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Traditional Institutions of Dispute Resolution in India:

Experiences from Khasi and Garo Hills in Meghalaya

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India
Case Study
Report

Executive Summary

This report is part of a wider comparative research project generously funded by the German Foundation for Peace Research and implemented by the Berghof Foundation. With the title "*Peaceful Coexistence? 'Traditional' and 'Non-traditional' Conflict Resolution Mechanisms*", the project analyses the patterns of coexistence between 'traditional' (indigenous, local, community-based) and 'non-traditional' (imported, liberal, state-based) approaches to conflict resolution based on field research in Colombia, Liberia and Northeast India. The main focus of the research project is whether the coexistence of traditional and non-traditional mechanisms of conflict resolution leads to tension and competition between these mechanisms, thereby potentially furthering conflict, or whether the coexistence leads to more (or better) conflict resolution options for the population, thereby promoting conflict settlement processes.

This report addresses findings generated from the Northeast India case study that centred on the coexistence between traditional institutions (TIs), non-traditional institutions (NTIs), and hybrid institutions in the state of Meghalaya. Field research was conducted in both Garo and Khasi Hills of Meghalaya in June 2015. The report begins with a brief history of TIs in India, including their loss of legitimacy over the years in spite of the protectionist policies in Northeast India and goes on to discuss both the benefits and drawbacks of TIs. The TIs include such institutions as the *Nokma* and *Dorbar*, which have undergone many transitions over the past decades during and after British rule. These transitions have affected both the institutions' roles in society and their coexistence with NTIs. This report discusses their respective structures, functions and duties, and addresses the question of their legitimacy in the Meghalaya Hills.

Furthermore, the report lays out the context in Meghalaya in terms of its history within the Indian Union, the tensions between the Garo and Khasi tribes, and the (often violent) dynamic between the indigenous tribal population of Meghalaya and the 'outsiders' who are mainly Muslim migrants from

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other areas. The role of land is central to much of the conflict that is taking place in the state and this report analyses this problematic and explains the role that TIs have historically had in managing land. It is often surrounding issues of land that the coexistence between TIs and NTIs is the most visible. NTIs first and foremost refer to the state-based mechanisms for conflict resolution, including those of the state and union government, while hybrid institutions, such as the Autonomous District Councils, often act at the facilitator between the TIs and NTIs. The various layers of governance in Meghalaya, all of which are influenced by tribal elites, are seen more as a continuum by citizens of Meghalaya, rather than as in direct confrontation with each other.

Nevertheless, there is significant tension between the TIs, NTIs and hybrid institutions in Meghalaya, which can be traced to overlapping jurisdictions, power struggles and a high level of distrust of the respective institutions and their competencies. While there seems to be a welcome resurgence of the TIs and an interest on the part of the communities in using the TIs to solve their disputes, there is also a problem of overlapping powers and spheres of influence. Hence, this study comes to the conclusion that the coexistence of conflict resolution mechanisms in Meghalaya is hindered by a lack of understanding about the roles and responsibilities of the respective institutions, as well as competing interests among them. Coexistence could be dramatically improved by implementing a more trustful relationship and sensitive approach, as well as better communication and coordination. There is a need to streamline TI practices, eliminate discrepancies and overlaps in jurisdiction, and accord recognition to the TIs for the work that they do.

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Table of Contents

List of Abbreviations **4**

1. Introduction **5**

2. Traditional Institutions: Pan-Indian Context **5**

3. The Conflict Context in Meghalaya **7**

3.1. Tribal Rivalries 7

3.2. Insider - Outsider Dynamics 9

3.3. Land conflicts 10

3.4. Rising Violence and Insurgency 12

4. A Unique System of Tribal Governance and Conflict Resolution **14**

4.1. Hybrid Institutions: Autonomous District Councils 15

4.2. Traditional Institutions in Meghalaya Hills 17

4.3. Reforming *Dorbar*: Village Administration Bill (VAB) 18

4.4. *Nokma* in Garo Hills 19

4.5. Council of Nokmas 22

5. Role of the Church **24**

6. Uneasy Coexistence **25**

7. The Way Forward **26**

8. Bibliography 29
List of Interview Partners..... 30
List of Focus Groups..... 30

List of Abbreviations

ADC/DC:	Autonomous District Councils/District Councils
AFSPA:	Armed Forces (Special Powers) Act, 1958
ALMA:	Achik Liberation Matgrik Army
ANVC:	Achik National Volunteer Council
ANVC:	Achik National Volunteer Council
APHLC:	Party Hill Leaders Conference
DONER:	Ministry of Development of North Eastern Region
GBCH:	Garo Baptist Church
GGL:	Greater Garoland
GHADC:	Garo Hills Autonomous District Council
GNLA:	Garo National Liberation Army
GSU:	Garo Students Union
HNLC:	Hynniewtrep National Liberation Council
HYC:	Hynniewtrep Youth Council
JHADC:	Jaintia Hills Autonomous District Council
KHADC:	Khasi Hills Autonomous District Council
MLA:	Members of Legislative Assembly
MoS:	Memorandum of Settlement
NEHU:	North Eastern Hill University
NGT:	National Green Tribunal
NOC:	No Objection Certificate
NSCN:	National Socialist Council of Nagaland
NTIs:	Non-traditional State Based Institutions
TIs:	Traditional Institutions
VAB:	The Village Administration Bill
VDC:	Village Development Council

1 Introduction

The arrival of a constitutional system of governance in India along with state-based non-traditional institutions (NTIs) expectedly challenged the scope of traditional institutions (TIs) in governance, as well as in conflict resolution. Yet TIs have continued to exist and function in many parts of India and are seemingly playing a useful role. The State of Meghalaya in India's northeast serves as an instructive exemplar wherein major ethnic tribes like the Khasi, Jaintia and Garo tribes still represent elements and institutions of traditional approaches of governance and conflict resolution.

In this case study report we examined the *raison d'être* of these TIs, especially in Khasi and Garo Hills: how do they operate and coexist with existing NTIs and is there any complementarity between the TIs and NTIs within conflict settlement processes and outcomes? The core concern of the research is to discern the various patterns of coexistence between traditional and non-traditional actors, and between mechanisms and processes concerned with conflict resolution and peacebuilding in Meghalaya, and to investigate whether coexistence leads to better conflict settlement outcomes or rather to more tension.

The above queries guided the fieldwork carried out in Khasi and Garo Hills of Meghalaya during the summer of 2015. We preferred to focus on Khasi TIs that are culturally more preserved, along with the TIs in Garo Hills, which are in the throe of a many-layered conflict. TIs also exist within Jaintia Hills. However, the Jaintia tribes (also known as *Synteng* or *Pnar*) are generally treated as a Khasi sub-tribe and are much less visible politically as compared to their counterparts in Khasi and Garo Hills. The field research draws on extensive interviews with academic experts, governmental representatives and officials, as well as members, authorities and stakeholders of traditional institutions. We also benefitted from subsequent Skype and other social media interactions with concerned actors and stakeholders. We have consulted both primary sources and secondary commentaries on the subject to understand the problematic. The fieldwork findings have been incorporated into a broad discussion and analysis on conflict in Meghalaya based on deskwork and our earlier exploration.

2 Traditional Institutions: Pan-Indian Context

India is often cited as an example of multiculturalism with an extraordinary range of ethnic, religious and linguistic identities coexisting peacefully in its long annals of civilization (Sen 2005).[1] The ancient Indian society and polity exemplify varied norms, institutions and practices of peaceful coexistence and community-based conflict resolution (Upadhyaya 2009, 2013).[2] Continuing the traditions in modern times, Mahatma Gandhi conceptualized the norms of *Ahimsa* (non-violence) and *Satyagraha* (truth force) and looked to the village community to practice these values voluntarily. While Gandhi critiqued the idea of the modern state as a conflict solver, Jawaharlal Nehru, the prime maker of modern India, embarked on a statebuilding project, drawing on the experiences of liberal democracies. Expectedly, the spirit of enlightenment, human rights and public reasoning brought about a range of state-based institutions that

[1] Sen (2005) attributes India's democratic longing for peaceful existence to dialogical traditions, heterodoxy and public reasoning in Indian ethos.

[2] For claims and counter claims on the peacefulness in India's ethos, see Priyankar Upadhyaya 2009 and 2013.

criticized and eliminated many oppressive traditional practices. Yet several traditional modes of governance continue to survive in parts of modern India, although not without alterations and constraints.

An interesting case to contextualize the dilemma of TIs at the Pan Indian level is that of *Nyaya Panchayat* (Council of Justice/ Village Court) – a village-based institution of dispute resolution in ancient India. While the *Nyaya Panchayat* lost much of its authority with the arrival of the Mughal State in the medieval era (Pillai 1977, 443), the colonial and post-independence regimes tried to revive them time and again. Such efforts to revive the traditional system were meant to alleviate the state-based justice system, but also to facilitate speedy access to justice at the grassroots level. For instance, the Royal Commission on Decentralisation of 1909 recommended the revival of *Nyaya Panchayat* as an appropriate agency to deal with petty civil and criminal cases arising within the village. After independence, too, various government committees looked at the viability of reviving *Nyaya Panchayat*. For instance, a committee set up by the Congress Working Committee in 1954 delineates how *Nyaya Panchayats* facilitated the settlement of disputes in the past:

> *Sitting on the Panchayat, the elders of village used to solve disputes arising between members of the village community. These elders used to live in the villages themselves and were by virtue of their residence well acquainted with local conditions and knew the habit, customs and practices of the people (and) easily came to know reasons behind the dispute that arose. They heard the parties in the presence of the entire village and solved the disputes. Public opinion of the village used to act as a powerful influence on the parties to the dispute and because justice was meted out at every place where the dispute took place, it used to be inexpensive and immediate. In fact, all used to have faith and trust in village elders which gave them the strength to solve disputes objectively and impartially.*[3]

Despite positive recommendations by several governmental committees to revive and nurture the *Nyaya Panchayat* system, not much has been attained in this direction.[4] The only exception is the introduction of *Gram Kachahari*, a modernized version of *Nyaya Panchayat* in the State of Bihar, which is functioning in a limited way.[5] The political authorities and public constituencies in general realize the pressing need to revive the traditional institutions for dispute resolution, partly because of the abject failure of the state-based institutions (including magisterial courts, but also higher courts) to deal with the enormous number of pending disputes, but also because there is still considerable respect for traditional institutions.

However, there is a gnawing concern about the competency and non-partisanship of the TIs, which is drawn from the general perception of TIs as being hierarchical, patriarchal, and driven by the higher castes, and therefore not in line with the norms of modern, democratic and constitutional state-based institutions. Therefore, there is a general scepticism about how fair and just these TIs could be at the grassroots village level given the traditional dominance of upper caste groups over the less privileged lower caste people. Community panchayats (known as *Khap Panchayat* in northwest India and *Katta Panchayat* in Tamil Nadu) are often blamed for inhumane practices such as encouraging honour killings of couples that marry outside their caste. Declaring such *Khap Panchayat* practices 'wholly illegal', the

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[3] Congress Working Committee Report (1954) on changes in the constitution.

