

**Rural Governance in Non-Panchayat Areas of India:
A Study of Contemporary Status of
the Nokmas in East Garo Hills District (Undivided) of Meghalaya**

ABSTRACT

India is predominantly inhabited by the village folk who are basically dependent on agriculture for their livelihood. These villagers forming the bulk of the main population of India, have to their credit, a well concept and encompassing, yet simple and pragmatic system of self governance among themselves. Therefore, the art of rural governance among the people is not something new to them nor can it be called a newly evolved idea. It had been as old as the people themselves. The subject matter, therefore forms an interesting topic of discussion in our life and it became a very popular subject of inquiry and research. Among the South Asian countries, India stands out to be the country that has a long historical background connected with the village self governing institutions designed and developed by themselves for rural governance through democratically elected group of people. The earliest Vedic Texts and the ancient Indian religious scriptures bear ample testimonies to the existence and practices of such self governing institutions as *Sabha*, *Samiti* etc. Customs and traditions elevated these earlier village assemblies to a position of considerable authorities. Slowly, they assumed the form of the *Panchayat*, which is an assembly of five respected elders. These *Panchayats* became the pivot of administration, the focus of social solidarity and the principal forum for dispensation of justice and resolution of local disputes. During the medieval and Mughal periods, these characteristics of the village *Panchayats* remained unchanged¹. The continuation of these institutions, their growth and development in different

¹ Report of the Working Group on Panchayati Raj Institutions and Rural Governance. Government of India, Planning Commission and Ministry of Panchayati Raj, 2011, p 1.

dimensions throughout the different historical periods could still be known from the pages of historical records.

Came the British, a band of mercenaries turned administrator, who also had a trying hands in it for some years during the period of their rule in India. Yet, the system did not receive much attention; rather it started facing the threat of gradual loss of interest among the British administrators leading to an ultimate destruction of the system. Centralisation rather than devolution of powers had been the newly adopted system of governance under the new masters; and as a result of this new introductions, the village polity, economy, socio-religious settings etc. had been disturbed and subjected to much hardships and change. Gandhiji's vision of Village self rule or *Gram Swaraj* could not be worked out even for an experimental basis and the idea received a back seat at the hands of his successors who failed to give a constitutional status to it. Not to speak of the taste of enjoyment, Gandhiji even could not see, with his own eyes the initial steps taken for fulfilling the establishment of *Panchayati Raj* in the country. So unfortunate as he was that Gandhiji could not live for long to enjoy the fruit of his labour of long and hard struggle for freedom. He fell victim to the bullet of a young assassin who killed him with his revolver. Nathuram Godse, an advocate of Hindu nationalism, a member of the political party the Hindu Mahasabha shot him dead on 30th January 1948 in the compound of Birla House, (now Gandhi Smriti) in New Delhi.

Following India's attainment of independence, opportunities have been opened up for the Indian Political leaders, intellectuals, social thinkers etc. to shape their dreams into reality and to give a new order in the administrative arena by insertion of relevant provisions in the Constitution that would suit their needs for administration and governance of the people having diverse backgrounds in race, culture, language, religion, customs, traditions etc. Their effort in this respect however, could not be much successful as the constitution of *Panchayati Raj* in a federating state was not mandatory as per the

provisions of the Directive Principles of State Policy found mentioned in Part IV (Articles 36-51) of the Constitution of India. Article 40 of the Constitution of India reads “*The state shall take steps to organize village Panchayats and endow them with such power and authority as may be necessary to enable them to function as units of self government*” This had been a mere directives to the federating states of India. The states could not be compelled to execute this provision in letter and spirit and therefore, through it, the desired objective of having *Panchayati Raj* at the grassroot level village administration could not be materialised.

In 1952, Community Development Projects were inaugurated in India with strong intention of carrying out various developmental plans in the rural areas and among the rural masses. However, CD projects could not achieve their full potential because of the absence of effective institutions for people’s participation. In 1957, a historic breakthrough in establishing *Panchayati Raj* was effected through the Report of the Balwantrai Mehta Committee which recommended “Public participation in community works should be organized through statutory representatives bodies” It was of the view that without an agency at the village level that could represent the entire community, assume responsibility and provide the necessary leadership for implementing development programmes, real progress in rural development could not come about at all. Following this historic recommendations, the then Prime Minister of India Jawaharlal Nehru inaugurated the 3 tier *Panchayati Raj* in Nagaur, Rajasthan on 2nd October 1959.²

In 1971, the title “Community Development” was dropped and was replaced by the word “Rural Development”³ which had been also a step for furthering and

² Report of the Working Group on Panchayati Raj Institutions and Rural Governance, Govt. of India, Planning Commission and Ministry of Panchayati Raj, New Delhi, 2011, p 3.

³ Report of the Working Group on Panchayati Raj Institutions and Rural Governance, Govt. of India, Planning Commission and Ministry of Panchayati Raj, New Delhi, 2011, p 3.

strengthening the works of development of the rural areas. This was followed by the formation of Ashok Mehta Committee in 1978 which recommended that Panchayati Raj be included in the Constitution. Driven by a vision to provide the people with a “representative administration”, Prime Minister Rajiv Gandhi (1984-1989) in his address to the nation in January 1985 said “*To the people of India let us ensure maximum democracy and maximum devolution... Let us give power to the people*” A sub-committee of the Consultative Committee of Parliament attached to the Ministry of Rural Development under the Chairmanship of Shri P.K.Thungon recommended that *Panchayati Raj* bodies should be constitutionally recognized. In May 1989, Prime Minister Rajiv Gandhi himself introduced the Constitution (64th Amendment) Bill, saying “*Our Bill will ensure that Panchayati Raj has a democratic character similar to the Lok Sabha and the State Assemblies and constitutional protection for their functioning as representative institutions of the people*” Although the Bill received the required two thirds majority with at least half the members present and voting in the Lok Sabha, it failed to muster by a handful of votes.....the required constitutional majority in the Rajya Sabha. An attempt to introduce a slightly modified version of the said bill was made by P.V.Narasimha Rao led Congress government in 1989. This time both the Lok Sabha and the Rajya Sabha passed the bill on 22nd and 23rd December 1992 respectively. Thus, the Panchayati Raj became an act under the sequence of 73rd (Constitutional Amendment) Act, 1993. By this amendment, two new parts to the Constitution, namely Part IX titled “*The Panchayat*” and Part IX A titled “*The Municipalities*” have been added.

