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:

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 genius\(^2\).

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 state\(^3\). 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.

When the Indian Constitution came into force on January 26th, 1950, six regions 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 Jaintia 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 Rymbai. 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 Council.


(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 today. 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 Schedule. 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 administration. The United

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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.
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, 1969. 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

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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 Jaintia 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:
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 law.\(^\text{10}\)

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.
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 purpose.

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

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Autonomous District Councils gave effect to these paragraphs by enacting their own rules for the administration of justice. The United Khasi-Jaiñtia Hills Autonomous District (Administration of Justice) Rules were framed in 1953. Under these rules the United Khasi-Jaiñtia 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 Governor. 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-

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L.S.Gassah (Ed.): Autonomous District Councils, op. cit., p.63.
Jaintia Hills Autonomous District (Administration of Justice) Rules, 1953, the Court of the Syiem of Mylliem 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 Magistrate. 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-Jaintia 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,

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-Jaintia 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-Jaintia 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 Mylliem* as well as of the Khasi and Jaintia 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 Jaintia Hills.
scope of business and revenue expanded beyond the confines of customary practices. The Syiem of Mylliem 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-Jaiñtia 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 areas[16]. 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 Mylliem 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-Jaiñtia Hills District (Trading By Non-Tribals)

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Regulation, 1954. 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

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against the decision of the High Court before the Supreme Court but their petition was also dismissed. The authority of the United Khasi-Jaintia Hills Autonomous District Council was once again confirmed in a court of law. However, these litigations affected the ability of the United Khasi-Jaintia 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-Jaintia Hills Autonomous District Council and the office of the Syiem of Mylliem have also been strained on account of regulation of the commercial activities pertaining to Iew Duh. Pending litigation with the United Khasi-Jaintia Hills Autonomous District Council necessitated the non-tribal traders to turn towards the Syiem of Mylliem 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-Jaintia Hills Autonomous District Council. Such inevitable consequences of market driven activities aggravate the strained relations between the two authorities.

While the United Khasi-Jaintia Hills Autonomous District Council wanted to enjoy the patronage and financial returns from control over this market, the

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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 *lew Duh* suffered a casualty. On the other hand, the markets 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

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19 The four principal markets are *lew* Smit, *lew* Mawhati, *lew* Mawryngkneng and *lew* Mawlyngngot.
respect to the appointment or succession of Chiefs\textsuperscript{20} 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”\textsuperscript{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 Council's authority over the administrative heads of the Khasi states was complete with the passing of the United Khasi-Jaiñtia Hills Autonomous District Council.

\textsuperscript{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.

(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 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 Mylliem in accordance with the customs and practices prevailing in Hima Mylliem. 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 Council.

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.

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-Jaintia 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-Jaintia 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-Jaintia Hills Autonomous District Council to remove and suspend the Syiem of Mylliem\textsuperscript{24}. 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 –

\textsuperscript{24}Phira, J.M.: \textit{op.cit.}, pp.63-68. 
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\textsuperscript{25}.

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 Mylliem was suspended by the Khasi Hills Autonomous District Council on the basis of a complaint received against him. The *Syiem* of Mylliem 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 Mylliem. The KHADC once again approached the Supreme

\textsuperscript{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 Mylliem 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 Mylliem.

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 Bakhraw never deviate from customary practices and hence do not invite the attention of the KHADC. Differences between the Bakhraw 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 Mylliem. Under such circumstances the KHADC has not found cause or opportunity to interfere with the smooth functioning of the Hima and its representatives.

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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”\(^\text{27}\). 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

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 authority\textsuperscript{28}. 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 8\textsuperscript{th}, 1951 which was subsequently published in the Assam Gazette, dated November 14\textsuperscript{th}, 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 Council\textsuperscript{29}. 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

\textsuperscript{28} Report Of The Commission of Inquiry On Autonomous Districts Administration In The State Of Meghalaya, Vol.1: \textit{op.cit.}, p.47.

\textsuperscript{29} Sutnga, E.K.S.: \textit{Ki Riti Ki Dustur Ka Jaidbynriew Hynñiewtrep Bad Ka Shedul ba Hynnriew}, 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 Mylliem 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

31The Mikir Hills District Council expressed its inability to participate in this meeting.
called the Eastern Hill State\textsuperscript{32}. This demand was further strengthened at the Tura Conference\textsuperscript{33} 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

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

\textsuperscript{33} This conference is also called the Assam Hills Tribal Leaders' Conference.
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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 affected.  

The demand for a separate Hill State was carried on by the Eastern India Tribal Union (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

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34 Rao V.V.: *op.cit.*, p.347.  
also Lyngdoh, R.S.: *op.cit.*, p.320.  
35 The 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-Jaiñtia Hills, three seats went to the Eastern India Tribal Union while two seats went to independent candidates. Similarly in 1958 United Khasi-Jaiñtia 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 hills. They met the Prime Minister of India on October 4-5, 1963. The result of their

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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-Jaiñtia 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 (Reorganisation) 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’ 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 Mylliem, 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 Mylliem constituency. The former Syiem of Mylliem, 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 21rd) 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.

42 Address by Shri Bhisma Narain Singh, Governor of Meghalaya, Meghalaya Legislative Assembly, February 24, 1989, pp.13-14.
44 Letter to, Dr. Donkupar Roy, Chief Minister of Meghalaya, 24th April, 2009, Shillong, p.1.