[4] Balwant Rai Mehta Committee (1957), K. Santhanam Committee (1963), Ashok Mehta Committee (1978), GVK Rao Committee (1985), and L M Singhvi Committee (1986). In 2006, the union government appointed yet another committee chaired by Upendra Baxi to prepare a draft bill for the establishment of *nyaya panchayats*. But this initiative did not progress much either.

[5] These councils appoint a *Nyaya Mitra*, a law graduate or a para legal, to guide the *Nyaya Panchayat* on its legal obligations. The villagers select men and women of integrity as the members.

Indian Supreme Court has directed the government to ruthlessly stamp them out.[6] More recently the Supreme Court through a *suo motu* writ petition took stern action against a reported case of gang rape of a woman in West Bengal on the orders of community *panchayat* as punishment for having a relationship with a man from a different community.[7]

Khap Panchayats are often criticized for their controversial practices and for issuing such orthodox diktats. They have, however, also played a positive role in promoting the state's agenda in rural areas. For instance a *panchayat* in Jind (Haryana State) has discouraged the practices of female foeticide and dowry through its decree of a 'no third child policy' after the birth of two daughters and its decision that only Rs. 1 is to be taken by the groom as dowry from a girl's family.[8] The TIs in this instance works as a tool of implementing the state's rule of law, but are also often seen as useful supplements to the state-based conflict resolution process, especially in places with a long lineage of TI governance.

The competencies and compatibilities of traditional institutions of conflict resolution and peacebuilding are yet to be fully explored in relation to their modern state-based counterparts. The efforts to revive and nurture the TIs have been halfhearted and devoid of any vision to make them compatible with state-based institutions. It may be possible to first fine tune and then regulate the revived TIs without their negative attributes and make them the first legitimate port of call for local citizenry a tool of seeking dispute resolution. This fieldwork research has focused on the TIs in India's north-eastern state of Meghalaya in order to unravel some less traversed perspectives of this problematic.

3 The Conflict Context in Meghalaya

Meghalaya[9], one of the seven northeastern Indian states, displays a number of conflict scenarios that will be outlined in this section, including ethnic rivalries, conflicts between the tribal population and "outsiders", land issues, and the emergence of armed actors.

3.1 Tribal Rivalries

Meghalaya comprises mainly of three tribal groups – Garos, Khasis and Jaintias. While Khasis and Jaintias are believed to be the descendants of the Proto Austroloid Monkhmer race and claim similar lineage from *Ki HynniewTrep* (seven mothers), the Garo tribe belong to the Tibeto-Burman race.[10] All three tribes had their own kingdoms until the British incorporated them within the province of Assam in 1835 and declared these tribal areas as 'backward tracts' and 'subsequently as excluded' and 'partially

[6] Arumugam Servai vs. State of Tamil Nadu, (2011) 6 SCC 405, Supreme Court, paras 12 and 13. Available at http://courtnic.nic.in/supremecourt/temp/wr%202414p.txt (accessed 16 February 2016).

[7] Reportable in the supreme court of India, Criminal Original Jurisdiction *Suo Motu* writ petition (Criminal) no- 24 of 2014 In Re: Indian Woman says gang-raped on orders of Village Court published in Business & Financial News, 23 January 2014.

[8] "Haryana Khap does its bit to end female foeticide" in: *The Hindu*, 20 December 2015.

[9] The state has a total area of 22,429 km² with a length to breadth ratio of about 3:1 and approximately one third of the state is under mountain forest cover. According to the 2011 census, Meghalaya has a total population of 2,966,889 out of which the Scheduled Tribes comprise 86.1%. Only 13.9% of the population is non-tribal. Available at http://www.theshillongtimes.com/2013/06/19/census-facts-and-reality/(accessed 4 Oct 2016).

[10] Jaintia, along with other smaller tribes like Bhoi, Khynriam, Pnar War, Lalung Viate, Hmass and Viafe, are thus seen as a sub-tribe of Khasi.

excluded' areas. After independence these tribal areas were merged with the State of Assam with limited autonomy in line with colonial policy. In the 1960s the three tribes joined together under the banner of the All Party Hill Leaders Conference (APHLC) and launched a movement for a separate Hill State. Eventually the North-Eastern Areas (Reorganization) Act of 1971 conferred full statehood on these areas within a new state known as 'Meghalaya', meaning "abode of clouds" in Sanskrit.[11]

Until recently Meghalaya was construed as a relatively peaceful place in India's conflict prone northeast. This impression gained ground due to its peaceful transition to independent statehood following the concerted assertion of autonomy by its main tribal groups, namely the Khasi, Garo and Jaintia (Bhagawati 2007, 26-37).[12] However, the reclamation of tribal identity in the new state amid the gnawing scarcities ignited many identity-based conflicts, and led to discrimination against the non-tribal population (see below). The subsequent waning of APHLC as the unifier and conciliator among the tribal identities (but also between tribal and non-tribal identities) further aggravated ethnocentric jostling for seeking greater dividends from the state. The creation of an independent Meghalaya, although achieved through inter-tribal cooperation, nonetheless couldn't diffuse their *inter se* rivalries, and ethnic disaffection between the Khasi and Garo communities continues to be a potential source of conflict in the state of Meghalaya.

During colonialism, the British regime was based in Shillong and therefore in Khasi Hills, which lead to the Khasi more easily acquiring modern education in the English language and being more readily incorporated into the colonial governance system. The Khasi elite therefore acquired the upper hand in post-independence governance by claiming higher positions in the state government (Karlsson 2011, 255)[13], as well as extracting greater material resources from the Hills through their political clout. This has led to the Garo perception of the 'manipulative Khasi' which is a reflection of the Garos' sense of 'relative deprivation' *vis-a-vis* the Khasis and their resentment of the situation.

The implementation of the 1971 Reservation Policy, which seemingly favoured the Garos, did not resolve the contention. The policy specified quotas of 40% for Khasis and Jaintias, 50% for Garos, and 10% for minorities in government jobs and educational institutions. The Khasis' insistence on increased quotas for them within government jobs was seen as an affront to the Garo quest for justice. The Garos fear that if the Reservation Policy is redrafted, the Khasis will make "inroads into their entitlement" (Bang 2008, 251). Venting frustration that is common among Garos, a leading academic activist opines:

> *"Politically we are neglected. We have 24 seats; whereas Khasis have 29 and Jaintias only 7 and this does not corroborate our respective population strength. Naturally then all focus of development is on Shillong... and Tura and the entire Garo Hills remain neglected."* (Somggron A. Sangma, Professor at NEHU, Tura Campus, 2015).

The increasing sense of discontent among Garos led to the demand for a Greater Garoland (GGL), which further provoked Khasis, who fear losing parts of the Garo-inhabited Khasi Hills. For their part, the Garos perceived the re-organisation of the Meghalaya Board of School Education (2005) on demand of the Khasi Students Union as yet another instance of Khasi hegemony. Such distrust and animosity has often led to skirmishes between the two groups. During one such protest in Tura and Williamnagar on 30 September 2005, the police and paramilitary forces opened fire, killing four Garo students and injuring

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[11] Meghalaya thus attained full statehood on 21 January 1972.

[12] The APHLC provided a common platform for major tribal groups of Meghalaya in their autonomy struggle. Its initial role to reconcile the conflicting interests of tribal and non-tribal groups was not sustained very long in the wake of growing jingoism within the tribal leadership.

[13] Khasis acquired this elite status through their early access to the Shillong-based missionary education and administrative system.

hundreds. This event, popularly known as "Bloody Friday", further disaffected Garos who blamed the government agencies for blatantly favouring Khasis. Growing alienation allowed some of the fringe elements within the Garo Students Union (GSU) to raise the secessionist demand for a separate Garoland.

The violent clashes in Garo Hills, along with anti-national protests, were construed by the protagonists of the Indian state as the failure of the TIs to maintain law and order and to protect the territorial integrity of India. Such a breakdown of law and order in the strategically-sensitive Hills justified the stern intervention from various state-based agencies, especially as the violence was construed as a threat to national security. For their part, the TIs lacked the political will to intervene and were fearful as well of the violence. While the traditional institutions are capable of resolving petty disputes, they nevertheless lack the experience and competence to intervene in such violence. Therefore, instead of trusting the TIs and harnessing the potential influence they have in the region, the state-based agencies were rather prone to be suspicious of their local affiliations. This in turn squashed prospects of any useful collaboration between state-based agencies and TIs in Meghalaya Hills. However, during our field research in Khasi and Tura Hills, we did not find many respondents commenting on inter-tribe animosity or expressing anti-national sentiments. This could be one of the fallouts of the tacit acceptance of the Indian State of the tribal ascendency over the non-tribal population in Meghalaya Hills.

3.2 Insider - Outsider Dynamics

With the making of Meghalaya in 1972, the contentions over outsiders surfaced rather intensely in the region. The non-tribal communities bore the brunt of the rise of ethnocentric assertions among the tribal communities, and the hitherto ascendancy of the non-tribal population in public life and governance was politically challenged by both the Garos and particularly the Khasis, who had been elevated to a dominant political position in the newly-created state. Claiming cultural superiority for the tribal communities, non-tribals were declared as "outsiders" and often branded as Bangladeshis.[14] Khasi and Garo cadres have over the years committed a series of violent acts against "outsiders". Non-tribal communities were targeted in Khasi Hills in 1979, and the Garo Hills saw major violence against such communities in 1987, leading to the death of nearly fifty Muslims. Sporadic acts of violence were also reported in the early 1990s against Nepali, Bihari and Marwari communities.

The northeast has long experienced the 'the psychology of isolation' perpetuated by the fear of outsiders. The Inner Line system[15] implemented during colonial times in some parts of the region corroborated traditional anxieties against outsiders. In Meghalaya such threat perceptions against outsiders are well entrenched. It is feared that non-indigenous people will disrupt the salience of tribal culture. The current anger is directed manly towards the flow of Muslim migrants from Bangladesh. Many respondents referred to the mushrooming of mosques in Meghalaya as the sign of eroding tribal dominance. Outsiders' involvement in political processes is thus strictly limited. Out of the 24 constituencies in the Garo Hills, only two constituencies – Phulbari and Rajabala – are open for non-tribal candidates to contest through elections. They are not able to access government jobs, institutional

[14] Illegal migrants from Bangladesh (called Bangladeshis) are construed as 'enemy aliens' in the northeast. They are blamed for usurping local resources and employment opportunities.

[15] In 1873 the British government prescribed an Inner Line to prohibit any subject living outside the area from living or moving therein. It was extended to all the hills in the northeast except the Khasi and the Garo Hills. The thrust of the exclusionary policy has been maintained after independence despite its unpopularity among nationalists. Even now there is a strong current of opinion which attributes the "psychology of isolation" to the perpetuation of the inner line system (Singh, 1987). The Constituent Assembly voted in 1948 to maintain the 'excluded' and 'partially excluded' status of the tribal areas of northeast India.

loans or skill development trainings due to the reservation policy for tribals. The GSU also discourages non-tribal candidates from applying for jobs in the Garo Hills Autonomous District Council (GHADC).