Passing of 73rd Constitutional Amendment bill by the Parliament of India in 1992, brought great hopes to the larger rural Indian masses. It is a step through which revolutionary changes in the lives and economy of the rural people of India, was aimed at to be achieved. The different state governments through their respective state legislations started implementing the Panchayati Raj institutions in their own states. As a result, change and development in the standard of living of the people, rural infrastructures,

economy etc. could be seen. One biggest achievement of the passing and implementation of this legislation is the women's active involvement in the electoral process and of taking up the posts of leadership in the sphere of rural governance and sharing of responsibilities amongst themselves in the process of looking after the affairs of their own villages. Therefore, this piece of legislation has been a right move in the new direction towards achieving a goal of better villages and a developed India.

For convenience of systematic study, proper investigation and analysis, and better presentation, the study has been designed and bifurcated into seven different chapters including the conclusion. A brief description on each of the chapters, is being highlighted here.

Chapter I, which is titled "*Introduction*" opens up the study with the author himself, trying to bring to light the existence of the self governing institution among the people in India since earliest times. Giving the details of the statement of problem of the research topic being undertaken, its objectives, the research methodology, survey of literature, the tools employed for the research etc. the study highlighted a brief overview about the land and the people and of the geographical extension of the area under study.

From the very outset, the author tries to inform that there exist rural self governing institutions in India right from the Vedic Age. India's old sacred books and historical sources mention village communities (councils or assemblies) across the sub continent that were self governing over millennia, serving as the main interface between the predominantly agrarian village economies and the higher authorities. As mentioned earlier, *Sabha*, *Samiti* etc. were the words that pinpointed to the existence of the village self governing institutions that were practiced by and prevalent amongst the people during Vedic Age. Therefore, Village Self-governance had been a part and parcel of rural Indian socio political life since ancient times till date.

The *Panchayat* system as self-governing village council, in one form or the other existed in most part of rural India long before the British arrived in this country. Sir Charles Metcalf the Provisional Governor General of India (1835-36) even described them as *Little Republics*; a little state independent of any external authority. His remark might be little exaggerated; but it was certainly near the truth if we think of the village communities in the hill areas of North-east India.

The villages have traditionally organized themselves into village authorities or village councils. The village councils were, generally, adult male members led by the village headman or a chief (later by a *Gam* or a *Gaonbura*, during British period). The chief or the village headman was often assisted by a few selected members of the village. The village council was a decision making and implementing body. Cases of law and order, initiation and implementation of developmental activities, settling of disputes, organizing social activities, receiving visitors, and in later years meeting government representatives etc. all involved the council in one way or the other. They functioned within the ambit of customary practices. Only adult male members of the village, generally, enjoyed the right of political participation. Traditionally women were not allowed to take active part in the political processes of the village.

The British Indian Government tried to improve and modernize the traditional village self governing institutions, in the country to some extent, as is evident from the reform activities tried and carried out by Lord Ripon, Viceroy of India, so that they can function as effective instrument of rural governance. But they left the hill areas of North-east India alone, allowing them to function in their traditional way except introducing token changes in the form of recognizing the heads of the village council as *Gam* or *Gaonburha*. After the Independence, the scenario of rural governance, has undergone certain changes with the adoption of the Indian Constitution.

The passage of the 73rd Constitutional (Amendment) Act in 1992 brought a revolutionary change in the scenario of rural governance in the country. The Act which gave a new status and a new orientation to rural governance prevalent in the country and infused necessary dynamism into it raised the hopes and aspirations of the people of these areas too, along with the rest of the country.

In this opening chapter, the author invariably tries to give a profile of the Garos inhabiting the Garo Hills, of their origin and settlement, migration, cultural background, language, dresses, festivals etc. besides presentation of the rural landscapes, its physiographies, the climatic features and of the land they lived in.

The East Garo Hills district is the second district administrative unit created on 22nd October 1976 within Garo Hills under the state of Meghalaya in India. Williamnagar is the administrative headquarter of the district. The district occupies an area of 2603 Km².

The district is bounded by West Khasi Hills on the east, West Garo Hills on the west, Assam on the north, South Garo Hills on the south. The East Garo Hills region forms a sort of undulating plateau with plenty of flat lands and valleys with altitudes varying from 100-1400 m above sea level. As is evident from the name, the district of East Garo Hills is a hilly terrain.

According to Census 2001, East Garo Hills with its headquarters at Williamnagar is occupying an area of 2603 sq kms with a total population of 3,17,917 persons. Its density of population is 95 persons per km. square. Out of this, another new, the North Garo Hills District with its headquarters at Resubelpara has also been carved out, created and officially inaugurated on July 7th 2012. This newly created district has a population of

about 1,04,514 persons and a total area of 787 sq kms. The undivided East Garo Hills District has the highest concentration of ST with 96.5 per cent out of its total population.⁴ The present study however, covers the undivided East Garo Hills District.

The Undivided East Garo Hills District has been, for administration and rural development purposes, divided into the following Community and Rural Development Blocks. They are 1. Dambo Rongjeng 2. Kharkutta 3. Resubelpara 4. Samanda 5. Songsak.

The literacy rate of the people of the district is 53%. It has a total number of 7 Legislative Assembly Seats and is a part of the Tura Parliamentary seat which is presently being represented by Ms Agatha Kongkal Sangma, the youngest daughter of former Lok Sabha Speaker Late Purno A'gitok Sangma.

Chapter II gives description about the origin and the structural institution of the Autonomous District Council created under the Sixth Schedule provision of the Constitution of India. The same chapter also shares a space to highlight the historical background, development and functioning of the Garo Hills Autonomous District Council.

