nichols-Roy is very thankful, but there is a constitutional anomaly. Although the Constituent Assembly is not to find a remedy for that, yet I must sound a note of warning that this small district of Khasi Hills embraced 25 Native States most of which had treaty rights with the Suzerain power in Delhi. They were asked to join the Indian Dominion in 1947. Instruments of Accession accompanied by an agreement were executed by these Chiefs and they were accepted by the Central Government. But though even this area has been included in the Sixth Schedule, up till now no agreement or settlement has been arrived at between the Constituent Assembly of the Federation of the Khasi States and the Assam Government or the

Government of India”¹⁷³. He added that *Syiem* Olim Singh, the President of the Federation of Khasi States had led a delegation to Delhi in early November, 1949 to press their grievances before the States Ministry as well as the Drafting Committee. These grievances pertained to two issues – retention of the democratic system of electing native Chiefs by all their people in their respective territories through adult franchise, and preservation of their ancient sacred rights of ownership of land which may be eroded by section 3 of the Sixth Schedule. In a concerned note he added “I know that these Khasi people are late in the day and nothing can be done at the third reading but I request those honourable members who will continue to be Members of the Constituent Assembly even after the 26th January 1950 to see that this wrong of the Khasi people is righted in no time, for the contentment and peace of this area will greatly conduce to the safety and preservation of the boundaries of the Indian Dominion”¹⁷⁴. The draft Constitution of India was adopted on November 26th, 1949 and the Constituent Assembly was adjourned till January 26th, 1950. With the Constitution firmly in place the Khasi states had no alternative left from which they could seek redress to their political aspirations. On January 25th,

¹⁷³ Constituent Assembly Debates, Vol. XI, *op.cit.*, p.735.

¹⁷⁴ Constituent Assembly Debates, Vol. XI, *op.cit.*, p. 735.

1950 all documents and properties of the Federation of Khasi States were seized by the Government of Assam. This was the result of an order passed by the Governor of Assam, the Khasi States (Administration of Justice) Order, 1950, passed on January 25th, 1950. This order extended to the whole of the Khasi states excluding the Shillong Administered Areas. It cancelled the Khasi States Federation (Administration of Justice) Order, 1948 as well as its Supplemental Order, 1948. The Order entrusted criminal and civil justice to the Deputy Commissioner, the Additional Deputy Commissioner, Khasi and Jaiñtia Hills District, his Assistants and to the Court of the *Syiems* of the Khasi states. Further, this Order changed the offices of the Dominion Agent, Khasi states, Assistant to Dominion Agent, Khasi states and the Court of the Khasi Federation to the offices of the Deputy Commissioner, Khasi and Jaiñtia Hills District, Assistant to the Deputy Commissioner, Khasi and Jaiñtia Hills District and the Court of the Deputy Commissioner, Khasi and Jaiñtia Hills District, respectively¹⁷⁵. The Khasi States (Administration of Justice) Order, 1950 continued to operate till it was repealed by the United Khasi-Jaiñtia Autonomous District (Administration

¹⁷⁵ Shullai, L.G.: *Ki Hima Khasi*, *op.cit.*, pp.37-49.

of Justice) Rules, 1953¹⁷⁶. When the Constitution of India came into force on January 26th, 1950 the Khasi states were constitutionally reconciled to the provisions of the Sixth Schedule. The Khasi states were for practical purposes reconciled to the provisions of the Sixth Schedule only after 1952 when elections to the House of the People, to the Legislative Assembly of Assam and to the District Council of the United Khasi-Jaiñtia hills district were held and in which people from both the Khasi states and non-state areas participated.

RECONCILED TO PROVIDENCE

The Khasi states witnessed the unification of all territories in the Khasi and Jaiñtia Hills under one administration which was however far from what they had conceptualized. Their position and authority were relegated to the background to make way for the establishment of an authority more democratic and progressive with the times. In their relations with Delhi they were unable to strike a balance between negotiating with the Ministry of States on the one hand and the Constituent Assembly on the

¹⁷⁶ Lyngdoh, R.S.: *op.cit.*, p. 234.

other. They had directed all their attention in negotiating with the Ministry of States through the Dominion Agent so much so that the path to negotiating with the Constituent Assembly was left open for the other political aspirations to pursue. These political aspirations were effectively pursued by J.J.M. Nichols Roy who as a member of the Bardoloi Sub-Committee and of the Constituent Assembly decisively supported the incorporation of the Sixth Schedule to the proposed Constitution of India. The Sixth Schedule would accord recognition to his proposed Khasi-Jaiñtia Federated State but under a new administrative arrangement - the establishment of a tribal dominated district within the Province of Assam where demarcated constituencies would return elected representatives and where the provision of nominating non-tribal citizens and women would also be included.

The Khasi States Constitution Making Durbar also failed to arrive at a negotiated settlement with the Ministry of States even at the critical juncture when the draft Constitution of India was taken up at the Second Reading. The Khasi states failed to oppose the insertion of paragraph 20 in the Sixth Schedule which finalized their reconciliation with the province of Assam. A number of legal and political questions which emerged from this particular

decision remained unanswered. On what legal basis were the Khasi states outrightly merged with Assam when they had not appended the Instrument of Merger? The provisions of the Instrument of Accession as well as those of the Standstill Agreement were in force having been given effect through various legal enactments, when the draft Constitution was adopted. In addition, no new or modified arrangements were arrived at to redefine the constitutional relationship between the Khasi states and the Dominion of India. This is also the reason why no notification was published as was done with other states which merged with the Dominion of India. Similarly, no proclamation was issued by the Khasi states that they had accepted the Constitution of India as was done by other Union of States as in the case of Patiala and East Punjab, Travancore – Cochin and Saurashtra. The Khasi states were unable to transcend the political traditions that bound them for centuries. These traditions were challenged by the more progressive political traditions that had taken shape in the hills, visible in representative democracy through electoral politics determined by universal suffrage. The Khasi states had also failed to consider the observations made by different authorities on the need to take their citizens into confidence especially when crucial decisions were to be adopted. The Cabinet Mission statement had

emphasized that the states need to “take active steps to place themselves in close and constant touch with public opinion in their State by means of representative institutions”. In his address to the Federation of Khasi States on August 16th, 1947 Akbar Hydari made an insightful observation when he remarked, “ we are now living in an age when power derived from hereditary rights counts for much less than power based on the consent of the people, coming within the sphere of its authority”¹⁷⁷. The inability of the Khasi states to gauge these eventful signs resigned them to a subordinate status far from what they had conceived and worked for. Lacking an accommodative character as far as tradition was concerned, the Khasi states could not prove a rallying and unifying force for the Khasi people. Differences within the Federation were visible as all the Khasi states were not members of the Federation. Akbar Hydari noted that “the Federation of Khasi States can only represent those Khasi States who have freely joined the Federation. Those who wish to remain outside are free to do so and negotiate separately with Assam and the Indian Union”¹⁷⁸. Moreover, even those states that were members of the Federation took conflicting stands

¹⁷⁷ Speech made by H.E. Sir Akbar Hydari, Governor of Assam, in reply to the Address of Welcome by the Federation of Khasi States, on 16.8.47, *Political Department and the Ministry of States: op.cit.*, p.24.

¹⁷⁸ *Ibid.*

thereby affecting the collective unity of the Federation. The *Syiem* of Myllem individually filed a suit against the Dominion which ultimately brought about a compromise and certain entitlements in his favor. The resignation of the *Sordar* of Mawlong from the Negotiating Committee of the Khasi States Constitution Making Durbar also affected the collective unity of the Khasi states. Another issue which affected the struggle of the Khasi states was limited funds. Most of the Khasi states were small and had limited financial resources, barring Myllem. The *Syiem* of Myllem bore the maximum financial burden as far as negotiations were concerned. Taking this lack of unity among the Khasi states to their advantage, the representatives to the Constituent Assembly from Assam as well from the Khasi and Jaintia Hills pressed forward for a political arrangement which reconciled these traditional political institutions to a status of subordinate importance.

CHAPTER III

CONSTITUTIONAL POSITION OF THE KHASI STATES AFTER 1950

The dawn of an independent India strengthened by the inauguration of a new Constitution which had embodied, amongst other features, special provisions for the administration of tribal areas of the erstwhile Assam, further affected the cause of the Khasi states. Two events in particular diverted the citizens' attention from the cause of the Khasi states – first, the inauguration of the Autonomous District Councils effected through electoral politics, and second, the emergence of the movements demanding statehood for the territory which came to be known as Meghalaya.

The spirit of the Sixth Schedule was intended to put in place “an institutional innovation of effecting decentralization of power”¹ right down to the level of the village, always bearing in mind the interests of the tribal communities at hand. Thus, the broad considerations guiding this spirit were:

¹ Gassah, L.S.: ‘The Sixth Schedule and the 73rd Amendment: An Analysis’, in M.N.Karna, (Ed.), *Power to People in Meghalaya*, Regency Publications, New Delhi, 1998, p.6.

- a) the necessity to maintain the distinct customs, socio-economic and political culture of the tribal people of the region and to ensure autonomy of the tribal people and to preserve their identities;
- b) the necessity to prevent their economic and social exploitation by the more advanced neighbouring people of the plains;
- c) to allow the tribal people to develop and administer themselves according to their own genius².

The Autonomous District Council (hereafter the ADC) is the third tier, in tribal areas designated in the Sixth Schedule to the Constitution of India, in the Indian federal structure reflective of an integrative principle. The Autonomous District Councils are intended to incorporate their predominantly tribal populations, as communities, into the Indian state³. The Autonomous District Councils were intended to provide tribal communities with a platform to politically integrate into the mainstream multicultural Indian nation while simultaneously upholding the preservation and continuity to these communities' ethos, in short, protective integration.

² Gassah, L.S.: 'The Sixth Schedule and the 73rd Amendment: An Analysis', in M.N.Karna, (Ed.), *Power to People in Meghalaya, op.cit.*,p.4.

³ Stuligross, David: 'Autonomous Councils in Northeast India: Theory and Practice', in D.L. Sheth: *Alternatives: Social Transformation and Humane Governance*, Vol.24, No.4, Oct.-Dec. 1999, Lynne Rienner Publishers, USA, 1999, p. 497.

When the Indian Constitution came into force on January 26th, 1950, six regions⁴ comprising a large part of the North-East of India were designated as autonomous districts each of which was empowered to establish its own Autonomous District Council. The Khasi and Jaiñtia Hills district was one such designated autonomous district. Since the Autonomous District Council for this district was yet to be constituted, an Advisory Council was immediately formed on May 24th, 1950 by the Governor of Assam, for the creation of the Autonomous District Council in accordance with the provisions of the Sixth Schedule. This Advisory Council consisted of twenty members - the Deputy Commissioner of the district (ex-officio Chairman of the Advisory Council), Olim Singh, *Syiem* of Khyrim, two ladies Bonily Khongmen and Mavis Dunn, Larsingh Khyriem, Homiwell Lyngdoh, R.R. Thomas, Wilson Reade, H.Phillip, A.Alley, P.Lewis, T.Cajee, G.G.Swell, Horen Jones, R.K.Tariang, Sorendro Bareh, Rostanwell, S.R. Laloo, Kat Shallam and Kistobin Rymbai⁵. In October 1951, the Governor of Assam in exercise of the powers conferred by paragraph 2(6) of the Sixth Schedule made the Assam Autonomous District

⁴ These regions were The United Khasi-Jaiñtia Hills District, The Garo Hills District, The Lushai Hills District, The Naga Hills District, The North Cachar Hills and The Mikir Hills.

⁵ Khasi Hills Autonomous District Council, Golden Jubilee (1952–2002) *Souvenir*, Don Bosco Press, Shillong, 2003, p.8.

(Constitution of District Councils) Rules 1951 vide Notification No.TAD/R/23/51 dated October 15th, 1951. These rules are the basic guidelines under which Autonomous District Councils function till today⁶. The Government of Assam framed rules under paragraph 2 of the Sixth Schedule of the Constitution of India for the autonomous districts as specified in Part A of the table appended to paragraph 20 of the Sixth Schedule⁷. The first United Khasi-Jaiñtia Hills Autonomous District Council was inaugurated on June 27th, 1952 by the Governor of Assam. This Autonomous District Council comprised the entire geographical areas (except the municipality and cantonment areas of Shillong) of the erstwhile Khasi and Jaiñtia Hills District. For the first time the Khasi states and former British areas were brought together under one administration⁸. The United

⁶ *Assam and Meghalaya Autonomous Districts: Constitution of District Councils Rules, 1951*, (as amended by the Khasi Hills Autonomous District Council), Ibani Printing Press, Shillong, 1997, p.1.

also *Assam And Meghalaya Autonomous Districts (Constitution Of District Council) Rules, 1951 (Parts I, II & III)* as amended by The Khasi Hills Autonomous District Council, accessed through

<http://khadc.nic.in/misc/AD%20Rules.pdf>. on 8.03.09.

Phira, J.M.: *The Autonomous District Councils of Meghalaya under the Sixth Schedule of the Constitution of India*, Kamala Art Press, Shillong, 1993, p.3.

⁷ Bhattacharjya, U.: *Local Government in Khasi Hills*, Vivek Publishing Company, Delhi, 1980, p.53.

⁸ In 1964, the Jowai subdivision was separated from the United Khasi-Jaiñtia Hills Autonomous District and it was constituted into an autonomous district with its own District Council. The first session of the Jowai Autonomous District Council was held in April 8th, 1967. This ADC has been renamed the Jaiñtia Hills Autonomous District Council.