While the local tribal communities in Khasi and Tura Hills remain obsessed with outsiders, the non-tribal population is fearful of violence against them (Toki Blah, former civil servant, 2015). Worst is the situation of displaced Muslim labourers from neighbouring Assam who work in the coalmines, quarries, and construction sites of Meghalaya,[16] as there have been recurrent episodes of violence against these migrant labourers. In 2011, five Muslim coal miners were shot in the Gokacoal dumping site in South Garo Hills, leading to a mass exodus of migrant Muslim workers. In Tura Hills, the Garo militants have often unleashed violence against the migrant workers without any consequences. State agencies prefer to ignore such instances of violence, and they are rarely given any publicity. This is primarily due to the 'illegal' status of migrant Muslim workers, regarded derogatively as 'Bangladeshis' who don't deserve any state protection. These migrant workers do not have any political constituencies to support them and are not connected to any political party. For their part, the TIs are too timid and powerless against such violent sprees carried out by members of the local tribal population. This highlights the statement made by Pangsang Rudy N. Sangma, a Garo peace activist and an erstwhile militant, who finds the insider-outsider dichotomy too simplistic: "There is a world beyond stereotypes of the pristine, greenery-loving tribal and the fundamentalist outsider."

3.3 Land conflicts

Land conflict is fast emerging as one of the major sources of conflict in the Meghalaya Hills. Land traditionally belonged to the clans, village or community in the area. As per Garo customs, all land belongs to the clan (*Machong*) and is to be utilized only with the permission of *A'king Nokma*, who is regarded as the custodian of the land. Barring land meant for cultivation and household use, all other land could be given to be used for markets and government offices, and even to outsiders. The land is normally sold and the decision to do so is taken collectively by all village elders. The income from the second type of land goes to *Nokma* once it is collected by *laskar*, which works under the District Council and keeps a record of the land holding of *A'king* land.

Since the making of Meghalaya, adjusting customary practices of land tenure to the realities of development has become problematic. With the arrival of the modern state and commercial interests, the spree of land privatization began, which has now reached such an extent that indigenous community-owned land has almost disappeared. Furthermore, the unbridled and unscientific ways of land exploitation and extraction of sand, rocks, and coal has caused irretrievable damage to land and bodies of water, drying up many rivers and springs. "Water will become a tragedy unless the authorities step in to control pressure" (Focus Group A&B, 2015). In addition, there are a number of conflicts between local populations and outside contractors and companies over forest resources such as timber and the trafficking of wildlife (Toki Blah, former civil servant, 2015).

The growing needs of industrialization and the marketization of the Hills have led to efforts to bring changes to the customary land tenure system, for example in order to allow for the easy transfer of land titles. Such land reforms are opposed by the dominant ruling class consisting of traditional leadership, feudal elements, and recently-elevated political elite. Therefore, while local political parties are sensitive to indigenous customary claims to land, national parties are instead steering the demand for land reform,

[16] Muslim labourers, about 5% of the population, are mainly 'Internally Displaced Persons' (IDPs) from areas of Goalpara and Dhubri districts in Assam, which are prone to river erosion. They mostly reside on the Assam-Meghalaya border and the plain belt of Garo Hills.

including a ceiling on land holdings and the distribution of surplus land for industrial development, which in this case will be taken over by outsiders. The acrimony caused by the Land Reform Commission and the so-called "Nehru Plan" of the early sixties still rankles Garo consciousness.[17] There is also a popular perception that the state is encroaching on tribal land in the name of border fencing and building highways without following the proper land acquisition process (Rhinkle D Marak, 2015). Many respondents in Khasi Hills blame the loss of community land, along with the fast erosion of natural resources, as the major cause of conflict over land use and acquisition, which turn raises security anxieties against outsiders.

In Khasi Hills land conflict has other dimensions as well. While the Khasi Headman was not the territorial ruler and did not own land, the land revenue system introduced by the British authorised these same Khasi Headmen to issue certificates of land ownership (*Patta*) in order to establish the amount of collectible land revenue. In the postcolonial phase these traditions were continued as a practical collaboration between TIs and government servants who wanted such certification in order to get loans from the bank. The Land Reform Commission mentions many such innovations to Khasi customs that were brought in by the state authorities in consultation with Khasi leadership.

Related to land conflict is the contention over illegal coal mining in Garo Hills. In a way, this issue involves customary land rights of tribals and as such reveals compatibilities between TIs and NTIs around the issue of land ownership. The tribal landowners who own the land through custom have traditionally carried out the mining, especially in the Garo Hills. Mostly individuals mine through digging rat holes to extract coal.[18] However, the National Green Tribunal (NGT) – an agency of the Union government – has recently banned such private coal mining. The state government then joined hands with local traditional authorities (*Nokma*) to oppose such banning on grounds of restoring the customary rights and practices of the indigenous people.[19] The Chief Minister Mukul Sangma referred to certain provisions of central laws such as the Mines and Minerals (Development & Regulation) Act of 1957 and the Coal Mines (Nationalisation) Act of 1973, which had "come in the way". The state government thus invoked provisions of the sixth schedule (paragraph 12A (b)[20]) so that the central laws relating to mining could be rescinded through a presidential notification.[21] It seems that the lower levels of government are far more sensitive to the TIs as compared to the national levels of government. This is obviously due to the dominance of tribal elite at the local level and the fact that they are electorally sensitive to the TIs' demand to resist the Union Government's interference in private coal mining. But local government authorities also have vested business interests in continuing private coal mining, as local or state level politicians or their relatives own many such mines.

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[17] Jawaharlal Nehru, then Prime Minister of India, had proposed an administrative merger of the tribal areas in Assam, which was construed as a threat to tribal customary rights and autonomy. Malsawmliana (n.d.) Nehru Plan and the Scottish Pattern Plan. Available at www.trcollege.net/articles/71-nehru-plan-and-the-scottish-pattern-plan

[18] At its peak the state produced coal worth $4 billion a year, or about a tenth of India's total production, nearly all from this form of 'small-scale mining'.

[19] Traditionally the *Nokmas* have justified the private ownership and opposed any move by the State to constrain their autonomy over land. Earlier they protested against certain provisions of central laws such as Mines and Minerals (Development & Regulation) Act of 1957 and the Coal Mines (Nationalisation) Act of 1973, as violating the traditional rights of indigenous people.

[20] (*b*) The President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to an autonomous district or an autonomous region in the State of Meghalaya, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.

[21] The Telegraph (Kolkata) 2014. "CM speech harps on coal mining." August 17, 2014. Available at http://www.telegraphindia.com/archives/archive.html

Local respondents to our field research query allege, however, that the cooperation between traditional authorities and state government is not so much due to the respect for customary rights but due to a nexus between illegal miners and politicians. "Most of the illegal rat hole mines are owned by politicians and their wealthy cohorts and they don't care if such illegal mining has killed thousands of workers, mostly children" (Focus Group A, 2015). While some focus group participants also mentioned the environmental degradation and population displacement as consequences of such unregulated extractive activity, most people emphasized how such private coal digging aggravates socio-economic disparities, causes ethnic and social unrest, and leads to criminal extortion.

3.4 Rising Violence and Insurgency

The past three years have seen a remarkable rise in violence in Garo Hills, which frequently capture media headlines for militancy-related issues. Kidnappings, extortion, killings, and shootouts make the news as well as, on a more positive note, peace rallies and the surrender of several armed cadres belonging to one of the many "revolutionary" groups. With the resurgence of dormant insurgent groups including Garo National Liberation Army (GNLA) and Hynniewtrep National Liberation Council (HNLC), episodes of violence and abduction have gone up manifold.[22] The militant outfits reportedly abducted 87 people for ransom including 27 businessmen, 25 civilians, 25 employees of private firms, five government employees and five teachers between January and October 2015.[23] With repeated attacks on security personnel in the past months, the issue of militancy in Garo Hills has become highly securitized. So much so that the High Court of Meghalaya on 5 November 2015 made a *suo motu* directive to the Central Government for the imposition of the Armed Forces (Special Powers) Act of 1958 (AFSPA) in Garo Hills area.[24] The High Court's directive came as a shock to many in the northeast where prolonged movements have been waged for many years for the repeal of the extremely controversial AFSPA, especially in Manipur State.

Such an increase in violence has diminished the possibility of state-based institutions to give greater space to the traditional institutions, because the unwillingness of the traditional institutions to intervene in violent situations has highlighted their lack of influence and has led the state-based institutions to ignore them. One explanation for the rising violence is the lack of primary education in the interior villages of Garo Hills. The growing populace of barely-educated and unemployable youth are easily brainwashed and manipulated to fill the ranks of armed groups with the promise of easy money. Many respondents also pointed out the lack of knowledge about traditional institutions and the little information about such in the school curricula. Few in the young generation are aware of the TIs and in any case they would prefer to gain knowledge and skills that would give them better access to state-based institutions (Focus Group C, 2015).

Father Anthony of Tura Church feels that unemployment is the root problem because it forces youth to join militant outfits like the Nationalist Socialist Council of Nagaland (NSCN). Father Anthony also

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[22] See CDPS, Meghalaya Major Incidents, Available at: http://cdpsindia.org/meghalaya_incident.asp (accessed 21 January 2016).

[23] Morung Express 2015. "M'laya HC cites rising killings in AFSPA directive". 5 November 2015 Available at: http://morungexpress.com/centre-to-move-sc-against-meghalaya-hc-order-to-impose-afspa/ (accessed 4 Oct 2016).

[24] Order of the High Court of Meghalaya dated 2.11.2015 passed in Writ Petition (C) No. 127 of 2015. AFSPA is an act of parliament that grants special powers to the Indian Armed Forces in "disturbed areas" including the right to shoot to kill, raid houses, destroy any property that is "likely" to be used by insurgents, and "to arrest without warrant" with "reasonable suspicion" any person who has committed or is "about to commit a cognizable offence." AFSPA provides them immunity from prosecution "except with the previous sanction of the Central government against any person". AFSPA is often considered a legislative measure unique in its disregard of the rights of the residents against unlawful exercise of coercive power. Available at: http://www.mha.nic.in/pdfs/armed_forces_special_powers_act1958.pdf (accessed 28 January 2016).

hints at the glamour side of militancy: “Warriors and saviours want special packages and recognition in the name of surrender,” he says. The Garo Hills’ meagre infrastructure, scanty health and education facilities, and poor connectivity to the rest of Meghalaya accentuate the sense of relative deprivation of its inhabitants. With the decline of the community-based agrarian economy and the absence of other employment opportunities, the uneducated and unemployable Garo youth join the insurgent bandwagon in order to make a living – especially in the coal belt areas, where extortion activities provide a rich dividend (Father Anthony, Garo Baptist Church, 2015).

But peace activists and civil society members are also highly critical of the government and are disconcerted with its mindless carrot and stick approach. They blame government for overlooking the causes of frustration: “… what government is doing is to simply curb this problem, through deployment of more troops, more firepower; but from the looks of it, it doesn’t seem to be working. The police forces are being modernized, with sophisticated weapons and Special Forces training, but have no inkling on public relations and basic etiquettes, which should also have been included in the training.” Young activists point out how state-based agencies remain insensate towards the common masses, aggravating their alienation. Drivers of police vehicles are seen to drive rashly, endangering the public, and there have been many instances of police high-handedness and misbehaviour towards the public. However, on a more positive note, the locals of Tura Hills acknowledge that the government has initiated many entrepreneur development programmes and sent many young people for training in various skills. However they also point out the delays and lack of follow-up programmes, which limit the impact of the government. There is also resentment against so-called “entrepreneur development programmes” which hardly touch the lives of common people (Focus Group B, 2015).

