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EDUCATION **IDE**
Rajiv Gandhi University

BATS302 CONSTITUTIONAL PROVISION FOR TRIBES IN INDIA



**BA (TRIBAL
STUDIES)**
6TH SEMESTER

Rajiv Gandhi University
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About the University

Rajiv Gandhi University (formerly Arunachal University) is a premier institution for higher education in the state of Arunachal Pradesh and has completed twenty-five years of its existence. Late Smt. Indira Gandhi, the then Prime Minister of India, laid the foundation stone of the university on 4th February, 1984 at RonoHills, where the present campus is located.

Ever since its inception, the university has been trying to achieve excellence and fulfill the objectives as envisaged in the University Act. The university received academic recognition under Section 2(f) from the University Grants Commission on 28th March, 1985 and started functioning from 1st April, 1985. It got financial recognition under section 12-B of the UGC on 25th March, 1994. Since then Rajiv Gandhi University, (then Arunachal University) has carved a niche for itself in the educational scenario of the country following its selection as a University with potential for excellence by a high-level expert committee of the University Grants Commission from among universities in India.

The University was converted into a Central University with effect from 9th April, 2007 as per notification of the Ministry of Human Resource Development, Government of India.

The University is located atop Rono Hills on a picturesque tableland of 302 acres overlooking the river Dikrong. It is 6.5 km from the National Highway 52-A and 25 km from Itanagar, the State capital. The campus is linked with the National Highway by the Dikrong bridge.

The teaching and research programmes of the University are designed with a view to play a positive role in the socio-economic and cultural development of the State. The University offers Undergraduate, Post-graduate, M.Phil and Ph.D. programmes. The Department of Education also offers the B.Ed. programme.

There are fifteen colleges affiliated to the University. The University has been extending educational facilities to students from the neighbouring states, particularly Assam. The strength of students in different departments of the University and in affiliated colleges has been steadily increasing.

The faculty members have been actively engaged in research activities with financial support from UGC and other funding agencies. Since inception, a number of proposals on research projects have been sanctioned by various funding agencies to the University. Various departments have organized numerous seminars, workshops and conferences. Many faculty members have participated in national and international conferences and seminars held within the country and abroad. Eminent scholars and distinguished personalities have visited the University and delivered lectures on various disciplines.

The academic year 2000-2001 was a year of consolidation for the University. The switch over from the annual to the semester system took off smoothly and the performance of the students registered a marked improvement. Various syllabi designed by Boards of Post-graduate Studies (BPGS) have been implemented. VSAT facility installed by the ERNET India, New Delhi under the UGC-Infonet program, provides Internet access.

In spite of infrastructural constraints, the University has been maintaining its academic excellence. The University has strictly adhered to the academic calendar, conducted the examinations and declared the results on time. The students from the University have found placements not only in State and Central Government Services, but also in various institutions,

industries and organizations. Many students have emerged successful in the National Eligibility Test (NET).

Since inception, the University has made significant progress in teaching, research, innovations in curriculum development and developing infrastructure.

SYLLABUS

Constitutional Provisions for Tribes in India

Unit-I History of Tribal Policy

Unit – II Constitutional Provisions and Safeguards

Unit-III Provisions in Fifth and Sixth Schedules

Unit-IV Autonomous District Councils

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UNIT-I

HISTORY OF TRIBAL POLICY

Unit Structure

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1.1 Learning Objectives

After reading this unit you will be able to

- understand what the perspective of tribal development conveys during three different periods-pre-colonial, colonial and post-colonial;
- explain the issue of tribal development in a historical perspective;
- conceptualise ‘tribal development’ with reference to national development policy perspectives;
- compare the nature of policies of tribal development during pre-colonial, colonial and post-colonial periods;
- enumerate policy instruments of tribal development;
- know about various approaches suggested for tribal development in India;
- assess objectives of different approaches;
- explain the approaches adopted in the policy frame of national development; and
- distinguish between policy approaches adopted in Fifth and Sixth Scheduled areas.

1.2 Introduction

In academics, the designation ‘tribe’ ordinarily refers to a socio-anthropological category of people. It is not a surprise to find the use of Scheduled Tribe (ST) and Non-Scheduled Tribe (Non-ST) by Indian anthropologists so that the social category called tribe in socio-anthropological sense is represented. Scheduled Tribe is an administrative category of designated people and together with its Non-ST counterpart it forms the social category. You have already read both constitutional and non-constitutional categories of tribe in Paper-II, section 1.4.5.

However, for practical purposes the categories a ST and tribe are used synonymously. Development perspective for STs is different from that of Non-STs. As you know constitutional provisions safeguard ST interest but not of the non-STs in the same manner. Development policy for STs follows provisions of special safeguards along with general ones meant for Non-STs and other social categories. In this Unit you shall learn ‘tribal development’ as the ‘development of STs’.

Another clarification is in order. As you know the ST category is a post independence construct. In this construct all the communities considered as ‘tribes’ in colonial period, either in ‘criminal tribe’ group or as census category, have not been included. So development during colonial period shall be discussed with reference to the category ‘tribe’ of that period.

During pre-colonial period the designation ‘tribe’ was not used. The communities which were designated as tribe in colonial period had different terms of address which you have read in Paper-II, section 1.3.2. When we use the term tribe in the context of pre-colonial period you shall mean those communities who were designated as tribe in colonial period.

As you have read in Paper-II section 1.6, tribes in India do not fully fit in colonial scheme of isolated group. History of tribal policy therefore extends beyond colonial period. You should know that the concept of ‘development’ was coined during World War-II. Policy as an instrument of governance in the hands of the State with regard to the tribes normally goes back to colonial rule. It would differ from earlier State policy in that the tribals as a generic group were not included in the process of state intervention. But policy as a course or guideline of action also existed in traditional tribal communities before colonial rule, but connoted through different expressions. A village head’s decision to go for a community hunting is a course of action to be followed by community members according to customary practices. Obviously, it carries a similar force at the core like today’s government policy.

Similarly, what we mean by development perspective today was beyond the comprehension of a traditional community, but a perspective of material and non-material wellbeing of the community and individual members was its ultimate goal. The difference between the contemporary and traditional perspectives is of degree but not in kind.

Now you must have understood the scope of discussion though the concepts used convey a sense not very old like tribal communities themselves. However, the main focus of discussion on tribal development and its approaches will be laid on the policy frame of post-independence period. The discussion carried out beyond post-independence period aims at giving you a comparative understanding of the subject.

1.3 Concept of Tribal development

The notion *tribal development* has become very popular in academic investigations, policy guidelines, political commitments, development programmes, and in activists' ideology and projects. The notion of tribal development is apparently a conceptual distinction, meaning that it is a concept in itself. Arguably, it would mean the 'development' which tribes would strive for achieving.

Then what is development? In earlier literature development would be defined in terms of gross domestic product or in terms of per capita income. In this sense development means national development. But when we say tribal development it draws our attention to development of people and community. As you know tribal communities are not homogenous. So a macro perspective with regard to tribal development would be misleading. Therefore, tribal development should be perceived in terms of tribal people's development in a community mode.