Khasi-Jaiñtia Hills Autonomous District Council comprised of twenty four members, eighteen were elected from eighteen demarcated constituencies and six were nominated by the then Government of Assam. In the 1952 District Council elections two regional political parties, the Khasi-Jaiñtia Federated State Conference and the Khasi-Jaiñtia Durbar fielded candidates in the said constituencies. The Khasi-Jaiñtia Federated State Conference won eight seats while the Khasi-Jaiñtia Durbar won four, six seats were won by independent candidates. The six nominated members included three tribal members and three non-tribal members. The procedure of nomination of members was done away with by United Khasi-Jaiñtia Autonomous District Council (Second Amendment) Act, 1957. However, it was reintroduced by the Assam Reorganization (Meghalaya) Act, 1969⁹. By 1972, the number of members in the Autonomous District Council rose to thirty and has remained since.

Electoral politics and its concomitants have conditioned the outcome of Autonomous District Councils in Meghalaya where keenly contested

⁹ The Assam Reorganization (Meghalaya) Act, 1969 was enacted by Parliament to provide for the formation of an Autonomous State, Meghalaya, within the State of Assam. The Autonomous State of Meghalaya comprised of the Garo Hills District and the United Khasi-Jaiñtia Hills District. After the passing of the North-Eastern Areas (Re-Organisation) Act, 1971 the full-fledged State of Meghalaya was formed.

electoral battles are waged by national, state and region-based political parties to capture power in the Autonomous District Councils. The formation of the executive committees of the ADCs has been largely influenced by the government formation in the State. Coalition politics in the State of Meghalaya has been responsible for the ascent and collapse of numerous governments even within a five year span. This unstable process of government formation has had a cascading effect on the executive composition of the Autonomous District Councils as well.

Today there exist three Autonomous District Councils in Meghalaya, the Jaiñtia Hills Autonomous District Council (hereafter JHADC), the Khasi Hills Autonomous District Council (hereafter KHADC) and the Garo Hills Autonomous District Council (hereafter GHADC). Each Autonomous District Council in Meghalaya comprises of thirty members, twenty nine members elected from designated constituencies on the basis of universal adult franchise through periodically (five year) held District Council elections, and one member is nominated by the Governor of Meghalaya. The Khasi Hills Autonomous District Council (in 2009) after the declaration of the electoral results in all the 29 constituencies stood as follows:

NAME OF PARTY	NUMBER OF SEATS WON
UNITED DEMOCRATIC PARTY	11
INDIAN NATIONAL CONGRESS	08
KHUN HYNÑIEWTREP NATIONAL AWAKENING MOVEMENT	04
HILL STATE PEOPLES' DEMOCRATIC PARTY	03
NATIONALIST CONGRESS PARTY	02
INDEPENDENT	01
TOTAL	29

ORGANS OF AUTONOMOUS DISTRICT COUNCILS

The Assam Autonomous District (Constitution of District Councils) Rules, 1951 provide the framework for the administration of Autonomous District Councils. These Rules have been amended by respective Autonomous District Councils to meet administrative exigencies of time. To carry out the provisions of the Sixth Schedule, Autonomous District Councils have three organs of administration – the legislative, the executive and the judicial. The legislative organ of an Autonomous District Council comprises of all the elected members and one nominated member who take an oath of office similar to that prescribed in the Third Schedule of the

Constitution of India. The legislative organ has a Chairman and Deputy Chairman who are appointed from among the elected members. The Chairman conducts the proceedings to this legislative body and in his/her absence the proceedings will be conducted by the Deputy Chairman. In addition, the legislative organ of an Autonomous District Council also has a Secretary who is the Chief Official of the Autonomous District Council. The Secretary assists the Chairman and the Deputy Chairman in discharging their administrative functions. The proceedings of the Autonomous District Council legislature are conducted in accordance with standard parliamentary practice. The provisions under which the Autonomous District Councils can make laws are contained in paragraph 2(7), 3, 4, 6, 8 and 10 of the Sixth Schedule. Autonomous District Councils are empowered to legislate on a range of subjects relating to land usage for economic development, establishment of a framework for the administration of village councils and town committees, establishment of a framework for the codification of social practices and establishment of a framework to regulate the appointment and succession of chiefs or headmen. There are two categories of law that Autonomous District Councils can make. The first category as specified in paragraphs 4(4) and 6 of the Sixth Schedule require the previous approval of

the Governor of the particular state. The second category as specified in paragraphs 2(7), 3, 8 and 10 of the Sixth Schedule do not require the previous approval of the Governor of that particular State. The laws, rules and regulations made by an Autonomous District Council under the Sixth Schedule should be published in the Official Gazette of the state, only then can they have the force of law¹⁰.

The executive organ of the Autonomous District Council functions as the government in the autonomous district. It comprises of an Executive Committee headed by a Chief Executive Member (hereafter CEM) and a number of Executive Members (hereafter EMs). As the composition of the Autonomous District Councils is conditioned both by electoral and party politics, the CEM of the Executive Committee is normally the leader of the single largest party in the Autonomous District Council. Other Executive Members are appointed by the Governor on his/her advice. The present strength of the Executive Committee in the Khasi Hills Autonomous District Council is ten. Autonomous District Councils have amended the Rules of 1951 to increase the number of Executive Members and to also add a new categories of members in the Executive Committee (such as Deputy Chief

¹⁰ Phira, J.M.: *op.cit.*, pp.13-17.

also L.S.Gassah (Ed.): *The Autonomous District Councils*, Omsons Publications, New Delhi, 1997, p.62.

Executive Member and Deputy Executive Member) due to compulsions of political alliances. The executive powers of the Autonomous District Council are vested in this Executive Committee. Hence, each Executive Member is entrusted with specific subjects which are allocated by the CEM. The Autonomous District Council is entrusted with the responsibility of constituting a District Fund to which shall be credited all revenue received by it. An Executive Member will be entrusted with the responsibility of managing the District Fund. In addition to the CEM and EMs, the Executive Committee also has a Secretary who should not be a member of the District Council. The Secretary functions as the head of office. He is assisted by a number of officials and technical staff. The Executive Committee is collectively responsible to the Autonomous District Council and may be removed by a vote of no confidence passed by a majority of the members of the Autonomous District Council at a meeting specially convened for the purpose¹¹.

The judicial organ of the Autonomous District Council has been created in accordance with paragraph 4 and 5 of the Sixth Schedule.

¹¹ *Assam and Meghalaya Autonomous Districts: Constitution of District Councils Rules*, 1951: *op.cit.*, p.10.

also J.M. Phira, : *op.cit.*, pp.20-26.

L.S.Gassah(Ed.): *Autonomous District Councils*, *op.cit.*, pp.62- 63.

Autonomous District Councils gave effect to these paragraphs by enacting their own rules for the administration of justice. The United Khasi-Jaintia Hills Autonomous District (Administration of Justice) Rules were framed in 1953. Under these rules the United Khasi-Jaintia Hills Autonomous District constituted three classes of courts – a) Village Courts b) Subordinate District Council Courts and Additional Subordinate District Council Courts c) District Council Court. The village courts comprise of traditional heads and functionaries at the village level. The traditional head functions as the Chairman while one of the functionaries as the Vice Chairman. Crimes of a petty nature falling within the jurisdiction of the village are tried by the village courts. The Subordinate District Council Courts and Additional Subordinate District Council Courts function as courts of appeal. They are presided over by a judicial officer designated as a magistrate who is appointed by the Executive Committee of the Autonomous District Council with the approval of the Governor¹². The courts of the Khasi traditional administrative heads (*ki Syiem, ki Lyngdoh*) function as Additional Subordinate District Council Courts. In accordance with the United Khasi-

¹² Phira, J.M.: *op.cit.*, p. 30.

also E. Jyrwa: *Administration of Justice in the Khasi Hills*, Akansha Publishing House, New Delhi, 2006, pp.69-72.

L.S.Gassah (Ed.): *Autonomous District Councils, op.cit.*, p.63.

Jaiñtia Hills Autonomous District (Administration of Justice) Rules, 1953, the Court of the *Syiem* of Myllem has been invested with the powers of a first class Magistrate while the Court of the *Syiem* of Khyrim has been invested with the powers of a second class Magistrate¹³. The Subordinate District Council Courts and Additional Subordinate District Council Courts can try cases between parties residing within their jurisdiction and such cases not tried by village courts. The District Council Court lies at the apex of this three tier judicial structure. It consists of one or more judges appointed by the Executive Committee with the approval of the Governor. This Court functions both as a court of appeal for lower courts as well as a court of original jurisdiction.

RELATIONS BETWEEN THE *SYIEM* AND THE AUTONOMOUS DISTRICT COUNCIL

After its creation in 1952, the United Khasi-Jaiñtia Hills Autonomous District Council undertook steps to legislate on various provisions of the Sixth Schedule. It is in the exercise of such legislation in the form of Acts,

¹³ Barooah, D.: *Administration of Justice in Meghalaya*, Law Research Institute, Guwahati, 2001, p.100.

Rules and Regulations that differences between the Autonomous District Council and the traditional heads such as *ki Syiem*, *ki Lyngdoh* came to the fore of public debate and scrutiny. The said Autonomous District Council passed the United Khasi-Jaiñtia Hills Autonomous District Council (Management and Control of Markets) Act, 1953 under paragraph 6 and 8 read together with paragraph 3(1) (a) of the Sixth Schedule. This Act affirmed that all markets within the District were under the control of the United Khasi-Jaiñtia Hills Autonomous District Council. The said Autonomous District Council made elaborate provisions for the regulation and control of the different classifications of markets. Such a step on the part of the Autonomous District Council would ultimately lead to a clash of interests and of authority over the regulation of already existing markets formerly under the control of traditional heads. *Iew Duh*¹⁴ also known today as *Bara Bazar*, in Shillong, was once the principal market of *Hima Myllem* as well as of the Khasi and Jaiñtia Hills. The day-to-day activities at this open market have been conducted in accordance with customary practices. With the passage of time and the presence of a mixed population in the town of Shillong, trade and commerce in this once tribal market grew rapidly. The

¹⁴ *Iew Duh*, a term of local origin implies the final market, *ka Iew Khatduh* in the Khasi calculation of an eight day market week. It is the largest market in the upland areas of the Khasi and Jaiñtia Hills.

scope of business and revenue expanded beyond the confines of customary practices. The *Syiem* of Myllem and his council as well as local traders driven by commercial motives, have been responsible for 'de-regulating' the customary market practices observed in this market. Over the decades *Iew Duh* has seen the construction of permanent and concrete stalls in place of temporary stalls, the unregulated practice of sub-letting stalls owned by Khasi traders to non-Khasi traders and even the conversion of open spaces primarily used as waiting areas by villagers, to permanent stalls for monetary benefit. The United Khasi-Jaiñtia Hills Autonomous District Council (Management and Control of Markets) Act, 1953 passed by the United Khasi-Jaiñtia Hills Autonomous District Council paved the way for it to intervene in the trade and commercial affairs of *Iew Duh*. The dispute over control of this principal market finally necessitated the intervention of the court. The application of this Act and subsequent litigation at both the High Court and the Supreme Court addressed the primary issue of whether the United Khasi-Jaiñtia Hills Autonomous District Council had territorial jurisdiction over *Iew Duh* or not. In the case of *Ka Drepsila Lyngdoh versus the District Council, United Khasi- Jaiñtia Hills* [Civil Appeals Nos. 1475 &

1476 (NCM) of 1969]¹⁵ the then Assam and Nagaland High Court observed that the said District Council had no jurisdiction, administrative or otherwise over the area known as *Bara Bazar* area comprised within the Mawkhar village and in the South east Mawkhar Ward of Shillong Municipality. The United Khasi-Jaintia Hills Autonomous District Council appealed to the Supreme Court against this order. After a lengthy and considered court battle the Division Bench of the Supreme Court passed its judgement stating that the jurisdiction of the District Council extends to the above mentioned areas¹⁶. This observation of the Supreme Court confirmed the authority of the District Council over *Bara Bazar* and weakened the traditional position held by the *Syiem* of Myllem over *Iew Duh*. This tussle for administrative patronage and financial returns continues between these two authorities over a religious market whose composition and activities have witnessed tides of change which have eroded long established customs and practices.

To regulate trade and commercial activities of a growing category of non-tribal traders within the district, the Autonomous District Council passed the United Khasi-Jaintia Hills District (Trading By Non-Tribals)

¹⁵ Khasi Hills Autonomous District Council, Golden Jubilee (1952 – 2002) *Souvenir: op.cit.*, p.88.