Two factions of the Garo militant outfit A’chik National Volunteer Council (ANVC & ANVC-B) signed a Memorandum of Settlement (MoS) with the Central Government and Meghalaya Government in New Delhi on 24 September 2014. This was a follow up of the peace negotiation process with ANVC that resulted in the ceasefire agreement of 23 July 2004. The decade-long negotiations involved discussions on development and the perceived inequalities between the Garos and the Khasis as beneficiaries of state services. The MoS of 2014 stipulated that the government would disburse a package exceeding Rs. 100 million over the next five years for development in Garo Hills. But the tardy implementation of the MoS has sparked many controversies. For instance, the former leader of the ANVC-B, Bernard N Marak, finds the delay suspicious and blames the government for dithering on the “Agreed Text for Settlement”, especially its resistance to ANVC’s demand for the creation of a Garo Autonomous Territorial Council, funded by the Union Government and with stronger powers and a role in implementing development schemes.

With the background of this conflict scenario and the complex relations between NTIs and TIs, the following section looks more closely into the framework for and the functioning of TIs in Meghalaya and how their coexistence with NTI is shaped.

4 A Unique System of Tribal Governance and Conflict Resolution

The tribes in the northeastern region of India have long sustained indigenous traditions and institutions of governance and conflict resolution. Some of these traditional institutions survived the arrival of modernity and state-based institutions and continue to hold their influence in the Hills of Meghalaya. Undoubtedly it was the British policy of protecting the tribal populations from outside influence that created the space for the continuation of such traditional practices. There are varied explanations why the British did so.[25] However, the thrust of such exclusionary policies was upheld after independence as well, despite reservations from some nationalists who saw in it the British design of 'divide and rule'. The Constituent Assembly in India voted in 1948 to maintain the 'excluded' and 'partially excluded' status of the tribal areas of northeast India (Baruah, 1989). Subsequently the Sixth Schedule to the Indian Constitution reaffirmed the imperatives of traditional governance and stipulated special provisions to meet the unique political and administrative autonomy of Tribal Areas.[26]

Mentioned at times as the 'mini constitution' for India's northeastern region, the Sixth Schedule in a way reiterated the British policy of keeping the unique tribal culture protected from outside influence. It is debated, though, whether such protectionist policies did any good for the indigenous people by segregating them from the mainstream communities as well as from the impacts of development and modernization. However, there is general agreement on the fact that were it not for such protectionist policies, the TIs would not have been preserved. Their separate identity and jurisdiction, for instance, made it possible for them to coexist with the NTIs. The Indian Constitution also established a new frame of administration, transferring the jurisdiction of tribal customary law to the newly framed Autonomous District Councils (ADC), which are comprised of elected members from their constituencies. While the courts were to judge cognizable disputes wherein the Indian penal code[27] had been violated, the scope of the ADCs is confined to civil cases of smaller magnitude.

The governance structure of the State of Meghalaya conforms to the provisions of the Sixth Schedule to the Indian Constitution[28] and provides special autonomy for its distinct tribal communities. The three-layered governance includes central, state and traditional institutions. Central institutions include the Union Government, Supreme Court, North Eastern Council, Ministry of Development of North Eastern Region (DoNER), the governor, the All India Administrative Service (IAS), military/paramilitary forces and the Intelligence Bureau, among others. State institutions include the state administration and ministries, the state police, and the judiciary, among others. Below state agencies there are 'hybrid' institutions, such as the Autonomous District Councils (also called District Councils) along with *Laskar*

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[25] Col. Wedgewood argued that the "backward" tracts should remain under British control and should not be controlled by the elected government of the province. Educated Indians, he argued, "want to get them as cheap labour and if these people are to be saved from the hell of civilization, the only chance they have is British protection and British control and to be free from the insidious advances of the rich people in the Provinces to exploit them." The Government of India Act of 1935 (Baruah 1989).

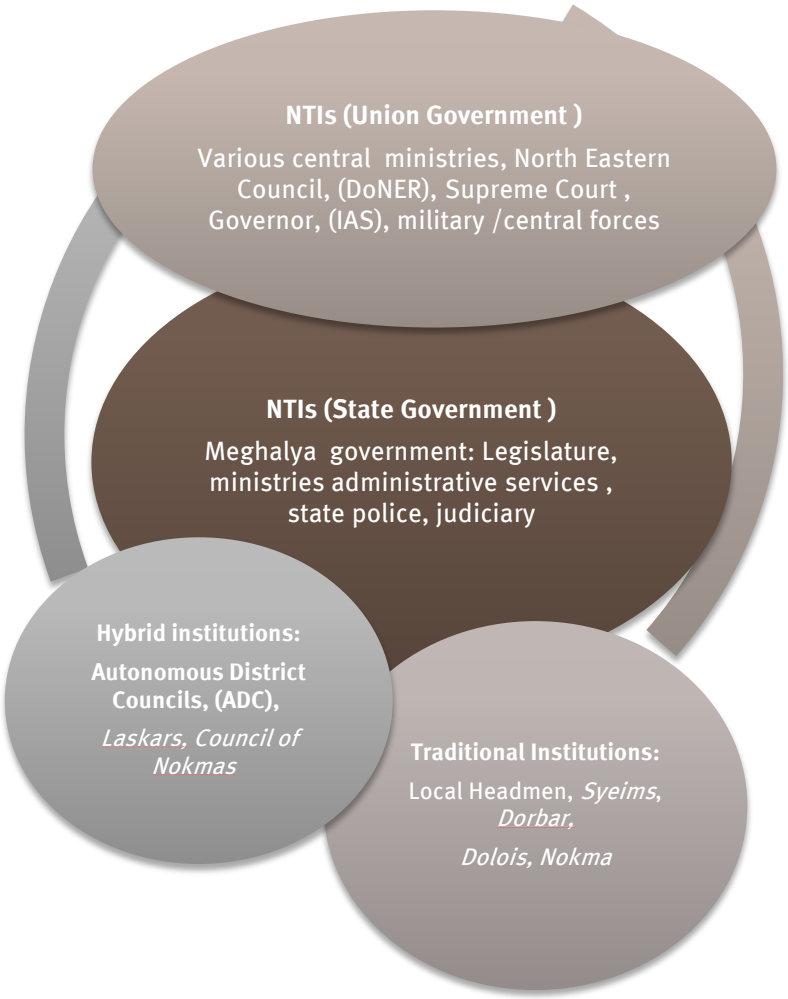
[26] Constitutionally acknowledged tribes are Asur, Badaga, Baiga, Bharia, Bhil, Bhumij, Bhutia, Birhor, Bodo, Bodo Kachari, Boksa, Bonda, Chakma, Chenchu, Dhanka, Dimasa, Garo, Gondi, Hmar, Ho, Irulas, Karbi, Khasi, Khonds, Kol, Korwa, Kuki, Lepcha,Limbu, Lodha, Mahli, Mara, Mech, Mishing, Mizo, Mog, Munda, MudugarNaga, Oraon, Pnar (Jaintia), Rabari, Rabha, Reang, Santals, Sora, Toda, and Tripuri.

[27] The Indian Penal Code (IPC) is a comprehensive code which covers all substantive aspects of criminal law. Drafted in 1860 in colonial India, the IPC was inherited by India and has been in force with amendments brought from time to time.

[28] The Sixth Schedule contains administrative provisions regarding tribal areas in the State of Meghalaya (also in parts of Assam, Tripura and Mizoram) to protect them from the control and power of outsiders. Accordingly Khasi, Jaintia and Garo Hills were given one each Autonomous District Council ADC (also known as District Council).

and the Council of *Nokmas* in Garo Hills, which are comprised of non-traditional, state-based institutions and traditional institutions like *Dorbar* (Khasi Tribe), *Dolois* (Jaintia Tribe) and *Nokma* (Garo tribe).

The figure below roughly sketches the layers of governance in Meghalaya.



4.1 Hybrid Institutions: Autonomous District Councils

British rule, while establishing political control over the hills, accorded notional respect to these TIs but did not trust them enough and introduced hybrid institutions like *Laskar* and the ADCs to complement their colonial interests. The descent of TIs in Meghalaya through British rule to the present era has been tied up with a series of hybrid institutions that were created to act as a facilitator between the NTIs and the TIs. Institutions like *Laskar*, Autonomous District Councils (ADC) and the Council of Nokmas are to provide channels of communication with the TIs, but also to supervise the TIs. While *Laskar* and ADCs existed in Khasi and Jaintia Hills during colonial times, the Council of *Nokmas* was created recently in Garo Hills.

The ADCs are a unique stipulation of the Sixth Schedule, which draws their lineage from the British policy of protecting the Hill tribes from outside influence. The Sixth Schedule assigned ADCs in each of the three tribes, namely Khasi Hills District Council, Jaintia Hills District Council and Garo Hills District Council. These Councils are endowed with legislative and administrative powers similar to the common tribal law and the traditional authorities. The state is obliged to consult and seek prior approval of the ADCs with respect to any issue that relates to the legislative powers conferred on them. The Councils are also empowered to establish village councils and village courts. Articles 244 (2) and 275 (I) of the Sixth Schedule mention a long list of provisions and powers for the ADCs including allotment, occupation and land use, establishment of village or town committees or councils and their powers, administration, town and village policing, flood control, trade and commerce.

While the structure of traditional governance, which hinges on the ADCs, is elaborated later in the discussion on TIs, it is useful here to highlight its recent lineage. The ADCs inaugurated in Khasi and Jaintia Hills in 1952 were given authority to appoint and remove the tribal chiefs and headmen through the United Khasi Jaintia Hills Autonomous District (Appointment and Succession of Chiefs and Headman) Act of 1959. This act not only brought radical changes to the pattern and procedure of the election and appointment of chiefs, but also reduced their position and status.[29] It is the Executive Committee of the Khasi Hills Autonomous District Council that legitimizes the position of the *Rangbah Shnong* under the provisions of the Sixth Schedule. The relationship between the *Dorbar Shnong* and the District Council is thus symbiotic and yet uneasy. On one hand, the District Council relies on the *Rangbah Shnong* to provide certificates about proof of residence of its inhabitants and will not issue a trading license to any non-tribal without the No Objection Certificate (NOC) from the *Rangbah Shnong*. The NOC provided by the *Rangbah Shnong* to the non-tribals is proof that they are residents of the Shnong and not outsiders. Often, though, the ADC rejects this certification on the ground that traditional bodies, such as the *Rangbah Shnong*, are not a legalized body (Focus Group D, 2015).

