

## CHAPTER 11

# A CRITICAL ASSESSMENT OF THE ROLE AND FUNCTIONS OF THE JAINTIA HILLS AUTONOMOUS DISTRICT COUNCIL

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Unlike the Khasis, the Jaintias were all grouped together under one single kingdom in the past. The whole of the old Jaintia Kingdom, both hills and plains were therefore administered centrally by its *Syiem*s or *Rajas* who supervised the administration of the land one after the other until 1835 A.D., when the Jaintia Hills administration was taken over by the British on 15th March 1835. The last Jaintia King was granted a pension of Rs. 500 a month by the British and asked to retire to the British district of Sylhet until his death in 1861.

Soon after the British took over the administration of the Jaintia Hills, they immediately abolished the office of the *Syiem*, though at the same time they retained the other traditional institutions, those of the offices of *Doloi*, *Pator* and *Wabeh Chnong* or Village Headman. Thus the three-tier (*Syiem-Doloi, Pator-Wabeh Chnong*) system of administration which was in existence during the pre-British period was reduced basically to a two-tier (*Doloi/Pator-Wabeh Chnong*) system only. Initially, the British did not want to immediately interfere in the local traditional administration of the Jaintia people and thus they adopted a non-interference policy. Subsequently, the British with their far-sightedness, soon realised that such a policy will not help in serving their interests in the area and thus plunged themselves into a forward policy by getting themselves totally involved in the administration of Jaintia Hills.

Under the British administration, the whole of Jaintia Hills along with a few other villages in Khasi Hills were administratively grouped together under one common system of administration by treating them as "British Areas". It must be borne in mind that in Khasi Hills besides the British Areas, there were also the Khasi States, which were given the Semi-independent and dependent status by the British. The British Areas were however administered directly by the British authorities, while the Khasi States were granted internal autonomy subject to general control of the British government.

From the point of view of administrative structure, the Khasi States and the British Areas were treated differently by the British authorities. This different treatment and imposition of administration under two distinct types by the colonial rulers over the people who otherwise have many things in common, had created some sort of disguised or unconscious division of the people into two different groups. We should not lose sight that this conscious division of the people by the colonial rulers helped in sowing the seed of feeling to maintain one's own separate ethnic identity against the background based on administrative framework. Even though the Khasis and Jaintias have many things in common, where sometimes it is difficult to differentiate between the two, the then administrative framework was designed as such that the two are completely separated from one another. The Colonial policy of 'Divide and Rule' could be seen even at this juncture.

After independence, the Khasis and Jaintias were constituted under one common administrative unit when the two areas were administered under one 'united' district, namely, the United Khasi-Jaintia Hills District and also under one 'united' Autonomous District Council. However, the Jaintias as stated earlier had their own Kings and other traditional Chiefs since long and even when their areas were annexed by the British, they had been placed under separate administrative arrangement. Thus the inhabitants of the Jaintia Hills continued under a separate administration and because of this, acquired a certain insularity in relation to the inhabitants of the Khasi States. It is in this context that the "administrative aspect" assumes a special importance and becomes as it were the crux of the whole problem.

A sense of separate identity has always been felt by the smaller ethnic group, the Jaintias, who are the closest cousins of the Khasis. This 'separatist element' would not have been possible had it not been for the fact that political consciousness and political leadership had deeply rooted in the British Areas due to emergence of the political stalwarts to provide frontline leadership both in Khasi and Jaintia Hills. It was these political leaders from the British Areas who first aroused public and political consciousness and carried the torch of the need to maintain identity in order to exploit more gains on the basis of separate administrative adjustment and restructuring of the process of administration.

The movement for the creation of a separate autonomous District Council for the then Jowai Subdivision can be traced as far back as during the time when the Bordoloi Sub-Committee was considering the future administrative set-up of the hill areas. During that time the movement for a separate District Council was led by the late Mr. S. Bareh. However, the leaders of the movement were persuaded by the late Rev. J.J.M. Nichols-Roy, a member of the Bordoloi Sub-Committee, to agree to a single or United District Council for the entire Khasi and Jaintia Hills, assuring them that there would be a uniform administration under the new United District Council.

