

BLOCK 2

CONSTITUTIONAL PROVISIONS AND GOVERNANCE

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BLOCK INTRODUCTION

The purpose of this block-2 is to expose you to the Constituent Assembly debates and representation of the Northeast region in the Constituent Assembly. It also deals with the special provisions and governance of the Northeast region under the Constitution of India. This block consists of three units, i.e. units 4, 5, and 6. The fourth unit deals with the debates in the Constituent Assembly regarding Northeast India. It also analyses the debates in the Constituent Assembly regarding the VI Schedule of the Constitution. Unit 5 deals with the Special Provisions enacted in the Constitution of India for the Northeastern States. the unit elaborates the special provisions in comparison to other states and regions of India. Unit 6 deals with the Regional and District Councils, and its features elaborate on powers, functions and intricacies of administrative provisions. Understanding various constitutional provisions about the region and its governance is crucial to the holistic understanding of the region.



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UNIT 4 CONSTITUENT ASSEMBLY DEBATES*

Structure

- 4.0 Objectives
- 4.1 Introduction
- 4.2 Government of India Acts, 1919 and 1935
- 4.3 The Constituent Assembly and Northeast India (Assam & Tripura and Manipur)
 - 4.3.1 The Cripps Mission
 - 4.3.2 The Cabinet Mission
 - 4.3.3 Representation of Northeast India in the Constituent Assembly
- 4.4 The Committees
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- 4.5 Let Us Sum Up
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- 4.7 Answers to Check Your Progress Exercises

4.0 OBJECTIVES

After reading this unit, you will be able to:

- Explain the nature of the representation of Assam (Northeast India) in the Constituent Assembly of India;
- Discuss the role of the Advisory Committees about Assam in the Constituent Assembly;
- Analyse the arguments in the debate in the Constituent Assembly regarding the VI Schedule of the Constitution.

4.1 INTRODUCTION

The Constitution of India was adopted on 26th November 1949, which means the Constituent Assembly finalised it on that day. But it came into force two months after its adoption, i.e., on 26th January 1950, which is also known as the date of its “commencement”. However, some provisions of it, i.e., those relating to citizenship, elections, provisional Parliament, temporary and transitional provisions, had become operative on 26th November 1949 itself. The reason for its

* This is revised version of Unit 11, BPSC 132 by Jagpal Singh, Professor of Political Science, School of Social Sciences, IGNOU, Maidan Garhi, New Delhi-110068.

commencement after two months of its adoption was to signify the January 26th as the original date of achievement of Independence. In 1929, the Indian National Congress chose 26th January as the day to announce *Poorna Swaraj Day*. Since then, Indian National Congress started celebrating Independence Day from 1930 onwards by hoisting the National Flag on 26th January. Assam, which later became Northeast India, was a reference point of debate in the Constituent Assembly of India about creating constitutional devices such as Autonomous District Councils and Autonomous Regional Councils to protect the rights of the tribal people in the region. In this unit, you will read about the debate in the Constituent Assembly of India pertaining to these issues.

4.2 GOVERNMENT OF INDIA ACTS, 1919 AND 1935

The Constitution of India embodies provisions providing basic democratic rights of human beings, including those who are not Indian citizens. It also embodies provisions for the availability of institutions for legislation, execution, and jurisdiction to fulfil these rights. It presents a vision for social transformation and the deepening of democracy in India. The evolution of democratic institutions and rights had started much before the Constituent Assembly made the Constitution of India. However, it must be underlined that the features of democratic institutions and values introduced during the colonial period were meant to serve the colonial interests in contrast to the purpose of the provisions of the Constitution made by the Constituent Assembly of India. Although the Indian Constitution was a result of the deliberations (from December 9, 1947 to November 26, 1949) of the Constituent Assembly, some of its features had evolved over three-quarters of a century through various Acts, i.e., from 1858 to 1935. Among these Acts, the Government of India Act 1919, and the Government of India Act, 1935 have special significance regarding Northeast India. As you have read in Unit 1, the British occupied different territories in Northeast India at different times from the third decade of the 19th century. After 1874, they became part of Assam. As you will read in Unit 5, the Government of India Act, 1919 designated those areas as “backward tracts”. The Government of India Act, 1935, re-designated “backward tracts” as “excluded” and “partially excluded” areas. These were the central points of debate in the Constituent Assembly debates resulting in the incorporation of the special provisions for Northeast India in the Indian Constitution.

4.3 THE CONSTITUENT ASSEMBLY AND NORTHEAST INDIA (ASSAM & TRIPURA AND MANIPUR)

Initially, the colonial authorities resisted the demand for the creation of a Constitution of India. However, the change in the circumstances - the outbreak of World War II and the formation of the new Coalition (Labour-led) government in Britain forced the British Government to acknowledge the urgency to solve the problem related to the Constitution of Indians. The colonial authorities realized

the need to form a Constitution for India after the end of their rule in India. In this regard, they sent two missions – Cripps Mission in 1942 and Cabinet Mission in 1946. The formation of the Constituent Assembly was the finale of the process that began with the proposal of these two missions. As you will read in sub-section 4.3.3, the Province of Assam and Princely states of Tripura and Manipur (representing other princely states of the region), which later formed Northeast India, were also represented in the Constituent Assembly of India.

4.3.1 The Cripps Mission (1942)

In 1942, the British Government sent its cabinet member – Sir Stafford Cripps, with the draft declaration on proposals (regarding the formation of the Constitution for Indians) to be implemented at the end of World War II if both the Muslim League and the Indian National Congress had agreed to accept them. Cripps's visit with the proposal to India was known as Cripps Mission. The draft proposals of the Cripps Mission recommended the following: granting Dominion Status to India, i.e., an equal partnership of the British Commonwealth of Nations; formation of one Indian Union which would consist of all Provinces (ruled by the British India government) and Indian States (ruled by Indian princes) but if any province which was not prepared to accept the Constitution was to be free to retain its constitutional position which had existed at that time; and, formation of Constituent Assembly consisting of the member partly elected by the provincial assemblies. Both the Indian National Congress and the Muslim League did not accept the proposals of the Cripps Mission. The Muslim League demanded that India be divided on the communal lines and some provinces form an independent state of Pakistan; there should be two Constituent Assemblies, one for Pakistan and another for India.

4.3.2 The Cabinet Mission (1946)

The British Indian government made several attempts to bridge the differences between the Indian National Congress and the Muslim League. However, it was unsuccessful. The British government sent another delegation of the Cabinet members, which came to be known as the Cabinet Mission Plan. It consisted of three British cabinet members – Lord Pethick-Lawrence, Sir Stafford Cripps and Mr A.V. Alexander. The Cabinet Delegation also failed to bring the Indian National Congress and the Muslim League to an agreement. However, it made its own proposal, which was announced simultaneously on 16th May 1946 in England and India. The Cabinet delegation made the following recommendations: there should be a Union of India consisting of British India Provinces and the Princely States, which would have jurisdiction over subjects of Foreign Affairs, Defense and Communication; all residuary powers would belong to the Provinces and the States; the Union would have Executive and Legislature consisting of the representatives from the Provinces and the States but for decision relating to a major communal issue in the legislature a majority of representatives of two major communities would be present and voting along with the majority of all members present and voting would be required; the provinces would be free to form groups with executives and legislatures, and

each group would be free to determine the Provincial Subjects which the group would take up.