Let us concentrate on the concept of development. As has been mentioned above, it was conceptualised in economic terms. But in our contemporary time we no more look at development in economic terms only. That is why you must have heard of concepts like 'human development', 'quality of life' 'livelihood security' 'social cohesion' etc. to explain the concept of development. This shows that development is conceptualised beyond economic indicators. What we are concerned with 'socio-economic development for improved quality of life. B.D. Sharma (1978) therefore maintains, 'development is generally taken to mean progression towards higher consumption and a better quality of life.

While consumption has an economic sense, quality of life indicates non-economic dimensions like good health-physical and mental, good education, peace, harmonious relationship and so on. Sharma further maintains that quality of life is determined by the entire social ethos in a community-the interpersonal relationships, mutual obligation, and the community's own concept about its position in the larger world. His stress is on community mode of development rather than a homogenous macro level national development. By now you must have understood that development is not purely an economic phenomenon but rather a multi-dimensional process involving reorganization and reorientation of entire economic and social system to achieve quality of life.

The centrality of quality of life is also evident in Michael Paul Todaro's conceptualisation of development. According to him, development is the sustained elevation of an entire society and social system towards a better or more human life. He has emphasised the concept of 'good life' as the perpetual goal of human kind. He has outlined three objectives of development:

1. Raising peoples' living levels, i.e. incomes and consumption, levels of food, medical services, education through relevant growth processes;
2. Creating conditions conducive to the growth of peoples' self-esteem through the establishment of social, political and economic systems and institutions which promote human dignity and respect; and

3. Increasing peoples' freedom from servitude by choosing and enlarging the range of their choice variables, e.g. varieties of goods and services.

Dudley Seers conceptualises development as 'improvement in country's economic and social conditions'. Development in his sense refers to improvements in way of managing natural and human resources in order to create wealth and improve people's lives. Natural and human resources normally give the idea of a region or nation. His concern is national development for people's development. Seers outlined the following conditions which the nation should strive to achieve:

- i. the capacity to obtain physical necessities, particularly food;
- ii. a job that may include studying, working on a family farm or horse keeping;
- iii. equality;
- iv. participation in government;
- v. belonging to an economically and politically; and
- vi. higher level of education.

Development is viewed in terms of national development and people's development through national development. But Todaro and Sharma have attached centrality to people's development. Such a concept has meaning to understand tribal development.

But in India, the notion of tribal development is linked to general development model of the country through five year plans directly in VIth schedule area and through formal institutions like development agencies and autonomous councils and Tribal Sub-Plan programme in Vth Schedule areas in different times. The discourse on 'tribal development' therefore is not *tribe specific* in that it does not focus on development of individual tribes or tribe as a social category separately. It rather presents an integrationist model where tribal development forms an integral part of national development policies and programmes.

Let us understand the notion of tribal development as tribal peoples' development within national development perspective. This notion can be understood with reference to Amartya Sen's conception of development as freedom suggested his book *Development as Freedom* (1999). He deviates from the conventional definition of development in terms of Gross Domestic Product or per capita income. He rather argues to view development as an effort to advance the real freedoms that individuals enjoy. He has suggested five types of freedoms: political freedoms, economic facilities, social opportunities, transparency guarantees, and protective security. In the context tribal development political development would mean tribal participation in decision making and the ability to scrutinise the authorities. Economic freedom would mean securing rights over resources without any restrictions and its link with market. Resources would mean both traditional resources and state resource. Social opportunities would refer to adequate access to health care and educational facilities for all the members of the community. Transparency in the context of the tribals would mean their trust in course of interaction with non-tribals and the government. Protective security would require social safety net against exploitation, situations leading to poverty and miseries.

Though Sen's concept of development has wider connotation in the context of the tribals, it would suffice to settle down with honest implementation of constitutional provisions and safeguards, because these safeguards provide for economic welfare, reservation for political representation and educational attainment, social equality, freedom of expression, prevention of any type of exploitation and preservation of culture. In other words, tribal development as envisaged in the Constitution of India is economic, social (including equality access to health and educational facilities), political and cultural enlargement within the frame work of national goals. So tribal development is not a concept in itself, but a specific perspective of people centred development within national goals with stress on cultural ethos.

Check Your Progress-I

Answer the following questions:

1. Does tribal development mean development of individual tribes?
2. Who defines development as *freedom*?
3. In Dudley Seers' definition what comes first-people or nation?
4. What are five types of freedom?
5. What is GDP?
6. What is at the core at the definition of development according to B.D.Sharma and M.P Todaro?
7. What is development?

The specific context of tribal development can be understood in terms of tribe specific institutional arrangement. For example, the creation of separate Tribal Developments Blocks in the Second Five year Plan (1956-61) and of a Tribal Sub-Plan within the state Plan in the Fifth Five Year Plan (1974-79) show tribe specific strategy. The formation of Large Agricultural Multi-Purpose Societies (LAMPS), Tribal Development Corporations, Tribal Cooperative Marketing Development Federation of India Limited (TRIFED) are meant for increasing production as well as marketing of the produce in tribal areas.

1.4 Tribal Policy during pre-colonial, colonial and post-colonial period

Tribes in India have passed through various stages of interaction with different political systems. These people lived before the colonial period and had either interaction or distance from the then political systems characterised by Hindu and Muslim rules. During colonial period they were exposed to a different type of governance. After Independence they are citizens of the nation and in principle are equal participants in development process. During these three periods they experienced policy difference either in its presence or absence. This section will discuss tribal policy during these three periods-pre-colonials, colonial and post-colonial.

1.4.1 Pre-colonial period

In pre-colonial period the tribes enjoyed their autonomy wherever they settled. Even their participation in the process of state formation did not impose any restriction on their autonomy. The Bhills of Mewar of Rajasthan or the Paudi Bhuyan of present Sundargarh district of Odisha has ritualistic association with the Kings. But Kings did not interfere in their internal matters (see Sinha Kapur in Behera, 2018 and Skoda in Behera, 2019).

The rulers in early medieval period also did not interfere in the activities of tribal society. Tribal autonomy was respected, though sometimes with the provision of paying tribute to the king as a mark of cordial relationship between the tribes and the state. R.K.Barik (Rath,2006) informs that the Gupta State before 6th century AD had their base in the Uttar Pradesh-Bihar plains. Gupta rulers conquered vast stretches of high land territory beyond it. But they allowed the pre-existing tribal proto-state structures in those areas to continue to exist as autonomous bodies.

