

North East India: Status of Governance in the Sixth Schedule Areas



Summary

The prolonged turmoil in the North-East stems from two sources: (a) the question of ethnic and cultural identity, which is perceived to be threatened by encroachment and infiltration by people of other ethnic/cultural groups from within and outside the region, and (2) the persistence of economic backwardness.

However, the genesis of the movements for greater autonomy by different ethnic groups of the North-East lay in the British policy of exclusion of the region, from the usual administrative measures, effective in the areas of the plains. Thus, these hills ended up being classified as "Excluded" or "Partially Excluded" areas and remained outside the process of development. After independence these areas got special administrative machinery in the form of the Sixth Schedule which provided for District and Regional Councils for administration of these erstwhile excluded areas. These institutions were expected to integrate these areas with the modern system of administration while preserving the traditional autonomy and local self-governing institutes of the tribal people. This arrangement only partially succeeded in giving some kind of autonomous self-governance but completely failed to bring out people from economic backwardness.

The Central Government also tried giving further autonomy to certain areas by carving out new states. But even these states have failed to development. Thus, creation of smaller or ethnic states also had not worked. On analysis, it appears that removing some commonly known loopholes of the Sixth Schedule provisions, installing a social and financial audit mechanism, tightening administration of the Autonomous District Councils, and incorporating features of the Panchayat Raj Institutions can provide significant thrust to development of the North Eastern region.

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Overview



The North-Eastern region inhabits 12 percent of the country's 8.4 crore tribal population and has borders with Bhutan, China, Myanmar and Bangladesh. It has seen much unrest and violence over the past few decades. These include insurgencies in Nagaland, Mizoram, Manipur, Tripura and Mizoram and growth of militant groups in Meghalaya. In addition there are conflicts and confrontations over land use and control as well as issues of language, identity, demographic change and minority-majority relations. The problems are further compounded by mis-governance, corruption, economic backwardness and geographical

isolation from rest of India.

Historically, tribes of this region has seen "isolationist" policies of the colonial British who labeled most North East hilly tribal tracts as "excluded" or "partially excluded". The colonial laws did not apply in these areas and were ruled differently. With India's independence the philosophy of maintaining status quo and isolation was replaced by the policies of development and integration through a separate Sixth Schedule of the Constitution. The Sixth Schedule is entirely focused at protection of tribal areas and interests, by allowing self-governance through constitutional institutions at the district or regional level. These institutions are entrusted with the twin task of protecting tribal cultures and customs and undertaking development tasks.

Although the Sixth Schedule primarily evolved to protect the customary tribal traditions and cultures of the colonial "excluded" areas, the ideology of local self-governance spreads across the whole North East. The original Sixth Schedule areas created in 1952 underwent a drastic reorganization in 1971; some areas were put under newly created states such as Mizoram and Meghalaya which were carved out of the composite Assam. At present the Schedule applies in four states only – it almost fully covers Meghalaya and partly the states of Assam, Tripura and Mizoram. Areas and states not covered by Sixth Schedule provisions – Arunachal Pradesh, Nagaland, and Manipur – also have laws respecting the autonomy of traditional ways of self-governance and protecting from outside interference.

Although the region did not develop as fast as other parts of the country, but to a large extent the communities could preserve their lands and tribal traditions under the safety of constitutional provisions.

Sixth Schedule

The Sixth Schedule provides for administration of certain tribal areas as autonomous entities. The administration of an autonomous district is to be vested in a District Council and of an autonomous region, in a Regional Council. These Councils are endowed with legislative, judicial, executive and financial powers. Most Council consists of up to 30 members including few nominated members. (The newest Bodoland Territorial Council is an exception; it can have up to 46 members). These constitutionally mandated Councils oversee the traditional bodies of the local tribes such as the Syiems and Dorbars of the Khasi hills of Meghalaya.

There is a significant degree of variation in the functions devolved to various Autonomous Councils. For instance, the Bodoland Territorial Council has more power compared to the NC Hills Autonomous District Council though the latter has been in existence for decades before the former. This resulted in other areas also demanding further powers and greater autonomy.



It must be mentioned that tribes living in the tribal dominated regions of other Indian states have been put in a different category, called the Fifth Schedule of the Constitution. Again the idea is same: decentralization of power by allowing the tribes in these regions freedom to govern themselves according to their customary community laws. However, the two categories differ in administrative structure. The Fifth Schedule areas now have the PESA Act 1996 which focuses on developing the Gram Sabha which is the grass-root assembly of all village adults

and making them part of the PRI system. It is generally agreed that the Sixth Schedule areas have enjoyed relatively greater autonomy compared with the tribal areas under the Fifth Schedule.

There is a general feeling that the autonomous councils have not come up to the expectations of the people and their territories have remained largely underdeveloped. People also complain of concentration of power in few Council office bearers who dictate all grass-root local bodies down below. The ADCs on their part complain about the state governments staking away their functions, curtailing their powers.

After the 73rd Amendment to the Constitution in 1992 the focus has shifted to the Panchayat Raj Institutions for strengthening the grass-root democracy. Now many areas in the North East are trying to experiment with the PRI system adapted to local needs. So, North East provides an ideal opportunity for comparative study of the Sixth Schedule provisions and the PRI laws. Assam provides another opportunity to study both hill and plains tribes. Though there is a general feeling that the Panchayat Raj system scores high for developmental activities compared with Sixth Schedule provisions which better protects local traditions but is isolationist.

This report aims to uncover the status and quality of "autonomous administration" of the Sixth Schedule areas and how they compare with the PRI system.

Constitutional Safeguards for the Tribal Population

With the dawn of independence and adoption of the Constitution of free India, the British policy of isolation and non-interference was replaced by the policies of integration and development. The Constitution of India provided several types of safeguards to the tribal communities. There are the Protective Provisions to protect them from all forms of social injustice and exploitation, the Developmental Provisions promote education and developmental activities, the Reservation Provisions ensure their representation in legislative bodies and government jobs, and the Administrative Provisions under the Fifth

and Sixth Schedules provide for special administrative setup to provide autonomy of self governance according to their customary traditions.

STATE WISE PERCENTAGE OF ST POPULATION

North Eastern States

State	ST % age of total State Population	# Scheduled Tribes
Mizoram	94.5	15
Nagaland	89.2	5
Meghalaya	86.0	17
Manipur	34.2	33
Tripura	31.1	19
Arunachal Pradesh	64.2	16
Assam	12.4	15
Total	58.8	120

States with Fifth Schedule Areas

State	ST % age of total State Population	# Scheduled Tribes
Chhattisgarh	31.8	42
Jharkhand	26.3	32
Orissa	22.1	62
Madhya Pradesh	20.3	46
Gujarat	14.8	32
Rajasthan	12.6	12
Maharashtra	8.9	47
Andhra Pradesh	6.6	35
Himachal Pradesh	4.0	10
Total	16.4	318

Source:
Annual Report 2007-08
Ministry of Tribal Affair Government of India

The tribal people live in contiguous areas unlike other communities. So, an area approach was adopted for administrative and developmental purposes. Under the Constitution "Scheduled Areas" are declared by the President after consultation with the State Governors. These Areas have been designated to protect the interests of Scheduled Tribes regarding their land and other social issues and are governed through provisions of either Fifth or Sixth Schedule. The Scheduled Areas of the North East are covered under the Sixth Schedule provisions; all other Scheduled Areas are covered by the Fifth Schedule laws. **The administrative structure is different in the two Schedules.**

It must also be noted that there are other areas (Kerala, Tamilnadu, Karnataka, Goa, Assam, Manipur, Arunachal Pradesh, Nagaland, Andaman, Nicobar Islands, etc) with sizeable tribal population in the country that are covered neither by the Fifth nor by the Sixth Schedules. Tribal living in the non-scheduled areas are more vulnerable in terms of losing their land ownership, control over the forest and natural resources. The process of scheduling was started in the fifties and resumed in the seventies, but remained incomplete largely due to lack of political will.