4.3.3 Representation of Northeast India in Constituent Assembly

According to the proposal of the Cabinet Mission, the Constituent Assembly consisted of the members elected by the members of Provincial Legislative Assemblies and the representatives of the princely states. Both the Indian National Congress and the Muslim League were returned from the Provincial Legislative Assemblies. However, differences between the Indian National Congress and the Muslim League arose on the interpretation of “Group Clauses” of the Cabinet Mission. The British government intervened at this stage and explained to the leaders in London that the contention of the Muslim League was correct. And on December 6, 1946, the British Government published a statement, which for the first time acknowledged the possibility of two Constituent Assemblies and two States. As a result, when the Constituent Assembly first met on December 9, 1946, it was boycotted by the Muslim League, and it functioned without the participation of the Muslim League. The Constituent Assembly consisted of 296 members, but only 207 members could attend it because the Muslim League members boycotted it.

As the Constituent Assembly members consisted of the member elected by the members of the provincial assembly, and of the representatives from the princely states, following members represented Assam (excluded and “partially excluded areas), and princely states of the regions, in the Constituent Assembly:

1. Gopinath Bardoloi,
2. J.J. M. Nickols Roy,
3. Rohini Kumar Chaudhury,
4. Kuladhar Chaliha,
5. Nibaran Chandra Laskar,
6. Dharanidhar Basu-Matrai,
7. Mohammad Saadulla,
8. Abdul Rouf,
9. Girja Shankar Guha (Princely states of Tripura and Manipur), an officer of the princely states of Tripura and Manipur, representing princely states of Northeast India.

Like members from other provincial assemblies to the Constituent Assembly were indirectly elected by the members of the legislative assembly of those provinces, those from Assam were also elected from Assam, including the partially excluded areas. The indirect election was held according to the provisions of the Cabinet Mission Plan. Among those who represented Assam (present Northeast India) leaders, Gopinath Bardoloi and James Joy Mohan Nickols Roy, popularly known as J.J.M. Nichols Roy, played a decisive role in the Constituent Assembly regarding the making of the VI Schedule of the Constitution. Gopinath Bardoloi (6 June, 1890 - 5 August, 1950) was a lawyer and a Congress leader from Assam. He was jailed by the British for participating

in the Indian national movement, and he was awarded Bharat Ratna posthumously. He played a leading role in the Constituent Assembly debates and in formulating the VI Schedule of the Constitution. He was premier of Assam (19 September 1938 to 24 December 1941), its chief minister from 11 February 1946- 5 August, 1950. James Joy Mohan Nichols Roy (1884-1959), was a Khasi legislator. In 1921, he was elected to the Assam Governor's Council, and in 1937, he was elected to the legislative Assembly of Assam province. In 1946, he was elected on a Congress ticket to the Constituent Assembly of India. Like Gopinath Bardoloi, he also played a prominent role in the making of the VI Schedule. He was a minister in two governments headed by Saadulla in the pre-Independence period, and in the post-Independence period, he was a minister in the Bardoloi government. In the post-Independence period, he supported the Hill State Movement for the creation of a separate state – the Khasi-Jaintia-Garo state.

Check Your Progress Exercise 1

Note: i) Use the space given below for your answers.

ii) Check your answers with the model answers given at the end of the unit.

1. What is the significance of the Government of India Act, 1935 regarding Northeast India?

2. Briefly describe the representation of Northeast India in the Constituent Assembly of India.

4.4 THE COMMITTEES

The Constituent Assembly divided its work among different committees for its smooth functioning. The committees were the devices formed by Constituent Assembly to help it in its smooth functioning. Some of the important committees were:

1. Drafting Committee: Dr. B.R Ambedkar, Chairman;
2. Union Powers Committee: Jawaharlal Nehru, Chairman. It had 15 members;
3. Union Constitution Committee: Jawaharlal Nehru, Chairman;
4. Provincial Constitution Committee: Vallabhabhai Patel, Chairman. It had 25 members;

5. Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas: Vallabhbhai Patel: Chairman. It had 54 members;
6. Steering Committee: Dr. K.M. Munshi, chairman. It had three members Dr. K.M. Munshi and Gopalaswami Iyengar and Bhagwan Das.

4.4.1 The Sub-Committees

Among these committees, Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas was specifically relevant with reference to the issues of Northeast India (Excluded and Partially Excluded Areas), apart from tribal regions other than the Northeast (Excluded and Partially Excluded Areas). The Cabinet Mission had recommended the constitution of an Advisory Committee to suggest constitutional mechanism to protect the interests of minorities and tribals. Such an advisory committee was supposed to be a part of the Constituent Assembly. The purpose of the Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas was to advise the Constituent Assembly to formulate policies suitable for the welfare and administration of tribal and excluded areas. The Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas consisted of the following Sub-Committees:

1. Fundamental Rights Sub-Committee: J.B. Kripalani, Chairman;
2. Northeast Frontier Tribal Areas and Assam Excluded and Partially Excluded Areas Sub-Committee: Gopinath Bardoloi, Chairman. This committee was also known as Bardoloi Committee; and,
3. Excluded and Partially Excluded Areas (Other than those in Assam): V.M. Thakkar, Chairman

4.4.2 Bardoloi Committee

The Sub-Committee - the North-East Frontier (Assam) Tribal and Excluded Areas is also known as Bardoloi Committee named after its chairman, Gopinath Bardoloi. Members of the Bardoloi Committee: Gopinath Bardoloi; J.J.M. Nichols Roy, a Khasi leader; B.N. Rau, a civil servant and advisor to the Constituent Assembly; A.V. Thakkar, a Gandhian; Rup Nath Brahmama, a plain tribal and an intellectual; and Mayangnokcha Ao, a Naga leader. The Bardoloi Committee visited tribal areas of Assam and interacted with people to get first-hand knowledge from the people and find out the reasons for the backwardness of the region. The Sub-Committee noted the significance of traditional institutions of governance and the democratic nature of their functioning, which settled disputes according to local customs. The Sub-Committee also noted the sensitivity and reverence of people for their land, forest, lifestyle, traditional justice system, language, distinct culture of the excluded (including or/and tribal areas). The Bardoloi Committee underlined the need for special provisions to protect the identity of tribal people from the dominant communities (Nag 2002; J. Zahaluna 2010). While the Bardoloi Committee dealt with Assam (Northeast India), Thakkar Committee, i.e. Committee on Excluded and Partially Excluded Areas (other than Assam) with VM Thakkar as its chairman, was about other

tribal areas than Assam. These committees submitted their reports to the Constitution drafting Committee: Bardoloi committee suggested measures for special provisions regarding Assam, and Thakkar committee about other tribal-inhabited areas. The tribal areas of Assam (Northeast), which were earlier known as “excluded” and “partially excluded” were re-designated as the “Scheduled Areas”, while tribal areas in other areas than Assam (Northeast) were designated as “Tribal Areas”.