Ritualistic association or tributary mode of relations did not have any conflict with tribal socio-cultural norms. When any such problem was apprehended they used migrate to other places. S.S.Mishra and R. P. Athparia (1995) cite an example in the context of the Karbis. They inform that the Karbis were under the Jaintia domain The Jaintias who followed matriarchal law of inheritance did not recognise patriarchal rules of the Karbis. So the Karbis migrated from Jaintia Hills to Ahom territory during the reign of King Jayadhwaj Singha (1648-63) in order to avoid the imposition of matriarchal law of inheritance. Nevertheless, due to contact over a long period the process of acculturation cannot be ignored. We learn from the above authors that in Karbis' socio-cultural life influence of Jaintia and Ahom cultural traits could be found. The point to note is that acculturation is not imposition and whenever there was any imposition if it was not acceptable the result was migration. During Muslim rule also the Oraons migrated from Rohatas Garh to their present place of settlement in Jharkhand, and Gaddi as Handa (2005) informs, migrated from Rajasthan to the hills of present Himachal Pradesh and Jammu and Kashmiri. They were associated with the ancient Brhampur kingdom of Chamba, but not in governance. This association however, has not imposed any state law on the Gaddi to restrict their autonomy and livelihood pursuits.

There are also instances where tribes had their kingdom or rulers. The Khamptis were rulers of Sadiya outpost of the Ahoms before British occupied Assam in 1826. Similarly, the Gond kingdom of Rani Durgavati and Jaintia kingdom in the Northeast are examples of tribal kingdoms. Being rulers they had their autonomy. Needless to say, before colonial rule, there was no definite state policy in matters related to the tribes. However, there was state intervention either as a convention or ruling in the matter of forest use which dates back to Hindu and Muslim rule. Such intervention was however limited to royal interests. Royal interest included protection of royal and public hunting ground and forests and pastures needed for maintenance of horses and elephants.

1.4.2 Colonial period

The cardinal principle of Colonial policy towards the tribes was that of isolation. It is evident in *the Scheduled District Act, 1874* which decided to remove the remote or backward tracts of

British India from the operation of general Acts. *Regulation, 1880* empowered the Chief Commissioner to remove any part of this area from the operation of enactments in force therein. In *the Government of India Act, 1915*, Section 52 A empowered Governor of Assam-in-Council to declare any territory to be a *backward tract* and deny any Legislative Act in the areas so declared. *Government of India Act, 1935* categorised 'backward areas' as 'excluded' and 'partially excluded areas'. It is for your information that as per *the Government of India (Excluded and partially Excluded Areas) Order 1936* the backward tracts of Assam were regrouped. For example, the territory of *the North East Frontier Tracts* including Sadiya, Balipara and Lakhimpur frontier tracts was an *Excluded Area*. The Garo Hills District, the Mikir Hills in Nowgaon and Sibsagar districts was Partially Excluded Areas. Similarly the provisions of this Act demarcated Excluded and Partially Excluded Areas in other provinces like Orissa, Andhra Pradesh, etc.

The difference between two areas was based on the subject of governance. The excluded areas were administered by the Governor himself in his discretion. No question was to be asked or subject relating to the area was to be discussed in the Central Assembly or in the Provincial legislature. Expenditure proposals relating to the excluded area was not to be submitted to the vote of either the Imperial or Provincial Legislature. On the other hand, the legislature had the right to discuss the affairs in the case of partially excluded areas. The provincial government had full discretion to apply or withhold new enactments to the said areas. The issues of exclusion related to civil administration. In the matter of development there was no policy for tribal development. Rather provisions of some general policies like forest policy which affected many tribes even in the Northeast. There were also specific policies like *Criminal Tribes Act, 1871* meant for tribes of other parts of the country. This you have already studied in Paper I, Unit-I and Paper-II, Unit-I.

You already know from the two previous papers that the colonial policy of exclusion of people from their traditional livelihoods resulted in resorting to petty crimes by them as an alternative source of livelihood. You have studied in Paper-I, section 1.3.5.3 how Mackenzie, in his book *Mud Bank* narrates the effect of colonial policy on Yerukulas' traditional livelihood pursuits. He informs us that the Yerukulas were originally merchants trading in salt, grain and other commodities inland on the backs of the pack animals. But in the march of progress, rail, and roads came and transportation was taken out their lands. Their living was gone, they knew no trade and they resorted to crime. Unfortunately, due to colonial arrogance, instead of understanding the reason of their criminal activities they were brought to task by enacting criminal laws. The people or groups who were brought under the provision of criminal law also got the label of 'criminal tribes'.

Similarly, Meena Radhakrishna (2001) in her book *Dishonoured by History-Criminal Tribes and British Colonial Policy* has narrated how the trading Korava community of the then Madras Presidency, lost their salt trade due to colonial salt policy, and access to forest resources due to forest policy of 1890s. The forest produces were an important item of barter in their trade. The laws did not allow them to collect bamboo and leaves which they used for making mats, baskets, brooms, etc. Common grazing lands were cordoned off and thus not available to their cattle. In the 1850s road and railway networks were established

throughout in Madras Presidency and bullock mode of transport got a setback. The famines of late nineteenth century were devastating as far as their salt trade was concerned. Large number of their cattle also died due to famine and restrictions to graze in common lands. As a result of all above factors, the Korava community suffered a massive economic setback in the period between 1850s and 1890s.

This social stigma was not the end of their plight which was the consequence of colonial policy that destroyed their traditional means. This was the result of procedural formalities the so called criminal people were to follow. One of the provisions of 1911 amendment was that the designated criminal people have to report to the police station daily or regularly. So, they remained out of work on those days of reporting in police station. The amendment of 1911 also empowered the Provincial Governments to restrict the movement of these communities within particular areas. So whenever the people got time they could not move to different areas to find job/wage work. Even they were suspected and exploited by upper social group once the tag of criminality was attached to them.

Like this Act there were policies and acts which intervened in tribal autonomy- their rights to pursue their cultural practices and secured livelihood. The important among them are

1. *Criminal Tribes Act of 1871*
2. *Land Acquisition Act of 1894*
3. *Permanent Settlement Act of 1793*
4. *Forest Policy*

Criminal Tribes Act of 1871: Already we have discussed how this Act was exploitative to tribes in two ways. This act went through several amendments in 1897, 1911, 1919 and 1924. In 1911, the scope of the act extended to cover the entire British India. The Act did not recognise the problems of the tribes and other people who became victim of Colonial policy. Taking their compulsion as habitual practice the Act categorised people belonging to tribes and castes as criminals. Y.C Simhadri in the book *Ex-Criminal Tribes of India* (1979) reproduces how the Act defined a criminal tribe. As per the provision of the Act,

“a criminal tribe was a gang, tribe or class of people addicted to the systematic commission of non-bailable offenses and with reason to believe a local government could notify using the local gazette that an entire tribe, gang or class of people were criminals .”

The surveillance provisions in the Act were made more stringent in subsequent amendments. The Act put restrictions on movements of the members of the criminal tribes. The members were to report their movement to the local police station. If there was a theft in the locality without question the members of the criminal tribe would be apprehended as culprits. In fact the members would be hauled up whenever the local policemen wished. The Act also provided for their forceful resettlement anywhere the local government would like so.