The Sixth Schedule provision had been enshrined in the constitution of India by the framers of the Constitution of India, with a deep and noble intention to protect, preserve and promote the tribal inhabitants of the Hill Districts of the North Eastern part of India. In the best possible way, the constitution makers aimed at empowering the hill tribes to grow, develop in their own roots and at the same time retaining their aged old and most valued customs, culture and traditions which richly adorned their life and by which they make their life so distinct and unique.

⁴ Census of India, 2001, Primary Census Abstract, Series.

The Autonomous District Councils created under the provisions of Sixth Schedule are expected to perform like a mini parliament in the administration and regulation of the tribal ways of life for the tribes inhabiting in the hill areas of the North East India. These bodies therefore, exercise Legislative, Executive, Financial, Judicial powers. On the strength of these given powers and other related functions, this study has examined how far the Autonomous District Councils in general and the Garo Hills Autonomous District Council in particular, as per the rules framed or the provisions under the Sixth Schedule, have actually performed to bring about socio-economic changes in the tribal society of the North East.

Besides, this chapter has briefly dwelt on the origin, growth and the nature of functioning of the Garo Hills Autonomous District Council (GHADC). To the best of author's ability, focus is given on the style of functioning of the GHADC and to unearth the lapses it had with the straight intention of putting it back on the right tract and for favour of relooking into and rectification of the wrongs they had committed while manning the system.

The Garo Hills Autonomous District Council with its headquarters at Tura had a good beginning and it started with a great spirit and hopes to execute the provisions contained in the Sixth Schedule and to bring development to the people. To begin its work, the Office Secretariat cum Legislative Assembly Hall was constructed and the Official Bungalows for the Executive Members and the Officers, were also constructed with a beautiful Park at the centre. Besides concrete buildings, market stalls and sheds at different localities at Tura and in the rural market areas were constructed by the Civil works Department. The Rural Development Branch undertook the works of construction of roads, culverts, Ring wells etc. Transport Department was started in a big way by running Buses on important routes of the District. The Department was looked after by the Transport Staff. The Buses also carried Mails of the Postal Department to and from the District. In accordance with the Provision of the Sixth Schedule, all the Lower

Primary Schools have been transferred to the District Council in 1961. Before the District Council came into being, the total number of LP Schools in Garo Hills District was only 277 with an enrollment of 7667 Pupils and 634 teachers. But with the transfer of all the LP Schools to the District Council, the number rose to 886 with 39,000 pupils in 1965. Besides these Schools, the Garo Hills District Council also opened more than 200 LP Schools on its own. The medium of the LP School was in Mother tongue and Garo, Bengali, Assamese and Nepali languages are the medium of LP Schools.⁵ Later, for being unable to manage and deal with the subject, it was transferred to the management of the State Government.

In the matters of Legislation, a variety of Acts, Rules and regulations as mentioned before were passed to preserve their economic well-being. These Acts, Rules and Regulations were amended from time to time to keep pace with the change of time and situation.

Land and Revenue Administration: During British rule, *Mou zadari* system was introduced in the Garo Hills as part of land and revenue administration. The first cadastral survey of the plain *mouzas* of the *Zamindari* Estates was conducted in 1906-08 when the lands were classified and assessed to land revenue. The lands were classified into three types and the taxes assessed on each were as shown below:

Basti which was assessed at Re 1 per bigha; *Rupit* which was assessed at 8 to 10 annas per bigha and *Faringati* which was assessed at 4 annas per *bigha*. The lands were settled on annual lease. For effecting permanent settlement, survey was undertaken in the plain *mouzas* which was completed in March 1927.

The hill areas under mouza No. I to IV comprise the lands which are held by the Garo clans under their traditional chief called Nokma. These community held lands are

⁵ Milton S. Sangma's article "A glimpse of the working of the GHADC" GHADC Golden Jubilee Souvenir, p 36.

called A'king. The Nokma distributes land to his subjects on most temporary basis for jhum cultivation and for settlement purposes. The *jhumer* in exchanged for that pays only a nominal fee which is called *Awil* or *A'kimil* or *Ha'kimil*. But, this practice of taking nominal fee by the A'king Nokma, is now being replaced with selling plots of land for settlement purpose at an exorbitant rate which the poor people can never afford to pay. Besides, certain selfish A'king Nokmas allow permission to settle down in his A'king only for the members of his own clan or the wife's clan and not for other people belonging to other clans or Maharies. This trend of distributing land only to the members of his wife's clan or the Nokma's clan for settlement purposes within the A'king has been featured following the rapid growth of population in Garo Hills which results for the high demand for land for domestic and commercial purposes.

With regard to administration and assessment of revenue and other forms of taxes, the council's Taxation Branch is the overall authority. It is reported that the revenue receipts from all sources i.e Forest, Taxation, Revenue receipts from sale of Hats, Fisheries, Ferry Ghats, Grazing Tax, Land Revenue, House Tax, Printing Press, Water Tax, Shares of Royalties accrued from Coal, Minor minerals and M.V Taxes for the year 2002-2003 was estimated to be Ra 15,08,24,847/- while the GHADC's total annual expenditure during that year was Rs 19,71,19,922/-. The deficit, thus being Rs 4,62,95,075/-.⁶ This kind of deficit has been the regular feature of the GHADC's annual financial position as a result, there has been an accumulation of council's debt from the previous years due to budget shortfalls, non reception of its dues from the state government and its failure to properly assess and collect its various taxes on time.

Administration of Justice:

With regard to the working of the Judiciary branch, it has been able to dispose of many civil suits like the question of succession to Nokmaship, Inheritance, Divorce, Elopement, inter-Nokmaship boundary disputes and other petty cases of theft, quarrels etc. Yet many

⁶ GHADC, Golden Jubilee Souvenir, 1952-2002, p 29.

things are still to be strengthened in this field. Though, The Garo Hills Autonomous District Council (Administration of Justice) Rules, 1953 had been framed by the GHADC, its contents and provisions have not been executed in letter and spirit. In most of the villages and regions, the Village Courts have never been constituted. According to Dr. M.S.Sangma, in entire Garo Hills, there had been a report of having only 55 number of village courts being constituted so far, which are trying various kinds cases of cases excluding the criminal cases involving between the tribal and the non-tribal communities.⁷ But according to Chandra Bahadur Chetry, Rtd. Secretary, Executive Committee, GHADC, the number of Village Court in the three districts of Garo Hills was 60.⁸ This difference might be due to the establishment of new Village Courts elsewhere in the district of Garo Hills over the years.