As a consequence, the U K-J Hills Autonomous District Council was established in 1952. After a few years, the leaders of the Jaintia Hills felt that no progress was being made in the direction of a uniform administration throughout the District by the District Council. Accordingly, a persistent agitation started and continued since 1957 for a separate District Council for the then Jowai Sub-division.

On 1st November 1957, a memorandum was submitted to the late Shri Gobind Ballabh Pant, the then Union Home Minister, during his visit to Shillong by the representatives of the District Council and others from the Jowai Subdivision on various grounds asking for a separate District Council. They considered that they can better manage their own affairs in all respects if a separate District Council is granted. They also believed that the existing dissensions have hampered the smooth working of the District Council administration. Added to this, the over-all majority of Members of the District Council (MDCs)

from Khasi Hills (then being 18 from Khasi Hills against 6 from the Jowai Subdivision) made it impossible for the Jaintias to protect their own interests. An important issue was also raised that 'failing to create a separate District Council for the Jowai Subdivision, they expressed the desire that this Subdivision be Centrally administered'.

Subsequently another memorandum was submitted to the Prime Minister of India on 30th December 1957, during his visit to Shillong by the same signatories and others and on the same lines taken their memorandum to the Union Home Minister. On 8th July 1961, another petition was submitted by Dr. B.K. Tariang, Secretary of the Jaintia Durbar, on behalf of the Jaintia Durbar, to the Governor of Assam, through the Chief Minister, Shillong, "for immediate creation of a separate District Council for the Jaintia Hills".

In the fitness of things, it is worthwhile to analyse few of the pertinent issues that had been raised and demanded by the movement leaders as they appeared in those different memoranda submitted from time to time by the representatives of the U K-J Hills Autonomous District Council from Jaintia Hills and others as to the need for administrative re-structuring and the creation of a separate District Council for Jaintia Hills in order to help them maintain their ethnic identity as well as safeguard their interests. These various memoranda unfolded many things and speak volumes as to why such a need arose.

In the memoranda submitted in 1957 by the representatives of the District Council and others from Jowai Subdivision to the then Union Home Minister, Pt. G.B. Pant, an issue was raised with regard to the expectation of the people of Jaintia Hills of an equal treatment to both the Shillong and Jowai Subdivisions. But it was found that during the first five years, since 1952, the functions of the U K-J Hills Autonomous District Council made 'no serious attempts to bring about the uniformity of administration in the two Subdivisions'. There were many reasons responsible for this unequal treatment. Those that are of administrative nature were like the differences in the form of administration between the Doloiships and Syiemships in Jaintia Hills and Khasi Hills respectively. The 'United' District Council for Khasi and Jaintia Hills did not maintain any equal or uniform treatment to both. The memorandum made it very clear that

“surely there must be a reason or reasons for that and one of the reasons that is apparently clear is the presence of diversity in social, economic, and political position prevailing in the two Subdivisions. The extent of such diversities could be brought to a bearable minimum if representatives from the Shillong Subdivision would be as the representatives from the Jowai Subdivision are, willing to effect such evolutionary changes that would bring workable uniformity of administration. But unfortunately that has not been the case with the District Council during the past years”. It was further stated by the representatives from Jaintia Hills that “we have come to a conclusion that nothing short of a separate District Council would solve our problem and that such separate District Council is quite possible and feasible ... Last but not least we beg to express our feelings that in case the authority does not find it proper to grant us a separate District Council of our own, we would prefer to be severed from the District and even Centrally administered as otherwise there is genuine fear that our race as distinct people with age-old culture and custom would gradually disappear as a result of domination by the majority of the U K-J Hills District Council as at present constituted”.