4.4.3 Arguments in the Constituent Assembly

After discussing the reports of various committees, which *inter alia* included Bardoloi Committee’s reports, the Constituent Assembly appointed a Drafting Committee on 29th August 1947 under the chairmanship of Dr. B.R. Ambedkar. The draft Constitution was prepared by B.N. Rau, Advisor to the Constituent Assembly. A seven-member committee was constituted to examine the draft. Dr. B.R. Ambedkar, who was Law Minister and chairman of the Drafting Committee, piloted the draft in the Assembly. Dr. Ambedkar presented “Draft Constitution of India”, which was an alternative to the proposals given in the reports of the committees. Besides, it contained additional resolutions. The “Draft Constitution” was published in February 1948. It was discussed by the Constituent Assembly clause by clause in its several sessions and was completed by October 17th 1949. This discussion was known as the second reading. The Constituent Assembly again met on 14th November 1949 to discuss the draft further or to give it a third reading. It was finalised on 26th November 1949 after receiving the signature of the President of the Constituent Assembly. Nevertheless, it was January 26, 1950 which became the date of commencement of the Constitution. The recommendations of these committees were placed before the Drafting Committees. The main recommendation of the Bardoloi committee was the establishment of the Autonomous District Councils and Regional Councils for the tribal areas within the state of Assam. They were envisaged in the VI Schedule of the Constitution. You will read about Special Provisions about Northeast in Unit 5 and the Autonomous District Councils and Regional Councils in Unit 6.

The VI Schedule was created following the debate in the Constituent Assembly of India. Vol. 9 of the Constituent Assembly Debates deals with the VI Schedule). There were broadly two opposing arguments in support or in opposition to the provisions of the VI Schedule. The principal argument in support of the VI Schedule – provisions for the Autonomous District Councils and Autonomous Regional Councils, underlined the need to protect cultural identities and economic interests of the tribes in the Schedules areas. This argument was given by Gopinath Bardoloi, J.J.M. Nichols Roy, who represented Assam in the Constituent Assembly. It was also given by some members representing other regions than Assam, such as Jaipal Singh (Bihar), V.M. Thakkar (Saurashtra). The main points in the argument against the introduction of Autonomous District Councils and Autonomous Regional Councils emphasised that it would perpetuate the disassociation between tribals and non-

tribals and would not allow the non-tribals to buy land in tribal areas, and would result in disassociation of tribals and non-tribals. This argument was provided mainly by Rohini Kumar Chaudhury and Kuladhar Chaliga, both representing Assam. This argument was supported by members such as Lakshminarayan Sahu and Brijeshwar Prasad, representing Orissa and Bihar, respectively.

Check Your Progress Exercise 2

Note: i) Use the space given below for your answers.

ii) Check your answers with the model answers given at the end of the unit.

1. What were sub-Committees?

2. Summarise the arguments in the Constituent Assembly Debates on the VI schedule.

4.5 LET US SUM UP

Northeast India at the time of the Constituent Assembly was represented by Assam province and Princely states such as Tripura and Manipur. The Advisory Committee of the Constituent Assembly, i.e., Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas which was chaired by Vallabhbhai Patel, aimed to deal with the problems of minorities and tribals in specific areas. This Advisory Committee had three sub-Committees. One of these was Northeast Frontier Tribal Areas and Assam Excluded and Partially Excluded Areas Sub-Committee. It was chaired by Gopinath Bardoloi and was known as Bardoloi Committee. The Bardoloi Committee suggested the introduction of Autonomous District Councils and Autonomous Regional Councils to protect the identities and resources of the tribal people in the region. Following the debate in the Constituent Assembly, the recommendations of the Bardoloi Committee were incorporated in the VI Schedule of the Constitution.

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4.7 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

- 1) The Government of India Act, 1935, re-designated the “backward tracts” as “excluded” and “partially excluded” areas.
- 2) Northeast India in the Constituent Assembly was represented by Assam province and Tripura and Manipur princely states. Representatives from Assam were: Gopinath Bardoloi, J.J. M. Nickolas Roy, Rohini Kumar Chaudhury, Kuladhar Chaliha, Nibaran Chandra Laskar, Dharanidhar Basu-Matrai, Mohammad Saidulla, and Abdul Rouf. Princely states of Tripura and Manipur were represented by Girja Shankar Guha.

Check Your Progress 2

- 1) The sub-committees were sub-committees of the Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas of the Constituent Assembly. There were three sub-committees: Fundamental Rights Sub-Committee (J.B. Kripalani, Chairman); Northeast Frontier Tribal Areas and Assam Excluded and Partially Excluded Areas Sub-Committee (Gopinath Bardoloi, Chairman); and, Excluded and Partially Excluded Areas (Other than those in Assam) (V.M. Thakkar, Chairman).

They aimed to study the problems of minorities and tribals and to suggest constitutional devices for their welfare.

- 2) There were broadly two opposing arguments: one supported the suggestion of the Bardoloi Committee to introduce Autonomous District Councils and Autonomous Regional Council, another opposed it. The argument in support underlined their need for protection of identities and interests of tribals in these areas; those against them emphasised that their introduction would result in differences between tribals and non-tribals and unequal treatment of the latter.



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UNIT 5 SPECIAL PROVISIONS FOR THE NORTHEAST*

Structure

- 5.0 Objectives
- 5.1 Introduction
- 5.2 “Excluded” and “Partially Excluded” Areas
- 5.3 “Crown Colony.”
- 5.4 Special Provisions
 - 5.4.1 The Sixth Schedule
 - 5.4.2 Inner Line Permit
 - 5.4.3 Articles 371 A to 371 C and Articles 371 F to 371 H
 - 5.4.4 States in Northeast India as Special Category States (SCS)
- 5.5 Let Us Sum Up
- 5.6 References
- 5.7 Answers to Your Progress Exercise

5.0 OBJECTIVES

After going through this unit, you will be able to:

- Explain special provisions in the Indian Constitution for Northeast India ;
- Elaborate upon the reasons for the introduction of the special provisions; and
- Compare the special provisions for Northeast India with other regions of India.

5.1 INTRODUCTION

India consists of several regions which have different levels of development. They consist of diverse groups who speak different languages and have different cultures, customs, etc. Northeast India, which consists of eight states - Assam, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya and Sikkim, is one of the regions in India. These states need special provisions for the protection of their cultural identities – traditional social and political institutions and natural and economic resources. Such provisions ensure the protection of cultural identities, customs and economic and political interests of the inhabitants of these areas. The British sought to make administrative changes after

* This unit is adapted from Unit 12, BPSC-102.

occupying Assam in the 19th century by introducing Regulations and Acts - Inner Line Regulation of 1873, the Scheduled District Act, 1874, the Government of India Acts of 1919 and 1935. These were reflected in the Special Provisions enacted for Northeast India after Independence. In this unit, you will read about special provisions about Northeast India.