But the *raison d'être* of ADCs is often challenged by some detractors, mostly government officials and politicians, who claim that the ADCs have outlived their utility, are a drain on scarce public resources and should be dispensed with, especially with the existence of the state legislature (NCRC 2001, 25). It is suggested that the ADCs are now an anachronism, as they overlap with the normal district administration and have tended to duplicate it, while becoming a rival focus of power and a financial burden. It is also pointed out that the same political elite of the three major tribes dominates both the ADCs as well as the state legislature and is therefore not effective in taking self-governance to the grassroots. In a way, the ADCs have begun to work as a launching pad for politically ambitious tribal leaders. The conflict between the ADCs and the state government also relates to ambiguities over their overlapping jurisdictions.[30]

However, public constituencies in Meghalaya detest such negativism towards the ADCs and blame government agencies for their conspiratorial attitude towards the traditional institutions (Focus Group B, 2015). Our field research suggests that the non-performance of the ADCs is more due to their lack of financial powers and their dependence on state governments. Most stakeholders suggested the need to create a separate financial institution (State Finance Commission) to ensure that a part of state taxes, duties and tolls be allocated to the ADCs and TIs for their desired functioning. Some respondents blamed the central government for disempowering the ADCs and TIs by assigning exclusive financial powers to the state government. The field research confirms that while state agencies, ADCs and the traditional

[29] According to Article 243 M of the constitution, the provisions relating to Panchayati Raj institution are not applicable to Meghalaya. Hence the 73rd Amendment of the Indian Constitution does not apply to Meghalaya.

[30] The 74th Constitution Amendment of 1993 entitled 'The Municipalities' is seen to limit the traditional jurisdiction of ADCs over the city municipalities.

authorities influence and determine matters pertaining to local governance or natural resources, it is the Union Government that has the decisive say. For instance, the Union Government implemented a ban on felling trees in 1996 and banned private coal mining in 2014, much against the wishes of both the state government and the TIs.

The Union Government also has the upper hand in managing and negotiating insurgency issues through the office of the Governor, the Ministry of Development of North Eastern Region (DONER), and the Home Ministry and its subsidiary agencies. Therefore, the armed outfits tend to exclude the mediation of the TIs in peace negotiations (Biswajit Mohapatra**,** NEHU Professor, 2015). There is a sense that the ultimate political and financial authority lays with the central government or to an extent with the state government and not with the local ADCs or TIs. The armed forces and other law enforcement agencies also ignore the TIs in this regard, fearing their complicity with the insurgents. The insurgents in many instances are suspected to have family ties with the village *Nokma*. While the ADCs and TIs are indeed the first port of call for tactical operations in cases of counter-insurgency, they are nevertheless hardly taken into confidence by the state, which in turn erodes their credentials to manage day-to-day administration.

Similarly, there is a visible trend not to tap the potentials of ADCs in negotiating civic space between tribal and non-tribal groups. This is despite the fact that legislation drafted by the ADCs has shaped the current distribution scheme, which limits access of non-tribals to both political and social spheres.[31] One of the respondents highlighted how ADCs and TIs could play a role in facilitating good relations between the tribal and non-tribal population due to their traditional roots in the community (Pangsang Rudy N. Sangma, Secretary, CCS, 2015).

4.2 Traditional Institutions in Meghalaya Hills

The TIs in Khasi and Jaintia Hills revolve around the institution of *Dorbar*, which is a three-level arrangement of governance. At the lowest level, there is a Village Council known as *Dorbar Shnong*, led by the Headman or *Rangbahshnong*; the next level is called *Dorbar Raid*, headed by *Sirdar*, and at the highest level of the ruling clan area, the *Dorbar Hima* is headed by *Syiem (King),* which is the highest position within the TI structure. The position of *Syiem* is reserved for the husband of the youngest daughter of the ruling clan. The *Syiem* usually holds office for life, but in some cases for a short period of five years. He is elected by a traditional executive called *Myntris* (Ministers) which along with the Headmen constitute the *Dorbar* (court) of the *Syiem*.

The Khasi Village Council comprises of all male members of the community; often one male representative from each Khasi family is sent. The elders of the clan are mostly chosen to take lead positions in the Council for two to five years. The headman convenes the *Dorbar* and acts as its president and the meetings are usually held in his sister's house, i.e. *Iing Syiem* or *Iing Sad*, and not in his wife's house or in the market place.

At any level of the *Dorbar* only the elected senior male members attend. However, one village elder from the Khasi community mentioned that lately there has been some relaxation in the custom. The *Dorbar* is concerned with providing directives for day-to-day administration and actually acts as a court to dispose of cases and inflict penalties upon wrongdoers. However, focus group discussions with some students of the Shillong campus of NEHU revealed that the younger generation doesn't look at *Syiem* or

[31] See the Meghalaya Transfer Act of 1972 and the Meghalaya Benami Transaction Prohibition Bill.

Dorbar for effective governance, but finds the ADCs doing the real work in terms of justice administration and conflict resolution (Focus Group D, 2015).

Our field research shows that the institution of the *Dorbar* is mostly ordered according to unwritten traditions and lacks uniformity. For instance, on the question of including non-tribals in the *Dorbar*, we found contradictory responses. All decisions are taken by consensus through oral vote and a matter is dropped in case of a discord. We also discovered that no appeals are made against *Dorbar* decisions. The customary pressure usually ensures the obeisance of the concerned parties to *Dorbar*'s decisions. However, a seasoned member of Dorbar mentioned exceptional instances in which parties have defied the *Dorbar* dictate and went to the district council court against it (Vice President, Nongthymmai Dorbar Pyllun, 2015).

Furthermore, not all respondents to our research query were convinced of the impartiality of the *Dorbar*. Some interviewees complained of the preferential treatment given to founding clans in *Dorbar* matters (Pangsang Rudy N. Sangma, Secretary, CCS, 2015) while some young Khasi critiqued *Dorbar* for being a patriarchal institution, which does not allow women to take part in discussions or decision-making. "How could justice be delivered with half of the population not being consulted at all!" quipped a Khasi woman activist (Quinda, Activist, 2015). A Shillong based former civil servant and someone closely involved with the *Dorbar* labels current TI practices as remnants of the past (Toki Blah, former civil servant, 2015). He also cautions against any euphoria about these practices, as "the past is always rosy. We need to look into the current TI practices to ascertain if they are fair and just".

At the same time, Blah regrets that the government normally prefers to use its own constituted "peace committees without consulting *Dorbar*, but whenever there is a crisis, TIs have been called in and used." The practice of forming peace committees to defuse public unrest or conflict is widespread in the parlance of Indian governance. Mostly constituted by the District Magistrate, such committees include influential leaders of the community and public opinion makers from all strata of society. But the voices of TI leaders still carry great significance in defusing conflict situations and the state should make better use of their influence. He mentions a case wherein the executive committee of the *Dorbar* (with the approval of the conflict parties as well as the state officials) resolved a conflict over a disputed piece of land.

The *Dorbar* has also tried to resolve civic contentions on issues of water, infrastructure, and energy, often negotiating with conflicting parties including the ADCs and municipalities. However, one respondent referred to the declining influence of the *Dorbar* in Khasi Hills, which remains mostly concerned with petty social conflicts, and in some cases land disputes. *Dorbar* meetings according to him are frequent, but they remain mostly confined to negotiating peace within the *Dorbar* institution itself. While the church, for its part, doesn't interfere with *Dorbar* dynamics, politicians often do. A Shillong-based respondent mentions that the elected Members of the Legislative Assembly (MLAs) are able to patronise *Dorbar* politics by offering financial incentives to *Dorbar* members, which come out of the 10 million Rupees development fund received from the Union Government. Such practices compromise the values of neutrality and fairness among the TIs (L.S. Gassa, Professor, NEHU, 2015).

4.3 Reforming *Dorbar*: Village Administration Bill (VAB)

The Village Administration Bill (VAB) proposed in 2014 is seen on one hand as a transformative opportunity for the TIs. On the other hand, it is pointed out that the proposed VAB is likely to generate more conflicts between the tribal authorities and the non-tribal bodies in future (L.S. Gassa, Professor NEHU, 2015) and is described by Thama U Rangli Juki (from TUR, a progressive people's collective) as a "shoddy piece of legislation that betrays the call of the people to democratise the *Dorbar Shnong* and the *Rangbah Shnong*".

The Bill aims to "streamline and to provide for an efficient village administration which is transparent, accountable" at the village level. However "...it fails to respect and protect traditional village level autonomy and processes and to help them transform into legally consistent institutions to meet modern day demands for transparency, accountability, inclusiveness and participation".[32] For instance, the bill proposes that the Village Chief will not be elected but rather 'approved' by the ADC.

The VAB, however, opens new avenues for women's participation in village administration, a tradition that was earlier prevalent in notional ways of governance only. In this sense there are voices from civil society groups that threaten to resort to legal recourse in the case of any obstruction to women's active participation in the *Dorbar*, including legal intervention to restore the constitutional rights of women if need be. The defence of local indigenous interests is mainly concerned with protecting the land and resources that the current bill undermines, and there is strong scepticism of the flow of outside capital and business interests into the region. In all fairness to the indigenous groups, they do realise that the movement of persons and labour is an economic reality; however, they feel that this reality should not necessarily usurp the rights of indigenous workers. But these rights can still be protected through mechanisms like the reservation policies for indigenous people, both in the public and private sector, and by ensuring their socio-economic entitlements to health care, education, and the public distribution of supplies.

An interesting feature of the VAB has been the specific mention of the role of *Dorbar Shnong* as just a 'conciliatory-body' to settle and compromise cases. However, instead of welcoming this recognition, politically-dominant Khasi groups oppose this on the grounds that it would mean that the *Dorbar* could no longer summon its subjects indulging in anti-social activities. A meeting of Hynniewtrep Youth Council (HYC) with headmen held at the Khasi National Dorbar Hall urged the Khasi Hills ADC to either recall or bring amendments to the Village Administration Bill. The meeting further expressed reservations about the proposed constitution of a Village Development Council (VDC) in the bill that states that all residents who have attained the age of 18 can become members. This will further increase the problem of influx, the HYC said. The HYC and the traditional heads also demand that the district councils empower the headmen to issue NOC through an executive order.[33]

4.4 *Nokma* in Garo Hills

The Garos are the second-largest tribe in Meghalaya and comprise one-third of the population of Meghalaya state. Garos are matrilineal societies, and the land belongs to one of the *Machong* (clan), divided with separate boundaries among widely separated villages. These villages or groups of villages under a clan are called *A'king*, which is administered by the *Nokma*. Although the title of *A'king Nokma* belongs to a woman, as per the customary law of matrilineal inheritance, it is the husband who actually runs the administration of the *A'king*. Thus the *A'king Nokma* is the custodian of the land that belongs to the *Machong*; all major decisions can only be taken with the consent of the *Nokma* or the men in the family.

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[32] The Shillong Times 2015. "Village Administration Bill – Its Amendments and Ramifications". June 10, 2015. Available at http://www.theshillongtimes.com/2015/06/10/village-administration-bill-its-amendments-and-ramifications-by/ (Accessed 4 Oct 2016)

[33] Meghalaya Times Shillong 2015. "Mukul calls for upholding of traditional values and culture", 14 November 2015 Available at http://meghalayatimes.info/index.php/front-page/32242-mukul-calls-for-upholding-of-traditional-values-and-culture (Accessed 4 October 2016)

The title of *Nokma* is inherited and after the death of a *Nokma*, the next in line calls a meeting of all the *Machongs* and their representatives from all over Garo Hills, gets their acceptance, holds a feast, and only then can he call himself *Nokma*. Even with the traditional laws of inheritance, in the case of a *Nokma* who is found to be indulging in activities detrimental to the *A'king*, the *Machong* has the right to call a meeting of all representatives from Garo Hills to relieve the *Nokma* of his title and bestow it on someone else of the same matrilineal line. Thus, a *Nokma* traditionally had to be exemplary in his position and powers and was accountable to the *Machong* as a whole.