In another memorandum submitted to Prime Minister Jawahar Lal Nehru on 30-12-1957, once again the issue was reiterated on the demand for the creation of a separate District Council for the Jowai Subdivision. The memorandum also pointed out the advantages of having such a separate District Council and the disadvantages if a ‘united’ one is allowed to continue to cover under its jurisdiction both the Subdivisions. Amongst other advantages, the following are also mentioned if a separate District Council is created for Jaintia Hills:

1. “It will dispel the sense of slavery and inferiority complex that is still lingering in the hearts of the people of the Jaintia Subdivision and which the U K-J Hills District Council administration has not, as it was, been making any attempt to remedy and remove.”
2. “In a separate District Council of their own, the people of the Jaintia Subdivision will have the sense of having the right to govern themselves as the people of a democratic Government and will be infused with the spirit of freedom as enjoyed by our brethren in India.”

Yet in another Memorandum submitted on the 8th July 1961 to the Governor of Assam by the Secretary of the Jaintia Durbar, the same long-felt demand for the immediate creation of a separate District Council for the Jowai Subdivision appeared.

The result of this persistent demand for the need to re-structure the administrative set-up for the Jowai Subdivision was the appointment of a Commission by the Assam Government known as the United Khasi-Jaintia Autonomous District Commission, under the Chairmanship of G.P. Jarman.

There was a conscious feeling among the Jaintias that their own identity might in the long run be threatened if they were to continue under the same administrative roof along with the majority Khasis. 'There has been a feeling that the more advanced Khasis are dominating the less advanced Jaintias in politics as well as administrative fields'. From the point of view of language issue, 'the Jaintias have yet to develop their language. During the demand for a separate autonomous District Council, they had listed it as one of their points of difference from the Khasis. The politics of ethnic groups and language as an infra-structural framework appears also on the question of job reservation on the basis of ethnic group and language. There is a job reservation of 40% for the Khasis and Jaintias. The Jaintias are not satisfied with this arrangement. They keep demanding for a separate quota for their ethnic group. They feel that by having a combined reservation of jobs with the Khasis, they will not be fully represented in Government establishment'.

From what have been discussed above, it appears that the lack of uniformity of administration is decidedly not conducive to the smooth running of the administration in both the Subdivisions. For instance, even after independence, all sources of income in the Jowai Subdivision are under the management and control of the U K-J Hills District Council. But there was no equal distribution of Government grants; the Jaintias are deprived of their legitimate opportunities in employment and other developmental facilities. All this, created a fear psychosis in the minds of the Jaintia people that they are being ill-treated by the majority Khasis if the two are still to continue under the same district administration.

The result would have been otherwise had it not been for the recommendations made by the Jarman Commission. The

Commission after going through 43 (forty three) memoranda received from various organizations, groups and individuals, recommended that "we feel that if the inhabitants of the Jaintia Hills work together and maintain the existing system of administration, there is no reason why a separate District Council would, we think, resolve the prevailing tension and bitterness, due to lack of uniformity in administration, between them and the Khasis, and we hope, lead to a better understanding between them. We accordingly recommended the creation of a new Autonomous District Council for the Jowai Subdivision of the U K and J Hills Autonomous District Council by excluding the areas comprising the areas of the said Subdivision from the U K and J Hills Autonomous District. Our recommendation is chiefly based on administrative differences which appear to us irreconcilable, and partly on the basis of an existing majority of four to two M.D.Cs in favour of bifurcation". As a result, in 1967 a separate autonomous District Council was created for the Jaintias by the Assam Government with the hope that this would wean them away from the Hill State movement. This hope was however belied as the Jaintias joined hands with their Khasi brethren and others to strengthen the movement for a separate Hill State.

The Jowai Autonomous District Council (which was subsequently renamed as the Jaintia Hills Autonomous District Council-JHADDC) was created in 1964 vide Notification No. TAD/R/50/64, dated 23-11-1964, on the recommendation of the Commission stated earlier. In between 1964 to 1966/67 (before the elections of 1967 to the Council), the administration of the Council was under the supervision of the Advisory Committee whose members were nominated by the Governor. Another reason for such an interim arrangement was because of the court case filed by Mr. E. Bareh against the State of Assam.