In matters of adjudication of justice, in certain cases of succession to the post of Nokmaship, an heir and the rightful person to the post is denied without any valid reason and thereby he/she is reduced to the status of an ordinary man or woman. It has been a fact that in many instances, the Nokmas who were economically poor, can not regularly attend the court for hearing in the event of any litigation filed against them or in connection with succession problem. In such cases, as law provides, an *ex-parte* decision was made by the court and the verdict is in favour of the regular attendant. This same standard, also applies to other cases such as divorce, inter personal land boundary dispute, criminal cases etc. Justice therefore, hardly reaches to those poor and underprivileged in its true sense. It might surprise many that money power has been playing role even to change the draft statement of the verdict to be pronounced the very next day. These instances are happening in the courts of the Executive Members holding the charge of Land Revenue Affairs. Thus, justice is being meted out in favour of the one who can influence the EM of the Revenue Court and the CEM by paying bribe. The reason is that

⁷ Milton S. Sangma's article "Working of the Garo Hills Autonomous District Council" published in the book *Power to People in Meghalaya*, p 133.

⁸ GHADC, Golden Jubilee Souvenir, 1952-2002, p 29.

judiciary has not yet been separated from the executive till date in the GHADC as a result, the Hon'ble EMs in charge of Land Revenue and the Chief Executive Member (CEM) or the Deputy Chief Executive Member, by whom the cases are being dealt with, are often manipulated and the facts diluted. The CEM, Deputy CEM or the EMs are actually not competent to try cases as that of the trained judicial officers having law degree and they lack knowledge and expertise on judicial matters to deal complicated cases. And as a result, much of the pronouncements of the verdict are giving scope for further appeals in the High Court. Besides, certain litigations are delayed for about 10 to 15 years and even after such long years, some cases could not be disposed of. That shows the inefficiency and incompetence of the court, which needs to be reviewed and steps taken for improvement. Therefore, to avoid influence and interference of the executive authorities on the independent functioning of the judiciary and to ensure impartiality on the court's decisions, judiciary should be separated from the executive. A legislation should also be framed to desist the lay men and the elected executive members, the CEM and the Deputy CEM to take up the trial of cases and this work must be completely given to the trained judicial officers having requisite degrees in law with specialization in Garo Customary Laws etc.

Dealing with the Customary Practices:

For regulating the traditions and customary practices among the Garos, the Garo Hills District Autonomous Council had passed the Garo Hills Autonomous (Social Customs and Practices) Act, 1954. In 1958, The Garo Hills Autonomous District (Social Customs and Usages) Validating Act, 1958⁹ was also enacted for the same purpose. It is a fact that in the Garo society, traditions and customary practices are greatly valued and highly respected and these practices are binding on the people in many aspects of their social, economic and political life such as marriage, divorce, transfer of property, succession to

⁹ The Garo Hills Autonomous District Council: Acts, Rules and Regulations with Amendments, First Edition, December 1968.

Nokmaship etc. With conversion of majority of the A'chik people into Christianity, however, the Garos have been now following the marriage practices as per provisions of the Christian Marriage Act and accordingly the marriage couples are being ordained by reverends, licensed pastors, priest etc. In Garo Hills and in any Garo inhabited areas and among the majority Garo people wherever they lived, their marriage is now being governed by the Indian Christian Marriage Act, 1872 (Act XV of 1872).

Management of Forest and Jhum Regulation:

With regard to controlling and regulation of Jhum in the Garo Hills, it was reported that inspite of the GHADC Jhum Regulation Act, 1954, there found to be still 2538 out of the total 2882 registered villages under the GHADC, that continue to practice the slash and burn method of jhumming in Garo Hills. This was disclosed in a high level district meeting at Tura chaired by West Garo Hills Deputy Commissioner Ram Singh. The result from the shifting cultivation and the ever rising expansion of plantation areas have been acute water shortage even in areas where streams and rivers once flowed free and abundantly. According to the GHADC Jhum Regulation Act, 1954 certain areas are allotted for jhumming while it was prohibited from extending to areas in the radius of 400 meters from any water source of catchment area, village or community forests. Despite these rules and regulations, there has been no check on the expansion of jhum cultivation which has now reached even to the catchment areas on the foothills of Nokrek National Biosphere Reserve from where the Simsang and Ganol rivers sustain their water table.¹⁰

Despite the weaknesses mentioned above, the District Council is not without strength and opportunities. The District Council has become part and parcel of the political of the people of Garo Hills and its existence is firmly rooted. It has become now an important platform for voicing and exercising their political ambition and aspiration

¹⁰ The Shillong Times, dated 10th May 2019.

and thus a good training ground for political workers and leadership. It has also carried the administration near to the people thereby involving people's participation in the development processes as it is envisaged in the 73rd Amendment of Indian Constitution. The experiences of the District Council may be thus a pointer to the recently legislated Panchayati Raj Act, 1992.

Chapter III discusses about the features of the 73rd Constitution Amendment Act, 1992 and of the working of the *Panchayati Raj* System. The passing of the Constitution (73rd Amendment) Act, 1992, revolutionised the earlier as well as the existing system of rural governance in India. Through this Act, a three tier *Panchayati Raj* has been introduced in the country with devolution of as many as 29 different subjects to the grassroot level administrative bodies. One unique feature of this system is the empowerment to women through reservation of seats to the women and the weaker sections of the society like that of the SC/ST etc.