The Garo Hill District is divided into fifty-five administrative units, known as *Elakas*, consisting of twenty villages each. The Laskar, elected by the ADCs, supervises these Elakas. The *Laskar* in turn appoints *Sardars* at the village level to assist the *Nokmas* in day-to-day village administration at the grass roots level. The *Nokmas* were brought under the subordination of government-appointed *Laskar* or *Sardar* by the British regime to take political control of the tribal hills. However, despite the governmental controls, the power of the *Nokma* remained largely unchanged except that the petty criminal cases and disputes between *Nokmas* themselves were taken over by the *Laskar*.

The *A'king Nokmas* have been reduced to mere custodians and supervisors of their *A'kings* on behalf of their wives and their clans. However, the Garo Hills District (Jhum) Regulation Act of 1954 conferred on the *A'king Nokmas* the right to allot land for cultivation to each family within his *A'king* in consultation with the residents thereof. But in the event of any dispute with regard to the land so allotted by the *A'king Nokma* to any particular person or family, the matter has to be referred to the village council, a power which was earlier exercised by the *A'king Nokma*.[34]

The *Nokma* are also considered peacemakers, as they are the first port of call when it comes to resolving petty quarrels, theft, adultery, divorce, etc., or quarrels between members of the same *Machong*, which was considered a threat to the peace in the *A'king*. *Nokma* traditionally enjoyed the reputation of resolving conflicts in such a way that it upheld the dignity of both parties involved and ended quickly and amicably, with the erring party corrected and the aggrieved party appeased. In typical conflict resolution parlance, the *Nokma* believed in 'saving face' as an important component of bringing peace. A well-known example of TIs positive role in managing a land conflict is when North Eastern Hill University needed land for setting up a campus in the Garo Hills. The university academics and administrators sought help and facilitation from *Nokmas* of the region to negotiate an appropriate land acquisition. We heard many positive stories about how *Nokma* made special efforts to ensure that an entire hill area was made available for the purpose.

The *Nokmas* would also act as judges and award punishments, fines, or pardons. Judgments were passed within the ambit of customary laws and in consultation with both the male and female elders of the village. In cases of a dispute between two *Nokmas*, a third neutral *Nokma* would be the mediator and the dispute would be settled in his court. The offender was never the individual, but the whole *Machong*. This acted as a deterrent for would be offenders, as any offence made would invariably involve the whole *Machong*. Thus it was not the individual but the collective which was the unit within the TI system of justice. Rhinkle D. Marak points out that *Nokma*'s sense of justice is corrective and not punitive as is the case with the NTI. Wisdom of the elders is respected, too.[35]

As the rate of education among the Garos increased, the institution of the *Nokma* began to lose significance in some areas, especially in villages with weak-willed *Nokmas* or *Nokmas* who were not versed with the powers and functions of the *Nokma* institution. Over generations, while some *Nokmas*

[34]Village council are created by the ADCs.

[35] Giving an example of the wisdom of the village council elders, one participant mentioned the case of an 'illegal migrant' from Bangladesh. The suspect was beaten so that when he cried in Bengali – his mother tongue – he could be detected!

retained most of their power, some became diluted over time, due to a lack of knowledge and lack of education. Many respondents blamed unscrupulous political elements within the *Nokma* itself for its current disempowerment. While the new generation of youth remains somewhat fascinated by the tradition, it is not well equipped to refurbish or innovate the institution of *Nokma*. Furthermore, the Garo Hills' ADC – the very organization supposed to uphold and strengthen traditional institutions – has been weakening the institution through, for instance, interference in the nomination of a *Nokma*, land distribution, land acquisition for the government, etc. Even the state machinery has been indulging in illegal land acquisitions for government projects without proper procedure and paying proper compensations. One case in point is the Indo-Bangla border fencing. The land acquisition process is still incomplete, and no compensation for the landowners has been paid. Yet the fencing is almost completed and hundreds of acres of ancestral agricultural land lost to the other side of the fence.

Maintaining historic roles for the TIs within current socio-economic contexts poses a challenge for the traditional authorities, whose sphere of influence with the local population is directly determined by the extent of state presence in areas under its jurisdiction. For instance, the political space manoeuvred by a *Nokma* might be larger in a remote location even if its resources are meagre. Overlapping powers between formal and informal layers further implies that local actors can take advantage of legal loopholes in government procedures in order to decide which institution will 'govern' their case. Traditional authorities continue to maintain their spheres of influence on the local population since specific local "procedures" require prior approvals from traditional authorities.

According to one respondent, the "most important conflict in the region is between the TI and the state: the *Nokmas* vs. the ADC". He gave examples of the ADC not accepting letters of recommendation from *Nokmas* that have to be written on their writing pads. These writing pads are issued and numbered by the ADC. The ADC delays in issuing these pads in order to disempower the *Nokmas* and then disregards any letters of recommendations issued by *Nokmas* on any other writing pads (Pangsang Rudy N. Sangma, Secretary, CCS, 2015). Thus there seems to be a deliberate effort to curb the powers of the TIs.

Yet another example of usurping the powers of the *Nokmas* is regarding the encroachment on land belonging to the *Machong*. It was also highlighted that land is often acquired with delayed compensation by the state or no compensation at all, thereby disrespecting the powers and compromising the dignity of the *Nokmas*. The most prominent of all examples is the land acquired for border fencing or highway construction without proper land acquisition procedures. One respondent claimed that most of the conflicts are caused by the state itself (Sailang Raksam Marak, Advisor, Council of Nokmas 2015). However it is also mentioned that

> *"...the Nokmas are not competent and some of them are dishonest too. In the matter of Indo-Bangladesh border fencing some Nokmas were greedy. They accepted money and allowed fencing in the disputed areas in possession of Nokma."*

The formation of the state of Meghalaya brought the hitherto neglected Garo Hills into the limelight and gave new opportunities for the tribal elite to access state-based institutions. Politicians in search of electoral gains have wooed TIs like *Nokma* but at the same time, didn't do very much to strengthen them. However the inability of NTIs to deliver speedy governance and justice has kept the grounds alive for the *matgriks*, or warriors, who were mostly making easy money on the name of justice and development. Some respondents even seem to agree with extreme cases wherein the mob has taken matters into its own hands due to police inaction and have lynched extortionists and armed gangs. But many others found the trend of mob justice unfortunate, because in most cases, the lynched individuals are misguided youth who have succumbed to the lure of easy money. Such cases only highlight the inadequacy of both TIs and NTIs to control the situation.

But there have been positive changes as well. There seems to be resurgence in community building in recent times, which had previously been on the wane. The general public – in active collaboration with sympathetic and active administrators – has been instrumental in bringing about changes (Focus Group B, 2015). The efforts of some retired government officials to recharge the Council of Nokmas is a case in point. Interviewees also single out some of the government officials for their collaboration with community based TIs.[36] In addition, many locals in Garo Hills feel that the inclusion of traditional institutions would certainly facilitate the reconciliation process, especially with the surrendered militants, as the militants typically have customary respect for elders from their own home villages (Pangsang Rudy N. Sangma, Secretary, CCS, 2015). However, many respondents referred to the troubled relationship between NTIs and TIs and spoke of the Union government's distrust of the local and traditional institutions. There is an overwhelming feeling that the state-based NTIs would never allow the TIs to reclaim their traditional role. This leads to a difficult situation for many tribal people – they remain wary of NTIs yet they don't find TIs legitimate enough to take their complaints to them (Focus Group A, 2015).

4.5 Council of Nokmas

There has been a resurgence of the institution of the *Nokma* in recent years. One welcome initiative is the formation of the Council of *Nokmas* by the *Nokmas* themselves who felt the need for an organization that would cater to the needs and grievances of the *Nokmas*. Although still in its infancy, the Council of *Nokmas* not only aims to represent the cultural conservation imperatives of the tribal community but also to carry out the concrete tasks of administrating community life. It is being developed as a democratic organization with various office bearers and with decisions made in meetings. Today, more and more *Nokmas* have become aware of the powers, functions and rights that they are entitled to and with this awareness are becoming stronger in the administration of their *A'kings*. Of late there are more educated *Nokmas* than ever before. The president of the *Council of Nokmas* is a former Director General of Police (DGP); another *Nokma* of the *Chambugongmachong* is an officer in the state civil services; while yet another is an engineer.

One of the respondents also referred to the international discourse on "indigenous rights" as a factor behind the resurgence of *Nokma* consciousness (Sailang Raksam Marak, Advisor, Council of Nokmas 2015). With the strengthening of the Council of *Nokmas*, and awareness and education among the *Nokmas*, it looks like this institution will not fade away anytime soon. While the TI movement in Garo Hills is getting some momentum through the formation of the Council of Nokmas, their Khasi–Jaintia counterparts are also seeking greater empowerment for the TIs.

There is a mixed response amongst educated young people of Meghalaya on their faith towards the traditional mode of conflict resolution. Whereas a section of the university students remain regretful that TIs as a mode of conflict resolution is not taught at the university and is not part of the school curricula, many other remain suspicious of the role that TIs can play in any serious conflict. Nearly all are of the opinion that due to a lack of education, especially about the traditional institutions, the *Nokma* institution should not be expected to be conversant with the modern norms of fairness. Yet despite this lack of confidence in the TIs, young people remain excited about the norms and institutions of TIs, and some would like to nurture it further. Most of the young respondents felt an emotional attachment to the idea of employing the 'traditional institutions' in conflict resolution (Focus Group C, 2015).

[36] Additional Deputy Commissioner, Tura, Ambrose Ch. Marak, has been acknowledged as one such officer by many interviewees (Focus Groups, NEHU Tura Campus, 2015).

Several respondents felt that the TIs could sufficiently handle the present day needs of society, much as the modern state apparatus does. Moreover, unlike state institutions, the TIs are not driven by acquisitive and materialistic considerations. Thus Milton Sangma says that "traditional institutions are being pushed to the corner and state institutions are side-lining them. I have been associated with the *Nokma* councils for many years and find that if they were approached properly they could address the community demands positively". However "now the Nokmas are very careful to give land to any department". He adds, "There have been commercial crops that have come up. People have asked for land for rubber plantations, for cashew nut cultivation, etc. Years ago land was taken from the *Nokmas* for horticulture development. As a result most of the *Nokmas* surrounding Tura town are now kings without a kingdom. Shall we still call them *Nokmas*? Many *Nokmas* have very little land… they have to bear in mind their future generations, too" (Milton Sangma, Former Pro Vice Chancellor of NEHU, Tura Campus, 2015).

Milton Sangma, who belongs to the Snalsangma clan and was instrumental in getting acres of land for the Tura Campus of NEHU, felt that cooperation with state-based institutions is always possible.