¹⁶ Khasi Hills Autonomous District Council, Golden Jubilee (1952 – 2002) *Souvenir: Ibid.*

Regulation, 1954¹⁷. Under this Regulation non-tribal traders are required to obtain a trading license from the United Khasi-Jaiñtia Hills Autonomous District Council to enable them to trade in the Autonomous District. The United Khasi-Jaiñtia Hills Autonomous District Council could not implement this Regulation smoothly as it was engaged in a series of legal battles through the decades that followed. First, it took the case of *Ka Drepsila Lyngdoh* versus the District Council, United Khasi-Jaiñtia Hills, to finally settle and affirm the territorial jurisdiction of the United Khasi-Jaiñtia Hills Autonomous District Council. Second, the non-tribal merchants of *Bara Bazar* filed a case against the Khasi Hills District Council in 1975, *Bara Bazar Merchants' and Shop Keepers Association versus Khasi Hills District Council and Others* (Case No.8394 of 1987), contending that the District Council had no jurisdiction to apply the Trading by Non-Tribals Regulation, 1954 over the *Bara Bazar* area as it was not a part of the territory as defined in paragraph 20 of the Sixth Schedule. They prayed that the said Regulation be struck down. The Division Bench of the Gauhati High Court after hearing the case was of the opinion that the arguments made were not tenable and thereby dismissed the petition. The petitioners appealed

¹⁷ *The United Khasi-Jaiñtia Hills District(Trading By Non-Tribals)Regulation, 1954 & The United Khasi- Jaiñtia Hills District(Trading By Non-Tribals)Rules,1959* (as amended), Ibani Printing Press. Shillong, 1991, p.1.

against the decision of the High Court before the Supreme Court but their petition was also dismissed¹⁸. The authority of the United Khasi-Jaiñtia Hills Autonomous District Council was once again confirmed in a court of law. However, these litigations affected the ability of the United Khasi-Jaiñtia Hills District Council to execute its constitutional obligation as they stretched over periods ranging from nine to ten years. Further, the relations between the United Khasi-Jaiñtia Hills Autonomous District Council and the office of the *Syiem* of Myllem have also been strained on account of regulation of the commercial activities pertaining to *Iew Duh*. Pending litigation with the United Khasi-Jaiñtia Hills Autonomous District Council necessitated the non-tribal traders to turn towards the *Syiem* of Myllem for permission to trade at *Iew Duh*. Such permission was readily granted at a small fee prompting these traders to rely more on the authority of this traditional political institution than on that of the United Khasi-Jaiñtia Hills Autonomous District Council. Such inevitable consequences of market driven activities aggravate the strained relations between the two authorities. While the United Khasi-Jaiñtia Hills Autonomous District Council wanted to enjoy the patronage and financial returns from control over this market, the

¹⁸ Khasi Hills Autonomous District Council, Golden Jubilee (1952-2002), *Souvenir: op.cit.*, pp.88-89.
also J.M.Phira: *op.cit.*, pp.57-58.

Syiem on the other hand was unwilling to give up the authority and privilege that he traditionally enjoyed from these markets under local customs and usages. In this tussle of control over financial resources, proper management and accountable administration of *Iew Duh* suffered a casualty. On the other hand, the markets¹⁹ customarily held under the jurisdiction of the *Syiem* of Khyrim did not witness such acrimony in the Autonomous District Council because they were primarily small, generating meager revenue and run by the local populace. For decades the Khasi Hills Autonomous District Council has not held the *Syiem* of Khyrim accountable for defaulting in paying one-eighth of the market revenues to it. The contention of *Hima* Khyrim is that since the revenues from these markets are so meager to even cover basic expenses of the *Hima*, the same cannot be apportioned for the Khasi Hills Autonomous District Council.

Another area which received considerable attention of the public was paragraph 3(1)(g) of the Sixth Schedule which relates to the power of the United Khasi-Jaintia Hills Autonomous District Council to make laws with

¹⁹ The four principal markets are *Iew Smit*, *Iew Mawhati*, *Iew Mawryngkneng* and *Iew Mawlyngngot*.

respect to the appointment or succession of Chiefs²⁰ or Headmen. This provision transferred the former supervisory functions held by the Deputy Commissioner under the British administration, to the United Khasi-Jaiñtia Hills Autonomous District Council. The Acts, Regulations and amendments passed by the United Khasi-Jaiñtia Hills District Council, the Khasi Hills Autonomous District Council as well as the subsequent judicial pronouncements finally confirmed the impending political premonition of the status of the Khasi states under the newly enacted Constitution of India. The United Khasi-Jaiñtia Autonomous District Council passed a resolution on March 31, 1953 which stated that till such time that a law was made by the District Council for the appointment of Chiefs in any *Syiemship*, *Lyngdohship*, *Sirdarship*, etc. in the District, “the customary practice in vogue in each *Syiemship* etc. up to the time when the Constitution came into force shall be followed by the Executive Committee, in making appointment therein”²¹. The United Khasi-Jaiñtia Hills Autonomous District Council’s authority over the administrative heads of the Khasi states was complete with the passing of the United Khasi-Jaiñtia Hills Autonomous District

²⁰ The term ‘Chief’ has been used by the Autonomous District Council to refer to heads of traditional political institutions of the Khasi community such as *Syiem*, *Lyngdoh*, *Wahadadar* and *Sirdar*.

²¹ Nengnong, J: *Ka Dulir Jong Ka Hima Myllem*, Ri Khasi Press, Shillong, 1987, p. 83.

(Appointment of Chiefs and Headmen) Act, 1959²². This Act²³ laid down detailed provisions for scrutinizing the functioning of the Khasi states principally through the method of appointing, removing and conduct of the Chiefs. The implementation of this Act has on numerous occasions brought the two authorities, that is, the Autonomous District Council and the Chiefs at loggerheads over their jurisdictions as defined by law and tradition, respectively. Again it was the judiciary that played a crucial role in confirming the jurisdiction of the Autonomous District Council.

In 1951, Jormanik Syiem was appointed *Syiem* of Myllem in accordance with the customs and practices prevailing in *Hima Myllem*. In 1959 the *Syiem* was called upon by the United Khasi-Jaintia Hills Autonomous District Council to answer certain charges against him of mal-administration and dereliction of duties. Failing to answer to these charges and to personally appear before the said Autonomous District Council, he was suspended by the United Khasi-Jaintia Hills Autonomous District

²² After subsequent amendments this Act came to be known as The United Khasi-Jaintia Hills Autonomous District (Appointment and Succession of Chiefs and Headmen) Act, 1959. On April 15, 1991 the Khasi Hills Autonomous District Council passed the sixth amendment to this principal Act. Henceforth, it came to be known as the Khasi Hills Autonomous District (Appointment and Succession of Chiefs and Headmen) (Sixth Amendment) Act, 1991.

²³ *The United Khasi-Jaintia Hills Autonomous District (Appointment And Succession of Chiefs and Headmen) Act, 1959, (As Amended)*, Khasi Hills Autonomous District Council, Ibani Printing Press, Shillong, 1995, pp.1-21.

Council on July 7, 1959. The *Syiem* approached the Assam High Court (Case No. C.A.394 of 1960) and obtained a stay order from the Assam High Court against the order of the United Khasi-Jaiñtia Hills Autonomous District Council. Delivering its judgement in this case the High Court noted that the suspension of the *Syiem* should not be given effect to as it was not supported by law. The Executive Committee of United Khasi-Jaiñtia Hills Autonomous District Council appealed to the Supreme Court against this order of the High Court. The Division Bench of the Supreme Court after reviewing all historical and legal aspects of the case, set aside the order of the High Court. It confirmed the power of the Executive Committee of the United Khasi-Jaiñtia Hills Autonomous District Council to remove and suspend the *Syiem* of Myllem²⁴. This landmark decision of the Supreme Court was also reflective of the relations that the other Khasi Chiefs shared with the Autonomous District Council. In delivering its judgement in this particular case the general observations that emerged were –

²⁴Phira, J.M.: *op.cit.*, pp.63-68.

also Khasi Hills Autonomous District Council, Golden Jubilee (1952-2002) *Souvenir: op.cit.*, pp.86-86.

Report of the Commission of Inquiry On Autonomous Districts Administration in The State of Meghalaya, Vol.I, 1984, p.9.

- a) The Chief was no more than an administrative officer appointed by the District Council under paragraph 2(4) of the Sixth Schedule and working under its control.
- b) Once the powers of appointment fall within the power of the administration of the district the power of removal of officers and others so appointed would necessarily follow as a corollary.
- c) The Governor in the first instance and the District Council thereafter were vested with the power to carry on the administration and this included the power to appoint and remove the personnel for carrying on the administration²⁵.

It has been observed that whenever the Autonomous District Council exercised its legal authority under provisions of this Act of 1959, to remove the Chief from office, the aggrieved Chief has always resorted to judicial recourse. *U Franciswell Syiem*, the *Syiem* of Myllem was suspended by the Khasi Hills Autonomous District Council on the basis of a complaint received against him. The *Syiem* of Myllem challenged this suspension order in the Gauhati High Court. The Court quashed this suspension order passed by the KHADC permitting the restoration of Franciswell Syiem as the *Syiem* of Myllem. The KHADC once again approached the Supreme

²⁵ Phira, J.M.: *op.cit.*, pp.67-68.

Court against the order of the High Court. The Supreme Court upheld the suspension order of the *Syiem* of Myllichem and directed the KHADC to complete the inquiry proceedings within three months. The inquiry into the charges framed against U Franciswell Syiem were found to be true and he was removed as the *Syiem* of Myllichem²⁶.

It is interesting to observe that in the case of *Hima* Khyrim the present *Syiem* has never been suspended since his coronation in 1978. The relations between the *Hima* and the Khasi Hills Autonomous District Council remain cordial. This particular Khasi principality is still rooted in traditions as far as administration and governance of the *Hima* are concerned. The *Syiem* and his Council, *ki Bakhrav* never deviate from customary practices and hence do not invite the attention of the KHADC. Differences between the *Bakhrav* and the *Syiem* in matters of statecraft are amicably settled in the *Dorbar Synshar* and do not spill over to the office of the KHADC. Moreover, the revenue generated by this principality is very small compared to the revenue generated by *Hima* Myllichem. Under such circumstances the KHADC has not found cause or opportunity to interfere with the smooth functioning of the *Hima* and its representatives.

²⁶ Khasi Hills Autonomous District Council, Golden Jubilee (1952-2002) *Souvenir: op.cit.*, pp.89-90.

CONSTITUTIONAL POSITION AFTER 1950

With the inauguration of the Indian Constitution a gigantic task commenced in building and operating a legal framework for the country, as expressed in its provisions. The Autonomous District Councils were first inaugurated in Assam in 1952. Thus, a period of two years had passed between the inauguration of the Constitution of India and the expression of its intentions as contained in the Sixth Schedule. Article 372 of the Constitution of India ensured that no administrative vacuum existed in such a situation when it stated, “all the laws in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent legislature or any other competent authority”²⁷. The Supreme Court (AIR 1965 A.C.1061) held that the expression “law in force” in Article 372 of the Constitution of India not only included statutory law but also custom or usage having the force of law. In another judgement (1973 S.C. 99) the Supreme Court held that the expression “territory of India” in Article 372 meant not only British India but also Indian states. Thus, when an Indian

²⁷ Bakshi, P.M.: *The Constitution of India*, (7th Edn.), Universal Law Publishing Co. Pvt. Ltd., Delhi, 2006, p.317.

state merged to the Indian Dominion, all institutions and offices functioning in that state under any law or custom continued till they were modified or replaced by the competent authority²⁸. This interpretation also applied to Khasi states whose traditional heads functioned in accordance with customary law and continued to do so even after the inauguration of the Constitution of India till the establishment of a competent authority in 1952 as provided for in the Sixth Schedule. In an order No.TAD/R/23/51/14 dated November 8th, 1951 which was subsequently published in the Assam Gazette, dated November 14th, 1951, it was stated that no traditional chief either a *Syiem*, a *Sordar*, a *Lyngdoh*, a *Wahadadar*, a *Dolloi* or a *Tymmen Shnong* is to be considered a salaried employee of either the Government of Assam or the District Council²⁹. The competent authority created which amended, altered customary law as observed by the traditional heads of Khasi states was the United Khasi-Jaiñtia Hills Autonomous District Council. This competent authority was also empowered to make laws under various provisions of the Sixth Schedule. After the inauguration of the United Khasi-Jaiñtia Hills Autonomous District Council, the Khasi states

²⁸ Report Of The Commission of Inquiry On Autonomous Districts Administration In The State Of Meghalaya, Vol.1: *op.cit.*, p.47.

²⁹ Sutnga, E.K.S.: *Ki Riti Ki Dustur Ka Jaidbynriew Hynñiewtrep Bad Ka Shedul ba Hynñriew*, S.M.S. Hi Tech Impression, Shillong, 2000, pp.43-44.

were once again relegated to a position of less significance. The functions performed by, matters dealt with and powers held by their respective traditional heads were now to be administered with the concurrence and approval of the Autonomous District Council. The subsequent Acts and Regulations passed by the United Khasi-Jaiñtia Hills Autonomous District Council brought the Khasi states under its supervision and control. The Khasi states resisted this supervision and control either by turning a blind eye to the enactments of the Autonomous District Council or by taking recourse to the intervention of the judiciary. A strong sentimental attachment to and an overbearing influence of customary law prevented them from accepting inevitable changes in the administration of the United Khasi-Jaiñtia Hills Autonomous District Council. It took the judgement of the Supreme Court to reiterate that after the coming into force of the Constitution of India, the Chiefs lost whatever ruling or administrative powers they had by the merger of these twenty-five states in Assam and the governance of these states was to be carried on according to the provisions of the Sixth Schedule. Further, in the same case the Supreme Court observed that the *Syiem* of Myllem was an administrative officer appointed by the Autonomous District Council. This implied the relegated position of all the

twenty-five traditional heads of the Khasi states in general. This is the position under which the Khasi states have continued to exist since 1950.