All these provisions restricted their time for an honest livelihood. Even neighbours hesitated to engage them because of their criminal label as the Act distanced these people from the mainstream society. The Act not only affected their livelihood further but also showed the arrogance of the colonial ruler. This Act was a black spot in a civilised society. How much it hurt the feelings of right thinking minds are evident in a B. R. Ambedkar's speech in 1943. He remarks,

“Is there any society in the world which has unapproachable, unshowable, and unseeable? Is there any society which has got a population of Criminal Tribes? ... How many do they count in numbers? Is it a matter of hundreds; is it a matter of thousands? I wish they numbered a paltry few. The tragedy is that they have to be counted in millions, millions of Untouchables, millions of Criminal Tribes, millions of Primitive Tribes!!”

Land Acquisition Act of 1894: You have already studied the adverse impact of the Land Acquisition Act 1894 in Paper-III, section 1.3.2. You are aware of land alienation in the process of industrialisation, urbanisation etc. in section 1.5 of the said paper. It is not a surprise to learn when the Act is condemned as a draconian law and anti-people in general and anti-tribal in particular.

Quoting Pradeep Prabhu (1998) Hussain (2008) writes,

The Colonial Land Acquisition Act, 1894 freely permits the state to alienate tribal land for public purpose. It is not simply that the state enjoys a superior right but it can conveniently convert it into an absolute right while alienating tribal lands.

This Act has been amended a number of times. In its 1955 amendment it also empowers government to occupy land in public interest under the concept of 'eminent domain'. Its clause 1 states,

Whenever it appears to the appropriate Government that land in any locality [is needed or] is likely to be needed for any public purpose, a notification to that effect shall be published in the Official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

The Act has also provides special power for occupation of land in case of emergency. Section 17, clause 1 states,

In cases of urgency, whenever the appropriate Government so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1), take possession of

any waste or arable land needed for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.

Tribal problem of land alienation due to Land Acquisition Act, 1894 is not available on all India-basis. However, some reports, projects and studies on individual tribe or of a particular region throw some light on the problem. The Government of India Report (also known as Xaxa Report), 2014 generalises tribal land alienation in the following words:

'State has succeeded in acquiring vast tracts of land and diverting common property resources for construction of dams, infrastructure development, mining and industry, Special Economic Zone (SEZ), etc. Private land has been acquired under provisions of the Land Acquisition Act 1894, under the concept of 'eminent domain' based on the principle that the interest and claim of the whole community is always superior to an interest of the individual'.

From the above observation it is clear that the State/Centre invokes the provisions of the said Act to occupy land during the era of globalisation. As you know SEZ is a development strategy popular under globalisation process. With this preliminary introduction to the trend of land alienation problem let us take some specific examples. We will base our discussion mainly on the works of Rao and Behera (2017), Ekka (2011), Upadhyaya (2005) and Prasad (1970) with passing reference to other works.

There were supporting acts to Land Acquisition Act, 1894 like Indian Forest Act, 1927 which empowered the State/Centre to acquire land for public purposes. When mining activities were under taken in the area of present Jharkhand land transfer was conducted through the Land Acquisition Act of 1894 and under the provisions of other Acts/regulations. Rao and Behera (2017) mentions that mining has been the single largest cause of land alienation in Jharkhand in the past. About 34.4 percent of all land that was acquired for development projects from 1951-1991 was for mining.

In Singhbhum, as Prasad (1970) and Upadyay (2005) inform, most of the traditional land rights were derecognised by the State as it took over the common village lands under the provisions of 1894 Act. Even the *Gm lands* recorded under the name of *Manki* of the village were not spared. The community rights shifted effectively to the domain of the governments' rights. In Dhanbad the government granted express approval to all kinds of mining activities to private concerns. In the process of mining activities the tribal lands were transferred to the private individuals/ companies. Bu the tribal communities became pauperised in the process of land transfer. The profits of the land sales went to the rich middlemen and non-tribal negotiators who later on became the land owners.

When land alienation became a serious problem, it led to revolts by tribes. You must have heard of Snatal Revolt of 1855-56, Munda Agitation in 1889 and famous Birsa Munda Revolt in 1895 in Chotanagpur, presently a large part of Jharkhand. So the British government tried to respect the traditional land rights, protect customary rights and prevent tribal land alienation.

As a result a number of protective land laws with an aim to restrict transfer of land certain mainly from the tribal communities to the non-tribal communities. 'The Chotanagpur Tenancy (CNT) Act (1908) and Santhal Pargana Tenancy (SPT) Act (1949) were enacted specifically to protect tribal land from being expropriated by non-tribals. The main provision of this Act was to declare land "inalienable" from the tribal communities to the non tribal communities by controlling the transfer of land. The Section 46 and 47 of the CNTA clearly restricts the transfer of land in the Chotanagpur region, only to member of the same caste/tribe as the original *raiyat*. Section 49 makes overriding allowances to the state to acquire land for certain specified purposes, including mining. The CNT Act created provisions for the maintenance of land records taking into account the tenurial arrangements of Mudari Khuntkattidars, the owners of Khuntkhatii.

However, the land acquisition for public purpose often contest the protective land legislations applied in tribal areas as most of the mineral deposits and forest and other natural resources are found with numerous instances in these areas.

But the situation was somewhat different in the Northeast India. Land alienation was not rampant like mineral resource based tribal areas. Nevertheless, the government occupied community land for Assam Rifle establishments and development facilities like road construction; establishment of administrative headquarters, hospitals for Assam Rifles and tactically for Missionary activities. You know that land was occupied in Pasigahat to establish administrative headquarters in 1911. So you cannot entirely deny the impact of the Land Acquisition Act 1894 on tribal land.

You know that the tribal areas were divided into excluded and partially excluded area. Moreover, mining activities were not undertaken. Deforestation also did not cause livelihoods concern. Land alienation could not be perceived alarming though its presence existed. In this part the British government recognised the importance of customary rights in a later stage. Assam Frontier (Administration of Justice) Regulation of 1945 recognised the age old authority of village councils, village headmen and the system of Chieftainship. Though the provisions were meant for administering justice it also implied customary ownership rights over land. The most important was Jhum Land Regulation of 1947 credited to Independent India. The legal provision known as the Balipara/ Tirap//Sadiya Frontier Jhum land Regulation, 1947 was based on the provisions under sub-section (2) of Section 92 of the Government of India Act, 1935. Of course the regulation was adapted by the India (Provisional Constitution) Order, 1947.

As you know, the land laws of 2013 are yet to be implemented. Even the act is criticised for continuing the land occupation frame of 1894 Act. Nevertheless, before 2013 Act, land

occupation for public interest to accommodate Mega dam projects and other development projects and schemes is carried on throughout the country including tribal areas of the Northeast. No doubt, Land Acquisition Act 1894 which had less impact in the Northeast during colonial rule exerted its pressure after Independence.

Permanent Settlement Act of 1793: You have already studied in Paper III, Unit I, section 1.3.2 that land alienation in tribal areas began during colonial period with the introduction of the Permanent Settlement Act of 1793. This act established Zamindari system in the then Bengal, Bihar, Orissa and Varanasi and conferred on the Zamindars rights to control over large territories including those of the tribals for the purpose of revenue collection and administration. In other words, Zamindars were recognised as owners of lands and were given rights to collect land revenue.