State Governors have a special constitutional protective role in all Scheduled Areas. They are empowered to make regulations prohibiting or restricting transfer of land from tribals to non-tribals and prevent exploitation the tribal communities. Since these Scheduled Areas are supposed to enjoy autonomy protected by the Constitution, the laws passed by parliament and the State legislatures do not automatically apply to them. Hence, the Fifth Schedule defines Governors' powers to adapt laws to these areas.

Administrative Structure

Sixth Schedule Areas

The Sixth Schedule areas are governed through autonomous District Councils which have wide ranging legislative and executive powers. As a result, they almost work like a "mini

Parliaments.” They have complete freedom to allow village level bodies to run according to customary laws. The verdicts of district and lower level courts can only be challenged in the high court. At present, 6th Schedule Areas exist only in four North-Eastern States: 1) Assam, 2) Meghalaya, 3) Mizoram, and 4) Tripura. These Areas are administered through Autonomous Districts / Regional Councils. Except Meghalaya, other three states have only certain selected areas covered under the 6th Schedule.

Fifth Schedule Areas

A distinguishing feature is the provision for Tribes Advisory Council (TAC) at the state level. Each State with Scheduled Areas should setup a TAC. It may also be established in any State having Scheduled Tribes population with no Scheduled Areas. A TAC consists of not more than twenty members, of which roughly three-fourth should be representatives of Scheduled Tribes in the Legislative Assembly of the State. TAC's role is to advise the State Government on matters of welfare and development of the Scheduled Tribes in the State. In reality, however, the state government either did not constitute TACs or if constituted, did not function properly. Therefore, in the seventies Indira Gandhi government introduced what is known as Tribal Sub-Plan in the planning process, earmarking a portion of funds for tribal development, but again the money seldom reached the tribals.

Unlike the Sixth Schedule areas, there are no institutional autonomous bodies in the Fifth Schedule areas. However, the PESA Act of 1996 has empowered the local village level Panchayats, particularly the Gram Sabhas in the Fifth Schedule tribal areas to act as local bodies of self-governance. But they lack the protective umbrella of a district level body (like the District Council of the Sixth Schedule areas); as a result, their decisions are routinely ignored or overruled by the state officials.

The Panchayat Act in the Fifth Schedule Areas

The Panchayat (Extension to the Scheduled Areas) Act, 1996 (or simply the PESA Act, 1996) made it mandatory for the state governments with Fifth Schedule areas to make legislative provisions in order to give wide-ranging powers to the tribals on matters relating to decision-making and development of their communities. Politically, it gives radical governance power to the tribal communities and recognizes their traditional community rights over local natural resources. It not only accepts the validity of “customary law, social and religious practices, and traditional management practices of community resources”, but also directs the state governments not to make any law which interfere with these. Accepting a clear-cut role for the community, it gives wide-ranging powers to Gram Sabhas.

Probably the most progressive law for tribal people after Independence, the PESA Act empowers the Gram Sabha (the council of village adults) and the Gram Panchayat to take charge of village administration. It empowered them to protect community resources, control social sector functionaries, own minor forest produce, manage water bodies, give recommendations for mining lease, be consulted for land acquisition, enforce prohibition, identify beneficiaries for poverty alleviation and other government programs and have a decisive say in all development projects in the villages. However, the state governments and officials have yet to allow any meaningful self governance to the tribal communities.

The North East India



The lushness of its landscape, the range of communities and geographical and ecological diversity makes the North East quite different from other parts of the subcontinent. Its jungles are dense, its rivers powerful, rain and thunderstorms sweep across the hills, valleys and plains during the annual monsoons. Each state is a travelers' paradise, with picturesque hills and green meadows which shelters thousand of species of flora and fauna. In addition, the states provide scope for angling, boating, rafting, trekking and hiking. Besides, there are a number of wild life sanctuaries and national parks where rare animals, birds and plants which will surely provide fascinating insight to the visitors.

The North East region is a miniature Asia, where brown and yellow races meet and mingle, and where communities and oral histories span national boundaries as seamlessly as the mountains and the forests run across them. With so many divisions along ethnic and linguistic lines, North East is an anthropologist's delight and an administrator's nightmare. Given the diversity, there are many views and conflicting perceptions which are at the root of most agitations in the region, not just among them but also with the "distant" Indian government.

Of the eight states of the region, except Sikkim, all others originated from the Assam Province of the British India. Over time the erstwhile Assam Province splintered into seven different states: Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura.

The North East is a true frontier region; sharing about 2000 km border with Bhutan, Tibet (China), Myanmar and Bangladesh. It is connected with rest of India by a narrow 20 km wide strip of land, called the chicken neck, in the West Bengal through which natural and finished products such as oil, gas and tea go to rest of India and consumer goods, food and other items come in. Given the geographic remoteness, it is not surprising that people feel alienated and distant from rest of the country. There are special laws, constitutional provisions such as the Sixth Schedule and Article 371A, which seek to protect the traditions, lands and rights of various hill communities. It is another reality that the region has few sources of revenue and the states are heavily dependent on aid from the Central government.

Constitutional Protection

Tribal people are simple, honest and naïve by any yardstick of modern society. Besides, they have traditionally lived in close contact with nature, in the hills and forests. In this sense they are different from rest of the mainstream people; they have historically tried to avoid contact with "outsiders" to preserve their traditional community based living in which they feel more secure. The Sixth Schedule of the Indian Constitution offers them local autonomy through the system of autonomous district and regional councils which have extensive legislative as well as executive powers to protect land and tribal traditions. It was a path-breaking effort when launched in the 1950s and offers better protection than the Fifth Schedule provisions.

Tribal Population of the North East

The North-eastern region has been historically predominantly tribal with significant diversity in languages and customs. The influx of lakhs of refugees from Bangladesh in 1971 considerably changed the demography of bordering states like Assam and Tripura. Yet, most states still have far greater concentration of tribal population than the tribal regions of the middle India. Tribal proportion is as high as 94.5% in Mizoram, 89.1% in Nagaland 85.9% in Meghalaya, 64.2% in Arunachal Pradesh, is medium in Manipur (34.2%), Tripura (31.1%) and low in Assam (12.4%). Thus, ethnic demography is rather uneven among North-eastern States.

In comparison the density of tribal populations of middle Indian states is rather low: Chhattisgarh (31.8%) has the highest percentage of ST population followed by Jharkhand (26.3%) and Orissa (22.1%).