The *Panchayati Raj* is a grass root level self governing institution practiced and prevalent among the greater Indian masses at the villages right from the Vedic era. The word *Raj* means rule; and *Panchayat* means Assembly of five (*Panch*). Traditionally *Panchayats* consisted of wise and respected elders chosen and accepted by the local committee. Sometimes *Panchayati Raj* refers to the "*Village Council*". *Panchayati Raj* is an aged old and standard political system, popularly adopted and followed by the rural masses in their villages. The system had originated from the Indian subcontinent. Being simple and effective, this system of local self governance, now is also found in Pakistan, Bangladesh, Sri Lanka and Nepal. *Panchayati Raj* is also considered as one of the oldest system of local self-government in the world. Though *Panchayati Raj* institutions vary from one place to another place but the centre theme is remaining the same. Traditionally, these assemblies settle disputes between individuals and between villages¹¹.

¹¹ Internet source.

The recently enacted *Panchayat Raj* Act, 1992 better known as the 73rd Constitution Amendment Act, 1992 envisaged for a three tier system viz, *Panchayat* at the village, intermediate and district levels, is conferred with enormous powers and functions which are basically and more stringently targeted for developmental purposes. A three tier Panchayat system might not be viable for smaller and economically poor states. To avoid such problem, it was also provided in the act that reads “With the exception of the state having population not exceeding twenty lakhs, *Panchayat* at the intermediate level shall not be constituted”¹² So for the smaller and economically poor states of the country, two tier *Panchayati Raj* system is recommended.

The Non-*Panchayat* Areas as we know, refer to those Tribal Areas, the Autonomous District Councils and other Scheduled Areas which are governed under the provisions of the 6th Schedule of the Indian Constitution. One of the features of administration of this Sixth Schedule area is that certain regular administrative laws, rules and acts are not applicable to these areas because of the peculiar habits, customs and traditional practices of the people living in the region. As a result, when the Constitution (73rd Amendment) Act was passed, this act also exempts the applicability of its provisions to the so called Schedule areas. But, there is scope for the extension of the provisions of this act and to this effect, the State Legislature is empowered to pass a resolution for the extension of the act under article 243M 4 (a) of the Constitution (73rd Amendment) Act, 1992.¹³

The *Panchayati Raj* is a self governing system of the lowest level where the village folk directly take part, elect their own representatives and through their services, various developmental schemes are implemented for the interest and development of their

¹² Government of India (1993), The Constitution (73rd Amendment Act, 1992, Gazette of India, Part II, 20th April 1993.

¹³ Constitution (73rd Amendment) Act, 1992.

own people in the villages. The fund for carrying out the developmental works is provided by the Union Government through the services of the State Government. The state government is directed to provide necessary fund to ensure that rural developmental works are implemented under the care and supervision of the democratically elected village elders in their own localities. The purpose behind bringing *Panchayat* system under a statutory provision is to empower people, involve them in the administration and share responsibility in bringing positive changes in their own villages. It is a fact that the responsible top government officers, the bureaucrats; the elected heads and the public representatives can by no means have a bird's eye view on and diligently supervise over the use of money being sanctioned and utilised for the various schemes and programmes authoritatively and judiciously distributed for the benefit and development of the rural masses and their areas. Empowering rural inhabitants through such a simple yet, powerful system of administration might act as another viable alternative to monitor the problem. Gandhiji rightly claimed that the growth and development of India as a nation lies in the self sufficiency and development of its villages. The rate of growth and development of a village, place or a region depends on the greater number of schemes and opportunities of income generation available to the people of that place or region. If more developmental schemes are directed towards and opened up for the benefit of the people, then there is every good reason to be hoped of, for a new order, to a better and sustainable direction to which the illiterate and the economically poor and backward villagers would move ahead. It is to be reminded that it is not the availability of resources into the hands of the people that will determine the level of development of the place, village or region; but it depends much on how much the people involved in the work, economically and judiciously spend all the available resources. The success of any government programmes and the various schemes implemented depends on the active and larger involvement of the people. If the people themselves consciously and most sincerely co-operate with the implementing authorities, the agencies etc. one might guarantee that the programme is well succeeded much to the expectations and satisfaction of the people themselves.

This chapter discusses about the institution of *Nokma*, the constitutional status and position of the *Nokmas*, the Village Council and the role that these institutions play in rural governance in Garo Hills. There are different kinds of *Nokmas* such as *Challang Nokma*, *Kamal Nokma*, *Gana Nokma*, *Mite Nokma*, *A'king Nokma* etc. The A'kings also have its varieties such as *A'mate A'king*, *A'milam A'king*, *Jamadal A'king*, *A'jikse A'king* etc. Of the various kinds of I, the *A'king Nokma* only exercises political powers. An attempt has been made to highlight the status, positions and role of the *Nokmas* in the traditional Garo society, during British days and in Post independence era.

Nokma is the person, who is ordained by the members of the Garo clan from among themselves according to Garo tradition and custom. Normally, a person married to a *Nokna* (female heiress) is ordained as *Nokma*. He is the elected chief of the group of Garo people having certain territorial possession in clan's name. This clan's territorial possession is known as *A'king*. Therefore, *Nokma* is the custodian of this *A'king*. In the traditional Garo society, every Garo village is an independent political unit. Under the system, the *Nokma* plays a pivotal role and exercises enormous powers - executive, legislative, judiciary, religious etc. In his exercise of these powers, he is assisted by his council of *Chras* (Male relatives of *Nokma*'s wife). In course of time, his powers have been curtailed, restricted and shared when the British government introduced other offices like that of *Laskar*, *Sardar*, *Zimmadar*, *Kanungo* etc.

After India attained independence, Autonomous District Councils have been created in the regions having constitutionally recognized tribal populations, to protect and preserve their lands and their rights over it, culture, customs and traditions etc. The Garo Hills Autonomous District Council (GHADC) created in 1953 had been one such ADC which was created for the purpose of protection of the various aspects of the tribal way of life of the Garo people of the Garo Hills. However, the present study reveals that the

GHADC had many weaknesses and the desired objectives for which this self administrative functionary had been created and designed could not be fulfilled. The style of functioning of the GHADC showed that it had moved away from the direction it should have been followed. The council had become the forum for the elected representatives to indulge in the life of luxury and comfort at the cost of the public money. Existence of GHADC and other two ADCs had become a white elephant for the state government of Meghalaya as these councils have failed to perform their duties and responsibilities on all fronts. Instead of taking strong steps for resource mobilization and of streamlining its work culture, they have always been demanding for more fund from the State and the Union governments to meet up their administrative expenses, pay employees' salaries and to clear their outstanding debts. Though there are provisions for constitution of Village Councils and Village Council Courts in the GHADC Acts, Rules, Regulations which are being amended from time to time, yet in practice these are not being executed properly. As regards Village Councils, only once elections were held in 1974 during its long years of existence.¹⁴ The Village Councils though, are existing in Garo Hills yet, these are only for the name shake and without any function.