THE FORMATION OF THE STATE OF MEGHALAYA

The creation of the United Khasi-Jaiñtia Hills Autonomous District Council and subsequently the Khasi Hills Autonomous District Council politically and administratively affected the standing and position of the Khasi *Syiem*. The important role that these traditional authorities once played in Khasi society was further relegated to the background when new events unfolded in the hill districts of Assam and which particularly affected the United Khasi-Jaiñtia Hills district. The inauguration of the United Khasi-Jaiñtia Hills Autonomous District Council did not receive a unanimous approval by the local populace but was met with a large demonstration led by Hoover Hynñiewta against the nomination of three non-Khasi members to the Autonomous District Council. Further, the reorganization of the Khasi National Durbar ensured that personalities sympathetic to the cause of the traditional authorities, *ki Syiem*, held key positions in the organization. The Khasi National Durbar submitted a memorandum to the Prime Minister of

India, Jawaharlal Nehru on his visit to Shillong on October 19th, 1952. This memorandum for the first time raised the specific demand for the unification of all the hill areas of Assam under one administration. It opposed the proposal to make Assamese the state language of Assam. It noted that such a move will be a considerable burden on the hill tribes who presently have to learn English and Hindi in addition to their vernacular language³⁰. Thus, within two years of the inauguration of the Constitution of India a growing sign of discontentment was visible among the hill districts of Assam. This discontentment was destined to spread when actual difficulties in the operation of the Sixth Schedule began to emerge. A meeting convened by the Chief Executive Member of the United Khasi-Jaintia Hills Autonomous District Council B.M. Roy, of all the Autonomous District Councils³¹ met at Shillong on June 16-17, 1954 to discuss matters of concern. Roy's address to the members stressed on two important issues – the formation of a separate Hill State and amendment of the Sixth Schedule. This meeting ultimately resolved to demand for a separate state for all the hill areas of Assam to be

³⁰Lyngdoh, R.S.: *Government and Politics in Meghalaya*, New Delhi, Sanchar Publishing House, 1996, p.307.

³¹The Mikir Hills District Council expressed its inability to participate in this meeting.

called the Eastern Hill State³². This demand was further strengthened at the Tura Conference³³ called by W.A.Sangma, Chief Executive Member of the Garo Hills District Council, on October 6-8, 1954. This conference submitted a memorandum to the States Reorganisation Commission (hereafter SRC) demanding for a Hill State. To support this demand the memorandum noted that the autonomy given to Autonomous District Councils under the Sixth Schedule was not real and substantial. Historically, there were no ties, political, social, cultural or emotional which bound together people of the plains with people of the hills. The memorandum further stated that the Assamese people were making every effort to impose their language and culture on the hill people. The memorandum also provided a brief sketch of the structure of the proposed Hill State. The Khasi National Durbar also submitted a memorandum to the States Reorganisation Commission demanding the creation of a separate Hill State comprising of all the hill areas of Assam. The Government of Assam was however critical of this demand made by various organizations. In its submission before the States Reorganisation Commission it pleaded for the integration of all contiguous regions into a Greater Assam. This proposed state would include

³² Rao, V.V.: *A Century of Tribal Politics in North East India 1874-1974*, S.Chand & Company Ltd., New Delhi, 1976, p.337.

³³ This conference is also called the Assam Hills Tribal Leaders' Conference.

the areas within the whole of the Eastern Himalaya sub-region comprising of Assam, Manipur, Sikkim, the districts of Darjeeling, Jalpaiguri, Cooch Behar, North East Frontier Agency (hereafter NEFA) and all Autonomous Districts including Naga Hills. Though the States Reorganisation Commission was vague in addressing this demand for the creation of a Hill State yet its observations in its report indicate its position on the issue. The SRC appears to have been weighed by two considerations – small states should not be created; and the security of the frontiers should not be affected³⁴.

The demand for a separate Hill State was carried on by the Eastern India Tribal Union³⁵ (hereafter EITU) especially in the Autonomous District of Khasi-Jaintia Hills. Ensuing elections in the hill districts of Assam provide regional organizations and parties the appropriate opportunity to raise this issue. In the parliamentary elections of 1957 the Eastern India Tribal Union candidate, Hoover Hynñiewta, defeated his Congress rival G.G.Swell by a comfortable majority. Similarly, in the assembly elections of 1957, the Eastern India Tribal Union, the Garo National Council and the

³⁴Rao V.V.: *op.cit.*, p.347.

also Lyngdoh, R.S.: *op.cit.*, p.320.

³⁵The Eastern India Tribal Union formed in October 1953 was the successor of the Assam Hill Tribal Union which was earlier formed in December 1952.

United Mizo Freedom Organisation won ten out of fifteen seats in Assam. In the United Khasi-Jaintia Hills, three seats went to the Eastern India Tribal Union while two seats went to independent candidates. Similarly in 1958 United Khasi-Jaintia Hills district council elections, the Eastern India Tribal Union won an overwhelming majority of seats. The electoral success of the Eastern India Tribal Union did give a fillip to the Hill State demand but the internal differences within the organization were responsible for its collapse and in its place the All Party Hill Leaders' Conference (hereafter APHLC) was born. Till 1960, the demand for a Hill State lacked coherence due to the interplay of conflicting opinions of its proponents who belonged to different tribal groups across the North-East region. In most of the discussions and meetings, members from the Mikir and North Cachar Hills did not participate. However, it was the language issue or the language politics of Assam that brought together leaders of various hill tribes under a common platform. On June 23rd, 1960 the Chief Minister of Assam, B.P.Chaliha announced that the Official Language Bill, declaring Assamese as the State language, would be introduced in the Assembly. On July 6-7, 1960 W.A.Sangma called a conference of leaders of all hill parties to discuss this issue. The conference unanimously resolved to oppose the Official

Language Bill and to form the All Party Hill Leaders' Conference to address this issue. This party carried the struggle for a separate hill state forward through agitations, organization and education of the electorate till this objective was achieved. At its third Conference on November 16-18, 1960 the All Party Hill Leaders' Conference demanded separation from Assam. It resolved to send a delegation to meet the Prime Minister of India, Jawaharlal Nehru, to press with its demands. This Conference also adopted a constitutional and administrative set up for its proposed now re-named Eastern Frontier State which would include the tribal areas of Assam and NEFA and the Cantonment and Shillong Municipality. An All Party Hill Leaders' Conference delegation went to meet Jawaharlal Nehru on November 24th and then on November 26th, 1960, the result of which was the offer of the Scottish Pattern of administration for the hill districts of Assam. The Scottish Pattern was rejected by the APHLC for it granted the hill districts only partial administrative separation from Assam and was also silent on the language issue. The APHLC did not lose time to push forward with their objective despite changing political equations in the hills³⁶. They met the Prime Minister of India on October 4-5, 1963. The result of their

³⁶In 1962, four of their eleven MLAs had defected to the Congress. The APHLC then lost two of the seven bye-elections they had contested in 1963. Further, in 1963 the Mizo Union broke away from the APHLC and demanded a separate state for Mizoram.

discussions was a modified blueprint of the Scottish Pattern which came to be known as the Nehru Plan. The proposals suggested in the Nehru Plan were more extensive than those suggested in the Scottish Pattern. Further, the Nehru Plan suggested the appointment of a Commission to thoroughly examine the details of the administrative set-up for the hill areas. Thus, the Pataskar Commission was appointed on March 16th, 1965 to recommend a detailed scheme for reorganizing the administrative set-up of the hill areas with the intention of conferring full autonomy to the hill areas while at the same time preserving the unity of the State of Assam. The precarious balance which the Commission had to maintain while examining the said issues at hand, ultimately ensured that it fell short of expectations. The APHLC rejected the Pataskar Commission's recommendations which according to it were partisan, based only on information supplied by the Government of Assam and which fell short of the proposed plan of full autonomy. The APHLC reiterated its demand for the creation of a separate Hill State for the hill areas of Assam and prepared itself to undertake a non-violent agitational movement. On January 13th, 1967 the Government of India announced the Federal Plan. This Plan proposed to reorganize the State of Assam on the basis of a federal structure which would confer to the hill

areas equal status with the rest of the State of Assam. Initiated by the Government of India (Home Ministry), this Plan witnessed a joint discussion between the Government of Assam and the APHLC at New Delhi on July 1st, 1967. The meeting did not yield any positive results forcing the APHLC to once again contemplate large scale non-violent agitation.

On September 11th, 1968, the Government of India announced its plan to reorganize the State of Assam and to create an autonomous Hill State. This proposed autonomous Hill State would be separated from Assam for all purposes except for a few subjects (such as police) of mutual advantage which would be under the purview of the Assam Assembly and administered by the Government of Assam. To give effect to this proposal the Parliament of India passed the Twenty Second Amendment of the Constitution of India, on December 24th, 1969, also known as the Assam Reorganisation (Meghalaya) Bill, 1969. This Bill received the assent of the President of India on December 29th, 1969 and thus formed the Autonomous State of Meghalaya within the State of Assam comprising the United Khasi-Jaintia Hills District and the Garo Hills District as defined in the Sixth Schedule³⁷. Though the people of the above mentioned districts had received a

³⁷The Autonomous State of Meghalaya was inaugurated by the Prime Minister, Indira Gandhi at the Garrison Ground, Shillong on April 2, 1970. The Mikir Hills and North Cachar Hills did not join this new State.

substantial degree of autonomy under the most acceptable plan put forward by the Government of India till then, their desire was nothing short of a full fledged state. The leaders of the All Party Hill Leaders' Conference waited for an opportune moment to raise this issue of a full fledged state. On September 3rd, 1970 the Government of India announced that Manipur and Tripura would be raised to the status of states. The announcement provided the APHLC leadership with an opportunity to once again raise the issue with the Prime Minister and the Government of India. Their objective was fulfilled when on November 10th, 1970 the Prime Minister announced on the floor of the Lok Sabha that the Government has decided to accept in principle Meghalaya's demand for statehood. The North-Eastern Areas (Re-organisation) Act, 1971 provided for the reorganization of the State of Assam, the establishment of the States of Manipur and Tripura, the formation of the State of Meghalaya and the formation of the Union Territories of Mizoram and Arunachal Pradesh.

POSITION OF KHASI TRADITIONAL HEADS

In this ocean of political and territorial transformation that moved the Khasi Hills, the Khasi traditional political institutions and their leaders realized that they would inevitably be swept by these events which had eventually shifted public focus and opinion to new political challenges and to new emerging classes of interests. The Khasi *Syiem*, *Lyngdoh*, *Sirdar* faced a formidable challenge in the emerging middle class whose political ambition and political destiny were vastly different from those of the traditional political institutions and which reflected a 'trans-tribal'³⁸ character. To maintain a hold over this evolving and politically active Khasi society these traditional heads unsuccessfully sought the patronage of the emerging Autonomous District Council through its representatives and also through political organizations such as the Khasi National Durbar, sympathetic to this cause. Atiar Singh Syiem, former *Syiem* of Mawiang was elected for only one term to the first United Khasi-Jaiñtia Hills District Council in 1952 from the Umkrem-Mairang constituency. Similarly Bormanik Syiem, the brother of former *Syiem* of Myllem, Jormanik Syiem,

³⁸ Leaders of the Khasi and Jaiñtia Hills were willing to closely work with leaders of the Garo Hills, Mikir Hills, North Cachar Hills and the Mizo Hills to mobilize support and opinion in favour of a separate hill State from Assam.

was elected only for one term to the first United Khasi-Jaintia Hills District Council in 1952 from the Myllem constituency. The former *Syiem* of Myllem, Jormanik Syiem contested and won the Nongpoh Legislative Assembly seat in the bye-election of 1957 as an independent candidate when the tide of public opinion had temporarily turned against the Eastern India Tribal Union for abandoning the statehood demand.

The demand for a separate Hill State which gained momentum in the early 1960s continued for over a decade. During this phase the articulation of political interests was harnessed and expressed by the All Party Hill Leaders' Conference. The traditional political institutions of the Khasi Hills were left with no alternative but to support the mass movement for a separate Hill State with the hope that their interests would be secured and maintained in the proposed framework. In their memorial to the President of India on June 15th, 1968 the heads of the Khasi traditional political institutions noted, "the proposed and impending re-organisation of the State of Assam to give our Hill Areas a separate administration is a step which is desirable and welcomed to fulfill the aspirations of the Hill peoples to enable them to continue to live and grow in their own traditions, customs and

usages”³⁹. The memorial further stated that the terms and conditions of their agreements with the Dominion of India which “were never modified nor any new arrangement made so far between the parties thereto, be not lost sight of and should and ought to be respected and given full effect to in the re-organisation of the Administrative Set-Up of these hill areas, and that the rights of all the Khasi Syiemships and of the people living therein as envisaged by the solemn agreement executed, should be fully protected and preserved”⁴⁰. Reiterating their relevance in contemporary society the memorial further noted, “The Syiemships functioning in the Khasi Hills have their foundations and basis on the people and the continuation of the aforesaid Institution and Organisations are absolutely essential in order to preserve the Khasi way of life based on their ancient traditions, customs and usages, thereby allowing them ‘to grow in their own genius and roots’ as assured by our late lamented Prime Minister – Pandit Nehru”⁴¹.

The inauguration of the new State of Meghalaya did not see any legal or constitutional improvement in the status of the traditional political

³⁹ The Humble Memorial of the Khasi Tribal Chiefs and the Representatives of the Khasi People inhabiting in the Khasi Hills, on the North East of India, at present attached to the State of Assam, 1968, Shillong, p.3.