5.2 “EXCLUDED” AND “PARTIALLY EXCLUDED” AREAS

Origin of the special provisions for Northeast India can be linked to the British policy of identifying some areas of Assam, which later became hill districts of Assam, and four states – Meghalaya, Mizoram, Nagaland and Arunachal Pradesh (Manipur and Tripura were princely states; and, Sikkim was an independent country) in the post-Independence period. Assam, during the colonial period, had broadly two types of areas – hill and plains. Finding the cost of administration not being compensated by the revenue returns, the British found it more expedient not to spend on running the administration of this region. Rather the hills were left to be governed by their traditional rule, which did not cost them anything. Besides, the people in this area had been averse to the notion of an outsider ruling over them. Any intrusion or its apprehension into their affairs was met with opposition and hostility. The hill regions of Assam were ruled by the British indirectly. The British did not interfere with their traditional system of authority. The issues relating to land, inheritance, forest, dispute resolutions, etc., were dealt with according to the customary laws and through the arbitration of clan and tribal chiefs. They were declared “backward areas” according to the Government of India Act, 1919. The Government of India Act, 1935 turned them into “excluded” and “partially excluded” areas. There was some difference between the “excluded” and “partially excluded” areas. The former were not represented in the legislature of Assam, though they were located in the province of Assam. The “excluded areas” were administered by the Governor-in-Council as his “reserved” jurisdiction. In the “partially excluded” areas, there was some authority of the provincial legislature. Jurisdiction of the courts of British India was limited in such areas. The British followed the policy of minimum interference in the “excluded” and “partially excluded” areas. Indeed, there were such three areas in Assam: apart from the two “excluded” and “partially excluded” areas, the third excluded area in which the British did not interfere was the tribal area of Assam. The British divided people of Northeast India belonging to two exclusive areas – plains or hills. The hills were included excluded areas.

5.3 “CROWN COLONY.”

Although the British did not interfere in the affairs of the “excluded” and “partially excluded” areas, they had their political preference about these areas to be followed after the departure of the British from India. The British argued that after the withdrawal of the British from India, tribes in the “excluded” and “partially excluded” areas needed “protection”. The British mooted a plan to bring all areas of the North-East along with the tribal areas of Burma under a

“Crown Colony”. The Governor of Assam R.N. Reid suggested that tribes of Assam hills and Burma should be united to form something called “Crown Colony”. The British wanted to keep the areas covering “Crown Colony” under their control after departing from India. The plan to create a “Crown colony” was a secret plan and was known as the “Coupland Plan” named after –Reginald Coupland. The Indian National Congress rejected this suggestion. The idea of a crown colony was also rejected by the tribes of Assam and Andrew Clow, the successor of Reid as Governor of Assam. However, the proposal to protect the tribes of “excluded” and “partially excluded” areas was taken up in the Constituent Assembly Debates. And nomenclature of “excluded” and “partially excluded” areas was replaced as “Tribal Areas”. Consequently, the Constituent Assembly created VI Schedule in the Indian Constitutions providing special provisions about the “tribal areas” of Assam – from which four states emerged later. The provisions of the VI Schedule were included in the Constitution on the basis of the recommendations of the North-East Frontier (Assam): Tribal and Excluded Area Sub- Committee of the Advisory Committee of the Constituent Assembly of India. The sub-committee was known as the Bordoloi sub-committee, named after its chairman Gopinath Bordoloi, a member of the Constituent Assembly and the then Prime Minister of Assam. You have read about the sub-committees in Unit 4.

Check Your Progress Exercise 1

- Note:**
- i) Use the Space given below for your answer.
 - ii) Check your answers with the model answers given at the end of the unit.

1) What were the “excluded and “partially excluded” areas?

2) Explain the notion of “crown colony”?

5.4 SPECIAL PROVISIONS

Special provisions for Northeast India are enshrined in the VI Schedule of Indian Constitutions (Article 244), and Inner Line Permit rules, Articles 371 A-Article 371C, and Article 371F- Article 371 H. These special provisions are related to land, inheritance, forest, dispute resolutions, customary laws, etc.

5.4.1 The VI Schedule

As you have read in unit 4, the Constituent Assembly of India realized the need to create a distinct administrative device for the protection of the rights and identities of the tribal people of Assam, from which emerged four states later on. The Constituent Assembly created such a device in the VI Schedule of the Constitution. The VI Schedule is dealt with in Article 244 (2) of the Indian Constitution. It makes special arrangements for the administration of Tribal Areas in the States of Assam, Meghalaya, Mizoram and Tripura. There are ten such areas. Each of these states has three such areas. Assam has (1) The North-Cachar Hills District (Dimal Haolang), (2) The Karbi-Anglong Districts, and (3) The Bodoland Territorial Area District. Meghalaya has (1) The Khasi Hills District, (2) The Jaintia Hills, and (3) The Garo Hills District. Mizoram has (1) The Chakma District, (2) The Mara District, and (3) The Lai District. And Tripura has one district: The Tripura Tribal Areas Districts. One of the most important provisions of the Sixth Schedule is that the tribal areas are to be administered as Autonomous Districts and Autonomous Regions. Under the provision of the Sixth Schedule, the Governor of the State is empowered to determine areas to be identified as administrative units of the Autonomous Districts and Autonomous Regions. The Governor has the power to create a new Autonomous District/Region or alter the territorial jurisdiction or the name of any Autonomous District or Autonomous Regions. The Sixth Schedule confers certain Executive, Legislative and Judicial powers that provide them autonomy to make laws regarding land, managing their forests (other than the reserved forest), the appointment of traditional chiefs and headman, and inheritance of property, marriage, social customs, taxation etc. You will read about Autonomous District Councils and Autonomous Regions in unit 6.

Apart from Northeast India, there are other regions in India that have a tribal population in different numbers. And while areas with a substantial population in Northeast India are known as “tribal areas”, those inhabited by tribals in other areas are known as scheduled areas. Like the tribes in the “tribal areas” protected by the VI Schedule, those in the “Scheduled areas” are protected under the V Schedule. Parliament has powers to change these by ordinary legislation without amending the constitution. The provisions under the Fifth Schedule envisage the creation of Tribes Advisory Councils, the Sixth Schedule provides for Autonomous District Councils or Regional Councils as institutional mechanisms for the administration of their respective areas. Tribal Advisory Councils under the Fifth Schedule are the creation of the State Legislature, whereas District Councils or Regional Councils under the Sixth Schedule are the product of the

Constitution, drawing all their powers and functions from the Constitution itself. “The Scheduled Area” areas are located in the states of Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Himachal Pradesh, Madhya Pradesh, Jharkhand, Maharashtra, Odisha and Rajasthan.