The General Elections to the Jaintia Hills Autonomous District Council were held in 1967, its members having been returned during these elections and the Council started functioning regularly since then. During the initial period of its working, the JHADDC did not have its own laws, rules and regulations as the same could not be immediately framed by the Council. Therefore, for the time being and until such time when the JHADDC makes its own laws, the Council applied for its

administration, those laws, rules and regulations which were framed and enforced by the then United Khasi-Jaintia Hills Autonomous District Council. There were 16(sixteen) such Acts, Rules and Regulations which were made applicable on JHADC during the initial period of its working. This interim arrangement did not create any difficulty since Jaintia Hills was earlier part and parcel of the then United Khasi-Jaintia Hills ADC. The first two Acts passed by the JHADC were:

- (i) The Jowai Autonomous District (Administration) Act, 1967
- (ii) The Constitution of District Council, Jowai Autonomous District Act, 1967.

Following these two Acts, the Council passed a number of other Acts and Regulations from time to time. From the year 1952 to 1962 the first decade of the functioning of the then United Khasi-Jaintia Hills ADC, the Council framed and enacted a number of legislations and regulations. These Acts and regulations covered a wide range of subjects like — the District Fund, salaries and allowances of the Chairman and Deputy Chairman, the Chief Executive Members (CEMs) and the Executive members (EMs) and elected members of the Council; on land, its transfer, management and collection and control; Fisheries; Forests, management and Control; Christian marriage; Trading by Non-Tribals; Appointment, Elections and Succession of Chiefs and Headmen. In the following decades a number of other legislations and regulations were passed from time to time covering new areas and at the same time many amendments were made on those earlier legislations. The Jaintia Hills Autonomous District Council adopted most of the Acts passed earlier by the then United Khasi-Jaintia Hills ADC. Some of the notable legislations passed by the JHADC were Establishment and Administration of Town Committee, Management and Control over land, assessment and collection of Revenue, Taxation on trade, calling and employment and Professions and Local Police Act. These legislations have received the Governor's assent. It may also be mentioned here that in 1980 the JHADC issued an order for the exemption from payment of land revenue by the Jaintia people throughout the District.

A study of the laws framed by the District Councils in Meghalaya in general and the JHADC in particular reveals that

most of them relate to the matter and subjects concerning routine administration and the mobilisation of resources to raise fund and improve the financial requirement of the District Councils.

After more than four decades of the existence of the Autonomous District Councils in Meghalaya, there is a need now to examine empirically the question as to whether the District Councils through their functioning have been successful or not in fulfilling the Constitutional objectives, their relationship with the State Government as well as the traditional socio-political institutions, codification of traditional laws and customs, land and land tenure system, primary school education, etc.

### **State Government-District Council relationship**

In the field of State Government-District Council relationship, our experience is that most of the time such relationship is not that cordial. This strain relationship could be seen especially in the field of financial matters. The District Councils have to depend on the grants-in-aid from the State Government in order to meet their needs especially in terms of developmental programmes like construction of roads, bridges, primary school buildings, water supply schemes, playground etc., as provided in the Sixth Schedule.

In the area of allotment of funds to the District Council through the State Government, it is the general feeling among the District Council authorities in Meghalaya that Central Government funds should be directly sent to the District Councils and not routed through the State Government. But this persistent demand made by the District Councils in Meghalaya (or for that matter other District Councils too) has not met any favourable considerations either by the Centre or the State Government. The recent meeting between the CEMs, EMs and other officials of the ADCs of Meghalaya with the Union Minister and Deputy Chairman of Planning Commission shows the Centre's preferences to route the central fund to the District Councils in Meghalaya through the State Government. This is one area where the relationship between the two authorities is full of tension and less of cordiality.