Major Tribes in the North East

State	Major Tribes
Arunachal Pradesh	Dafla, Khampti, Singpho, Adi, Nishi
Assam	Boro, Kachari, Mikir (Karbi), Lalung, Dimasa, Hmar, Hajong
Manipur	Naga, Kuki
Meghalaya	Garo, Khasi, Jaiantia
Mizoram	Lusai, Kuki, Garo, Khasi, Jaiantia, Mikir
Nagaland	Naga, Kuki, Mikir, Garo,
Sikkim	Bhutia, Lepcha
Tripura	Chakma, Garo, Khasi, Kuki, Lusai, Liang, Santhal

Source: Annual Report, 2000-2001, Ministry of Tribal Affairs, Government of India

There are significant differences in the compositions of various states of the region too. For example, the Bodo-Kachari, who form a third of Northeastern tribals, are only 3.7% of Assam's population. In Arunachal Pradesh the Adi are 26.9% and the Nishi 21.74% and the Aka are only 0.63% of the tribal population. The Garo are 50% and the Khasi 47% of the Meghalaya population. The Mizo dominate Mizoram with 87.3% of the state population. There are some commonalities among over 200 ethnic groups of the region but each one also retains its distinct cultural, linguistic, religious and historical identity.

Customary Tribal Laws



While many tribes converted to major religions like Buddhism, Christianity, or Hinduism but still retained most of their traditional customs. Traditional customs and community provide identity to tribal people. Most tribal customary laws center on collectivity or "community" which not only has authority on land and other local resources essential for daily livelihood but also provides a sense of security and empowerment to its members. In this aspect, North East tribes are more fortunate compared with their middle India counterparts who have seen constantly erosion of their identity as well as community based economy. The

concept of individualism that marks the modern society does not fit well with them; it simply is disruptive to any community based living. In most hill tribes the village chief regulates the use of land and water and has administrative and judicial power.

Over time, many values have changed but not the customary laws around resource sharing, maintenance of ethnic identity or regulation of marriage. However, new processes of land alienation are emerging in the form of developmental initiatives, such as recently planned series of hydropower dams, of the Indian government; these clearly threaten their livelihood security and social identities.

Actually, erosion of their customary traditions started eroding with the arrival of the British in the region and introduction of the formal law. In order to avoid resistance, they were forced to recognize the customary laws of the Assam tribes through the Scheduled District Act of 1874. Then the Assam General Clauses Act 1915 protected tribal customs and practices by restricting the application of the Provincial Laws in the Hill areas. The Montague-Chelmsford Reforms 1919 also made similar provisions. The 1930 Indian Statutory (Simon) Commission recommended the protection of tribal customary rights. The Government of India Act 1935 accepted it and divided the hill areas into Excluded and Partially Excluded and stipulated that no Act of the Central or Provincial Legislature apply to them unless the Governor in his discretion so decided in view of peace and good governance.

These provisions later provided basis for the Sixth Schedule laws for the areas excluded by the British from their administration – the distinguishing mark of these areas is that they are run by the Autonomous Councils. Through amendments, the Constitution also recognizes the customary law of Nagaland (Article 371A) and Mizoram (Article 371G).

Recognition of Customary Laws

This has always been an important issue in the North East region. The demand for recognition of customary laws has led to conflicts such as the Naga and Mizo Nationalist Struggles and the State's response of amending the Constitution to introduce Articles 371A and 371G. The Sixth Schedule was also a response to the demand for the recognition of tribal customary laws. Today many more tribes want their customary laws to be recognized because they run their civil affairs, including land ownership, according to them but are not recognized by the State, putting them in a disadvantageous position.

For example, most Arunachal tribals who are threatened with displacement by the major dams may not be counted among the displaced because they live on the CPRs. In Tripura the Gumti dam displaced 40,000 tribals in the 1970s but counted only a third of them with individual pattas among the displaced. The Hmar and Paitei of Manipur who may be displaced by the Tipaimukh dam may document their laws but if the State does not recognize them, their fate will be that of the Rongmei and Tripura tribes. The formal land laws are individual based and do not recognize community ownership. So non-recognition of their law is destructive to their livelihood.

Recognition is thus vital for the peace to prevail because it is a sign of acceptance of the customary identity. Many conflicts in the Northeast have originated from this confusion. For example, the Rongmei of Manipur who lost much of their land in a conflict or to the Loktak project could not reclaim it, nor could they be considered displaced and compensated because the law did not recognize their CPR based pattern.

Recognition refers to the State accepting the customary law as the legal mode of running the civil affairs as it did in Nagaland and Mizoram.

Documentation is a comprehensive collection of centuries old customs and practices either by the tribe itself or by an external agency. People feel that it is better for each tribe to document its customary law and get it recognized by the State but not codify it. Experience shows that documentation without recognition is a futile exercise.

Codification is giving finality of interpretation to the customary laws. Many call it ossification of laws with no scope for change later. For example, there are substantial differences in the customary law of the Kuki living in Manipur and in Assam because laws evolve from life's experience. It becomes worse if customary laws of several tribes are brought together into a single code. Therefore, efforts should be made to evolve a system of recognition that provides for diversity and remains flexible.

Tribal Aspirations for Self Rule

Nagaland's Brave Angami Against British

Angami tribal warriors never liked the British presence in their region and frequently raided the colonial forces. During 1849-50 the British regime sent ten expeditions to subdue them but the raids continued, particularly by the Angami who killed 232 people, including British officials between 1854 and 1865. In order to pacify them the colonial regime carved out the Naga Hills district in 1866, introduced the Inner Line Permit (ILP) in 1873, occupied Kohima in 1879-80, conquered and controlled Nagaland but did not annex it.

Despite the British designation of "Excluded Areas" the colonial interventions did interfere with tribal lifestyle; therefore, most tribes resisted it. Although very few of their revolts have been recorded in the official history of the freedom movement but one hears of resistance from the Aka, Miri, Mishmi, Naga and others. Tribal agitations and movements of the North East have revolved around maintaining their functional independence without any daily role for the foreigners. They were often forced to take up arms against "outsiders" interference.



In 1918, several tribal leaders and formed the Naga Club which soon assumed political dimensions and became the platform in their search for autonomy and independent identity. During the decisive moment of the Japanese invasion in the 1940s, A. Z. Phizo, a traditional Angami leader succeeded in bringing 27 tribes together under the Naga umbrella. Such efforts laid the foundation of later nationalist struggles of the Naga, Mizo and others. These struggles basically resulted from the fear of losing identity if assimilated into the mainstream which always appeared more powerful and exploitative. Thus,

all struggles for autonomy in the North East have revolved around only one goal – preservation of tribal identity and traditional culture. After 1947 the Indian state replaced the British as the "potential" oppressive outsider.

In 1946, the Naga leader Phizo is reported to have met Mahatma Gandhi who was sympathetic to the cause of autonomy. However, most national leaders failed to understand tribal aspirations of the Northeast. Their failure gave a fillip to the sovereignty movement.

The subsequent conflicts and negotiations resulted in the compromise of a Naga State which would be administered according to their customary law under Article 371A. In Mizoram a traditional chief Laldenga led the Mizo National Front (MNF) to fight for a sovereign Mizo state and the negotiations resulted in Article 371G. Under these Articles no Act of the Parliament has legal force unless approved by the State Assembly.