5.4.2 Inner Line Permit

The provision of Inner Line Regulation prohibits the travel of outsiders beyond a point known as Inner Line into certain areas without the permission of the state government covering the jurisdiction of such areas. Its purpose is to protect the land, natural resources, and identity of these areas from exploiting the non-residents of these areas. The system of Inner Line was drawn up under the Bengal Eastern Frontier Regulation, 1873. During the colonial period, the Regulation preserved the British control there and hindered the integration of the people of the hills and plains. The Inner Lines Regulation exists for four states, i.e., Arunachal Pradesh, Mizoram and Nagaland, Manipur, and the North Cachar district of Assam. In Manipur, it was introduced in 2019. The demand for its extension is made in other states such as Meghalaya. Outside the Northeast, Inner Line Permission is needed to travel into Lakshadweep; demand for its introduction is also made in Andaman and Nicobar Islands.

5.4.3 Articles 371 A to 371 C and Articles 371 F to 371 H

All tribal areas were not covered under the provisions of the VI Schedule. Such areas were covered later on by adding Article to the already existing Article 371: Articles 371 A about Nagaland, 371 B about Assam and Article C about Manipur; Article 371 F about Sikkim, Article 371 G about Mizoram, and Article 371 H about Arunachal Pradesh.

According to Article 371 A no Act passed by the Parliament will be applicable to Nagaland without the approval of the Nagaland legislative assembly regarding religious or social practices of Nagas, Naga customary law and procedure, administration of civil or criminal justice involving procedure to Naga customary law, and ownership and transfer of land and its resources. It gives special responsibility to the Governor regarding law and order in the state.

Article 371 B has special provisions about the protection of rights of tribes in hill areas of Assam. According to it the President may provide for the constitution and function of a committee of the legislative assembly of Assam, which will consist of the members elected from the tribal areas of Assam.

According to Article 371 C, the President may appoint a committee of the legislative assembly consisting of the members elected from the tribal areas of Manipur. The Governor must annually submit a report to the President regarding the administration of hill areas as well.

Article 371 F is about Sikkim. It was inserted into the Constitution after Sikkim became a state of the Indian Union in 1975. It seeks to provide seats in the state assembly to different sections of society in order to protect their interest. It suggests that the Legislative Assembly of Sikkim will not have less than 30 seats.

Article 371 G suggests that in Mizoram, no Act of Parliament will be applicable in respect of certain issues unless the Legislative Assembly passes a resolution in support of its application. These issues are: (i) religious or social practices of the Mizos, (ii) Mizo customary laws and procedures, (iii) Administration of civil and criminal justice involving decisions according to Mizo customary law, (iv) Ownership and Transfer of land.

Article 371 H assigns special responsibility to the Governor with respect to law and order in Arunachal Pradesh. It also suggests the state will not have less than 30 seats in the Legislative Assembly.

5.4.4 States in Northeast India as Special Category States (SCS)

All eight states of Northeast India also enjoy the status of Special Category Status. The fifth Finance Commission created the Special Category of States in 1969 with the purpose of providing central assistance and tax breaks to them. For the identification of a state as a Special Category State, a state should have the following characteristics: 1) hilly and difficult terrain, 2) low population density or sizable area of tribal population, 3) strategic location along borders with neighbouring countries, 4) and, non-viable nature of finances. The states in Northeast India that became Special Category State are as follows: Assam and Nagaland in 1969; Meghalaya, Manipur and Tripura in 1972; Sikkim in 1975; and Mizoram and Arunachal Pradesh in 1987. Outside Northeast India, Himachal Pradesh in 1971, Uttarakhand in 2001 also became the Special Category States. The Jammu and Kashmir state (which was converted on August 5, 2019, from a state into two Union Territories – Jammu and Kashmir and Ladakh) also was included in the Special Category State in 1969. Several other states in India are also demanding the status of Special Category States.

Check Your Progress Exercise 2

Note:

- i) Use the space given below for your answers.
- ii) Check your answer with the model answers given at the end of the unit.

1) Discuss the features of the VI Schedule of the Indian Constitution.

2) What is Inner Line Permit?

5.5 LET US SUM UP

The Constitution of India has special provisions for the protection of cultural identities, customary laws and economic interests of the communities living in backward areas of the country. According to these provisions, outsiders cannot sell or purchase the property of their residents, violate their traditions, customary laws, etc. Such areas in Northeast India are known as “tribal areas”, and in the regions other than Northeast India, they are known as “scheduled areas”. The VI Schedule of the Constitution has provisions about the tribes in the “tribal areas”, and the V Schedule is about the tribes in the regions other than the Northeast India. In this unit you have read that the provisions of the VI Schedule are applicable to the tribal areas in the states of Assam, Meghalaya, Mizoram and Tripura. The VI Schedule confers executive, legislative and judiciary and power to the Autonomous District Councils. The tribal areas were known as “excluded” and “partially excluded” areas before they were renamed as “tribal areas” by the Constituent Assembly. Apart from the VI Schedule, the Inner Line Permit is required for people outside in some states – Arunachal Pradesh, Nagaland, Mizoram and Manipur, and North Cachar district of Assam to enter their territory beyond a point. The purpose of ILP is to prevent outsiders from taking over their land, etc. Some tribal areas which could not be covered under the VI Schedule were given protection adding Articles to Article 371: Articles 371 A about Nagaland, 371 B about Assam and Article C about Manipur; Article 371 F about Sikkim, Article 371 G about Mizoram, and Article 371 H about Arunachal Pradesh.

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5.7 ANSWERS TO CHECK YOUR PROGRESS EXERCISE

Check Your Progress 1

- 1) The Government of India Act, 1935 had designated the hill areas of Assam, from which four states emerged in the post-Independence period, as “excluded” and “partially excluded” areas. These areas were first identified as “backward tracts” by the Government of India Act, 1919. British followed the policy of minimum interference in these areas. They were ruled by the British indirectly and were administered by the Governor of Assam.
- 2) The “Crown Colony” was supposed to be an area to be formed by uniting “excluded” and “partially excluded” areas that were inhabited by the hill tribes of Assam (as it existed at that time) and hill areas of Burma. The British argued that the “Crown Colony” was needed to protect these areas after they would have departed from India. The plan to create the “Crown Colony” failed because of the opposition of the Congress, tribes of these areas and the decision to drop it by the British themselves.

Check Your Progress 2

- 1) The Sixth Schedule of the Indian Constitution provides for special provisions for the protection of cultural identity, traditional justice system and economic interests of the tribal areas in Northeast India. Among its most important features is included provision for the creation of Autonomous Districts and Autonomous Regions to administer the tribal areas. The VI Schedule confers executive, legislative and judicial powers on the Autonomous Districts. They have the autonomy to make rules about land, management of forest, customs about marriage, inheritance, the appointment of traditional chiefs, taxation, etc., to covers tribal areas state of Assam, Meghalaya, Mizoram and Tripura.
- 2) Inner Line Permit is needed to visit the states of Arunachal Nagaland, Mizoram, Manipur, and North Cachar district of Assam by a person who is not a resident of these states. It is issued by these states. Its purpose is to protect these areas’ land and natural resources from a person who is not a resident of these states.