One interesting fact that is observed during study is that the traditional Garo chiefs *the Nokmas*, remained outside the GHADC functionaries. They are the puppets at the hands of the elected representatives who make them "to stand up and sit down" They find no place in the GHADC's executive or legislative body as none had so far been elected or nominated from amongst the *Nokmas* since the time when GHADC came into being. The *Nokmas* therefore, can in no way air their views, nor can they take part in the Council's Executive session regarding the problems and issues that confront their *Akings*, powers, position, land rights, customary practices, et. The Autonomous District Council created under Sixth Schedule provisions therefore, did not provide a respectable place and position to the *Nokmas*; instead their powers have been curtailed and their status and

¹⁴ M.N.Karna, L.S.Gassah and C.J. Thomas (ed) *Power to People in Meghalaya*, p 149.

position greatly undermined and reduced. The *Nokmas* too, are never responsible for the protection and preservation of their lands, its resources etc. There had been instances of certain *Nokmas* exchanging portion of their *A'king* with State Forest Department or selling a portion of their *A'king* for their own selfish interest. In the event of state Government's reclamation of land for development purposes, the *Nokmas* take the advantage of demanding huge compensation from the state Government, agency or company undertaking the work. Sometimes, two or three people come forward claiming oneself as *Nokma* of the *A'king* in the hope of getting compensation. They file litigation and counter litigations against each other in the court and as a result, the projects delayed for some years. Development in Garo Hills, thus moves at a snail's pace. Cases of certain *Nokmas* allowing only two *bighas* of land for jhum cultivation for subsistence farming for the common subjects inhabiting under his *A'king* and destroying the plantation crops like that of rubber, banana etc. raised by commoners and poor residents of the village situated under the *Nokma's A'king*, are being reported. There have been reported cases of the *Nokmas* misutilising the money sanctioned for NREGA schemes by being the chairperson of the local monitoring committee for implementation of the schemes. We can thus say that all is not going on well with the *Nokmas* upon whom, the common people hope and expect for just and sincerity in their services towards his subject.

Under the title "Changing Trends and Innovations in Rural Governance" an attempt has been made to bring out in *Chapter V*, the changes that have been taking place in the realm of rural governance and of the various innovative measures and policies being undertaken, effected and brought in either by the Government, its agencies, the NGOs and the general public as well.

Soon after the movement for independence was over and India achieved independence, the leaders then took quality time for nation building exercises and

development activities. Founding fathers of the Constitution incorporated Panchayati Raj system in the Directive Principles of State Policy with the same idea and purposes. But the idea could not be properly worked out as the provisions were not mandatory for the states to successfully implement it. Hence, the desired objective could not be fulfilled. In 1952, the Community Development Programme was launched in India for the purpose of implementing various development schemes in the rural areas. However, the programme also could not get people's active involvement in it and the schemes have been implemented through government officials, agencies and authorized persons. It failed to draw mass people's involvement and support and the programme is for implementing development schemes only without politically empowering the people. In the meantime, new states in the North East India, had been created by an act called the North Eastern Areas (Reorganisation) Act, 1971. Along with few states of the North East, the state of Meghalaya came into being. At the time when Meghalaya had just been created, there had been a proposal from the Government of India to do away with the existing District Autonomous Councils in the state as the state itself was a tribal state and the continuation of the ADCs was found not having any relevance. However, the leaders were in favour of continuation of the system. The insertion of paragraph 12A in the Sixth Schedule of the Constitution of India by the North Eastern Areas (Reorganisation) Act, 1971 has been the bone of contention between the State Government and the Autonomous District Councils with regard to sharing of powers in matters of legislation on the respective subjects allotted, for which there has been a strong move on the part of the ADCs to remove the entanglement. There has been also a continuous movement of the indigenous tribes inhabiting in these GHADCs for implementation of the Inner Line Permit (ILP) in the state for checking illegal influx; there has been going on a strong demand for the removal of the non-tribal voters from the GHADCs Electoral rolls. Being dissatisfied with the existing structure and the functioning system of the GHADC, a section of the militant organization in Garo Hills came forward with the demand for an upgradation of the existing GHADC to that of the kind of Bodoland Territorial Council where more power

autonomy could be exercised and direct funding from the Union Government be received for developmental purposes. The dissatisfactions as such, have been highlighted by one and all for a change of the existing system of the GHADC.

Very recently, a group of organizations from the Garo Hills have given a two week ultimatum to the authorities in the GHADC to put in place a mechanism to check influx of outsiders and preparation of a separate electoral roll for council elections. Leaders representing seven organizations, namely GSU, CEC's Interim Body, Garoland State Movement Committee, All A'chik Youth Federation, A'chik Youth Council, Post Graduate Students' Union, All India Garo Union and Tura Government College Students' Union met the Chief Executive Member (CEM) of GHADC Dipul Marak, and put forward their demands.

Terming their demands as the "Protection of the Indigenous Garo People" these organizations have said that the traditional tribal culture and way of life is under threat of being wiped out because of the rising influx into the region.

The core issues brought before the council by these organizations are the Codification of the Garo Customary Law, entry and exit points into Garo Hills, preparation of a separate electoral roll for GHADC elections and an effective implementation of the Meghalaya Land Transfer Act.

The codification laws have been passed from one committee to another without any final declaration despite years of review. The codification has been sought by many Garos to check the issue of non Garos taking the tribal surname by way of wedlock and claiming themselves to be a member of the Garo community.