> *"Only thing is that the government officers are haughty and they think Nokmas are nobody. Then the problem arises. Courtesies of consulting are also not observed. They then complain. These are the reasons for friction. Even if the Nokmas are consulted, they then have to consult other members of their clan. Only after that they can part with the land. The state institutions are not innovative. They go about without consulting the TI and the Nokmas. This is how they go wrong." (ibid.)*

While there are conflicting opinions about the sense of justice and fairness amongst the TIs, it is also alleged that the NTIs tend to ignore or condone cases that they feel are unimportant, such as witchcraft. The apathy of the NTIs towards the complaints of villagers in such cases is, in the opinion of the TIs, the main reason that such cases are mishandled. For instance, Milton Sangma explained the killing of a person accused of witchcraft (allegedly by a *Nokma*) in the following terms: "[The villagers] had gone to the police initially but the police paid no heed. So they took the law and order in their own hands. Then the government blames the Nokma and punishes them." (ibid, 2015) This can be the case even when the *Nokma* were not at all involved in the violence.

Similarly the *Nokmas* are often blamed for giving shelter to the insurgents and accused of conniving with the insurgents. But the awkward situation in which the villagers are placed is not fully appreciated by the authorities. The insurgents turn up and request food at night. They are people from the same clan, which makes it difficult to turn them away and the villagers have to oblige them. Several days later the police come and accuse the villagers. Therefore, the villagers are standing in the crossfire of the two opposing sides; the insurgents have also killed some *Nokmas* for being informers. Thus the TIs get a raw deal from both sides.

Notwithstanding the diverse perceptions on the TIs mentioned above, there clearly is a gap in perception between the TIs and the NTIs – a gap which is not likely to be bridged any time soon. The new generations of tribal leaders are not much inclined to explore the possibilities of coexistence with the NTIs, while the state-based institutions on the other hand seem to be rather suspicious of TIs competencies to deal with modern day disputes and governance issues.

5 Role of the Church

Yet another platform of peacebuilding has been the Christian churches, including the United Churches Peace Forum, Shillong Khasi Jaintia Church Leaders' Forum, Meghalaya Baptist Convention and the Garo Baptist Church. Many of these forums have extensive networks that cut across the governance layers in the state, enabling the communication channels among high profile politicians, local businessman and suspected insurgents. The church has also played an important role in promoting negotiated settlements in the framework of the conflict between the state and the insurgents.

The Garo Baptist Church (GBCH) has rendered substantial service in bringing the insurgents to the negotiating table in the past. For example, it was instrumental in bringing the insurgents of both the ALMA and the ANVC to the negotiating table in 2003. The GBCH, along with the Mothers Union, another prominent civil society organization, helped to bring peace to the Garo Hills at a difficult time and is in conversation with some other rebel groups at this time. Even in the framework of the ethnic conflicts, the churches in general have frequently played a crucial role in efforts to maintain peace by providing channels of communication. The central government makes use of their good offices almost in a routine manner. The church leaders are generally aware of peacebuilding tracks including popularizing peace prayers, not being judgemental about the insurgents, and advocacy of peaceful means, etc. Some of the religious leaders have been trained abroad to do so.

Father Antony, Vice Principle of Don Bosco Higher Secondary School in Tura and an influential voice in the local church, alluded to the peace work done by the United Peace Forum (comprised of churches and their interlocutors) in convincing militant cadres of the United Liberation Army of the correct path.[37] As such the churches in general don't have any defined coordination with the Council of Nokmas, although at times officials of the Council of Nokmas have approached the church through a mostly informal engagement. The government has in the past encouraged the church to play a role in bringing the parties together for peace talks. Although religious services and counselling are not parts of the official rehabilitation strategy, some local churches including the Garo Baptist Church do provide occasional services in the camps on special dates and the surrendered cadres are free to attend the service outside the camp.

However, what is important to note here is the kind of condescending approach church leaders have towards traditional institutions. In the words of an important church leader:

> *"The wisdom of Nokmas, our forefathers was held in high esteem… but with modernity Nokmas remained backward, uneducated. In some cases careless too. Unable to keep people together… disputes were earlier referred to the Nokmas, now only to the Central authorities…. We invite Nokmas too in our meetings. They come sometimes but they lose interest fast. They neither oppose nor cooperate. Their attitude is best defined as that of indifference."* (Father Anthony, Garo Baptist Church, 2015)

The role of the church, though valuable, has not been much appreciated by most of the respondents or the common people. Despite the fact that Meghalaya is largely a Christian community, none of the people spoke about the positive role, or any role, being played by the church in conflict resolution in the community. The traditional institutions of Garo Hills seem fairly disconnected from the church. The stakeholders of the TIs look at the church as an agent of the central or the state government, and an institution which extends support to the rebels who are considered fly by night operators, opportunists

[37] The militants surrendered to the local authorities in December 2015.

and people who remain indifferent towards the general plight of the community. It was very evident during our fieldwork that no matter how valuable the conflict resolution work of the church leaders has been, there is little appreciation of their work in the community.

6 Uneasy Coexistence

The traditional institutions of governance and conflict resolution in Meghalaya have endured the overwhelming sway of state-centric institutions during and after the colonial era. Independent India followed the colonial traditions of respecting tribal autonomy by protecting the state under the Sixth Schedule of the Constitution. The preservation of smaller 'culturally defined states' like Meghalaya has made it possible for the elected representatives of indigenous peoples to access control over policy making and administration. However, this has also posed a challenge for the TIs to bring the necessary adjustments in order to engage positively with state-based institutions and fulfil the obligations of democratic governance. The current transition is symptomatic of new equations and innovative ways in which the TI/NTI coexistence is being played out in Meghalaya.

One of the often-cited difficulties in resolving the anomalies and contradictions between the TIs and NTIs is the lack of understanding about their respective role as well as their responsibilities towards each other. For instance, in Khasi Hills each *Dorbar* collects a monthly tax (*ka fund shnong*) from its inhabitants. Such private tax collection is, however, illegal under Article 265 of the Indian Constitution. Clearly the *Dorbar* officials either don't know about it or they still do it illegally. The divergent TI practices in Khasi and Garo Hills also prohibit effective TI/NTI coordination.[38] For meaningful coexistence it is important to streamline TI practices and to eliminate the anomalies and discrepancies. The other noticeable anomaly relates to the overlapping jurisdictions between the three-layered governance in Meghalaya. With the tribal community elite serving as members of parliament, in the state legislature, and in the ADCs and TIs, there is often a conflict of interest between them. There is also a tendency to encroach on each other's jurisdictions. Such overlap tends to erode the credentials and competence of TIs in taking self-governance to the grassroots.

The cooperation between TIs and NTIs is mostly driven by personal relationships between individuals and leaders belonging to both sectors. In many cases the concerned individuals have an affiliation to both layers of governance. Many retired officials are now leading the TIs like the Council of *Nokmas*. Such collaboration on handling conflictual issues might therefore happen informally without any public highlight. While there is less prospect of collaboration between the TIs and NTIs over the issue of land or property disputes, it is much easier to envision them cooperating on development issues and other welfare schemes, which get ready acceptance from both the TIs and NTIs, because development is seen as a resource of peace.[39]

Interestingly, both the precarious geo-strategic location of Meghalaya along with the secessionist inclinations of some of the outlawed militant groups tend to enhance the security anxieties of the central government which leads them to nurture the TIs. Many serving government officials that we interacted with showed a lot of interest in TIs and their possible role in conflict resolution but doubted their integrity and competence to do so (anonymous, 2015). At the same time we felt an evident unwillingness

[38] The Village Administration Bill (VAB), for instance, only relates to Khasi Hills and does not apply to Garo Hills.

[39] Some TI respondents, however, see unbridled industrial growth as the worst enemy of Hill people (Focus Group C, 2015).

on the part of state agencies to reckon with nuances and patterns of tribal disaffection and the likelihood of it turning conflictual.

Unfortunately, the state-based agencies handling conflict in the northeast tend to conflate the conflictual demands conveniently around the lack of integration, underdevelopment or political autonomy. The overwhelming prism of national security doesn't allow them to realize how badly the state needs advice and wisdom from TIs on the generic causes of local communities' disaffection, their basic needs and also useful action strategies. For instance, our respondents – many of whom belong to TIs – were quick to suggest that tribal/non-tribal conflict in fact relates to identity-based anxieties of being 'swamped and robbed' by outsiders; it is therefore easy to hype the spectre of illegal Bangladeshis in the region. So the NTIs need to resolve the existentialist anxieties of indigenous communities; in this pursuit they could seek help and advice from the TIs. Furthermore, sometimes counter insurgency actions tend to antagonize the local inhabitants because of a lack of understanding about local mores and culture. Preventive public diplomacy with the help of TIs could be rather beneficial in this context. The TIs could also be helpful in understanding and unravelling the generic causes of the prevalence of the insurgency in a continuum rather than intermittent episodes of uprising.

Meghalaya's state architecture, comprising of various levels of governance, reveals faultiness and many incompatibilities. Most conspicuous is the lack of communication and coordination between agencies concerned with peacebuilding in the state which constricts the political space for negotiation and pre-empts the framing of long-lasting commitments. The work culture and quotidian practices within TIs leave a lot to be desired. While law enforcement forces mostly lack cross-cultural sensitivity, the development agencies suffer endemic corruption. The development work, too, is driven mostly by parochial electoral gains. The unmonitored pumping of funds to the region in the name of peace at times proves to be self-stultifying.

While most respondents aspire for a healthy synergy between the TIs and the NTIs in order to ensure peace and prosperity in the region, a marginal segment remains disconcerted about the neglect of TIs in the current state-centric political environment and talked about evoking international conventions on indigenous people. "The state has done a lot of damage to these traditional institutions," according to Sailang Raksam Marak (SOL MEA, and an advisor to Council of Nokmas, East Garo Hills, 2015). The suppressive tendencies of the central government, aided by a similar viewpoint of the higher judiciary looking to implement the AFSPA in Meghalaya, has further discredited the state-based institutions in the people's eyes. Therefore, with this perspective of the NTIs in mind and with growing access to education on the part of the TIs, the traditional institutions are likely to become more effective and remain effective in future (Pangsang Rudy N. Sangma, Secretary, CCS, 2015).

7 The Way Forward

Our field research interviews unravelled an intense desire on the part of tribal inhabitants to have more accessible institutions and processes of dispute resolution, which are closer to their traditions and cultural values. To our queries whether the coexistence between the TIs and NTIs has led to more difficult conflict resolution processes or to more options for conflict resolution, we elicited an ambivalent response. While we noticed an overwhelming urge to retain the traditional institutions in some or other form, the respondents didn't perceive TIs and NTIs in a binary relation or feel that the NTIs are working against their customs and traditions in any way. In fact many of our interviewees saw TIs, hybrid

institutions like the ADCs, and NTIs in a continuum. This is obviously because the tribal elite dominate at all the three levels of governance.