⁴⁰ *Ibid.*

⁴¹ *Ibid.*, p.4.

institutions. They continued to exist as they did after the creation of the Autonomous District Council. No effort or initiative was undertaken either by the state government or by the KHADC to recognize their contributory role to the society. These traditional political institutions continued to exist amidst the adversity of modern democracy, revered by their declining number of steadfast denizens and proponents. Despite these odds, a sympathetic view to their plight was never too distant to be contemplated. Addressing the Meghalaya Day (January 21st) celebrations in Shillong in 1989, the Chief Minister P.A.Sangma observed that the State Government was keen to protect, strengthen and raise the status of indigenous institutions of Meghalaya such as the *Syiemships*, *Doloiships* and *Nokmaships*. These remarks were reiterated at the Meghalaya Legislative Assembly when the Governor, Bhisma Narain Singh in his inaugural address on February 24th, 1989 noted, "Government are committed to preserve and strengthen the tribal institutions like Nokmaship, Syiemship, Doloiship, etc., and are taking steps to enhance their, dignity, honour and status. A high powered Committee has been constituted to go into this question and to provide for closer association of the tribal institutions in helping the State administration in checking infiltration of unauthorized persons and in the more effective

implementation of the welfare schemes”⁴². Earlier on February 22nd, 1989 the State Government of Meghalaya issued a notification setting up a high powered committee to look into this particular issue. The members of this committee were the Chairman, B.B.Lyngdoh, Members – O.L.Nongtdu, P.R.Kyndiah and A.Sangma and Member-Secretary- J.M. Phira⁴³. While the state government initially appeared concerned, its efforts to carry forward this issue felt short of expectations. This high powered committee never carried forward its intended mandate as no sittings were held. In a recent letter⁴⁴ to the Chief Minister of Meghalaya, *Ka Dorbar Ki Nongsynshar Ka Ri Hynñiewtrep*, that is, the Assembly of *Hynñiewtrep* Nations brought to his notice this attempt made by the Government in 1989 to look at this issue. It appealed to the State Government of Meghalaya to re-constitute a High Power Committee to address the concerns of the indigenous institutions of Meghalaya. Till date the Government of Meghalaya has not responded positively to this request.

⁴²Address by Shri Bhisma Narain Singh, Governor of Meghalaya, Meghalaya Legislative Assembly, February 24, 1989, pp.13-14.

⁴³Ka Shithi, “Ha ki Khlieh Synshar jong ka Ri Khasi”, Ri Khasi Press, Shillong, 1989, p.1.

⁴⁴Letter to, Dr. Donkumar Roy, Chief Minister of Meghalaya, 24th April, 2009, Shillong, p.1.

CHAPTER IV

DEMAND FOR CONSTITUTIONAL RECOGNITION

The United Khasi-Jaiñtia Hills Autonomous District Council¹ legislated on a number of subjects under provisions of the Sixth Schedule. These legislations affected the position and administration of the Khasi traditional heads, *ki Syiem*, *ki Lyngdoh*, *ki Sirdar* who till 1950 had been vested with new administrative and legal responsibilities, a result of implementing the provisions of the Instrument of Accession. The effect of the principal legislations such as the United Khasi-Jaiñtia Hills Autonomous District (Management and Control of Markets) Act, 1953 and the United Khasi-Jaiñtia Hills District (Trading by Non-Tribals) Regulation, 1954 did not bring to the forefront the strain in the Autonomous District Council-*Syiem* relations compared to the United Khasi-Jaiñtia Hills Autonomous District (Appointment and Succession of Chiefs and Headmen) Act, 1959. This is partly because pending litigation in the courts slowed down the

¹ With the formation of Meghalaya and subsequently, the renaming of bifurcated districts as the Khasi Hills District and the Jaiñtia Hills District in 1973, the respective District Councils came to be named as the Khasi Hills Autonomous District Council and the Jaiñtia Hills Autonomous District Council.

procedure of applying these Acts, Regulations and Rules and partly because the Khasi Hills Autonomous District Council itself was not capable of implementing them. Traditional heads often bypassed the authority of the Khasi Hills Autonomous District Council and such instances went unnoticed or firm measures were not taken to address these irregularities. The principal legislation that gained the attention of the public was the United Khasi-Jaintia Hills Autonomous District (Appointment and Succession of Chiefs and Headmen) Act, 1959. This legislation brought to the forefront the clash of authority, interests and objectives between the KHADC and the traditional heads and also brought to the fore the power play of politics. In exercising paragraph 6 of this Act, the KHADC suspended traditional heads of a number of Khasi principalities, *ki Hima* Khasi through various orders and defended its actions on the basis of conditions laid down in the said Act. The traditional heads and their Councils resisted these attempts citing various instances of customary law and most often knocked on the doors of justice as the final arbiter to this often seen 'tug-of-war'. The immediate result of litigation was the interim stay order which permitted the reinstatement of the suspended *Syiem* pending an enquiry.

In a recent development the full fledged *Syiem* of Myllem, Latho Manik Syiem who was appointed *Syiem* only on February 23rd, 2007 was suspended by the KHADC on January 6th, 2009 for “alleged financial management and arbitrary style of functioning”². The suspended *Syiem* filed a petition in the Shillong Bench of the Gauhati High Court against his suspension. In its order on January 9th, 2009 the Court stayed the suspension order passed by the KHADC and directed that Latho Manik Syiem be reinstated as the *Syiem*. Another affect of suspension is the appointment of an ‘Acting’ *Syiem* by the KHADC which became a common practice. The traditional administrative heads and the *Dorbars* of the various Khasi states were against this practice which was alien to customary law. This practice denied the Khasi state the installation of a full-fledged *Syiem* as litigation would carry on for many years and this caretaker traditional head, the Acting *Syiem*, would also continue for an indefinite period of time. This tussle for supremacy further deteriorated the relations between the KHADC and the *Syiem* and his *Dorbar*. The relevance of these traditional political institutions was also questioned as they declined to accommodate themselves to changes that have taken place in society. They failed to fit into any ‘development

² The *Shillong Times*, January 9, 2009, p.1.

package' announced by the Central Government or even the state government as their structure was rigid and their composition gender-biased. Thus, when development schemes were implemented in various parts of the district, these traditional political institutions were never a component of the participatory model of such schemes. Realizing that their grasp over the community and their relevance to the society were slowly slipping away, these traditional political institutions sought to revive their place amidst this avalanche of political change that had taken place in the Khasi Hills since 1950.

In a very candid admission, the *Syiem* of Khyrim, Balajied S. Syiem during an interview in 1998 admitted that some traditional heads have been responsible for harming the society due to their usurpation of power. He was however confident that traditional political institutions can also contribute towards a better, modern society. To him, the Instrument of Accession was very much alive. It is a source of social strength through which traditional political institutions can petition for their rights which had been taken away³. This interview marks a bold admission by the *Syiem* of the inability of traditional institutions to harmoniously co-exist with the Khasi Hills

³ *Grassroots Voices*, October 26 – November 1, 1998, pp. 5 & 7.

Autonomous District Council and a call to delve back into history and to the Instrument of Accession which had defined the status of the Khasi states. It set the tone for a series of events in the following years which aimed at reviving the significance of the Khasi states and the Federation of Khasi States and significantly, the demand for constitutional recognition of these traditional political institutions. The simmering undercurrent of discord that was visible for decades finally overflowed into the public arena when heads of other traditional political institutions boldly joined in this chorus demanding for political recognition. This demand for constitutional recognition was mobilized principally by the *Syiem* of Khyrim, the *Syiem* of Myllem and their respective councils, *ki Dorbar*. The *Syiems* of these two principal Khasi states turned back to their people, *ki khun ki hajar*, through referendums seeking their opinion whether traditional practices and customs peculiar to this race of people should continue or be done away with? The *Syiems* and their *Dorbars* needed a catalyst to kindle this demand before the public. They found this catalyst in John F. Kharshiing, a social activist, who did not hesitate to take up this demand for constitutional recognition of the Khasi states. His involvement with these traditional political institutions in various capacities, over the next few years, witnessed an intense debate

between them and the KHADC. The response to retain these traditional practices and customs was encouraging. The Khasi states also questioned the Government of India's failure to honour clauses of the Instrument of Accession when it instead approved the establishment of the Autonomous District Council. This step spelt the death knell of these traditional political institutions for it created new fiefdoms for members of the Autonomous District Councils.

To elicit the opinion of its residents on issues affecting traditions and culture, *Hima* Myllem convened a popular Assembly, *ka Dorbar Hima* on December 12th, 2000. This extraordinary Assembly witnessed the attendance of a large gathering of traditional heads, elders and residents of the component units (villages and communes) which made up the *Hima*. The Assembly discussed and unanimously endorsed a number of resolutions:

- a) the need to preserve the age old customs, usages and traditional institutions of the Khasi race;
- b) the need to modify these customs, usages and traditional institutions in the context of changes that are taking place in Khasi society;

- c) the need to seek constitutional recognition for and protection of the Khasi traditional institutions;
- d) the establishment to a Steering Committee which would be empowered to draft and submit a memorandum to the National Commission to Review the Working of the Constitution to achieve legal recognition of the Khasi traditional institutions⁴.

Earlier on August 28th, 1999, *Hima* Khyrim had convened a State Council, *ka Dorbar Hima* to discuss various issues related to the *Hima*. The members present at this *Dorbar* which included the *Syiem*, the *Lyngskor*, the *Lyngdohs* and *Myntris* along with the residents of their respective communes and invitees, unanimously approved the decision to demand for constitutional recognition of the Khasi states. These endorsements of both *Hima* Khyrim and Myllem received an impetus with the Government of India setting up the National Commission to Review the Working of the Constitution under the Chairpersonship of Justice M.N. Venkatachaliah.

⁴ *National Commission To Review The Working Of The Constitution: Consultation Paper, Empowering and Strengthening of Panchayati Raj Institutions/ Autonomous District Councils/ Traditional Tribal Governing Institutions in North East India*, 2001, accessed through <http://ncrwc.nic.in/vsncrwc/panel64.htm>, p.61. on 25.12.03. also *The Meghalaya Guardian*, July 3, 2001, p.4.

DRAFT PROPOSAL FOR AMENDMENT OF THE SIXTH SCHEDULE

The enactment of the 73rd and 74th Amendments to the Constitution of India in 1993 delegated a substantial degree of financial and administrative autonomy to local bodies across the country. This delegation of autonomy was not shared by local bodies that came under the purview of the Sixth Schedule. To bring about parity in the powers, functions and responsibilities mandated to institutions under the third tier of governance, the Ministry of Home Affairs, Government of India showed its inclination to review various provisions of the Sixth Schedule. In 1999, a proposal to amend the Sixth Schedule was initiated by the Ministry of Home Affairs, Government of India. The rationale behind this proposal to amend the Sixth Schedule was premised on five issues:

- a) the mandatory creation of Village Councils;
- b) devolution of powers from the state governments to the District Councils and to Village Councils;
- c) the setting up of State Finance Commissions to mandatorily provide for devolution of funds;

- d) dissolution provisions for protection from dissolution;
- e) reservation of seats for women and universal adult franchise⁵.

A draft proposal was prepared and sent to the concerned state governments and District Councils to elicit their views. The three Autonomous District Councils of Meghalaya held a meeting at Jowai, Jaiñtia Hills on July 16th, 1999 to examine and to discuss the various provisions of the said proposal and to offer suggestions on the proposed amendments. Some of recommended amendments, relevant to the existence and functioning of the traditional political institutions of the Khasi, Jaiñtia and Garo communities, invited observations and comments from these ADCs.

- a) The proposed draft suggested the creation of Village Councils and Municipal Councils for areas within an autonomous district. The Autonomous District Councils of Meghalaya pointed out that there are only a few urban areas where Municipal Councils may be considered (Jowai, Mairang, Nongstoin and Nongpoh). Other villages are too

⁵Minutes of Meeting held on 23.07.99 at 11:00A.M. at New Delhi to discuss proposals regarding Amendment of VI Schedule etc., pp.5-6.

small and too distantly separated to be considered for the purpose of setting up Municipal Councils.

- b) Another proposal suggested that one-third of the total number of seats in each Council (Autonomous District, Regional, Municipal or Village) shall be reserved for women. The Autonomous District Councils observed that this proposal may not be applied to Meghalaya as the status of tribal women in the society is equal to that of men where inheritance of wealth and property and the clan's name or title flows to and from the female. This proposed amendment of reservation may thus be construed as tribal women occupying an inferior position to tribal men, when they actually enjoy wide latitude of equality and freedom. Moreover, in the social structure both at the middle and village level, office is held on the basis of election or as per customs, traditions and practices.
- c) It was proposed that the Governor shall by rule provide for making such grant-in aid to the District/Regional Councils and Municipal/Village Councils from the Consolidated Fund of the State. This proposal according to the Autonomous District Councils may not be practical as the State itself is constrained for funds.

d) The Autonomous District Councils of Meghalaya strongly pleaded that suitable and appropriate amendments and provisions under Article 275 and Article 280⁶ of the Constitution of India be made to provide funds to ADCs by way of subventing their resources both for their administrative cost and to undertake development works as per competency of the Councils under provisions of the Sixth Schedule⁷.

e) Other proposals in the draft suggested :

- i) all members of the Village Councils shall be elected on the basis of adult suffrage;
- ii) every Village Council shall continue for five years from the date appointed for its first meeting and no longer;
- iii) the superintendence, direction and control of the preparation of electoral rolls for and the conduct of all elections to all Councils in the Sixth Schedule shall be vested in the State Election

⁶ Article 275 relates to Grants from the Union to certain states while Article 280 relates to the Finance Commission and its duties.

⁷ Background Notes on The Sixth Schedule to the Constitution of India and the Proposed Amendments, 1999, Proposal submitted by the ADCs of Meghalaya at the meeting held on 23.7.99 in New Delhi to discuss proposals regarding amendment of VI Schedule, pp.6-7.