UNIT 6 REGIONAL AND DISTRICT COUNCILS*

Structure

- 6.0 Objectives
- 6.1 Introduction
- 6.2 Concepts: District and Regional Councils
- 6.3 Autonomous District Councils (ADCs)
 - 6.3.1 States with ADCs
 - 6.3.2 Demands for Councils or Extension of the VI Schedule Provisions
 - 6.3.3 Powers of the ADCs and ARCs
- 6.4 Composition of Autonomous District Councils and Autonomous Regional Councils
 - 6.4.1 Administrative Structure
- 6.5 Challenges before the ADCs
- 6.6 Let Us Sum Up
- 6.7 References
- 6.8 Answers to Check Your Progress

6.0 OBJECTIVES

After reading this unit, you will be able to:

- Explain the features of Regional and District councils;
- Discuss the need to introduce them;
- Identify the features of the regions which have got regional and district councils; and
- Elaborate upon their functions and challenges.

6.1 INTRODUCTION

In Units 4 and 5 you have read that there are special provisions in the Indian Constitution about protecting land and forest rights and preserving the cultural identities of the tribal people in Northeast India. These provisions are enshrined in the VI Schedule of the Constitution (Article 244), Articles 371- A-371 C, and Articles 371 F-371H. And all states of the region enjoy special status, which entitles them to tax rebates and central assistance. In this unit, you will read about regional and district councils.

* This unit is largely based on unit 12, BPSC-102 and Unit 15, BPSC-212.

6.2 CONCEPTS: REGIONAL AND DISTRICT COUNCILS

The VI Schedule of the Constitution provides for the creation of the district and regional councils in Northeast India. These are constitutional devices to protect the economic interests and cultural identities of the tribal communities. Autonomous District Councils are constitutional devices that cover an entire tribal district, which may consist of more tribes than one. An Autonomous Regional Council covers a specific tribe within (a region) of such a district. An Autonomous Regional Council within a District can be elevated to an Autonomous District Council. The Constitutional (One Hundred and Twenty-fifth Amendment) Bill 2019 provided for the village and municipal councils and District and Regional Councils in the VI Schedule areas. It suggested that the district councils will make rules regarding the powers of village and village councils. The tribal areas in Northeast India having such devices are known as “Scheduled Areas”. Prior to the inclusion of the VI Schedule in the Constitution, such areas were identified as excluded and partially excluded areas (backward areas). As you have read in Unit 5, the Bardoloi Committee recommended that provisions be made in India’s constitution for creating constitutional devices to give autonomy to the tribal areas in Northeast India. Such autonomy would enable the tribal people in the region to preserve their identities and natural resources. The VI Schedule, which provides for the creation of the district and regional councils, resulted from the Bardoloi Committee’s recommendations (Article 244). The power to identify a district or region to introduce Autonomous District Council or Autonomous Regional Councils rests with the Governor. He also has the power to alter the territorial jurisdictions of ADCs and ARCs.

6.3 AUTONOMOUS DISTRICT COUNCILS (ADCS)

6.3.1 States with ADCs

According to the VI Schedule, as you have read in Unit 5, four states of Northeast India, i.e., Assam, Meghalaya, Tripura, and Mizoram, have in all ten Autonomous District Councils. Their state-wise names are given below:

Assam

1. The North-Cachar Hills District (Dima Hasao)
2. The Karbi-Anglong District
3. The Bodoland Territorial Area District

Meghalaya

In 1952, elections to the district councils were held in United Khasi-Jaintia Hills Districts, Garo Hills District, Mikir Hills (the hill districts became constituents of Meghalaya state).

1. The Khasi Hills District

2. The Jaintia Hills District
3. The Garo Hills District

Tripura

1. The Tripura Tribal Areas District

Mizoram

1. The Chakma District (Chakma Autonomous District Council: CADC)
2. The Mara District (Mara Autonomous District Council: MADC)
3. The Lai District (Lai Autonomous District Council: LADC)

The areas which now constitute the state of Mizoram were earlier part of Assam, which became a full-fledged state in 1986. As part of Assam, the former known was known as Mizo Hills District (earlier known as Lushai Hills). The Mizo Hills district in Assam had a Regional Council, which was known as Pawi-Lakhar Regional Council. It was constituted in 1953. The Mizo Hills district was upgraded to a Union Territory in 1972. With Mizoram having become a Union Territory, the Pawi-Lakher Regional Council was reorganized and trifurcated into three regional councils, i.e, Pawi, Lakher and Chakma regional Councils. These regional councils were elevated to ADCs in 1972 according to Mizoram District Councils (Miscellaneous Provisions) Order, 1972. They were renamed: Pawi regional Council as Lai Autonomous District Council (LADC); Mara Autonomous District Council (MADC), and Chakma as Chakma Autonomous District Council (CADC). (Valalchhawna 2021).

6.3.2 Demands for Councils or Extension of the VI Schedule Provisions

After the passage of the Manipur (Hill Areas) District Council Act, 1971, and the Tripura Tribal Areas Autonomous District Council Act, 1979, district councils were created in Manipur and Tripura. But the provisions of the VI Schedule were not extended to these states. The VI Schedule did not include all regions of Northeast India for the introduction of the district or regional councils. In fact, demands for the extension of its provisions arose in the states of Manipur from 1978 and in Tripura from the 1980s. In response to persistent demands, the Tripura Autonomous Council District Council was brought under the VI Schedule on 1st April 1987. Demands for autonomous councils are often raised in those areas of the Northeast where they do not exist (Valalchhawna 2021). Some examples of such demands include demand for Kuki Regional Council in Kuki areas of Karbi Anglong district of Assam and the demand for Regional Council for Hmars within the North Cachar Autonomous District Council in Assam. The existence of ADCs in Northeast India has also inspired the autonomy movements in some other parts of India. In response to such demands, councils based on the ADC model were created for Indian Nepalese (also known as Gorkha) in West Bengal (1989), “tribals” in southern Bihar (which became Jharkhand state in 2000) in 1989, Tibetan Indians in the Ladakh region (Stuligross 1999), which became a Union Territory in 2019.