In recent days people are more respectful towards the TIs – a fact that is reflected in the revival of the Council of *Nokmas* in Garo Hills again. In fact the Council of *Nokmas* is now demanding the creation of a Grand Council of Chiefs of Meghalaya, a banner of traditional heads in Meghalaya, which will consist of party-less regional councils in each *Laskar* in Garo Hills on the lines of the Garo Hills Districts Act, 1958. The council also seeks an amendment to Article 3 (g) of the Sixth Schedule in connection with the appointment or succession of chiefs/headmen. According to a Council member "The *Nokmas* of Garo Hills districts are not mere chiefs or headmen. They are inherited or otherwise selected from among the daughters/sons-in-law and formally approved by the GHADC. They are traditionally endowed with the powers as custodians of their clan land called A'kings and possess some executive and judiciary powers." It is also being demanded that the term "chief" and "headmen" are replaced by their own original title, *Nokma*, and inserted into Article 3 (g) of the Sixth Schedule (Lyngdoh 2015). There is also a growing feeling that institutions like *Nokma* are integral to the cultural heritage and the *Nokma* traditions should therefore be a part of the curricula. "I want to start *Nokma* schools. Children have to be educated with its traditions and functions of customary laws" (Tokse Karen D Sangma, Student, NEHU Tura Campus, 2015).

The Indian political elite, still unsure about their state building project in the northeastern states, continues to face a dilemma in promoting or co-existing with the non-state TIs. While the NTIs realize the potential of TIs in resolving local issues and conflicts, somehow a trustful relationship and a sensitive approach are missing. A good example was the sudden imposition of a house tax on Garos without explaining how the money will be used for the community's benefit. This estranged Garos, as their traditional understanding was that God has given them the land – they did not owe anything to a man-made organization. In another instance, the TIs were not consulted by the state on the Forest Right Act (2012), which delegitimized the rights of indigenous people to their traditional habitat. Many experts observed that it was, as always, a top-down imposition (Patricia Mukhim, 2015). Most respondents during our field research conceded that the land is important for development, but they complained that the tribal community and clans are not consulted over which lands can be given away for construction, industrial and educational purposes and which are to be held for the use of the community.

Given the poor connectivity and underdeveloped infrastructure in the state, there is often a feeling of disconnect with the rest of the country and also suspicion of state-based agencies. Another vital concern for long-term peacebuilding in this region is how to deal with the displacement and loss of homes and livelihoods arising out of mega development projects, as well as income disparities between the contending ethnic groups due to mining and dam projects, which both tend to engender inter-ethnic acrimony and conflict as well as conflict with the non-tribal population. To alleviate these concerns, the TIs and NTIs could come together and also join hands with some of the civil society organizations in promoting awareness about different sections of society and other parts of the country, as well as using cultural and festive occasions to build peace in cross sections of public constituencies. Keeping both demography and development imperatives in mind, serious consideration should be given to new ideas, such as proposals for a Three-Tier System that would encourage outsiders to work in Meghalaya for stipulated short periods of time. Another idea is for the community-based TIs to play a much larger and more critical role in the post-conflict reconciliation of surrendered militants, rather than leaving such programs to the state.

There is also a feeling that the disempowered and poor communities among the tribals are not heard, whether in the *Dorbar* or in the government, and it is always the more articulate middle class elite from the within the community who dominate political decision-making. Many respondents also lament

the loss of community values among the tribal people. "Each and every member of the community contributed to the welfare of the community, and the worth of every member was equal. However, the very fabric that kept the community together is getting torn in wake of modernization and state building. The NTIs are not concerned and TIs are helpless on this matter" (Focus Group B, 2015).

Militancy in the state could be discouraged through the empowerment of local and traditional institutions of governance and conflict resolution. For this to happen, the TIs need to be streamlined and accorded legal recognition. In a recent judgement the Meghalaya High Court underscores the imperative of bringing the TIs on par with other legal entities. However this Clarian call was not so much about preserving the traditional character of the TIs but rather meant the fusing of the TIs into the modern state structures. Commenting on the legally untenable status of a headman from *Khasi Dorbar*, Justice S.R. Sen observed, "the original concept of headman of a locality is totally different from what it is at present". He was of the opinion that a headman should be an elderly person of a locality with a good background, having a humane feeling, a sense of integrity, who is against all kinds of violence, elected by the people of the locality and obtaining *Sanat* (appointment) from the *Syiem*. The judge also observed that the duty of the headman was to look after the welfare only of the locality concerned; he can, at best, raise the grievances of the people to the government, district administration, or police. A headman of a locality did not derive any right from the Constitution of India to issue NOC for the purpose of birth or death, for the registration of any document, or for building permission and obtaining a loan, the judge observed. "Very often, it has also been noticed that local headmen interfere with the police work as well as with the District Administration." The judge further stated that two parallel governments cannot run simultaneously in a state and it is the government, district administration and police that are established by law to look after such matters in all respects and no assistance should be sought from any headman. He said that headmen should confine themselves to the social development of their locality only and should not take the law into their own hands or interfere with the administration.[40]

Along with the demand to seek constitutional status for TIs there is also a growing mobilization to seek women representation in TIs – something that is actually missing in practice. Even in a matrilineal society, which grants the *Nokma* status to women with attendant land rights, it is her relatives who actually do the administration. The Consultation Paper for National Commission to Review the Constitution (2001) suggests that the state governor should be empowered to nominate women to no less than three seats in each of the ADCs. Similarly, non-tribals should be given some political representation in TIs if they have to handle conflicts between tribals and non-tribals. Equally important is the need to clearly delineate the jurisdiction between the different layers of authority in Meghalaya. Although the tribal elite dominates all three layers of governance, namely the state government, ADCs and TIs, there is a constant jostle over overlapping jurisdictions.

"The root of the tensions and conflicts that today hamper governance in Meghalaya can be partly traced back to this reframing of traditions. If today there is a rigid stand taken by the traditional authorities, and if that rigidity is leading to problems of governance, then it is necessary to go back to tradition and understand how that tradition came into being" (Sharma, 1996). Undoubtedly traditions also grow with time. In this case the nature and scope of TIs has undergone multiple transferences in order to adjust to the state-based institutions and democratic norms, which in turn reveals new patterns of coexistence with the NTIs. The strengthening of TIs might encourage common people to resolve their issues at this level rather than go the state-based institutions. This would greatly ease the pressure on judiciary and provide easy and expeditious access to 'justice' to many more people. Many official and

[40] The Shillong Times 2014. "Headmen not authorised to issue NOCs: HC", 17 Dec 2014.
Available at http://www.theshillongtimes.com/2014/12/17/headmen-not-authorised-to-issue-nocs-hc/

unofficial commentaries in past decades have suggested several instructive ways to do so. However this has yet to attract the political attention it deserves.

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8.1 List of Interview Partners

- **Blah, Toki** (Former Civil Servant). Shillong, Meghalaya, June 12, 2015.
- **Father Anthony** (Garo Baptist Church). Tura, Meghalaya, June 16, 2015.
- **Father Antony** (Vice-Principle of Don Bosco Higher Secondary School). Tura, Meghalaya, June 16, 2015.
- **Father** (Garo Bapitist Church). Tura, Meghalaya, June 16, 2015.
- **Gassa, L.S.** (established Sociologist of North Eastern Hill University). Shillong, Meghalaya, June, 11 2015.
- **Leader** (Garo Baptist Church). Tura, Meghalaya, June 16, 2015.
- **Marak, Rhinkle D.,** (Student, NEHU). Tura, Meghalaya, June 15, 2015.
- **Marak, Sailang Raksam** (Advisor, NuruuM,ande Heritage Society & Advisor, Council of Nokmas). Tura, Meghalaya, June 15, 2015.
- **Mohapatra, Biswajit** (NEHU Professor). Shillong, Meghalaya, June 12, 2015.
- **Mukhim, Patricia, (**Editor, The Shillong Times**),** Personal interview by author. Shillong, Meghalaya, June 2015.
- **Quinda** (Khasi woman activist). Shillong, Meghalaya, June 14, 2015.
- **Sangma, Milton** (former Pro Vice Chancellor of NEHU, Tura Campus). Tura, Meghalaya, June 15, 2015.
- **Sangma, Somggron A**. (Assistant Professor, Don Bosco College). Tura, Meghalaya, June 16, 2015.
- **Sangma, Pangsang Rudy N.** (Secretary, CCS). Tura, Meghalaya, June 16, 2015.
- **Vice President** (Nongthymmai Dorbar Pyllun). Shillong, Meghalaya, June 12, 2015.

8.2 List of Focus Groups

Focus Group A

i. Sangma, Milton S. (Ex-Pro-Vice-Chancellor, NEHU, Tura Campus)
ii. C.R. Marak (Professor, Department of Garo, NEHU, Tura Campus)
iii. Marak, F. K. (Associate Professor, Department of Garo, NEHU, Tura Campus)
iv. Marak, C.C.D. (Assistant Professor, Department of Garo, NEHU, Tura Campus)
v. Marak, J. (Assistant Professor, Department of Garo, NEHU, Tura Campus)
vi. Momin, Nikme Ch. (Associate Professor, Department of Education, NEHU, Tura Campus)
vii. Sangma, Gino A. (Faculty, Department of ABMFT, NEHU, Tura Campus)
viii. Haorongbom S. (Faculty, Department of ABMFT, NEHU, Tura Campus)

[NEHU Campus, Tura, Meghalaya, 15 June 2015]

Focus Group B

i. Sangma, Saggra A. (Assistant Professor, Department of History and Archaeology, NEHU, Tura Campus)
ii. Marshiang, Benora (Assistant Professor, Department of History and Archaeology, NEHU, Tura Campus)
iii. Upadhyay, Amit Kumar (Assistant Professor, Department of History and Archaeology, NEHU, Tura Campus)
iv. Thakuria, Tilok (Assistant Professor, Department of History and Archaeology, NEHU, Tura Campus)
v. Bhagat, D. (Assistant Professor, Department of Management, NEHU, Tura Campus)
vi. Majumdar, S. B.A. (Assistant Professor, Department of Management, NEHU, Tura Campus)

[NEHU Campus, Tura, Meghalaya, 15 June 2015]

Focus Group C

i. Aski, Amanda (Research Scholar, Department of Garo, NEHU, Tura Campus)
ii. Momin, Bellybidha S. (Research Scholar, Department of Garo, NEHU, Tura Campus)
iii. Shira, Jobllyine D. (Research Scholar, Department of Garo, NEHU, Tura Campus)
iv. Marak, Rhinkle D. (Research Scholar, Department of Garo, NEHU, Tura Campus)
v. Marak, Dorohoti (Research Scholar, Department of Garo, NEHU, Tura Campus)
vi. Marak, Dokatchi Ch., (Research Scholar, Department of Garo, NEHU, Tura Campus)
vii. Marak, Jamie Mary Ch. (Research Scholar, Department of Garo, NEHU, Tura Campus)
viii. Sangma, Tokse Karen D., (M.A. III Sem, Department of History and Archaeology, NEHU, Tura Campus)
ix. Marak, Tengchi A. (M.A. III Sem, Department of History and Archaeology, NEHU, Tura Campus)

[NEHU Campus, Tura, Meghalaya, 15 June 2015]

Focus Group D

i. Research Scholars and Master Students (Department of Political Science & Department of Anthropology, NEHU, Shillong, Meghalaya)

[NEHU, Shillong, Meghalaya, 12 June 2015]