Indian Government's reactions to tribal unrest in the North East have been predictable. It was always to initially treat these movements as a law and order issue and to suppress them. If the movements persisted it accommodated the aspirations of autonomy either by extending the Sixth Schedule to a few tribes or by creating new States. It went beyond these steps only when they did not work; for example, it granted extra autonomy to Nagaland and Mizoram than to other states. Under provisions of Articles 371A and 371G respectively, in these States no law of the Parliament applies unless it is approved by the State Assembly.

It can be safely asserted that the protective laws such as the Sixth Schedule and greater autonomous status to some North East states are manifestations of their strong aspirations to be governed by their own traditional laws.

Evolution of the Sixth Schedule Laws

Excluded Areas

The administration of the hill Tribal Areas of the Northeastern region, which were earlier known as "Backward Tracts", has a history. Under the Government of India Act, 1935, the hill areas of Assam were divided into two categories – Excluded Areas and Partially Excluded Areas. The Lushai Hills (now Mizoram) the Naga Hills and the North Cachar Hills were under the "Excluded Areas". No federal or provincial legislation extended to these districts automatically. The Khasi – Jaintia Hills, the Garo Hills, and the Mikir Hills were "Partially Excluded" areas.



The British administered these areas through specially appointed officials. But the problem was that people had no platform to raise their issues and grievances. The colonial officers and the local chiefs in most of the districts of the "excluded areas" used to rule the people as virtual dictators. Thus, the 1935 Act in reality did not provide local self-governance or political autonomy to the hill tribes of the "Excluded" and "Partially Excluded" areas. Many people feel that these actions were basically for the convenience of colonial administrators who only

wanted to buy peace to serve their larger commercial interests.

But after independence the policy makers clearly sought to develop these areas along with rest of the country while simultaneously respecting the traditional tribal culture and identity. Thus, a mechanism was sought that would allow the autonomy to the tribal societies and yet continue to develop them like other areas and get assimilated into mainstream society at their own pace.

The Bordoloi Sub-Committee

An advisory committee on Fundamental Rights of Minorities in the Tribal Areas was constituted in May 1946 by the Constituent Assembly of India. One of the sub-committees constituted by the Advisory Committee was the Northeast Frontier (Assam) Tribal and Excluded Areas Sub-Committee under the chairmanship of Assam Premier, Gopinath Bordoloi. During its visits of various areas and interaction with representatives of the hill people, the Sub-Committee observed that

1. The people of the region were sensitive towards their land, forest, lifestyle and traditional systems of justice and, thus, needed safeguards and protections so as to preserve their way of life and
2. There were traditional self-governing institutions which functioned democratically and settled issues according to their traditional lifestyle.

The Bardoloi Committee also made provision for Regional Council for the tribes other than the main tribe. This scheme sought to build up autonomous administration (through the District and the Regional Councils) in the six hill-areas of Assam (United Khasi-Jaintia Hills District, Garo Hills District, Lushai Hills District, Naga Hills District, North Cachar Hills District, and Mikir Hills District) so that the tribal people could manage their affairs in their own traditional ways.

Birth of the Sixth Schedule



Building on these observations the Sub-Committee recommended policies that ultimately formed the substance of the Sixth Schedule. It basically introduced the concept of Autonomous District Councils (ADCs). Under the Sixth Schedule, the Assam Autonomous District (Constitution of District Councils) Rules 1951 and the Pawi-Lakher (Constitution of Regional Councils) Rules 1952 for the autonomous region in the Lushai Hills District were framed. Thus, the ADCs were constituted in certain hill districts (except Naga hills) of the then composite State of Assam in

1952 and in the Lushai Hills District (now Mizoram) Regional Council (are now District Council) was introduced in 1953. Since then these Councils have been functioning and managing land, forest, market, primary schools, planning activities and so on and impacted traditional institutions like tribal chiefs, tribal councils, etc.

Presently the North-East India has, fifteen District Councils – two in Assam, three in Meghalaya, three in Mizoram, one in Tripura and six in Manipur. Note that the Nagas, for whom the Sixth Schedule was primarily created, have no autonomous District Council. The Arunachal Pradesh Assembly had passed a bill to create four Autonomous District Councils under the Sixth Schedule in the state in 2003 but the Parliament is yet to approve it.

The Mizo Hills was elevated to the status of the Union Territory of Mizoram in 1972 and three new autonomous councils came into existence. It was given statehood in 1986. The Government of Manipur also constituted six Autonomous District Councils for the tribal

people for the hill areas of Manipur and wanted inclusion in the Sixth Schedule. But the demand is pending for a long time with the Central government.

Nagaland and Hills of Manipur are not covered by provisions of the Sixth Schedule; autonomy of the local governance of these areas is administered by their State's Laws. Mizoram is only partly covered by the Sixth Schedule; autonomy of rest of the areas is established by the State's law.

The Sixth Schedule Areas

The areas specified in Parts I, II, IIA and III of the table below shall, respectively, be the tribal areas within the State of Assam, the State of Meghalaya, the State of Tripura and the State of Mizoram.

PART I (Assam) 1. The North Cachar Hills District 2. The Karbi Anglong District 3. The Bodoland Territorial Area District (or The Bodoland Territorial Council)	PART II (Meghalaya) 1. Khasi Hills District 2. Jaintia Hills District 3. The Garo Hills District
PART IIA (Tripura) Tripura Tribal Areas District	Part III (Mizoram) 1. The Chakma District 2. The Mara District 3. The Lai District

The Autonomous District Councils (ADCs)

The Sixth Schedule is regarded as a mini-Constitution within the main Constitution. It envisages establishment of Autonomous District Councils (ADCs) and gives them elaborate Legislative, Administrative and Judicial powers. No law of the Centre or the State applies in any autonomous region without District Council's approval. The district councils are also empowered to constitute Village councils and Village courts.

The Sixth Schedule empowers the Governor to determine the administrative areas of the councils. He is authorized to create new autonomous districts, change the area of existing districts, redefine the boundaries and alter the names of autonomous districts. The nature of the District Councils, however, differs from place to place. For instance, the District Councils in Assam and Meghalaya have been constituted at the district level whereas in Mizoram, the District Councils have been created at both the district and sub-divisional levels.

Nature and Composition of the District Council

Each District or Regional Council provided under the Sixth Schedule is a corporate body by the name of the District or Regional Council. It has perpetual succession and a common seal with the right to sue and be sued. Most District Councils have about 30 members (an exception is the Bodoland Territorial Council, which is the newest Council, has 46 members). The state Governor is empowered to nominate few members on the advice of the Chief Executive Member (CEM); the rest are elected from the single member constituencies on the basis of adult franchise. They are known as MDC (Member of the District Council). The nominated members-normally represent the minorities and unrepresented communities and

hold office at the pleasure of the governor. The number of constituencies in the District Councils varies depending on the number of elective seats provided. The term of District Councils is five years. The Governor may extend the term for a period not exceeding one year at a time, during the national emergency or in event of impossibility of holding of elections.

The rules for electoral qualifications vary in different Autonomous District Councils. In some council like Mara in Mizoram, anyone above 18 years is eligible to vote but in others like Karbi Anglong right of access to traditional lands and length of stay in the region also determine voters' eligibility.