Commission constituted under Article 243 of the Constitution of India;

- iv) the Governor of the State shall endow by rule every Council with such powers and authority as may be deemed necessary to enable them to function as institutions of self government. Such rules shall contain provisions for the devolution of powers and responsibilities upon the said Councils subject to certain conditions in respect of a) preparation of plans for economic development and social justice; b) implementation of schemes for the economic development and social justice as may be entrusted to them including those in relation to matters listed in the Eleventh Schedule of the Constitution of India.

In their comments to these proposed amendments the Autonomous District Councils of Meghalaya noted that a perplexing situation is sure to arise “as the new proposals appear to impinge upon tribal customs, traditions and culture and on the functioning of their vibrant democratic set ups and other traditional institutions of *Syiemships*, *Lyngdohships*, *Wahadadarships*, *Sirdarships*, the *Doloiships*, *Nokmaships* alongwith the traditional Village

Councils or Durbars”⁸. They further noted that “the new proposals, it is feared, may also tend to circumscribe and marginalize the Council’s powers and potentiality and the effectiveness of the Council as originally provided by the Hon’ble framers of the Constitution when, 50 years ago, the Tribes deposited their trust for their welfare and progress under the aegis of the benign and able hands of the central government”⁹.

A crucial meeting was convened by the Ministry of Home Affairs at New Delhi on July 23rd, 1999 to discuss the draft proposal for amending the Sixth Schedule. The meeting was attended by senior government officials of the central government as well as officials of some states of North-East India such as Assam, Meghalaya and Mizoram, members of District Councils from the states of Assam, Meghalaya, Mizoram and Tripura and also by a Member of Parliament (Rajya Sabha). The Principal Secretary, District Council Affairs, Government of Meghalaya in his observations at the meeting pointed out that the Khasi village society has a vibrant system and constituting the village council (as proposed in the amendment to the Sixth Schedule) under any statute may perhaps be in conflict to that indigenous

⁸ Background Notes on The Sixth Schedule to the Constitution of India and the Proposed Amendments: *op.cit.*, p.3.

⁹ *Ibid.*

system and is not likely to succeed. After a detailed discussion on relevant issues and an exchange of observations, the meeting concluded with the following summary:

- a) The proposal of amendment to the Sixth Schedule does not provide for dilution of existing powers delegated to the Councils but provides for supplementary powers which have been provided to District Councils/Panchayats/ Municipalities under 73rd/74th Amendment.
- b) The Ministry could recommend direct grant from the Planning Commission and respective Ministries to the concerned ADCs/Autonomous Councils.
- c) The representatives of the ADCs/Autonomous Councils shall discuss among themselves to formulate concrete views with respect to the proposals for amendments to the Sixth Schedule. The C.E.M. North Cachar Hills was chosen as Convener for the said group.
- d) A recommendation could be made for constituting a High Level Task Group consisting of MPs and other experts to give recommendations

for the said amendment of the Sixth Schedule after the re-constitution of the Lok Sabha¹⁰.

The proposed amendments to the Sixth Schedule were intended to streamline the functioning of Autonomous District Councils in accordance with local self government bodies both in the urban and rural areas under the 73rd and 74th Amendments. The suggestions and views expressed at this crucial meeting were never carried forward. The Autonomous District Councils and the traditional political institutions under them continue to function as before amidst challenging adversity.

NATIONAL COMMISSION TO REVIEW THE WORKING OF THE CONSTITUTION

The National Commission to Review the Working of the Constitution (hereafter NCRWC) was set up vide Government Resolution No. A-45012(2)/98 – Admn.III (LA) dated February 22nd, 2000. This exercise was undertaken to review the Constitution of India which had operated for more than 50 years and to make suitable recommendations for any possible

¹⁰Minutes of Meeting held on 23.07.99 at 11:00A.M. at New Delhi to discuss proposals regarding Amendment of VI Schedule etc.: *op.cit.*, p.6.

changes. The Terms of Reference of this Commission were to examine, “in the light of the experience of the past 50 years, as to how best the Constitution can respond to the changing needs of efficient, smooth and effective system of governance and socio-economic development of modern India within the framework of Parliamentary democracy and to recommend changes, if any, that are required in the provisions of the Constitution without interfering with its basic structure or feature”¹¹. To enable the NCRWC to carry out its work, ten Advisory Panels were set up to examine ten broad themes under the Constitution of India. The tenth Advisory Panel was constituted under the chairpersonship of L.C.Jain to examine issues related to “Decentralisation and Devolution: Empowerment and Strengthening of Panchayati Raj Institutions”. This Advisory Panel prepared a Consultation Paper, “Empowering and Strengthening of Panchayati Raj Institutions/Autonomous District Councils/ Traditional Tribal Governing Institutions in North East India” on the basis of inputs it had compiled and collated from memoranda submitted by state governments and various organizations and from interviews and fieldwork conducted. The National Commission to Review the Working of the Constitution completed its task

¹¹ Accessed through

<http://lawmin.nic.in/ncrwc/finalreport/v2b1-1.htm>, p.1, on 24.10.08.

after three extensions. It submitted its two volume report to the Law Ministry on March 31st, 2002.

The Steering Committee of *Hima Myllem* submitted a memorandum to this Advisory Panel on “Decentralisation and Devolution: Empowerment and Strengthening of Panchayati Raj Institutions”. This memorandum also endorsed by the other Khasi states, sought constitutional recognition and protection of the traditional political institutions of the Khasi race. It noted that the inclusion of the Khasi states within the framework of the Indian Union “was glaringly violative of the true and underlying spirit of the Instrument of Accession and was not consistent with the provisions of Section 290-A of the Government of India Act, 1935”¹². The memorandum further noted that a remedy to this constitutional anomaly can be found by giving due recognition and affording protection to traditional institutions under the Constitution of India. The memorandum placed before the Advisory Panel two issues for consideration:

- a) to initiate constitutional measures aimed at restoring and preserving the traditional status and powers of the traditional institutions by a suitable constitutional amendment;

¹² <http://ncrwc.nic.in/vsncrwc/panel64.htm> - *op.cit.*, p.60.

- b) that, the constitutional amendment will define the legislative, administrative and judicial jurisdiction of the Khasi traditional chiefs in *Dorbar* in accordance with the customs and usages practiced and respected by the Khasis since time immemorial¹³.

The memorandum proposed the incorporation of the Thirteenth Schedule, Article 244(3)¹⁴ as an amendment to the Constitution of India. This proposed constitutional amendment shall apply to the Khasi states, *ki Hima* Khasi, in the State of Meghalaya. It suggested:

- a) the establishment of a Federal Council of all the Khasi principalities;
- b) the Federal Council shall comprise of ruling administrative heads of the Khasi principalities as well as nominated members;

¹³ Memorandum Seeking Constitutional Recognition And Protection Of The Traditional Institutions Of The Khasi Race, submitted by the Steering Committee, Durbar *Hima* Myllem to the Union Government, dated February 28th, 2001, accessed through <http://ncrwc.nic.in/vsncrwc/panel64.htm>, p.61, on 25.12.03.

¹⁴ This proposed Thirteenth Schedule, Article 244(3) was later modified by its proponents to include Part II – provisions relating to traditional political institutions of the Garo community and Part III - provisions relating to traditional political institutions of the Jaiñtia community.

- c) the Federal Council shall exercise legislative, executive and judicial functions, it shall be the custodian of customary practices, of the traditional institutions and their rights over land, forest, water, natural resources and excise;
- d) no acts of either the Parliament or the State legislature or of the District Council shall apply to the Khasi states without the consent of the Federal Council if such acts affect customary practices, traditional institutions and their rights over land, forest, water natural resources and excise;
- e) the establishment of a Federal Fund from central assistance and other modes of income generation¹⁵.

The memorandum further clarified that the Federal Council shall be a transitory body and it shall evolve a mechanism to exercise its functions during the transitional period.

¹⁵Memorandum Seeking Constitutional Recognition And Protection Of The Traditional Institutions Of The Khasi Race. accessed through <http://ncrwc.nic.in/vsncrwc/panel64.htm> - *op.cit.*, p.64, on 25.12.03.

The Consultation Paper, “Empowering and Strengthening of Panchayati Raj Institutions/Autonomous District Councils/ Traditional Tribal Governing Institutions in North East India” noted that a core issue concerning decentralization and devolution of powers in the case of Meghalaya was the demand by traditional institutions for constitutional recognition. The failure of the Autonomous District Councils to effectively safeguard and develop tribal interests also provides further legitimacy to traditional bodies for vocalizing their demands. It noted that the main problem confronting traditional institutions and the Autonomous District Councils were the twin issues of power and financial resources. Presently, the existing powers and functions of traditional bodies are extremely limited and their access to resource allocation is severely poor. In examining this demand for constitutional recognition by the traditional institutions certain issues need to be considered:

- a) there has to be a proper co-ordination or adjustment between traditional practices and usages with changes that have occurred in Khasi society;

- b) the issue of representation needs to be seriously reconsidered as it presently has a limited participation of women and excludes non-tribals from the decision making process of the State;
- c) accountability and transparency of funds generated should be entrusted to authorities such as the Comptroller General and Auditor-General of Accounts to prevent misuse¹⁶.

The Consultation Paper put forward a formulated structure of governance for the State of Meghalaya. It suggested the establishment of an intermediary tier under the existing Autonomous District Councils. This first tier of self-governance will be created for a village or group of villages. It will comprise of elected persons from the traditional systems of administration and from existing village councils with not more than fifteen persons at each village unit. Those amenities which affect village communities should be in the hands of the village level system. The amended Autonomous District Councils would form the second tier of governance. The number of seats in the Autonomous District Councils will be increased to forty of which five seats will be reserved for traditional heads in the respective Autonomous District Councils and five seats for

¹⁶ <http://ncrwc.nic.in/vsncrwc/panel64.htm> - *op.cit.*, pp.57-58.

nomination of women and non-tribals. Larger issues and subjects will fall under the purview of the Autonomous District Councils. A Finance Commission should also be set up to enable Autonomous District Councils avail the benefits of the 73rd Amendment Act. The state legislature will be the third tier of governance, an overall supervisor and policy making body that constitutionally delegates powers to local governing bodies but is not associated with their daily administration. In attempting to address the concern of creating an enabling and participative environment for traditional institutions within the present politico-legal set up, the Consultation Paper noted that the situation needs to be assessed realistically. Provisions for decentralization in any form should always take into account the need for decentralization and gender justice. Compromises will have to be struck by all sides with a great deal of flexibility and vision for the sake of the immediate and the future¹⁷.

These suggestions made by the Advisory Panel on “Decentralisation and Devolution: Empowerment and Strengthening of Panchayati Raj Institutions” with specific reference to the traditional institutions of the

¹⁷ *Report of the National Commission to Review the Working of the Constitution*, Vol. 1, Universal Law Publishing Co. Pvt. Ltd., New Delhi, 2002, p.190. also *The Telegraph*, February 11, 2002, p. 16.

Khasi Hills did not find favor with the traditional heads. The latter questioned the suggestion of creating a three tier system of governance which placed them as the first tier under the authority of the Autonomous District Council. Secondly, they were averse to the suggestion of nominating five members to the Autonomous District Council from among the traditional heads of the Khasi states. Such suggestions they felt overlooked the real issues confronting traditional institutions which had all along been averse to the very creation of the Autonomous District Council and which functioned as partyless institutions. The 'historical wrong' meted to them and to the people could not be corrected through the suggestions of the Advisory Panel. Taking a rigid stand, the Federation of Khasi States opposed the recommendations of the NCRWC while reiterating that they desired nothing short of the proposed Thirteenth Schedule to the Constitution of India. They affirmed that the Federal Council envisioned in this proposed Thirteenth Schedule would function as a non-political and partyless legislative body. The Federation of Khasi States further reiterated that it would actively pursue the Central Government to recognize their legitimate demands. The views contained in the NCRWC Report which were submitted to the Government of India (Law Ministry) were never carried forward. The

traditional political institutions of Meghalaya took different measures to ensure that their united voice demanding constitutional recognition was heard at various platforms.

The persistence of these traditional bodies especially in the Khasi Hills with the demand for constitutional recognition drew the attention of their counterparts in both the Jaiñtia Hills and the Garo Hills to make a similar demand. The inclination of the Central Government to take note of these demands through the observations made by NCRWC, through the correspondences between the Ministry of Home Affairs, Government of India, the Ministry of Development of North Eastern Region (DoNER), Government of India with the State government of Meghalaya, the KHADC and the office of *Hima Myllem* and *Hima Khyrim*, necessitated the traditional political institutions to work together especially in those areas of common concern and interest. Thus, the traditional administrative heads of the Khasi Hills comprising of *ki Syiem*, *ki Lyngdoh*, *ki Sirdar* and the traditional administrative heads of the Jaiñtia Hills comprising of *ki Doloi*, and one *Sirdar* of *Elaka Saipung* came together under an organization, Assembly of *Hynñiewtrep* Nations, *ka Dorbar ki Nongsynshar ka Ri Hynñiewtrep*, while the traditional administrative heads of the Garo hills

comprising of *Nokmas*, came together under an organization, Council of *Nokmas*. These organizations received an impetus to carry forward their demands under the patronage accorded to them by the then Member of Parliament (Rajya Sabha) Robert Kharshiing. His concern for these traditional political institutions of Meghalaya and his considered initiative, saw the emergence of the Rajya Sabha Grassroots Democracy Advisory Council (hereafter RSGDAC) as a platform activating democracy at the grassroots.