When the North-Eastern Reorganisation Act of 1971 came into force in 1972, a full-fledged State of Meghalaya was formed. This Act has also its effects on certain paragraphs of the Sixth Schedule. A prominent paragraph was inserted in paragraph 12 of the Sixth schedule where a new sub-paragraph was added, making it paragraph 12A. The insertion of this sub-paragraph has resulted in a certain amount of diffidence on the part of the ADCs in Meghalaya. Someone calls it the "Camel's head". Many Regional Political Parties of the State demanded the deletion of paragraph 12A from the Sixth Schedule as according to these political parties, the State has an over-riding authority over the District Council. They feel that the State Government have already had enough powers under the State and Concurrent Lists. They are therefore of the opinion that the State Government should concentrate on those subjects and leave the District Councils alone with whatever powers and functions and subjects as empowered and entrusted by the Sixth Schedule to them. However deletion of any paragraph of the Sixth Schedule is not an easy task as it involves an amendment of the Constitution itself. Moreover, in a Parliamentary system of government, a District Council cannot over-step the powers of the State Government.

### ✓ District Council-traditional Socio-political Institutions Relationship

This is another area of conflict between the two authorities. In the case of Jaintia Hills as at present, there is broadly speaking a two tier system of traditional socio-political institutions. At the *Elaka* level we have the *Dolois* and *Pators* and at the village level we have *Ki Wabeh Chnong* or Village Headmen. In both these levels *Ki Durbar* or Councils play an important role. Traditionally, a Chief cannot ignore the role played by the Councils and the people at different levels of administration. The Chiefs have to perform and carry on the administration according to the popular opinion and the decisions taken in consultation with the clans' representatives at different levels of Councils.

The Sixth Schedule to the Constitution under paragraph 3(i)(g) empowers the District Councils to make laws on the appointment or succession of Chiefs or headmen. Accordingly,

the then United Khasi-Jaintia Hills ADC passed an Act (Appointment or Succession of Chiefs and Headmen) Act, 1959 (hereafter referred to as the Principal Act) on the 21<sup>st</sup> October 1959, after receiving the assent of the Governor on the 16<sup>th</sup> October 1959. This Act made provisions for the elections and appointment of Chiefs and headmen, confirmation of Chiefs appointment, decision on any dispute regarding election of Chiefs and headmen. Besides this, the Act also made provisions for the removal and suspension of the Chiefs and headmen by the Council's Executive Committee if in its opinion these incumbents violate the terms and conditions of their appointment (the Act listed 4 such terms and conditions). In the subsequent amendment of the Principal Act, it added 3 (three) more such terms and conditions. It also introduced two fundamental changes from the traditional customary practices of the people as per sections 10 and 11 of the Act which relate to the appointment of Deputy Chief (Section 10) and an Acting Chief (Section 11).

The Jaintia Hills Autonomous District Council which was established in 1964, but became actively functional from 1967, adopted the said Principal Act as it is during its initial years of existence.

In the subsequent years, the JHADC made certain amendments to the Principal Act. For example, the District Council passed an amendment Act in 1973 (the Jaintia Hills Act No. 1 of 1973) which deleted the entire Section 10 of the Principal Act relating to the appointment of Deputy Chiefs. The JHADC realised the uselessness of such a provision of the Act and more importantly it shows the complete deviation from the traditional customary practices of the people of Jaintia Hills. The Executive Committee however, retained Section 11 of the Principal Act relating to the appointment of an Acting Chief. Many such acting chiefs were subsequently appointed especially to the office of a *Doloi*. The appointment of an acting chief was criticized as there was no such customary practice. A Chief once appointed, held the office for life, unless removed for very strong reasons, like moral turpitude or commission of heinous crimes. Moreover, according to traditions a Chief, must be a person belonging to the original or founding clan(s). But as per the aforesaid Section (Section 11) of the Principal Act, it mentions specifically that the Executive Committee of the District Council may ap-

point "any person" who could be from any clan to act as an Acting Chief and exercise all the powers and functions of the Chief. This step taken by the District Council is sure to create confusion in the minds of the people. In the Khasi Hills ADC this sort of action taken by the District Council has created many confusions and ill-feelings between the Khasi Hills ADC and the traditional Chiefs from time to time.

In certain *Elakas* in Jaintia Hills, a Chief or Headman receives as remuneration for his services *Rek* land or service land, which means a revenue free land, for cultivation and the upkeep of the Chiefs. Besides this, *Puja* land, also a revenue free land, is held and cultivated by a Chief or Headman and the yield or income thereof is utilized for meeting expenses connected with religious ceremonies, according to the customs of each *Elaka*. But in the second amendment (1975) of the Principal Act, 1959, by the JHADC, a new section was inserted, which enables the District Council to forfeit the rights of the traditional Chiefs who had been suspended or removed from office to cultivate and enjoy the Service and *Puja* lands.