The Chief Executive Member (CEM), the Chairman and the Deputy Chairman of the Council (equivalent of Speaker and Deputy Speaker) are elected from the council members and then the CEM selects the other executive members. Functionally, the Chairman and the Deputy Chairman act like the Speaker and the Deputy Speaker of a legislature. The Chairman calls for the meeting of the District Council, presides over the Council in session and regulates the proceedings of the Council. He has a casting vote in case of a tie. In the absence of the Chairman, the Deputy Chairman performs duties.

Executive Committee

The Sixth Schedule provide for an Executive Committee (EC) of the District Council to carry on its executive functions. The EC consists of the Chief Executive Member (CEM) and some other members which vary in different Councils. The CEM is elected by the elected members of the District Council. Then he selects other Executive Committee members; they are appointed by the Governor on CEM's recommendation. The EC performs all executive functions of the Council and is analogous to Cabinet of the State or Central Government. The District Council is like a miniature parliament at the district level. When the CEM resigns, the executive committee stands dissolved automatically. After the EC is dissolved, a new CEM must be elected within 48 hours, else the Governor may appoint any member of the Council as the CEM.

Functionally, the EC is responsible for all executive orders and policies as well as implementation of all development schemes in the DC area. It makes rules, regulations and appointments with the approval of the District Council. It also prepares the budget of the District Councils and gets it passed.

Legislative Functions

The District Councils have powers to make laws on a wide ranging issues covering land, agriculture, primary education, health, establishment of village councils and town committees, appointment and succession of chiefs or headmen, inheritance of property, marriage, divorce, money lending, trading by non-tribals, etc within their territories.

The Governor has power to alter the laws passed by the District Councils, if they are in violation of the provisions of the Sixth Schedule. The DCs have the right to approve and alter State and Central laws before allowing their application in their areas. They don't automatically apply in the autonomous districts.

Executive and Judicial Functions

The District Council has the executive powers to construct and manage primary schools, dispensaries, markets, cattle pounds, ferries, fisheries, roads and waterways. It also

prescribes the medium of instruction and manner of education in primary schools within its jurisdiction.

The District Council is authorized to constitute Village and District Council Courts to try cases according to customary laws where both the parties are tribals. But no case involving offences punishable by death or imprisonment for five or more years are taken up by these courts. The District Council Court and the Regional Council Court are courts of appeal for all subordinate courts. Only the High Court and the Supreme Court of India have jurisdiction over suits and cases decided by the Council Courts.

Income and Revenue Sources

The District and the Regional Councils are given mutually exclusive powers to collect land revenues, levy and collect taxes on lands, holdings, shops, entry of goods into market and tolls etc within their respective jurisdictions. But the District Council has the concurrent power on the professions, trade, callings, employments, animals, vehicles and huts, tolls on passengers, and goods carried in ferries and maintenance of schools, dispensaries or roads.

Under para 9 of the Sixth Schedule, the royalty on the licenses or leases for the extraction of minerals in the autonomous districts goes to the District Council. However, the tax on motor vehicles is collected by the State Government on behalf of the District Council. Other sources of income are grant-in-aid, loans and advances from the state government.

Status of ADCs in the Sixth Schedule Areas

ASSAM

The division of the composite state of Assam led to the redrawing of new administrative boundaries. The North Cachar Hills sub-division of the United Mikir and Cachar Hills district was upgraded to district in 1970. The Mikir Hills District section was renamed as Karbi Anglong in 1976. Different parts of Assam are covered either under Panchayati Raj or the Sixth Schedule. There are three Autonomous Councils of the Sixth Schedule in the state, as follows:

District		Population			Revenue Districts	Details of Elected Body
S No	Council Name	Rural	Urban	Total		
1	Karbi Anglong District Council	721,381	91,930	813,311	Karbi Anglong	30 (26 Elected + 4 nominated) CEM + 10 EM
2	North Cachar Hills District Council	128,110	58,079	186,189	North Cachar	27 (23 Elected + 4nominated) CEM + 9 EM
3	Bodoland Territorial Council	717,642	0	717,642	Baksha	46 (40 Elected + 6 nominated) CEM + 11 EM
		841,823	63,941	905,764	Kokrajhar	
		343,626	0	343,626	Chirang	
		671,030	0	671,030	Udalguri	

The Karbi Anglong Autonomous Council (KAAC)

The Karbi Anglong Autonomous Council covers an area of 10434 sq km. Its population of 8.1 lakhs (2001 census) is spread out over 2563 villages. The literacy rate is around 60 %.

The district has three sub-divisions, Diphu, Bokajan and Hamren and 11 development blocks. There is an Executive Council for the KAAC, consisting of a Chief Executive Member and 10 Executive Members. There is a Speaker & a Deputy Speaker for the Council.

Each village has a hereditary headman, who can be removed only through impeachment. While the council does not provide for intermediate level bodies in rural areas, it has constituted six Town committees.

North Cachar Hills Autonomous Council (NCHAC)

The NCHAC consists of rugged hilly terrain with an area of 4890 sq km. 90% of the area is forest. The population of 2 lakhs, belonging to 13 communities is widely dispersed in scattered habitations, some of which can be reached only after a 3 day trek. Even 6 houses may constitute a Village, in the NCHAC area. The NCHAC has two subdivisions, namely, Haflong and Maibong, and five development blocks. Given the small size and shifting nature of habitations in the NCHAC area, there are no village level representative bodies. Villages are said to be very difficult to define, because most communities live in dispersed habitations and practice shifting (Jhum) cultivation.

There has been a steep reduction in revenue earning due to Supreme Court's ban on tree felling. Revenue is fully collected by the council but acquisition and requisition of land is with the Deputy Commissioner. The administrative structure and the planning mechanism in NCHAC is by and large similar to that of the Karbi Anglong Autonomous Council.

Bodoland Territorial Areas District Council / Bodoland Territorial Council



Bodoland Territorial Council (BTC) covers a geographical area of 8790 sq km, spread over 4 districts. The BTC was set up as a self-governing body for Bodo Areas in 2003 after an agreement with the Bodo Liberation Tigers (BLT). The aim of the BTC is to (a) fulfill the economic, educational & linguistic aspirations & preservation of land rights, socio-cultural & ethnic identity of Bodos and (b) speed-up infrastructure development in BTC area.

The Bodoland Territorial Council shall consist of not more than 46 members of whom 40 shall be elected on the basis of adult suffrage, of whom 30 shall be reserved for the Scheduled Tribes, 5 for non-tribal communities, 5 open for all communities and the remaining 6 shall be nominated (including at least two women) by the Governor having same rights and privileges as other members.

The Executive Council (EC) consists of 12 Executive Members including the Chief Executive Member (CEM) and the Deputy Chief Executive Member. Non-tribals are also given representation on the EC.

Besides these three Councils of the Sixth Schedule, Assam has 6 other Autonomous Councils: 1. Rabha Hasong Autonomous Council (RHAC), 2. Lalung (TIWA) Autonomous Council (LAC), 3. Mising Autonomous Council (MAC), 4. Thengal Kachori Hill Council, 5. Sonowal Kahari Council and 6. Deori Council.

The administrative structure of these councils is patterned on the Autonomous District and Regional Councils created by the Sixth Schedule. This, however, has added significant confusion in the administration. There are three authorities operating in parallel in these areas, namely, the Council, the State departments and the Panchayati Raj. Experts feel that Panchayati Raj system needs to be respected and strengthened in these areas, rather than creating councils on the basis of ethnic identity alone.