RAJYA SABHA GRASSROOTS DEMOCRACY ADVISORY COUNCIL

Another effort taken to present a united stand before the centre on the various issues affecting traditional political institutions in Meghalaya was the formation of the Rajya Sabha Grassroots Democracy Advisory Council on June 17th, 2003. This Council initiated by the then Member of Parliament (Rajya Sabha) Robert Kharshiing brought together the traditional heads of the Khasi, Jaiñtia and Garo communities under a common platform. This initiative was novel in so far as no such effort had earlier been initiated to bring together this vast array of traditional bodies with a view to present a

united stand in pressing forward their demands for constitutional recognition. The Rajya Sabha Grassroots Democracy Advisory Council headed by Robert Kharshiing as Chairman comprised of collective organizations which represented traditional political institutions of the three major communities, the Khasi, the Jaiñtia and the Garo. These included the Assembly of *Hynniewtrep* Nations and the Council of *Nokmas*. Through the Member of Parliament Local Area Development Scheme (MPLADS) funds Robert Kharshiing allocated financial assistance to the traditional political institutions of the three communities for development activities. During the period 2002-2003 an amount of Rs 5 lacs (rupees five lacs) was earmarked for *Hima Myllem*. This amount was to be spent in supporting the construction of the offices, *dorbar* halls of the various administrative heads, *ki Syiem Raid*, of the different communes, *ki Raid*, which make up the *Hima*. In addition to allocating certain funds to these traditional institutions, Robert Kharshiing also suggested to the State government of Meghalaya the setting up a Traditional Institution Advisory Council which would have representation from the Khasi, the Jaiñtia and the Garo communities¹⁸. This body would examine issues related to direct funding and would seek the

¹⁸ The *Shillong Times*, July 4, 2003, p.3.

assistance of government departments to prepare an integrated project development report for traditional political institutions which would be submitted to the central government for approval and sanction. Pending concurrence of the State government, the RSGDAC set up a 12 member executive body of the Traditional Institution Advisory Council to activate its proposal. This body comprised of Robert Kharshiing as the Chairman, John F. Kharshiing as General Secretary, Laborious M. Syiem, former 'Acting' *Syiem* of Myllem as Vice-Chairman and Balajied S. Syiem, *Syiem* of Khyrim as Treasurer amongst other members.

To raise awareness and participation of people in this demand for constitutional recognition, a People's Assembly, *ka Dorbar Ri*, was organized by the RSGDAC on January 14th, 2004 at Smit, East Khasi Hills, the administrative headquarters of *Hima* Khyrim. This People's Assembly hosted by *Hima* Khyrim and chaired by Robert Kharshiing witnessed the attendance of thousands of participants which included representatives of the state government, representatives of political parties, representatives of traditional institutions, invitees and the public at large. The People's Assembly was a platform to reiterate the capabilities and relevance of traditional political institutions in a participatory and developmental

environment, widely disseminated through the media. The core issues discussed at this People's Assembly were a reiteration of the demand for constitutional recognition and direct funding to schemes in areas under the traditional jurisdiction of these indigenous authorities. The People's Assembly approved a 500 crores budget proposal to implement development schemes for traditional institutions. The expertise of Tata Consultancy Services (hereafter TCS) were sought to prepare an Integrated Development Project (hereafter IDP) for traditional political institutions in Meghalaya. The 93.43 crore report of the IDP was presented at the People's Assembly to be executed over a span of five years. The report identified eight hundred villages across the seven districts of Meghalaya which would be the immediate beneficiaries of the IDP 'pilot project'. Financial assistance would be provided to these identified villages for development activities and for contingency expenses. The report also suggested the establishment of a technical secretariat to provide technical support in implementing, supervising and monitoring schemes. The People's Assembly authorized Robert Kharshiing to seek the intervention of the central government in securing financial assistance to implement the project¹⁹. The IDP proposal

¹⁹ The *Shillong Times*, January 15, 2004, p.1.

was submitted to the Ministry of Development of North Eastern Region, Government of India on January 30, 2004. Conceptualized and initiated by the Robert Kharshiing, this proposal envisaged the creation of a mechanism to obtain direct funding from the central government for traditional political institutions without the intervention of either the State government or the Autonomous District Councils. The Ministry of DoNER as well as the central government sought the views of the State government on the proposal forwarded by the RSGDAC but did not received a favored response.

The RSGDAC convened a second People's Assembly at Mawphlang, East Khasi Hills on October 6th, 2007. This Assembly which witnessed a larger gathering than the first, addressed the pending issues related to direct funding to traditional political institutions in the State. This Assembly held at a village internationally renowned for its sacred groves which have been preserved by the local community for centuries, gave importance to a discussion on issues related to environment and climate change. Under the auspices of the RSGDAC, this Assembly instituted a number of awards which were presented to various persons for their outstanding contributions. A global award was presented to Al Gore, former Vice President of the

United States of America, in recognition of his efforts to promote worldwide awareness on global warming through the documentary “An Inconvenient Truth”²⁰. Similarly, thirteen personalities of Meghalaya were honoured for their contributions in various fields. These included Balajied S. Syiem, the *Syiem* of Khyrim and N.K. Lyngdoh, the *Lyngdoh* of Mawphlang. A number of resolutions were moved at this second *Dorbar Ri*. These included:

- a) a proposal to create a sixty member, non-political Upper House of the Meghalaya Legislature, the Meghalaya Legislative Council. This proposed non-political Legislative Council should comprise of representatives of traditional political institutions of the Khasi, Jaiñtia and Garo communities, women, youth and representatives of different professions²¹.
- b) a proposal to immediately bring in constitutional amendments and legislation to pave the way for empowerment, participation in development and direct funding from the centre for the unique

²⁰ Al Gore did not personally attend this People’s Assembly but the award was accepted on his behalf.

²¹ Democratic Resolution-Peoples’ Parliament, Mawphlang, October 6, 2007, p.1.

indigenous tribal institutions of *Syiemships*, *Doloiships* and *Nokmaships* in the Khasi, Jaiñtia and Garo Hills of Meghalaya²².

- c) a proposal to extend the National Rural Employment Guarantee Scheme to other districts of the State of Meghalaya, to enhance the minimum wages provided under this scheme from Rs 70 to Rs 200 in all hilly and mountainous states of India including Meghalaya, to include heads of traditional institutions of the Khasi, Jaiñtia and Garo in the monitoring process of the scheme and to provide them with an honorarium²³.

The proposals initiated at the forum of the Rajya Sabha Grassroots Democracy Advisory Council did not make any progress after the term of Robert Kharshiing came to an end in March 2008. The initiatives moved through the People's Assembly did not receive the focused attention of either the State government or the KHADC. These initiatives if concurred with would have a long term effect in undermining the administrative authority of both the State government and the KHADC especially in rural areas. With the expiry of the term of Robert Kharshiing as Member of

²² Democratic Resolution-Peoples' Parliament, Mawphlang, October 6, 2007, *op.cit.*, p.2.

²³ Economic Resolution-Peoples' Parliament, Mawphlang, October 6, 2007, p.6.

Parliament, Rajya Sabha, in 2008, members of the RSGDAC met at Shillong and resolved to constitute a new umbrella organization, the Grand Council of Chiefs of Meghalaya with the following members as office bearers: Chairman - Robert Kharshiing, General Secretary – John F. Kharshiing and Treasurer - Balajied S. Syiem, *Syiem* of Khyrim.

FEDERATION OF KHASI TRADITIONAL INSTITUTIONS

With the various events unfolding before the very sight and knowledge of the Autonomous District Councils of Meghalaya, the KHADC could no longer keep the issue of its relations with traditional political institutions away from public view and scrutiny. Sharp criticism of its inept handling of this issue which often necessitated the unwarranted intervention of the judiciary called for a rethink in its approach. The decades of confrontation and the willful exercise of Acts, Regulations and Rules had widened the rift between the legal and the traditional authorities, contrary to the very foundations on which the Autonomous District Councils were created. To re-establish and reaffirm its legal authority over the traditional political institutions, the KHADC assumed the path of negotiation and consensus. It convened a meeting of all traditional heads within its

jurisdiction on July 27th, 2004. Representatives of fifty three Khasi principalities, *ki Hima Khasi*, comprising of *ki Syiem*, *ki Lyngdoh*, *ki Myntri* and *ki Sirdar* attended this meeting. This meeting was convened to bridge the rift that had developed over decades between the KHADC and the traditional political institutions. At this meeting, in exercise of its powers conferred under paragraph 2(7)(a) of the Sixth Schedule the KHADC initiated the creation of a new collective body of traditional institutions present within its jurisdiction, the Federation of Khasi Traditional Institutions (hereafter FKTI). The creation of this new body for traditional political institutions was seen as a positive step in re-establishing cordial relations that, for decades, had been deficient. The creation of this body was also expected to facilitate the process of codification of customary law and thereby streamline the administration of these traditional political institutions. A number of ad-hoc office bearers were elected to enable this body to commence its work. These were, the Chairman – G. Myllemngap (*Lyngskor of Hima Khyrim*), Vice-Chairman – Freeman Syiem (*Syiem of Hima Sohra*), General Secretary – P. Kharlukhi (*Myntri of Hima Myllem*), Joint Secretary – Niandro Syiemiong (*Syiem of Hima Maharam*) and the Treasurer – P.S. Nianglang (Adviser, *Hima Nonglang*). The KHADC considered it expedient to facilitate

legislation which would create an amenable atmosphere for traditional political institutions in the three districts to co-operate with it. It formulated the Khasi Hills District (Constitution of The Federation of The Khasi Traditional Chiefs) Bill, 2006. This Bill if assented to by the Governor of Meghalaya, would pave the way for “the Constitution and Recognition of the Federation of the Khasi Traditional Chiefs in Khasi Hills Autonomous District and for maintaining a close relationship among them”²⁴. The Federation of the Khasi Traditional Chiefs (hereafter FKTC) would comprise of two bodies, a large assembly, the “House of Chiefs” and a small working council, the “Executive Council”. The House of the Chiefs is the larger body comprising of all the Chiefs, presently fifty three in number, who are members of the FKTC. It shall be the supreme policy and decision making body vested with certain powers normally associated with legislative bodies – electoral, budgetary and regulatory. The House of Chiefs shall hold a sitting at least once in a year. Such sittings shall be regulated by an elaborate code of conduct having strong remnants of tradition. The

²⁴ Accessed through, Federation of Khasi Traditional Chiefs Bill 2006 - http://khadc.nic.in/acts_rules_regulations%20_n%20_bills/Acts%20n%20Rules-awaiting/6B.FKTC%20Bill,%202006.pdf. p.1, on 10.06.09.

Executive Council on the other hand is a smaller body comprising of eighteen members, nine of whom are designated office bearers with specific functions and responsibilities. The President shall be the head of the FKTC and he shall preside over both the House of Chiefs and the Executive Council. He shall instruct the General Secretary to convene a meeting of either the House of Chiefs or the Executive Council. On the advice of the Executive Council he may co-opt not more than three members to this body. The powers of the President may be exercised by any one of the three Vice Presidents in his absence. The General Secretary shall implement all policies and decisions of the Federation, prepare the annual general report of the Executive Council, manage all financial expenditures of the Federation and convene a meeting of the Executive Council or the House of Chiefs in consultation with the President. He shall be assisted by three Secretaries in executing his functions. The Treasurer shall be entrusted with all financial responsibilities of the Federation. The Executive Council shall be entrusted with a number of responsibilities - to implement decisions of the House of Chiefs, to assign portfolios to members of the Executive Council, to frame

rules for the effective functioning of the Federation, to prepare the budget of the Federation and to raise funds for the Federation²⁵.

Initiated by the KHADC and supported by the traditional political institutions, the FKTC Bill, 2006 was approved and passed by the KHADC at its winter session of 2006. The Bill in its imperfect form presently lies inconclusive. It remains to be seen how far reaching is this initiative of the KHADC in ushering a lasting, cordial relationship between both these authorities.

²⁵ Federation of Khasi Traditional Chiefs Bill 2006 – *op.cit.*, pp. 3-8.

CHAPTER V

CONCLUSION

A critical examination of the demand for constitutional recognition of the Khasi states would not be complete if the views of representatives of these states and of public figures are not ascertained. The *Syiems* of the principal Khasi states of Khyrim and Myllem have been associated with various phases of this demand since 1999. They have turned to their people and through referendums have secured their approval to move for this demand. They have petitioned the Government of India and the Government of Meghalaya to recognize their demands which fell short of their expectations. Similarly, these *Syiems* have also made use of various platforms to mobilize public opinion in their favour. To understand this demand for constitutional recognition, it was important to meet these *Syiems* as well as members of their *Dorbars* to elicit their opinion. Similarly, it was also important to elicit the opinions of leading public figures to understand their views on this demand for constitutional recognition and whether the traditional political institutions are administratively equipped to execute this demand if it is approved. Hence, it was necessary to interview a number of

respondents to gather information on a number of issues pertaining to this demand for constitutional recognition of the Khasi states.