This is for your information that in addition to Zamindari system two other systems of agrarian relations existed in British India, These were Ryotwari system introduced by Thomas Munro in 1820 in Madras, Bombay, parts of Assam and Coorgh provinces of Colonial India. The government directly collected revenue from the ryots (peasants) directly. Similarly, an earlier role of village community in land management evolved into Mahalwari system during William Bentick's rule in 1833. Land was divided into Mahals comprising one or more villages. Ownership rights were vested with peasants, but village committee was normally held responsible for collection of revenue. This system was in operation in the Punjab, Awadh, Agra, parts of Orissa and Madhya Pradesh of that time.

Though the three systems were not peasant friendly, the Zamindari system among the three was more exploitative to the tribes. This system introduced a hierarchy of agrarian relations with Zamindars at the top (below the British government) followed by jotedars (wealthy peasants, above normal ryots) and ryots, share croppers and other landless labourers. In the village ryots owned lands. But in tribal villages practising shifting cultivation the concept of cultivator was different.

From among ryots a few also became traders and money lenders in addition to those who came from outside. In other words this system facilitated entry of non-tribals into tribal areas. The *Zamindars* employed their men for the collection of levies and taxes. These officials were gifted with the best land of tribal villages as *Jagir*. *Zamindars* also invited a number of non-tribals in the tribal areas for doing agriculture.

As you know the main objective of the Act, 1793 was to increase the income of the State from collection of land revenue. Concomitant to this objective was the strategy of increasing permanent cultivation and maintaining land records. Forests were cleared to increase land area under permanent cultivation. This practice reduced forest lands and the rights of tribals who depended on these forest resources for secured livelihoods. A few tribes also cleared forests for settled cultivation and settled permanently. Many others, however, did not leave their life ways and receded to interiors of the forests as their forest lands were converted to settled agricultural lands. These people did not have any ownership record this problem still

hunts them in recent years when they are recipients of compensation for loss of land in development projects.

Being deprived of their accessing rights to earlier forest lands these forest dwellers considered the settled agriculturists their enemies. So, they used to organise frequent raids into the villages of settled agriculturists. An atmosphere of distrust and conflict ensued. In the settled villages, if the cultivators were tribes, they came under the purview of British laws, as a result of which their traditional authority declined. Moreover, they also became exposed to forces of exploitation at various quarters, money lenders, traders, forest contractors engaged in clearing forest lands revenue collectors, etc. Zamindars were interested in revenue but not about the risk insurance against crop failures. During bad harvests ryots, whether tribal or non-tribals were subjected to harassment and torture for their inability to pay revenue. Discontent brewed against the Zamindars and the British for which many tribal unrests took place.

You can understand the implication of exploitation of tribals under Permanent Settlement Act of 1793 with reference to Santal and Paharia relation and Santal revolt as informed by Dinesh Narayan Verma in his book *Santal Revolt of 1855-1856* and paper *Vulnerability of Autochthon Paharias of Santal Parganas: Revealing Continuity of Colonial Legacy* (in Behera,2018).

It is reported that the Santals came into Bengal around the 1780s. Zamindars hired them to reclaim land and expand cultivation. The British officers also failed to subjugate them completely as the militant Paharias could never be pacified by early British officials, and they also continued to resist British administration for centuries. The East India Company's officials, therefore, encouraged and assisted Santals who were then coming in the hills and forests of the region and were present in Bengal. In 1810-11 Francis Buchanan who had surveyed the region had reported the settlement of about 500 Santal families in the Dumka Subdivision.

In 1833 a larger tract of cultivable area of forest land was demarcated as Damin-i-Koh by John Petty. This was declared to be the land of the Santals. The Paharias challenged and opposed the arrival of the Santals into the heart of their country. Their stiff and unceasing opposition to the coming of the Santals failed to check Santals' immigration. So, they retired to hill tops and became completely isolated from the outside world. The colonial regime overlooked Paharias while Santals grew in number from 3000 in 1838 to 82,795 in 1851 contained in 1,473 villages.

The Santhals, however, soon realised that the land they had brought under cultivation was taken away from their hands because of heavy taxes and exploitation by the money lenders. They also found the Zamindars asserting control over Damin-i-Koh. So they revolted against the British which is famous as Santal Revolt (1855-56). The Colonial ruler took steps to pacify the rebellion, but the Santals were not perceived as a peaceful group by the British. To them Santals appeared to be savages. This perception changed the Santal British relation and Santals often became victims of colonial exploitation.

In addition, the colonial ruler enacted forest laws which also reduced tribal rights over forests. Formally beginning with the Forest Act, 1865 the British Government laid down provisions in Indian Forest Acts, 1927 which drastically reduced tribal rights. The Forest Policy of 1952, the Wildlife Protection Act of 1972, the Recommendation of National Commission on Agriculture of 1976 and Forest Conservation Act of 1980 further put restrictions on tribal rights.

These and several other regulations curtailed customary tribal rights over land and forests. Tribal land alienation remained integral in the process of tribal interaction with the State and other communities beginning with colonial rule.

Forest Policy: You will study in section 5.4.1.1 in the paper how forest areas in India did not escape from the colonial economic interests and exploitation. Though the so called scientific management of forests began in 1865, it is a fact that right from the beginning of the 19th century itself the interest of the State over the forests for revenue was very clear.

The first step taken by the British Administration towards regulation of forest was in 1800 with a purpose to report on the availability of Teak in Malabar Forests. Shortly thereafter a Committee was set up to make an assessment of forests resources and also to report on the nature of proprietary rights in forests. The outcome of these two measures in forest conservation encouraged such steps in other parts. First it was adopted in Bombay around 1840 and thereafter in other parts of the country in the next twenty years.

Forests attracted the colonial attention for two main reasons: to earn revenue and to meet the demands of development works. Timbers were needed to lay railway sleepers and for military and naval purposes. The colonial administration viewed forests and the mode of its use by the tribals as unremunerative, for it stood on the way of expansion of settled agriculture, thus to the source of revenue for the state. The use of forests by the people, especially tribals in India for subsistence needs became a source of commercial exploitation. In other words, the forest was commoditised.

During colonial period four forest Acts formed the cornerstone of the British forest policy in India. These are: The Forest Act of 1865, The Forest Act of 1878, the Forest Act of 1894 and the Forest Act of 1927.