Prominent Issues of ADCs in Assam

Devolve all activities: The ADCs wants the state government to speedily transfer all activities that are given to them by the Sixth Schedule provisions and transfer the relevant departments. Parallel institutions such as the District Rural Development Agencies (DRDA) also must be transferred to them without delay.

Fear of Panchayat Raj Institutions: Members of the Karbi Anglong ADC feel that Panchayati Raj should not be imposed as the customary chiefs will be overshadowed and the very core of the 6th schedule arrangement will be lost. For the same reason, they also oppose setting up of village representative bodies on the basis of adult suffrage because that would also overshadow the customary chiefs and village headmen.

Need Village Development Boards: Intermediary bodies between village and the ADCs need to be constituted, despite the fear that such bodies may transgress into the powers of the traditional village level bodies. Nagaland has successfully instituted Village Development Boards which coexist with local village councils. This model can be copied with suitable alterations. It will greatly allow local communities to take responsibilities for public services.

MEGHALAYA

Traditional Tribal Administrative Setup



The Autonomous District Councils of Meghalaya stand on a different footing compared to those in other States. Historically, the Jaintias, Garos and Khasis have had well developed political systems of their own, with wide ranging power and authority.

The Jaintias were relatively more advanced in this regard. Way back in 1835, at the time of colonial intervention, the hills had a fairly organized system under a Raja (locally called Syiem) who controlled a large hill tract and a sizeable portion in the plains of Sylhet. The Jaintia Raj was divided into Elakas or Raids under a doloi; each elaka consisting of villages under a headman, called the Wahehchnong. Each of these three levels had a council or dorbar: the raj dorbar or hima dorbar of the Raja (or Syiem), the dorbar elaka of the doloi and the dorbar chnong at the Wahehchnong level (of which all adult males of the village were members).

The Garo had a slightly less developed political system. The Garo hills were divided into a number of akhings, roughly corresponding to a village or a group of villages under nokmas, who regulated the political, social and economic life of the akhings. The nokma discharged his functions with the common consent of the akhing elders, organized into his Council or dorbar. Some of the villages had gaon buras (village elder or headmen), while the Laskar headed a number of villages.

The Khasi: The traditional system of the Khasis, like the Jaintias, functioned at three different levels. The Khasi hills was divided roughly into twenty five states, each under an elected ruler, the Syiem. The Khasi Syiems were more influential and better organized compared to the Dolois of Jaintia Hills and the Garo Nokmas.

Therefore, it may be seen that traditional institutions of local governance have a deep rooted history in Meghalaya. The British first imposed the system of district councils which were formalized later after independence in the Sixth Schedule. **Now the entire State of Meghalaya is covered under the provisions of the Sixth Schedule.** There are three Autonomous Councils in Meghalaya, as follows:

District		Population			Revenue Districts	Details of Elected Body
S No	Council Name	Rural	Urban	Total		
1	Khasi Hills Autonomous District Council	383,175	277,748	660,923	East Khasi Hills Dist.	30 (29 Elected + 1 nominated) CEM + 5 EM
		261,451	34,598	296,049	West Khasi Hills Dist.	
		179,610	13,180	192,790	Ri-bhoi Dist.	
2	Garo Hills Autonomous District Council	459,412	58,978	518,390	West Garo Hills Dist.	30 (26 Elected + 4 nominated) CEM + 5 EM
		214,675	35,907	250,582	East Garo Hills Dist.	
		92,337	8,643	100,980	South Garo Hills Dist.	
3	Jaintia Hills ADC	274,051	25,057	299,108	Jaintia Hills District	19 (16 elected + 3 nominated) CEM + 5 EM

Prominent Issues of ADCs in Meghalaya

There is a general feeling in Meghalaya that traditional institutions and heads be retained and that the PRI system should not be imposed upon Meghalaya. However, some do feel that adopting appropriate practices of the PRI setup will speed up development. They also feel the need to increase women representation at all levels. In the Garo Hills, there is substantial population of non-Garo people, whose needs require consideration.

Need for intermediate institutions: There is a need to have an effective intermediate institution between the village council and the District Council. The existing dorbars under syiems, dolois and lascars will need to be restructured. Alternatively institutions at the Sub-divisional level could be thought of.

Are the District Councils Relevant in Meghalaya? The DCs became redundant after the statehood of Meghalaya in 1972. The Meghalaya Government holds the viewpoint that these councils ought to stick to their traditional role, which is to protect tribal culture, land and identity from being overwhelmed by more advanced forces from the plains and not have much role in the developmental activities.

A similar voice was echoed by the Justice S K Dutta Commission (1984) that District Councils have failed to live up to expectations and are now unnecessary and expensive, rendered redundant after the establishment of the Hill state covering the entire area of DCs.

The Commission further observed that there is a lack of realization among the councils about their sphere of duty and responsibility. No proper steps have been taken to protect Rajj lands / Akhing lands and mismanagement of Forest have resulted in deforestation. Management of Primary Education had to be taken back from them due to inefficiency and gross mismanagement.

The District Councils are marred with overstaffing and lack of adequately trained staff. The state government appears to have lost interest in the ADCs as reflected in delays of fund release and show no sense of urgency in dealing with work related to them. This further compounds ADCs' problems.

In recent years, political instability and floor crossings combined with abrupt changes of leadership have disrupted functioning of the Councils. Lack of communication and the isolation of the District Councils from the State Government also appear to be harming the developmental activities. For the Garo Hills, there is additional problem – its physical isolation from rest of the state (this district is accessible only through a detour through Assam) – which makes it further isolated.

TRIPURA

The Constitutional and Legal Position in Tripura



Tripura was a former princely state ruled by Maharajas of the Manikya dynasty. After independence, the Regent Maharani of Tripura signed an instrument of merger with the Indian Union in 1947. Tripura became a Union Territory (without legislature) with effect from November 1, 1956. However, a legislature was installed in July 1, 1963. Tripura attained Statehood in 1972. Alienation of land belonging to tribals emerged as a major problem after its merger with the Indian Union.

The Tripura Tribal Areas Autonomous District Council (TTAADC) was established as an autonomous council in 1982 after a series of tribal agitations in Tripura. It was brought under the provisions of the Sixth schedule in 1985. The District Council has 30 members: 28 elected and 2 nominated. 26 of the elected member seats are reserved for schedule tribes. The Executive Committee consists of 9 members including the CEM. Besides, there are 527 elected Village Committees.

The TTAADC Territorial Area

The area under the TTAADC is unique. Its jurisdiction is not contiguous with Revenue district boundaries. It straddles four revenue districts. The TTAADC covers a vast area of 7132.56 sq km (which is 68 percent of the State's geographical area), extending to all four Revenue Districts of the State. 73 percent of this area is covered by forests. Only 38 percent of the State's population resides in the TTAADC area. The inhabitants of the TTAADC area are mainly Scheduled Tribes (84 percent) with Scheduled Castes make up 4.8 percent and other communities 11.16 percent, respectively. All commercial centers and district headquarters fall outside the purview of the TTAADC. The council and assembly are situated in Khumulwng town 26 km away from Agartala the state capital.