Traditionally in the absence of any Chief either due to his removal from office by the people or his death, such lands allotted to the Chiefs will revert back to the community until a new Chief is elected. Until such time these lands will be looked after by the members of the chief clans. The situation is otherwise now under the District Council. A complete reverse development has taken place since the passing of the above mentioned Act by the JHADC. Through this Act, the District Council is trying to appropriate land and its produce that actually belongs to the people of the *Elaka*. Thus instead of acting as an institution to protect and preserve the traditions and social customs of the people, the District Council behaves otherwise and contrary to the purpose of its establishment. This shows very clearly that the District Council unnecessarily tries to interfere in matters which should have been left to the people and their traditional institutions so that there is continuity in their traditional customs and practices. In this way many of the powers and functions of the traditional Chiefs were either curtailed or taken away by the District Council through Acts, Rules and Regulations passed from time to time.

The Chiefs being treated by the District Council as its subordinate officials are made accountable for their actions to it. They are directed to desist from criticisms of the functioning of the Executive Committee of the District Council in any form of utterance or statement. They are debarred to participate in any demonstration or resort to any form of strike in connection with any matter pertaining to their conditions of service. These conditions laid down by the District Council gave rise to the tussel between the two authorities. Sometimes, on some pretext or the other, a traditional Chief would be suspended on charges like insubordination, mal-practices and disobedience.

The various Acts enforced by the District Council under the Sixth Schedule from time to time, brought radical changes in the pattern and procedures in election and appointment or succession of Chiefs and Village Headmen in Jaintia Hills. The scheme of action taken by the District Council through its Executive, Legislative and Judicial functions has created resentment in the relationship between the traditional institutions and the ADCs in Meghalaya. Thus the District Council was never welcome by the traditional authorities as to them it reflected the aspirations of the new elite.

Under the new Constitutional set up, the traditional Chiefs are pushed behind the line of leadership. They are to keep themselves content with whatever power and functions left to them by the District Council. In the District Council's dealing with the traditional institutions, there is a strong feeling that it has not fully appreciated their continuance as institutions of the best in their traditions and has therefore treated them as personalities or individuals of their respective *Himas* (States) or *Elakas*. This obviously leads to indifferent or discriminatory treatment of adhoc nature without a firm and definite policy of preserving the institutions in their pristine purity. This has cause a sense of confusion among the people in general, a feeling of uncertainty, if not of mistrust or suspicion among the traditional and other institutions of the motive of the District Council as to their continuance as custodians and trustees of the customs and traditions of the society at large.

The relationship between the traditional institutions and that of the District Council was all along under strains. Paradoxically, the present situation is a threat to the traditional institutions as

well as to whatever democratic practices practiced by the people under study. There existed, therefore drastic effects on the power, functions and leadership role of the traditional Chiefs with the coming into existence of the District Council. Further, under such precarious situation, frontal leadership in the area or for that matter in the whole State of Meghalaya passed into the hands of the emerging elite of the society. The prevailing conditions appear to be more in favour of such elite than the old guards of the tradition.

Against this background of the role, working and functioning of the Autonomous District Council in Meghalaya in general and the Jaintia Hills Autonomous District Council in particular, few issues may be raised for further examination and critical assessment:

- 1) Keeping in view of the past experience and performance of ADCs in Meghalaya in their relationship with the traditional institutions, to what extent the PRIs will rise up to the expectations of the people in their role behaviour?
- 2) Whether the PRIs will be effective in removing the resentment or strait relationship if they replace the ADCs in the States like Meghalaya or Mizoram?
- 3) Whether the PRIs will be effective in the implementation of various rural development and poverty alleviation programmes under the new system?

These and other questions need to be discussed in proper perspectives with special reference to the Hill States of North East India in general and Meghalaya in particular.