Scientific forest in our country thus was introduced in 1864 when the forest department was created in the erstwhile British colonies. The first Act to give effect to the rules of management and preservation of forests was passed in 1865. This was repealed by the Indian Forest Act 1878 which divided the forest areas into reserved forests, protected forests and village forests. Special provisions were made under this Act for exercise of rights and concessions by forest dwellers and forest users. In 1894 the Government reviewed its forest policy and implementation strategy. The 1894 Forest Policy statement based its objective on the corner-stone of 'public benefit', and what constitutes 'public benefit' is a matter of interpretation in the domain of the interest of the State. The policy statement involved 'the

regulation of the rights and the restriction of privileges of user in the forest area, which may have previously been enjoyed by the inhabitants of its immediate neighbourhood'. The cardinal principle to be observe was that the 'rights and privileges of individuals must be limited otherwise than for their own benefit'. In other words, it is subordinated the individual advantage to public benefit. You can better understand the basic objective from the following Policy statements stated briefly:

- i. The sole object with which forests are to be maintained is public benefit and therefore the constitution and preservation of forests involves regulation of rights and restriction of privileges of user in the forest by the neighbouring populations.
- ii. Forests situated on hill tops should protect to preserve the climatic and physical conditions of the country and to protect the cultivated plains against erosion.
- iii. Honey-combing of the forests by patches of cultivation should be discouraged and permanent cultivation encouraged.
- iv. Cultivation must be permanent and must not be allowed to encroach upon the minimum area of forests needed to meet reasonable forest requirements.
- v. Forests that yield inferior timber, firewood or fodder or used for grazing should be managed mainly in the interest of local population, care being taken to see that the user is not exercised so as to annihilate its subject and the people are protected against their own improvidence.
- vi. Forests which are reservoirs of valuable timbers should be managed to meet national needs and interests and managed in commercial lines as a source of revenue to the state.

The Indian Forest Act 1878 was modified in parts by different Acts of the local governments which were lately replaced by a comprehensive Act, 1927. This Act brought together major provisions of all the previous Acts and policies and pursued till then.

These acts also had conformity state acts. For example, the Assam Forest Regulation Act of 1891 was passed to control forest uses in the then Assam. In this Act, state tribal rights were considered as privileges subject to state control. In other words, tribal right over forest was restricted to privileges. Article 10(4) of the Act reads,

‘The practice of jhum cultivation shall in all cases be deemed to be a privilege subject to control, restrictions, and abolition by the (State) Government and not to be a right’.

Forest Acts had also supporting acts. Mention may be made of the Elephants Prevention Act, 1879 which prohibited killing, capturing or injuring wild elephants. Though the Act enumerates circumstances under which the prohibition imposed could be waived, the interest of the State was the guiding force.

The forest Acts during the colonial period served immediate purpose of the British like fulfilling the growing need of timber and expanding the source of revenue. British interest however was in opposition to the interest of the tribals and other forest dwellers who were

deprived of their rights. In addition, the framework influenced the forest policy of independent India. As you know the Indian Forest Act 1927 had the main objective of establishing state control over the forest and extinguishing all rights of people over the same by alienating them from these forests. The state monopoly during colonial period continued in independent India and is exemplified by the first national forest policy of 1952. It reinforced the right of the state to exclusive control over forest protection, production and management.

It was not for the expansion of settled agriculture alone, but introduction of plantation crops for which tribals were pushed to interiors of forests. We learn from the papers included in the volume edited by Menon (2002) that in Kerala plantation was responsible for alienation of traditional rights of Kurichias. In the beginning tribal in Malabar region were allowed to retain hill sides for shifting cultivation and hunting. Later the hillsides in Wynad largely began to be used for plantations by the British invoking the provisions of the Land Acquisition Act and forest laws. For introduction of plantation crops the British planters forced the tribals to migrate to the interior parts of forests. They were thus deprived of their only source of livelihood and many of them were forced to become cheap labourers in the plantation estate. Traditional owners of the forest land became labourers on that land to produce for others.

Gadgil and Guha (1992) sum up the motive of colonial forest policies up to 1947 as follows:

Under the provisions of the 1878 act, each family and right holders was allowed a specific quantum of timber and fuel, while the sale or barter of forest produce was strictly prohibited. This exclusion from forest management was, therefore, both physical- it denied or restricted access of forests and pasture- as well as social- it allowed right holders only a marginal and inflexible claim over the produce of the forests. The principle of state monopoly also formed the cornerstone of the important forest policy statement of 1894.

The core motive of the policies was to empower the state to expand the commercial monopoly and exploitation of forests while putting restrictions on tribal use for subsistence needs.

1.4.3 Post-colonial or post independence period

Post-colonial tribal policy in principle is opposite of the policy of isolation during colonial period. Non-interference or minimum administration was the basic philosophy which the British followed through demarcation of excluded and partial excluded areas. Policies were formulated primarily to safeguard colonial interests. You have studied it with reference to forest policies, land acquisition law, etc. Though one or two apparently protective acts like Chotonagpur Tenancy Act of 1908; the Bihar Moneylenders (Regulation of Transaction) Act, 1939; Madras Money-lenders Act of 1937 and the Madras Pawn Brokers Act of 1943 were enacted, they were meant to sustain colonial rule on the face of growing tribal revolts.

Undoubtedly, these acts were policy measures to check tribal discontent and subsequent revolts.

In contrast to the colonial policy of isolation, policy of post colonial i.e. independent India is fundamentally based on the principle of integration. Tribals like other social categories in the country are its citizens. The national goals strive for ensuring equality among all citizens belonging to different social categories. Unfortunately, at the time of independence tribes like a few other sections of the Indian society were found socially and economically backward and marginalised. National leaders recognised the pitiable conditions of the tribes and the immediate need to improve the life ways. Therefore, they included specific provisions in the Constitution of India aimed at the development of tribes and other backward categories at par other sections of the society.

Constitutional safeguards: Thus a new line of development administration has been made operative corresponding to the welfare commitment of the government of independent India. You have already studied constitutional provisions and safeguards in Unit-I of this paper. To brush up memory the essence of the provisions is summed up. Art. 46 of the Constitution states that the States shall promote, with special care, the educational and economic interests of the weaker sections among Indian population and in particular, of the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation. Art.342 of the Constitution empowers the President of India to specify the community or communities to be designated as the Scheduled Tribe for the purposes of the Constitution. Art. 244 of the Constitution provides for the administration of Scheduled Areas in accordance with the Fifth Schedule and Sixth Schedule, Articles 330,332 and 334 provide for reservation of seats for the Scheduled Tribes in Lok Sabha and State Legislatures Art. 335 provides for reservation of jobs in various services under the government and public sector undertakings.

The Constitution of India has made provisions for positive discrimination and affirmative action to compensate the loss of the tribes due to historical injustice and remove backwardness as soon as possible.

The first concern was to rectify/repeal laws which caused miseries to the tribes. You have already studied the problems of land alienation due to colonial forest policies, land law and problems of bonded labour, indebtedness, etc. during colonial rule. You have already studied the tragedy of the people designated as criminal tribes. The national government at the centre and in the states took steps in this regard.

Repeal of Criminal Tribes Act: Immediately after independence Jawaharlal Nehru denounced the Criminal Tribes Act 1871 as a monstrous system. However some committees were constituted just before Independence.