6.3.3 Powers of District and Regional Councils

The VI Schedule Defines powers of both the Autonomous District Councils and Autonomous Regional Councils. The Governor will make rules about the ADC and ARC in consultation with the tribal council or representatives of the tribal organizations within the concerned ACD or the ARC. The ADCs and ARCs are endowed with certain legislative, executive, judicial and financial powers. If an autonomous district has a regional council, The ACD will have jurisdiction only over such matters on which the Autonomous Regional Council has delegated power to the ADC. The ADC will have such powers in addition to the powers conferred on it by the VI Schedule. However, the administrative powers and functions of these District Council and Regional Council differ from State to State. The Sixth Schedule lays down the different administrative provisions for each state's District Councils and Regional Councils in Para 12, 12A, 12AA and 12B for the State of Assam, Meghalaya, Tripura and Mizoram, respectively. The power and functions of District Councils and Regional Councils as given in the Sixth Schedule can be summarised as:

Legislative Powers

The ADCs and ARCs have powers to legislate on certain issues. However, such laws cannot have validity unless they have the assent of the Governor. Among the subjects on which ADCs and ARCs can make rules include:

- (a) Allotment, occupation or use of land (other than reserved for forest) for the purpose of agriculture or grazing, for residential or other non-agricultural purposes, for residential or other purposes;
- (b) Management of forest which is not reserved;
- (c) Use of canal or watercourse for the purpose of agriculture;
- (d) Regulation of *jhum* or another form of shifting cultivation
- (e) Establishment of village or town committees or councils and their powers;
- (f) Appointment or succession of chiefs or headmen;
- (g) Inheritance of property, marriage and divorce; and,
- (h) Social customs.

These subjects are mentioned in Para 3 of the VI Schedule. Besides the Para 10 of this Schedule, the District Council of an Autonomous District has the power to make laws for the regulation and control of money-lending or trading by any person other than Scheduled Tribe residents in the Scheduled District.

Executive Powers

The Sixth Schedule also endowed the District Councils and Regional Councils with extensive executive powers. The District Councils and Regional Councils are given the power to establish, construct or manage primary schools, dispensaries, markets, ferries, cattle ponds, fisheries, roads, road transport and waterways in the districts. With the approval of the Governor, Councils are also authorized to prescribe the language and manner of instruction in the primary schools. The district councils may be entrusted with other works such as

agriculture, animal husbandry, community projects, cooperative societies, social welfare, village planning or any other matter which falls under the executive powers of the state.

Judicial Powers

Judicial powers of the District Councils and Regional Councils relate to the constitution of the Village and District Council Courts for a trial of suits and cases where all parties to the dispute belong to Scheduled Tribes within the district. Power of court of appeal can be exercised only by the courts established by the District Council. A District Council or Regional Council may make rules relating to village councils and courts and their powers. Moreover, no other courts except the High Court and the Supreme Court have jurisdiction over such suits. However, the District Councils and the Regional Councils do not have powers to decide cases involving death or imprisonment for five years or more.

Financial Powers

District Councils and the Regional Councils have financial powers to prepare the budget for the related council; to assess and impose taxes on lands and buildings, professions, trades, employment, animals, vehicles, taxes on entry of goods into the market for sale, the toll on passengers and goods carried in ferries and taxes for the maintenance of schools, dispensaries or roads within their respective jurisdiction. The District Councils have powers to grant licenses or leases for the extraction of minerals within their jurisdiction. The councils are also entitled to royalties on the extraction of minerals each year.

The VI Schedule also provides for the constitution of a District Fund for the Autonomous District Councils (ACDs). All money received by an ACD in the course of its administration is credited to its District Fund. The district fund includes grant-in-aid received from the government, taxes levied or other revenues received by the ACDs under the laws framed by the ACDs (Vanlalchhawna 2021, p. 339).

Unlike ADCs under the VI Schedule, the Tribes Advisory Councils established under the provision of the Fifth Schedule are not given the financial power for preparing the budget for themselves. There is no mentioning of sources of income or grant-in-aid in the Fifth Schedule provisions. However, since The State Government creates district Councils or Tribe Advisory Councils, it is the moral duty of the State Governments to give financial assistance to the Councils. Again, regarding delegation of power, the Sixth Schedule provides a long list of items on which the District and Regional Councils could exercise their power. Whereas the powers and functions to be delegated to the Tribes Advisory Councils in the Fifth Scheduled Areas are minimal and primarily decided by the State Cabinet. Therefore, the Autonomous District Councils established under the Sixth Schedule have relatively much more power than the Tribes Advisory Council under the Fifth Schedule. The Sixth Schedule is sometimes referred to as a “mini-constitution” and District and Regional Councils as ‘mini-state or state within a state since they have extensive

legislative, executive, financial, and judicial powers. District Councils under the Sixth Schedule derive their powers from the Constitution.

Nevertheless, under the Fifth Schedule, the Tribes Advisory Councils being the creation of the Legislative Assembly of the States, have limited powers that are mostly executive in nature. Unlike the provisions of the Sixth Schedule, legislative, judicial, and financial powers are denied to the Fifth Scheduled Areas. The executive power of the State also extends to the Scheduled Areas.

Check Your Progress 1

Note: i) Use space given below for your answers.

ii) Check your answers with the model answers given at the end of the unit.

1) What are Autonomous District Councils and Autonomous Regional Councils?

2) Identify Autonomous District Councils states where they have been recommended under the VI Schedule.

3) Discuss legislative powers of the Autonomous District Councils.

6.4 COMPOSITION OF THE DISTRICT AND REGIONAL COUNCILS

District council and regional councils are constituted of elected and nominated members. The elected members are elected through the universal adult franchise, and the Governor nominates the nominated members. The number of members of each district council and regional council will not be more than 30. Of these, – twenty-six members are elected, and four are nominated. The Bodoland Territorial Council is an exception. It can have 46 members. Of which forty (40) are elected, six (6) are nominated by the Governor. The nominated members belong to the unrepresented communities who are not adequately represented in the opinion of the Governor.

The regions identified for the creation of Autonomous Regions will have separate Autonomous Regional Councils. Such Autonomous Regional Councils are named after the region where they are introduced. Elected members of the District Council shall hold office for five years.

6.4.1 Administrative Structure of Autonomous District Councils

The administrative structure of the Autonomous District Council consists of a Council of Secretariat and an executive wing. The Council Secretariat has a chairman of the Council, a secretary appointed by the chairman, and other officials and staff needed to function the office. The rules about regulating and service conditions of the staff and officers of the secretariat may be made by the District Council. The Executive committee of the District Council includes chief executive members and other members. The other members are appointed by are appointed on the recommendation of the chief executive members. The executive committee has powers to execute functions of the District Council. The members of the executive committee have a collective responsibility to execute functions of the District Council. (See Vanlalchhawna 2021: p. 336). At the village level, there exist village councils that work as institutions of governance at the grassroots level. The members of the village council are elected by eligible voters in the council. A village council consists of a president, a vice-president, elected and nominated members, and the secretary. The secretary should not be an elected member. The village council has the power to mobilise local funds and efforts for community works, distribute land for *jhum* cultivation, impose fines on individuals who refuse to participate in community work. It also implements centrally sponsored schemes and acts as village court competent to try civil cases of petty nature relating to tribal laws and customs, etc. (Vanlalchhawna 2021: pp. 336-37).