The demand for entry and exit points in Garo Hills is to check illegal influx which the protesting organizations claim is on the rise particularly in areas of non-tribal population such as the plains belt region. Garo Hills Autonomous Council is the only one

among the three in the state, others being the Khasi Hills (KHADC) and Jaintia Hills (JHADC), where non tribal voters can participate in the district council elections.

The claim of the tribal groups is that the GHADC was created solely to protect the tribal people and their lands and non-tribals can not have the right to be part of it. Besides the participation by the non-tribal electorate in the council polls, the expansion of other communities into tribal areas has been attributed to purchase of land and the protesting organizations want a fool proof system to be in place to ensure tribal lands can no longer be sold to non-tribal buyers.¹⁵

Chapter VI tries to explore the possibilities of extension of provisions of the Constitution (73rd Amendment) Act 1992 to Garo Hills, which is functioning under the Sixth Schedule provision and is being referred as *Non-Panchayat Area* in the present study.

By the passing of the 73rd Constitution Amendment Act, 1992, an empowered system of rural governance having constitutional validity and legal sanctity, had been reintroduced all over India barring the Schedule Areas and the Tribal Areas of the North East India.

The 73rd Constitution Amendment Act, 1992, revolutionized the rural governance in our country by way of empowering the rural folk for their participatory role and active involvement in effecting changes in the attitude of the people towards nation building programmes and activities. Yet, this very act, was not applicable to the Schedule Areas, the Tribal Areas etc. Therefore, the Sixth Schedule Areas of the North East India, being referred here as the *Non-Panchayat Areas*, could not avail the benefit of the 73rd Constitutional Amendment Act. In 1996, however, the Parliament by passing the PESA,

¹⁵ News Caption under the headline “GHADC served ultimatum to check influx, electoral roll” The Shillong Times, Tura, Sunday, May 2019. (Garo Hills Edition) pp 1 & 10.

the provisions of the 73rd Constitution Amendment Act, has been made extendable even to the areas and the regions not being covered earlier by the act.

The present study tries to explore the possibilities of extension of the provisions of the 73rd Constitutional Amendment Act, 1992 through PESA into Garo Hills where autonomous district council has been struggling hard for its survival and existence. The study reveals that the Garo people have long been associated with the ADC and therefore, they need it to be a system which should be continued for the time being. But when the question of development comes, they want that the *Panchayati Raj* system should work in the Garo Hills where the people could much be benefited from the devolution of fund from the Central Government and the people themselves be involved in the grassroot level functionaries.

The findings of the study along with suggestions and recommendations for necessary action are summed up in the conclusion. One can conclude that in spite of the perceptive notion with the *Panchayati Raj* that it will never fit in and work in the tribal areas under the Sixth Schedule because of their unique land holding rights and traditional political system, there is every possibility of introducing it through proper legislation by the respective state governments. When the underprivileged people at the grassroot level, the women, the poor and the backwards have been placed at the hierarchy of power and get themselves actively involved in the system of governance; and when the people themselves could see that development in the rural areas starts taking off very fast, that will be the time when people will say with a respite that the noble institution of the so called *Panchayati Raj* has brought a change to our life and to our localities.

The study under the given title besides revisiting the circumstances in which the *Panchayati Raj* had been evolved through and taken shape all throughout the different historical periods, tries to highlight the features of the Constitution (73rd Amendment) Act, 1992 and the possibilities of introducing it in the areas being governed under the provisions of the Sixth Schedule of the Indian Constitution. As the Act exempted the areas under the Sixth Schedule which are being in forced in the states of Nagaland, Mizoram, Meghalaya, in the Hill District of Darjeeling in West Bengal and in the limited Tribal areas of Manipur in North East, as a result of which the benefits that other Non Schedule Areas have been getting from the implementation of the provisions of the *Panchayati Raj* Act, 1992, these Scheduled Areas and the Tribal Areas have been deprived of such benefits. In terms of developmental aspects, the Non Schedule Areas have been able to reap much of the benefit as the respective State Governments are bound to devolve or decentralized powers to the *Panchayat* bodies functioning at the grassroot level. As found mentioned in the Eleventh Schedule of the Indian Constitution, as many as 29 different subjects have been assigned to the *Panchayat* bodies. Taking advantage of this constitutional provision of decentralization of powers, states like Kerala took it up in mission mode, and its Campaign for Decentralisation Planning carried out in 1996-97, stands out as the boldest and most comprehensive decentralization initiative yet to be undertaken in India. Kerala therefore, manages to march some steps ahead of others in developing rural infrastructures by way of holistic and economic utilization of the allocated funds and proper implementation of the Centrally Sponsored Projects (CSP).

In this study, an attempt has also been made by the author to make a comparative analysis of the various provisions of the Constitution (73rd Amendment) Act, 1993 and that of the existing provisions of the Sixth Schedule of the Indian Constitution. The Sixth Schedule aims at protection, preservation and continuation of the existing tribal institutions of the hill tribes of the North East India including that of the tribes inhabiting in the Hill Districts of Darjeeling in West Bengal. Conforming to the title of the subject,

the study also focuses on the existing traditional village institutions in Garo Hills and the role of the so called *Nokmas*, the traditional village chiefs of the Garos, in the rural administration and governance; their status and position under the Autonomous District Council, created under the Sixth Schedule provisions of the Constitution of India etc.

The institution of Nokmaship, being in existence among the Garo society since time immemorial, has become a subject of close scrutiny considering its continuity and relevance in the life of the *A'chik* (Garo) people. By tradition and customary practices, every Garo village having a *Nokma* or village chief, is an independent political entity. *Nokma* is the custodian of a territorial jurisdiction called *A'king*, which the members of a clan jointly hold and own; and exercise political and administrative powers upon the people residing within the *A'king*; control and regulate the life of the people; reconciles, adjudicate or settles cases of criminal nature amongst his subjects. *Nokma*'s exercisable powers were wide and his position was highly dignified and of respectable and commanding nature. Yet, his powers have been gradually eroded away and his position too considerably declined with the introduction of new offices such as *Laskership*, *Sardarship*, *Mouzadarship*, *Zimmaradarship* etc. by the British Government.