In 1937, the Criminal Tribes Committee was set up which was headed by V. N. Tiwari. The Committee recommended as well as introduced some welfare activities for their group. In Bombay Province Munshi Committee was set up which recommended in 1937 that unless

tribes/gypsies settled down, they would continue to have criminal tendencies. But actual steps were initiated after independence of the country. The Madras Province repealed the Act in 1947 and Bombay in 1949. The Government of India appointed a Committee under the Chairmanship of Anantha Sayanam Ayyanger in 1949.

The committee after studying the conditions of the 'Criminal Tribes' in the entire country recommended the repeal of the Criminal Tribes Act. The Government of India accordingly repealed the Criminal Tribes Act and replaced it with Habitual Offenders Act on 31st August, 1952. The tag of criminality was removed legally from them. It is for your information that these groups celebrate their Independence on 31st August, the day they were denotified and became denotified tribes (*Vimukta Jatis*).

After the repeal of the Criminal Tribes Act a good number of people were freed from the stigma of criminality imputed to them. The Backward Classes Commission appointed by the Government of India made many suggestions for amelioration (to become better) of the conditions of these problem ridden communities. The state policy on criminal tribes and nomadic tribes has two crucial implications, i.e. legislative measures to control and regulate them and the other is to subject them to 'welfare' measures. In 2003 the ***National Commission for Denotified, Nomadic and Semi-Nomadic Tribes*** (NCDNSNT) was set up under the Ministry of Social Justice and Empowerment, Government of India exclusively for to study various development issues relating to denotified nomadic and semi-nomadic tribes (DNTs). DNTs, the colonial category of criminal tribes, are spread mainly among STs, SCs, OBCs and other social groups. For an equal treatment to all members the Commission's role is significant. To make the function of the Commission more effective, it was reconstituted in 2005 and in 2015 also. The Ministry funds developmental schemes of DNTs through respective state governments. DNTs who are not covered under the lists of SC/ST & OBCs, for them the Government has launched two schemes namely (i) Dr. Ambedkar Centrally Sponsored Scheme of Pre-Matric and Post-Matric Scholarship Scheme for Denotified, Nomadic and Semi-Nomadic Tribes (DNTs) and (ii) Nanaji Deshmukh Centrally Sponsored Scheme of Construction of Hostels for Denotified, Nomadic and Semi-Nomadic Tribes. In the current financial year funds have been released to the States of Maharashtra & Karnataka under these Schemes.

Acts to prevent land alienation, indebtedness, etc.: The major tribal problems reflected I through land alienation, indebtedness, etc. After independence state governments also passed various acts to abolish regulate the phenomena of land alienation, practice of bonded labour and indebtedness. These were main reasons of tribal deprivation and poverty during colonial rule. You have studied a few acts in Paper-III, unit-I. You will learn some more acts along with those you have studied.

1. The Andhra Pradesh Scheduled Areas Moneylenders Regulation, 1963.
2. The Agency Debt Bondage Abolition, 1964.
3. The Assam Moneylenders Regulation, 1968.
4. The Bombay Agricultural Debtors Relief At, 1947.
5. The Kerala Money lending Act, 1958.

6. The M.P. Anusuchit Jan Jati Rini Sahayata Act, 1966.
7. The Madras Indebted Agriculturists (Repayment of Debt) Act, 1955.
8. The Mysore Pawn Brokers Act, 1961.
9. The Orissa Moneylenders (Application of Certain Provisions) Regulation, 1950.
10. The Rajasthan *Sagri* System Abolition Act, 1961.

A series of Acts have been enacted in Madras Presidency and subsequently in Tamil Nadu to check exploitation of the money lenders. Some of the Acts are as follows:

1. The Madras Debt Conciliation Act of 1936
2. The Madras Indebted Agriculturists (Repayment of Debts) Act of 1955
3. Tamil Nadu Debt Relief Act of 1976
4. Tamil Nadu Debt Relief Act of 1980
5. Tamil Nadu Debt Relief Act of 1982 .

The following Acts prevented tribal exploitations which were through land alienation:

1. The Assam Land and Revenue regulation (Amendment) Act, 1964
2. Bihar Scheduled Areas Regulations 1969
3. Karnataka Land Revenue (Amendment) Rule,1960
4. Kerala Land Assignment Rules,1964
5. Land Revenue Code, 1959 (Section 165) of Madhya Pradesh
6. Land Revenue Code, 1966 (Section36) of Maharashtra
7. Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Regulation 1956 and amended in 1965
8. Rajasthan Tenancy Act, 1955 (sections 42, 43, 46A and 49A)
9. Tripura Land Revenue and Land Reform Act 1968 (section187)
10. Uttar Pradesh Zamindari Vinash and Bhumi Vyvastha (Sanshodhan) Adhinyam,1969 (section 157)
11. West Bengal Land Reform (Amendment) Act, 1965
12. Andaman and Nicobar Islands (protection of Aboriginal tribes) Regulation 1956
13. Protection of Scheduled Tribes Regulation Act of 1964 of Lakshadweep

Despite national government's honest feelings for the tribes some of the acts proved to be contrary. In this respect the most disturbing side of the policy towards the tribes was the continuation of the basic principle of colonial policy in some acts. These reflected in national forest acts of earlier period of the independence, continuation of Land Acquisition Act of 1894 with some amendments but keeping its centrality of eminent domain principle intact.

There were also acts during independent India which perpetuated the principle of eminent domain. A few of these legislations are Coal Bearing Areas (Acquisition and Development) Act 1957, The Indian Wild Life (Protection) Act 1972, Atomic Energy Act 1962, and other related Acts and legislations which empowered the State/Centre to acquire land for public interest.

However, gradually policy perspective changed and genuine tribal friendly acts are being enacted. For the most backward tribes, the vulnerable primitive tribes, within the tribal category the government has formulated special policy instruments.

Land Acquisition Act of 2013: As you know in Independent India there was no national law with regard to land acquisition for development purpose and in public interests. The Land Acquisition Law of 1894 was in force till 2013. The law had specific context during colonial period. In recent time for land acquisition as a part of India's massive industrialisation drive driven by public-private partnership has significant implication. Considering all these issues the national law was enacted

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (also Land Acquisition Act, 2013) is the national Act that replaced the Land Acquisition Act of 1894. The Act aims at regulating land acquisition and lays down the procedure and rules for granting compensation, rehabilitation and resettlement project affected persons. Mainly, it (i) provides for fair compensation to those whose land is taken away, (ii) brings transparency to the process of acquisition of land for development purposes, and (iii) assures rehabilitation of those affected. The Act in fact suggests a wide range of rehabilitation and resettlement entitlements to land owners and livelihood losers from the land acquirer. In this sense the Act is a comprehensive one.

The provisions of the Act however does not apply to acquisitions under 16 existing legislations including the Special Economic Zones Act, 2005; the Atomic Energy Act, 1962; the Railways Act, 1989; the Cantonments Act, 2006; the Ancient Monuments and Archaeological Sites and Remains Act, 1958, etc.