6.5 CHALLENGES BEFORE THE AUTONOMOUS DISTRICT COUNCILS

The ADCs face multiple challenges. These challenges range from their criticism for failing to address the tribal aspirations, for being inefficient and anachronistic, and thus unnecessary, from criticism by the non-tribals for being discriminatory to conflict between the ADCs as modern and tribal chief as traditional institutions. The tribal population is critical of the ADCs for failing to meet the aspirations of the local population. The ADCs are modern institutions largely composed of the elected representatives. The representatives in the ADCs belong to a new generation, which has benefited from modern education. They are the new elites. The introduction of the ADCs in the tribal areas has placed the new elite in confrontation with the traditional elite, the tribal chiefs or kings. The latter view the ADCs as their competitors. Some argue that ADCs have become the centre of corruption, “state within the state,” and breeding ground for politicians. In the 1950s-1960s, leaders in Mizo/Lushai hills and the Khasi, Jaintia and Garo hills underlined that ADCs were unable to meet the aspirations

of tribal people. They had demanded the formation of a hill state to meet the aspirations, in which the ADCs failed.

The non-tribal people in the areas under the ADCs complain of discrimination by the ADCs in issuing trade licenses. A section of the non – tribals also has been seeking the removal of the ADCs. They argue that the VI Schedule was introduced to protect the interests of the tribals while the tribal districts would be constituents of Assam. But with the formation of separate states out of Assam, there was no need for the Autonomous District Councils. Besides, there is no clear demarcation of the jurisdiction of the ADCs, which result in overlapping the jurisdiction of the ADCs, state legislature and the village councils. This causes inconvenience to the people. In fact, as you have read in Unit 4, apprehensions were raised by some non-tribal members in the Constituent Assembly Debates about discrimination by the proposed constitutional devices in the VI Schedule, which resulted in the constitution of ADCs. They also suffer from inadequacy of funds. Stugligross (1999) observes that the ability of ADCs to legislate is restricted. All ADC bills must receive the assent of the Governor before they become laws. The Governor can not independently give assent to the bills. He is bound by the aid advice of the Council of Ministers. It means that the autonomy of the ADCs is restricted by the condition of aid and advice to the Governor. Vanlalchhawna's study (2021) on ADCs in Mizoram shows that the ADCs could not meet the requirements of people because of lack of financial autonomy, political corruption and inefficient administration. In the state, they have brought about only limited development.

Check Your Progress 2

Note: i) Use space given below for your answers.

ii) Check your answers with the model answers given at the end of the unit.

1) Discuss the composition of the Autonomous District Councils.

2) Discuss the challenges before the Autonomous District Councils.

6.6 LET US SUM UP

Autonomous District Councils (ADCs) and Autonomous Regional Councils (ARCs) are constitutional devices created under the VI Schedule of the Constitution (Article 244) in Northeast India. Their purpose is to protect cultural identities and preservation of natural resources of the tribal people in the. The VI Schedule provides for the constitution of ADCs in four states of Northeast India. In the North-Cachar Hills District (Dima Haolang), the Karbi-Anglong District and the Bodoland Territorial Area District in Assam; in the Khasi Hills District, the Jaintia Hills District, and the Garo Hills District in Meghalaya; the Tripura Tribal Areas District in Tripura; and, the Chakma District (Chakma Autonomous District Council: CADC), the Mara District (Mara Autonomous District Council: MADC), and the Lai District (Lai Autonomous District Council: LADC) in Mizoram. There are some differences between ADCs and ARCs. The former cover all tribes residing in a district. The latter cover a particular tribe residing in a district under an ADC.

The ADCs and ARCs have legislative, executive, judicial and financial powers. Their legislative powers largely pertain to allotment of land for grazing and residential purposes; management of forest, allotment of land for *jhum* cultivation; appointment of headmen or succession of a chief. However, a law passed by the ADC or the ARCs can not become law without the consent of the Governor. Under their executive powers, the ADCs and ARCs can, among other activities, establish, construct or manage primary schools, dispensaries, markets, ferries, cattle ponds, fisheries, roads, road transport and waterways in the districts. The ADCs and ARCs have powers to constitute the Village and District Council Courts for a trial of suits and cases where all parties to the dispute belong to Scheduled Tribes within the district. Power of court of appeal can be exercised only by the courts established by the District Council. However, they do not have powers to decide cases involving death or imprisonment for five years or more. The financial power of the ADCs and ARCs relate to assess and impose taxes on lands and buildings, professions, trades, employment, animals, vehicles, taxes on entry of goods into the market for sale, the toll on passengers and goods carried in ferries and taxes for the maintenance of schools, dispensaries or roads within their respective jurisdiction. The ADCs face several challenges. They have a paucity of funds, indulge in corruption, and have become breeding ground for politicians. They are the focus of criticism both by the tribals and non-tribals. The former accuse them of failing to meet the aspiration of tribal people. The non-tribals accuse them of discriminating against them. Nevertheless, there are demands from several communities of extending the provisions of the VI Schedule into their regions or for constituting Councils for them.

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6.8 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

- 1) They are constitutional devices created under the VI Schedule of the Constitution for protection of cultural identities and preservation of natural resources of tribes in Northeast India.
- 2) Autonomous District Councils have been created in four districts: Assam, Meghalaya, Tripura and Mizoram. The District Councils are The North-Cachar Hills District (Dima Hasao), The Karbi-Anglong District, The Bodoland Territorial Area District in Assam; The Khasi Hills District, The Jaintia Hills District, and The Garo Hills District in Meghalaya; The Tripura Tribal Areas District in Tripura; and The Chakma District (Chakma Autonomous District Council: CADC), The Mara District (Mara Autonomous District Council: MADC), and The Lai District (Lai Autonomous District Council: LADC) in Mizoram.
- 3) Legislative powers of the ADCs relate to the allotment, occupation or use of land (other than reserved for forest) for the purpose of agriculture or grazing, for residential or other non-agricultural purposes, for residential or other purposes; management of forest which is not reserved; use of canal or watercourse for the purpose of agriculture; regulation of *jhum* or other forms of shifting cultivation; establishment of village or town committees or councils and their powers; appointment or succession of chiefs or headmen; inheritance of property, marriage and divorce; and, Social customs. However, any law passed by the ADCs can not become law without the assent of the Governor.

Check Your Progress 2

- 1) The ADCs consist if not more than 30 members. Of these, 26 are elected through the universal adult franchise, and the Governor nominates four members. However, Bodoland Territorial Council is an exception. It has

46 members. Of them, 40 are elected, and the Governor nominates six members.

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- 2) The main challenges which the ADCs face include a lack of peoples' faith in their efficacy, transparency, and objectivity. The tribal communities criticize them for failing to meet their aspirations. The non-tribals accuse them of discriminating against them. They also indulge in corruption. The conflict between the new leadership represented by the ADCs and traditional leadership often harms the functioning of the ADCs. The ADCs also suffer from financial constraints as they do not have adequate funds to fulfil their obligation.