There are thirty five Rural Development Blocks in the State. Nineteen RD Blocks are within the Sixth Schedule area and eighteen mixed R. D. Blocks are within jurisdiction of both Sixth Schedule & PRI areas.

A key function handed over to the TTAADC is that of primary education. The state has 1350 primary schools, 1 high school and 2 residential primary schools. There are about 1,36,000 enrolled students, including about 1,11,000 in the Primary Schools.

Prominent Issues of ADCs in Tripura

Unlike other ADCs in the North East, the TTAADC has established village councils as expected in the Sixth Schedule. These bodies are playing a crucial role in connecting the District Council and local level bodies. Therefore, Tripura has a relatively well established system of local planning, in the form of the Gramodaya and Nagarodaya initiatives.

Coordinated planning initiative: Tripura has put in place a planning initiative, named Gramodaya in rural areas and Nagarodaya in urban areas, under which the State's development plan is prepared through consolidation of local plans prepared from below. In the Sixth Schedule area, development plans are prepared at the village level through the Gramodaya Process, involving the grass-root poor tribals. These village level plans from the sixth schedule areas and the PRI areas are then scrutinized, compiled and consolidated at the Block level into the Block plan, and thus moves up.

Codification of customary laws: Though under the Sixth Schedule, the TTAADC is also entrusted with the task of preservation of traditions and culture of indigenous people within its territorial jurisdiction, customary laws have not been codified.

Unplanned fund flow: There is a large gap between the approved budget and the flow of funds from the state government to the Council, which adversely affects both the planning and the execution processes.

MI ZORAM



"Mizo" means highlander. Under the British administration, Mizoram was known as Lushai Hills District; it was changed to Mizo Hills District in 1954 by an Act of Parliament. Under the Government of India Act 1935, the Hill Areas of Assam were divided into two categories – "excluded" and "partially excluded" areas. The Lushai Hills (Mizo hills), the Naga Hills and the North-Cachar Hills were under the "excluded" area over which the provisional Ministry of Assam had no jurisdiction. No federal or provisional legislation extended to the district automatically. A District

Councils was constituted in 1952 for the Lushai Hills (Mizo Hills). The Pawi-Lakher Autonomous District Regional Council was set up on the 23rd April 1953 in what later became part of Mizoram State.

After the Mizo Hills was elevated to the status of the Union Territory of Mizoram, the Mizo Hills District Council was abolished in 1972. Following this, the Pawi-Lakher Regional Council – constituted for the Pawis, the Lakhers and the Chakmas – was also dissolved and

trifurcated into three regional Councils in 1972. Then an agreement with Mizoram National Front in 1986, gave the union territory statehood to Mizoram. The Lakher Regional Council and the Pawi Regional Council were re-named as the Mara Autonomous District Council and Lai autonomous District Council, respectively, with effect from May 1, 1989.

District Councils in Mizoram

The three DCs – Chakma, Lai, and Mara ADCs – cover two administrative districts: Lawngthlai and Saiha districts. The Kolodyne river separates the two districts: the Lawngthlai falls on its west side and Saiha on the east. Details of council members and executive Committee are as follows:

Lai ADC	Mara ADC	Chakma ADC
27 (23 elected and 4 nominated); CEM + 7 EM	23 (19 elected and 4 nominated); CEM + 7 EM	17 (13 elected and 4 nominated); CEM + 5 EM

Prominent Issues of ADCs in Mizoram

Together the three ADCs cover only 15 percent of state's population. Thus, they don't receive much attention from the state government. In Mizoram, the problem is not only of development but also of ethnic politics. The tribal communities have strong ethnic feelings creating constant frictions, which adversely affect administration and developmental activities. The Mizoram Assembly has passed resolutions for abolition of Councils.

There is significant overlap of functions between the state government and the District Councils. The District Rural Development Authority of the state government need to be merged with the ADCs so that all developmental activities take place under the Councils.

Critical Review of the ADCs



Many changes have taken place since 1952 and the roles and functioning of these Councils have been studied and evaluated. There is an urgent need to review the performance of the ADCs under the Sixth Schedule in today's context because situation is no longer the same as it was fifty years ago.

Changed Demography: The population composition has changed everywhere over the decades. This demographic change is no longer reflected in the representative structure of the ADCs, which is still six decades old. Unless reviewed comprehensively, the Schedule could become chief source of future conflicts in the region.

Development role of the ADCs: There is a section of people who feel that the role of the Autonomous Councils should be confined to passing laws, maintaining law and order and administering justice through local courts. They see no developmental role for the Councils. However, both the spirit of the Sixth Schedule and the imperatives of modern times demand that they have a central role in local development. Panchayat extension to the Fifth

Schedule areas allow for democratic elections as well as reservations for women. Such model can be adopted in the Sixth Schedule areas too.

Concentration of Power: There is a general feeling that the District Councils have become elite clubs of a few already well-off people. Cut-off from the common masses, the decision making is concentrated in few hands in the DCs. It breeds corruption, nepotism, and favoritism and facilitates nexus among the top decision makers, contractors, rich traders, and influential politicians. The elected members in councils and the office-bearers are normally from the elite group of tribal society and have vested interests in preserving this exploitative structure.

They also do not take interest in planning activities and monitoring developmental schemes at the micro level. They neither try to look for expert input nor involve the local people. Their activities have undermined the basic purpose of the Sixth Schedule and consequently the poor tribes are left out both as beneficiaries or as decision makers in issues that ultimately affect them. This is, in fact, denial of democratic rights to the grass-root people.

"In the Sixth Schedule areas, there's no decentralization of powers and administration. There's no panchayat and parishad. All you have is only a district council, which elects few people and they enjoy unbridled power. But democracy demands that power should not be concentrated in a few hands." – J. B. Patnaik, Governor of Assam since December 2009

Poor Quality of Governance: Some District Councils have failed to set up courts at village and other levels. The Karbi Anglong District Council could not create judiciary because of reluctance of the State Government to release fund. Often the courts at the District Councils level are manned by discarded politicians or persons without any judicial background or training. Many District Councils have not yet codified customary laws. Despite the service rules framed by the Councils, appointments are arbitrary. Rather than qualification considerations such as political patronage, nepotism and favoritism take precedence.

Autonomy of District Councils: The ADCs appear quite powerful because the state or the Central laws cannot take force in their jurisdiction unless approved by them. They are technically only answerable to the Governor who can overrule any Act of the DCs if it is contrary to the Sixth Schedule provisions. He has the power to suspend the DCs and assume their functions and powers for six months. He can even dissolve a DC if an Inquiry Commission recommends so. But the ground reality is that he can act only on the advice of the State Cabinet. All it means is that Governor's powers are effectively exercised by the some state ministers. Besides, since the DCs largely depend upon funds that come from the state government, they can be easily pressurized to follow the dictates of some state level politicians.

Financial dependency: Councils are almost totally dependent on the devolution of funds from the governments, which denies them the flexibility required to emerge as a vibrant institution for local development.

Financial Indiscipline: The District Councils tend to depend on the state government for funds rather than trying to harness local resources, increase administrative efficiency of tax collection, or tighten their financial belt. They also often allege that the state government does not share the revenue from licenses and royalty from mineral extraction in timely manner. The regional councils have no share in such revenues, so they have to live with unfair rules.