To understand the present status and functioning of the two *Himas*, Khyrim and Myllem, a number of visits were undertaken to the offices of the *Syiems* located at Smit, East Khasi Hills and Mawkhar, Shillong, respectively. An unstructured interview schedule was prepared and information was recorded from the respondents who included the *Syiem* and important functionaries of his executive council. In the course of the interview, a number of questions were further spontaneously formulated and the information provided thereafter enriched the discussions as well as the interview. To elicit the views of a number of respondents on issues relevant to traditional political institutions today and to the demand for constitutional recognition of the Khasi states, a structured interview schedule was employed. Ten pre-determined, sequenced questions were prepared for the interviews conducted for this research study. The respondents were chosen as they were associated directly with the traditional political institutions; some are present government officials while others are retired, but have been associated with traditional institutions; a number of respondents are presently members of the Khasi Hills Autonomous District Council while

some were former members; other respondents include social workers and scholars who have been consistently observing the functioning of these traditional political institutions. The questions sought basic information from the respondents. Secondly, these questions sought the opinions of the respondents on issues pertinent to traditional political institutions. All the respondents interviewed were of the opinion that traditional political institutions should be allowed to continue. In addition to the reasons provided in the structured interview schedule, the respondents also observed that:

- a) these traditional political institutions are a pure form of direct democracy having ancient roots;
- b) these traditional political institutions are based on consensus and referendum where the practice of open voting, by the raising of hands, is still practiced;
- c) these traditional political institutions should be allowed to continue as the spirit of indigenous nationalism is still alive. This spirit is the strength of the people, it can act as a reserve political system in case of a constitutional crisis in the community;

- d) these traditional political institutions are based more on issues of ethics and not on political ideology. The Khasi people are comfortable to allow traditional political institutions to continue but the people themselves are not confident of their ability to function effectively;
- e) these traditional political institutions have undergone tremendous trials and witnessed constitutional changes with the passage of time.

Most of the respondents were aware of the relationship between the traditional political institutions and the KHADC. They noted that the relationship was governed by the provisions of the Sixth Schedule of the Constitution of India and the purpose of establishing the ADCs was to protect and to preserve the traditions and practices of the tribal communities. However, some noted that there is a difference in the functioning of these two authorities. The traditional political institutions function on the basis of *ka Riti*, a body of rules, regulations and guidelines- an unwritten constitution embodying all facets of Khasi culture and society which have grown out of past usages and practices, whereas the KHADC functions in accordance with the provisions of the Sixth Schedule. The role of the KHADC was to be that

of a regulatory authority with the objective of codifying customary practices. In course of time, the KHADC abdicated this role shifting its focus to electoral politics and the demand for the statehood of Meghalaya. In the process, the relevance of the traditional political institutions was further relegated to the background.

The respondents who supported the suggestion to strengthen the relation between the traditional political institutions and the KHADC, made a number of observations:

- a) there is need to codify those customs and usages of traditional political institutions that are constitutionally valid;
- b) the relation between traditional political institutions and the KHADC needs a complete review;
- c) it is important to refer to the Constitution of India and to re-examine the spirit of the Sixth Schedule in the context of the Directive Principles of State Policy and the 73rd Amendment Act. This is the tripod on which the relation between the traditional political institutions and the KHADC can be strengthened, through a symbiotic amalgamation of the spirit enshrined in the above mentioned chapters;

- d) the relation can be strengthened through constitutional amendments which are healthy and mutually beneficial;
- e) the relation should not be imposed by the KHADC on the traditional political institutions. Grievances of the traditional political institutions should be genuinely addressed;
- f) ADCs should perform their functions mandated under the Sixth Schedule. Judicial powers of the traditional political institutions should be strengthened so that cases are efficiently settled at their level. This would reduce the burden of the courts of the Additional District Magistrates and Magistrates.
- g) The political system will be healthy if both traditional political institutions and KHADC could co-exist. If not, traditional political institutions should be preserved for they have evolved in tune with our political requirements.

The respondents who did not support this suggestion to strengthen the relation between the traditional political institutions and the KHADC, made the following comments:

- a) the KHADC has eroded the administrative powers of the traditional political institutions and taken over the legislative powers;
- b) the ADCs are no longer relevant especially after the formation of the State of Meghalaya;
- c) an alternative political arrangement is to be found if a Federal Council or an Upper House of the Meghalaya Legislature is created with representation from traditional political institutions.

In answering the question whether the Autonomous District Councils in Meghalaya should be abolished or continued, the respondents who agreed that they should be abolished made the following observations:

- a) if the ADCs in Meghalaya are abolished the Government should entrust a specific department to deal with traditional political institutions;
- b) all powers should be vested with traditional political institutions by amending the related constitutional provisions;
- c) the concept of ADC was introduced to give extra protection to Scheduled Tribes in a non-tribal majority state, that is, composite

Assam. Tribal dominated states like Meghalaya do not need such protection any longer;

- d) the present structure of the ADCs does not meet the aspirations of the traditional political institutions. Traditional political institutions have no political space. Various Acts, Rules and Regulations of the KHADC reveal the extent to which ADCs have undermined the traditional political institutions.

The respondents who felt that the ADCs in Meghalaya should be continued made the following observations:

- a) the ultimate decision on whether ADCs should be continued or abolished should be taken by the citizens themselves;
- b) the continuance of the ADCs would depend upon their ability to fulfill the intended objectives;
- c) ADCs in Meghalaya need their powers to be enhanced if they are to function effectively;
- d) ADCs ought to observe the provisions of the Sixth Schedule in letter and spirit;

- e) the existence of both the State government and the ADCs leads to duplication of work. Further, there has been leakage of revenues from the ADCs. These issues need to be urgently addressed. ADCs in Meghalaya may be continued only if they are more transparent and accountable in their functioning;
- f) ADCs must make grassroots democracy more vibrant through effective administration. They must engage traditional political institutions in a participatory mode of development.

In response to the question whether the respondents support the Khasi traditional political institutions' demand for constitutional recognition, a majority of respondents answered in the affirmative. They observed that traditional political institutions should be provided adequate safeguards from the negative effects of electoral politics. Members of the ADCs should not politically interfere with the administration and functioning of these traditional political institutions.

The respondents who did not support this demand observed that the Khasi traditional political institutions are already recognized through the operation of the Sixth Schedule. Traditional political institutions and the

ADCs should work under the present set up mandated by the Sixth Schedule. There is immense scope for experimentation to improve their relations, which has not been explored. Even the suggestion of a 'tripod', a symbiotic amalgamation of the spirit underlying the three areas, has not been examined.

A majority of the respondents suggested that the Khasi traditional political institutions' demand for constitutional recognition should be fulfilled by including special provisions in the Constitution of India, by making provision for direct funding for development projects in the respective areas of these traditional political institutions and by creating an Upper House in the Meghalaya Legislature. The following observations and suggestions were also made:

- a) traditional political institutions are recognized by the Constitution of India through the Sixth Schedule. Capacity building of traditional political institutions will enable them to effectively exercise their functions;
- b) constitutional provisions empowering traditional political institutions should be considered by amending the 73rd Amendment Act;

- c) traditional political institutions should be given legal recognition by the Government of Meghalaya through an Act of the State. Alternatively, traditional political institutions could be a part of the local administrative system under the direct control of the Government;
- d) direct funding could be made applicable only if traditional political institutions build people institutions which reflect the spirit of the 73rd Amendment. Capacity building is a necessary pre-condition to ensure functional and vibrant traditional political institutions;
- e) the KHADC should provide financial assistance to traditional political institutions as this provision has all along been absent;
- f) creation of an Upper House could be an option;
- g) there is need to maintain a close link with the Ministry of Home Affairs, Government of India especially the section in charge of the North-East India. The Ministry can advise traditional political institutions on issues that may be brought before the floor of Parliament;

h) reservation of seats in the KHADC may be considered if political parties are debarred from being associated with the ADCs. A further improvement on the model adopted by the Khasi States Constitution Making Dorbar in 1948 could be considered with special reference to constituency and electoral demarcation.

CONCLUDING OBSERVATIONS

The Khasi states today continue to exist amidst adversity. The heightened activities which they witnessed between 1946 and 1950 and which accorded them legal recognition, were short lived. The new administrative machinery introduced through the Sixth Schedule of the Constitution of India favoured a new emerging leadership which was conditioned by electoral politics and adult franchise. This pattern of exercising political rights was more favourable to the citizens of the state. As a consequence, traditional leadership with its emphasis on selective, clan based, partyless representation was relegated to the background of legal and administrative activity. Further, the sustained Hill State movement which encouraged the development of a new leadership and the party system did

not provide the traditional political institutions a platform to address their concerns. As the decades passed after the inauguration of the Constitution of India, the political and legal recognition that was accorded to these traditional political institutions through the Instrument of Accession, and subsequent orders of the Government of Assam, were gradually withdrawn. On the other hand, the social recognition accorded to them continues but is visible more in the interior parts of their states than in urban areas, which have come under jurisdiction of new administrative authorities.

It was only in the late 1990s that the Khasi states once again questioned their legal status under the Constitution of India. They contended that the clauses of the Instrument of Accession under which they acceded to the then Dominion of India, were never honoured after 1950. Instead, the Sixth Schedule that was put in place never accorded the appropriate legal and political recognition which was expected. In demanding for constitutional recognition, the Khasi states not only made a bold admission of the lacuna in the constitutional arrangements that were arrived at in 1950, but were also willing to openly challenge their subordinate position under the Sixth Schedule thereby inviting the displeasure of the KHADC. This demand for constitutional recognition principally advocated by the *Syiem* of

Khyrim and Myllem and also supported by their respective *Dorbars* and the residents of the *Hima* sought to generate as much public opinion as possible. In the process, John F. Kharshiing a social worker, has been instrumental in disseminating the cause of the Khasi states especially in the interior areas, as spokesperson of the Federation of Khasi States and also of the Assembly of *Hynniewtrep* Nations. Through the years that followed this demand was raised at the various memoranda submitted to the National Commission to Review the Working of the Constitution, to the Government of India, to Members of Parliament from Meghalaya and also to Chief Ministers of Meghalaya. This demand for constitutional recognition was also raised at the platforms of the two Peoples' Assemblies held at Smit in 2004 and at Mawphlang in 2007, respectively. The former Member of Parliament (Rajya Sabha) Robert Kharshiing was also sympathetic to the cause of the traditional political institutions of Meghalaya. It was under his initiative that the traditional political institutions of the Khasi, Jaintia and the Garo people came together for the first time to seek constitutional recognition.

The relevance of these traditional political institutions has declined. They were not given an opportunity as well as a responsibility to function as vibrant, grassroot democratic institutions. Their steadfast grasp to tradition

has made them rigid and unsuitable to effectively function in a modern representative democracy. Neither the KHADC nor the Government of Meghalaya has seriously considered the Khasi states' demand for constitutional recognition which is accompanied by a number of legal and financial considerations. To be considered viable institutions which engage development in a participatory mode at the grassroots, the Khasi states must be willing to accommodate healthy democratic practices, sound financial management and a transparent and accountable working environment. To ensure their relevance, a sustained capacity building exercise requires to be undertaken so that the administrative heads and their *dorbars* are made aware of the present political realities of democracy and the urgency with which they must accommodate these realities. Their continued existence in the utopia of an all encompassing and all embracing rigid traditions and custom which provide no opportunity for incorporating political changes will only see the further decline of even the waning social recognition and reverence that they still command.

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APPENDIX

The following is a list of twenty five Khasi states that presently exist and which are administered by traditional heads designated by various nomenclatures.

Sl. No.	Name of Khasi state	Traditional Head
1.	Bhowal	Syiem
2.	Khyrim	Syiem
3.	Cherra	Syiem
4.	Langrin	Syiem
5.	Mylliem	Syiem
6.	Maharam	Syiem
7.	Mawsynram	Syiem
8.	Myriaw	Syiem
9.	Mawiang	Syiem
10.	Malaisohmat	Syiem
11.	Nongstoiñ	Syiem
12.	Nongkhlaw	Syiem
13.	Nongspung	Syiem
14.	Nobosohphoh	Syiem
15.	Rambrai	Syiem
16.	Jirang	Syiem
17.	Lyniong	Lyngdoh
18.	Mawphlang	Lyngdoh
19.	Sohiong	Lyngdoh
20.	Shella	Wahadadar
21.	Dwara-Nongtyrnem	Sirdar
22.	Mawdon	Sirdar
23.	Mawlong	Sirdar
24.	Nonglwai	Sirdar
25.	Pamsanngut	Sirdar

INTERVIEW SCHEDULE

1. Name:
2. Gender:
3. Age:
4. Education:
5. Residence:
6. Occupation:
7. In your opinion, should traditional political institutions such as *Syiemship*, *Lyngdohship*, *Sirdarship*, and their traditional administrative heads - *Syiem*, *Lyngdoh*, *Sirdar be* -

Allowed to continue

Abolished

8. Why?

Allowed to continue

Abolished

a) Represent Khasi culture

a) Represent a culture that is slowly disappearing

b) Represent a unique system of administration

b) Represent administration that is not accommodative

c) Have the Khasi population's confidence

c) Does not have the Khasi people's acceptance

Any other reasons - _____

9. a) Are you aware of the relation between the traditional political institutions in the Khasi Hills and the Autonomous District Council (KHADC)?

Yes

No

If so, give reasons - _____

b) In your opinion should the relation be strengthened?

Yes

No

Give reasons to support your opinion - _____

c) In your opinion should the Autonomous District Councils in Meghalaya be

Abolished

Continued

Give reasons to support your opinion - _____

10. Do you support the Khasi traditional political institutions demand for constitutional recognition?

Yes

No

11. How should this demand be fulfilled?

Inclusion of special provisions in the Constitution of India

Direct funding for development projects in their respective areas

Creation of an Upper House in the Meghalaya Legislature

Reservation of seats in the KHADC for heads of the Khasi traditional political institutions

Any other suggestions - _____

Thank You

C. Reuben Lyngdoh, Research Scholar,

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Examination	Board/University	Year	Division	Percentage
Class X	Council for the Indian School Certificate Examinations, New Delhi	1986	II	59.66
P.U.	Education Department, Govt. of Karnataka	1989	I	67.5
B.A.	Bangalore University	1992	II	55.37
M.A. (Political Science)	NEHU, Shillong	1995	II	56.75
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