With the dawn of independence, a new approach has been conceptualized and designed by the political leaders, for the protection and preservation of the backward tribes inhabiting in the North Eastern region of India. The new approach is found mentioned in the form of Sixth Schedule in the Constitution of India. Based on this provision, Autonomous District Councils have been constituted in the regions and the tribal people have been empowered to lead the life as they desired. Therefore, the tribes of the North Eastern states of India could continue their age old tradition, customs, land holding rights etc. under the protective cloak of the Sixth Schedule provisions of the Constitution. Had there been no life of distinct characteristics of the inhabiting tribes of the region, had there been no institution of *Nokma* in Garo Hills in the case of the Garos,

Syiems among the Khasis, or Dolois in the case of the Jaintias of present Meghalaya state, then there would have been no such special scheme of administration as that of the Autonomous District Councils in the North East of India.

The Sixth Schedule is a wisely designed and a noble scheme of administration enshrined in the Constitution of India by the founding fathers of the Indian Constitution for the tribal people inhabiting in the North East India to be governed and administered by themselves through democratic measures. The idea behind creating the provision was to provide maximum autonomy for the tribal people and for the existing self governing institutions so that they could protect, preserve and promote their own social customs, traditions, culture, ethnic polity etc. With India's popularly adopted Constitution that started coming into force on 26th January 1950, the District Councils have been formed in 1952 for the first time as per provisions in the United Khasi Jaintia Hills, the Garo Hills District, the Mikir Hills, the North Cachar Hills under the state of Assam.

In course of its existence and survival, the Garo Hills Autonomous District Council has passed a number of acts. In addition to it, there had been Executive orders, Court Rulings, the amendments brought in to the existing acts, the Rules and Regulations issued from time to time by the GHADC authorities etc.

The matters concerning the administration of Justice are dealt by the District Councils in accordance with the law enshrined in para 4 of the Sixth Schedule. In some of the District Councils, the Village Courts have not yet been constituted. In some, though existed, they hardly function.

The Garo Hills District Autonomous Council's judicial system comprises 1) The Village Council Court where the adjudication of justice were those of the *Nokmas* and the *Laskars*; 2) the Subordinate District Courts which are manned and adjudicated by the Judicial officers appointed by the District Council; and 3) the District Council Court

which is presided by a Judicial Officer appointed by the District Council for the adjudication of both Civil and Criminal cases. Many Civil cases like those of the succession to Nokmaship, Divorce, Inheritance, the inter *A'king* boundary disputes etc. are settled by this court.

The District Council and the Regional Council are entrusted with the responsibility to constitute the Council' funds and frame rules for their management with the approval of the Governor. They are also given mutually exclusive powers to collect land revenues, levy and collect taxes on lands, holdings, shops, entry of goods into market and tolls on pensions, residence, and forest within their respective jurisdictions. But the District Council has the concurrent power on the professions, trade, ceilings, employments, animals, vehicles and huts, tolls on passengers, and goods carried in ferries and maintenance of schools, dispensaries or roads. Under Para 9 of the Sixth Schedule, the royalty on the licenses or leases for the extraction of minerals in the autonomous districts shared with the state government goes to the District Council. As regards the tax on motor vehicles, it is assigned and collected by the government on behalf of the District Council. The Councils also derive their income from grant-in-aid, loans and advances, etc. from the State Government.

One notices variations in the areas and schemes of rural governance from one autonomous council to another autonomous council. Though, the purposes and goal for which these autonomous councils have been created remained the same, yet there have been reports of corruption, mismanagement of public fund for personal interest. Besides, lack of interest among the District Council members for protection and strengthening of their land holding rights; preservation and promotion of their interests in the field of culture, custom, tradition etc. have been very badly projecting and ruining the image of the Autonomous District Councils everywhere. It is the people who are at the helm of affairs, who are to be blamed for the hodgepodes in the council. The administrative style and functioning of almost all the existing District Councils, as a result, are being

subjected to bitter criticisms and its very existence is being put to unending questions. The performance of almost all the District Councils is also not satisfactory to the people living under it and the outside. The expectations of the people have not been up to the mark.

In the backdrop of these raising dissatisfactions and loss of confidence on the existence and functioning of the Autonomous District Council, the passing of 73rd Constitutional Amendment Act, 1992 perhaps, might be an another alternative to look into the system and to adopt it for better governance of their areas and to avail the opportunities of development being channelized through it by the Central Government.

The 73rd (Constitution) Amendment Act, 1992, in its Article 243M, specified that the act shall not apply to the Scheduled Areas referred to in clause (1) and the Tribal Areas referred to in Clause (2) of Article 244 of the Constitution of India. However, in the same Article in its Clause (4), Sub Clause (a) there is mention that the Legislature of a State may by law extend this provision if the Legislative Assembly of that State passes a resolution to that effect by a majority vote. The Clause 4 of Article 243M says “The Legislature of a State referred to in sub-clause (a) of Clause (2) may by law, extend this Part to that State except the areas if any, referred to in clause (1), if the Legislative Assembly of that State passes a resolution to that effect by a majority of the total membership of that House and by a majority of not less than two thirds of the members of that House present and voting.” It further mentioned “Parliament may, by law, extend the provisions of this part to the Scheduled Areas and the Tribal Areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law and no such law shall be deemed to be an amendment of this Constitution for the purposes of Article 368”

From the above provisions, it is clear that there is scope for extension of the benefits of the Constitution 73rd Amendment Act even to the Non-*Panchayat* areas i.e the Scheduled Areas and the Tribal Areas of the North East India.

This study therefore, aims at exploring the possibilities of extending the provisions of the 73rd Amendment Act, 1992 and the possible benefits that the Non-Schedule areas might receive from this Constitutional provision. The author, through its labourious and painstaking study and critical analysis of the two systems that have been at worked, tried to convince one and all that it is the development that is much needed in Garo Hills and that development can be brought about, without harming the existing tribal institutions of the state, through the system of *Panchayati Raj*, the system that has much scope for involvement of the people at the grassroot level administration and governance.