Grants-in-aid from the state government are another major source of income of the District Councils under Article 275 of the Constitution. The State Governments often delay releasing funds due to political considerations. The grants-in-aid are commonly diverted for non-plan expenditure. Overstaffing and untrained employees only add to DCs financial burden besides creating irregularities and mismanagement. The situation was far worse until 1969 when audit was introduced. But the auditor lacks power to initiate actions.

The North Cachar Autonomous Council in Dima Hasao district is under the scrutiny of NIA and CBI for the alleged misappropriation of over Rs 1,000 crore of government funds. The amount was reportedly siphoned off to the coffer of the Dima Halam Daogah's Jewel Garlosa faction (DHD-J) for procurement of arms. NIA sleuths have arrested top DHD(J) leaders, a former chief administrator of the council and some government officials in connection with the incident. – Times of India, August 17, 2011

Subordination of Regional Councils: The District Councils are empowered to establish, construct and manage primary schools and also prescribe their medium of instructions. Despite these, the rate of literacy is very low in many DCs; some examples are Karbi-Anglong, North Cachar Hills and Kamala Nagar (Headquarters of Chakma District Council) District Councils. It is fairly common to find unqualified teachers in the primary schools. Further, the DCs also manages primary education within the jurisdiction of the regional council, which lacks such power. This deprives the minor tribes of the regional Council areas freedom to read and write in their own dialects and languages.

In fact, in the Mizo District Council it was one of the major grievances of the Pawis, the Lakhers and the Chakmas of the Pawi-Lakher Regional Council. Over time it turned into demand for separate DCs for their regions.

Land Management: Land management is another weak performance area of the Councils. The Sixth scheduled prohibits the transfer of land from a tribal to non-tribal. It was expected that the DCs would go about dealing with land related issues following the customary traditions. The basic structure of the customary or traditional system of land tenure remains the same. But the District Councils have not been able to protect the common lands or to codify customary system of land tenure.

Where individual ownership of land is recognized, no land reform measures have been initiated. There is no cadastral surveys have been carried out. On the contrary, the protection provided by the Inner Line Regulation and the Sixth Scheduled have been used to concentrate vast land holdings in the hands of a few well-off tribals. Thus, the poor landless farmers have been left to fend for themselves, without benefit of the Sixth Schedule provisions.

Codification of Customary Laws: The answer lies in codification of tribal rights in lands, enactment of laws concerning the existing land holding system, land reforms and cadastral surveys. Until then the disparity between the rich landlords and landless peasants will continue to increase. Codification of customary laws is somewhat a laborious exercise but it is essential if the tribal people have to develop according to their traditional fashion and to maintain their egalitarian ethos. But the thrust seems to be more on legislation rather than codification because legislation is easier, but provides a uniform system, than codifying the customary laws that vary from tribes to tribes.

Exclusion of women and youth: Traditional systems have largely excluded the participation of women and youth from local governance. They need to be given a formal space in local self government to make it more inclusive.

Overlaps of functional responsibilities between the State and the District Council:

Despite the Sixth Schedule transferring certain matters fully to the District and Regional Councils, state governments have not complied fully. Not only have the state governments been very slow in transferring agreed departments to the Councils, they have persisted with parallel development and administrative machinery in Council areas, even in vital areas such as rural development, education and health. This overlap not only wastes financial resources but also creates unnecessary confusion.

ADCs and the Panchayat Raj Institutions

While the ADCs have the advantage of legislative powers which the Panchayats do not have, they however do not have the provision for reservation for women and powers such as social forestry management that the Panchayats have.

The 73rd amendment of the Constitution on Panchayat institutions was passed by the parliament in December 1992 and became effective on April 24, 1993. It ushered in a new era of participatory governance towards realizing Mahatma Gandhi's dream and ideas of Gram Swaraj. Allowing villages to self-govern themselves is the mandate of the PRI Act.

The main features of the PRI Act are: (i) a 3-tier system of Panchayati Raj (ii) Panchayat elections every 5 years; (iii) reservation of seats for Scheduled Castes, Scheduled Tribes and women (not less than one-third of seats); (iv) appointment of State Finance Commission to make recommendations as regards the financial powers of the Panchayats and (v) constitution of District Planning Committees to prepare development plans for the district as a whole.

The PRIs cover as many as 29 subjects within their jurisdiction. Comparing with ADCs, which are often at state government's mercy for funds, the Panchayat bodies are better placed on developmental issues both in terms of range of functions and also on the financial front. They are entitled to get funds from the state as well as central government under various schemes. Further, in order to prevent the Panchayat bodies from falling into financial starvation Financial Commission has been established.

Women representation is an important contrast between the two laws. Since the tribal traditions do not normally recognize role of women in social politics, the autonomous councils as well as local bodies in the Sixth Schedule areas are male dominated; women representatives are seen as exceptions rather than rule. Here the PRI system scores very high and is far more progressive.

Another contrasting issue is the continuity of the institutions. In case of dissolution of the Panchayat bodies, they must be reconstituted within a period of six months from the date of their dissolution. For district councils, the period for fresh elections is up to 12 months subject to the approval of the state legislature.

Most autonomous councils have neither nurtured the village level bodies nor institutionalized intermediary bodies covering groups of villages, but instead ended up keeping all power to them only. This concentration of power in the councils ultimately ends up in few officer bearers. This has negated the democratic voice to the ordinary poor tribals and the idea of grass-root democracy got distorted as dictatorship of few top council members. This has obviously made corruption and inefficiency widespread in the councils. Hence, there is no

participatory or inclusive democracy in the Sixth Schedule areas. Here again, the PRI setup is far superior with institutionalized three tiers.

Thus, the Sixth Schedule setup did protect land and local traditions of the tribes but could not institutionalize grass-root or participatory democracy. Coupled with financial dependency and corruption it badly hampered the developmental activities.

The Way Forward

The Sixth Schedule did serve a useful purpose over the decades despite its failure on the developmental front. Now, there is plenty of analysis and data that point to several obvious corrective measures. Besides, several Sixth Schedule areas have attained full statehood. So, a thorough revamp of the Sixth Schedule provisions in the light of current demography and changed reality is urgently needed. Until then, the following specific steps will go a long way in improving the quality of governance of the ADCs:

1. Training and capacity building of ADC members appears to be a vital requirement for healthy governance. Universities can provide a good platform for knowledge up-gradation and skill developmental of the ADC members.
2. Create a permanent watchdog with powers of Lokayukt with power to order inquiry and initiate actions when irregularities are discovered.
3. Many activities are undertaken by the state government as well as the District Councils. This duplication is a major source of confusion and obfuscates accountability. Clarity of functions and roles is urgently needed. It applies in all Sixth Schedule areas.
4. Encourage adoption of ideas from the PRI setup for both inclusive development and grass-root democracy.
5. Meghalaya is fully covered by the Sixth Schedule, so the state government should devolve all powers to the District Councils and should become a supportive and facilitating body. In reality, this is not happening. There is a significant scope for eliminating overlapping authorities and tightening the administration.

The urgency of streamlining the administration of North East region is also underlined due to their proximity with China. Not doing so will only allow China to foment trouble by pampering secessionist organizations of the region and encouraging insurgencies. An economically developed North East with a vibrant grass-root democracy is the best defense against any future Chinese hostility. And, revamping the half-century old Sixth Schedule is the way to start.

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