Resettlement & Rehabilitation Act: You have studied in Paper-I, unit-I how tribes suffer when their lands are acquired for launching development projects. Land acquisition, as R&R policy document recognises, leads to 'involuntary displacement of people, depriving them of their land, livelihood and shelter; restricting their access to traditional resource base, and uprooting them from their socio-cultural environment'. These have traumatic, psychological and socio-cultural consequences on project affected people who are tribals for our purpose here.

These problems called for urgent need of protecting tribal rights and compensating their loss. In view of this a *National Policy on Resettlement and Rehabilitation* for Project Affected Families was formulated in 2003, and it came into force w.e.f. February, 2004. Prior to it several draft policies on rehabilitation and resettlement by the different ministries of the central government were in existence since 1994. But those policies were only drafts and were never placed in Parliament for discussion. A comprehensive policy document in this context is *National Policy on Resettlement and Rehabilitation*, 2007. The main objectives of this Act are to:

- i. minimise displacement and to promote, as far as possible, non-displacing or least-displacing alternatives;

- ii. ensure adequate rehabilitation package and expeditious implementation of the rehabilitation process with the active participation of the affected families;
- iii. ensure that special care is taken for protecting the rights of the weaker sections of society, especially members of the Scheduled Castes and Scheduled Tribes, and to create obligations on the State for their treatment with concern and sensitivity; and
- iv. provide a better standard of living, making concerted efforts for providing sustainable income to the affected families.

PESA, 2006: You will study in Unit-V of this Paper the provisions of the *Panchayats Extension to Schedule Areas (PESA)*, 1996. This is a tribal friendly Act aimed at establishing grassroots governance in Scheduled Areas to safeguard and preserve tribal customs and traditions. The most crucial point in this Act is that it empowers GS/GP, *inter alia*, to (i) prevent alienation of land in the Scheduled Areas, (ii) take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe, and (iii) exercise control over money lending to the Scheduled Tribes.

Forest Acts: In Unit –V of this paper you have studied forest policies prior to FRA, 2006. As you know, in post-colonial India the government enacted National Forest Policy of 1952; the Wildlife Protection Act, 1972 and its amendment in 1991; the Recommendation of National Commission on Agriculture, 1976; Forest Act, 1988 and Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA). The core principle of the Forest Act of 1927 influenced these policies. It is not a surprise to know that the state reinforced centralized control of forests even with its National Forest Policy of 1952. The main focus was on protecting forest resources by restricting access of the tribals and other forest dwellers. At the same time it commercially exploited minor forest produce (MFP).

The Forest Conservation Act of 1980 placed all forests under the control of the central government. The displacement of forest dwellers thus continued. The Wild Life Protection Act of 1972 and its 1991 amendment severely restricted the rights of forest dwellers in wildlife sanctuaries and curtailed their rights in national parks. Forest Act, 1988 was based on sustainable and participatory approaches of forest management. The concept of joint-forest management evolved in this act. While this policy had more people-oriented provisions, its process of implementation was not so. It legitimised the concept of exclusive state ownership of forest. Industrial needs were translated into national needs.

A turning point in the history of forest policy took place with the introduction of Scheduled Tribes and Other Traditional Forest Dwellers Act (or simply Forest Rights Act - FRA), 2006 which came into force on January 1, 2008. You have studied in unit- V of this paper that the FRA provides for restoration of traditional forest rights to forest dwellers across India. it recognises both individual rights to cultivated land in forested landscapes and collective rights to control, manage and use forests and its resources as common property. Undoubtedly the FRA is a fundamental reform in redefining relationship between forest dwellers and the state.

Policy options and PVTGs: Particularly Vulnerable Tribal Groups (PVTGs) are still weaker tribes with the ST category. Equal treatment to all tribes (STs) did not raise the standard of these groups. So the Ministry of Tribal Affairs implements the Scheme of Development under Conservation-cum-Development (CCD) principle consisting of an Annual Plan and a perspective Plan for five years. The scheme is exclusively for of Particularly Vulnerable Tribal Groups (PVTGs). The scheme follows the strategic approach of *Vanbandhu Kalyan Yojana* since 2015 with an aim of socio-economic development of the PTGs in a comprehensive manner. Along with development it also aims at retaining the culture and heritage of the community. The strategy is a habitat development approach through intervene in all spheres of their social and economic life.

Activities for development of PVTGs are essentially need based and strive to optimise utilisation of resources available under various programmes. These include education, health, livelihood and skill development, land distribution, land and agricultural development, animal husbandry, housing & habitat, conservation of culture, the construction of link roads, the installation of non-conventional sources of energy and other innovative activity. Recently, the Ministry focuses on schemes like Tribal Research Institute, Scholarships, Education, State grants, NGO and Livelihood Support is based on a Conservation-cum-Development (CCD) Plan prepared by concerned state governments on the basis of their requirements. The Ministry provide 100 per cent financial assistance through state governments.

Check Your Progress-II

State whether True or False

1. Tribes were self-reliant and self-governing communities during colonial period.
2. During pre-colonial period a few tribes had their kingdom.
3. Criminal Tribes Act, 1871 was for the administration of criminal tribes in India.
4. Yerukulas traditionally traded in salt.
5. People are habitually criminals.
6. Land Acquisition Act,1894 is anti-people.
7. SEZ is a central government zone for tribal development.
8. The principle of eminent domain is at the core of Permanent Settlement Act,1793.
9. CNT,1908 is responsible land alienation in Bihar.
10. Jhum Land Regulation,1947 recognised traditional rights over jhum lands.
11. Criminal Tribes Act,1871 was repealed because it was criminalising the tribes.
12. The Wildlife Protection Act,1972 emphasised on wildlife protection but restricted traditional rights of tribes and forest dwellers.

1.5 Let us sum up

After going through this Unit have learn that

- Tribal development is not a distinct concept. Ordinarily it means development of the tribes through national development agendas.
- As development means (i) progression towards higher consumption and (ii) a better quality of life, tribal development practically refers to government's efforts to provide opportunities and enlarge choices for tribes to achieve the above.
- Tribal development focuses on both economic achievement and cultural safeguards; development through culture.
- Tribes are heterogeneous communities. But tribal development does not present a picture of heterogeneity as it is not tribe specific. Development presents a picture of interaction and integration with national development policies and programmes.
- During pre-colonial period the State did not interfere with tribal affairs. Tribes were more or less self-sufficient and self-governing communities.
- There were very few tribal kingdoms or tribal rulers of the outposts of a kingdom, but their socio-cultural and economic life was governed by traditional norms.
- During colonial period various Acts like Permanent Settlement, 1793, Criminal Tribes Act, 1871, Land Acquisition Act, 1894 and various forest acts intervened in tribal affairs affecting traditional life ways, though in principle the British followed the policy of non-interference. But these acts restricted their traditional rights to livelihood and alienated their lands.
- Tribal areas were not directly administered. Their areas were designated as 'backward tracts', and later as 'excluded' and 'partially excluded' areas.
- In post-colonial period, i.e. in independent India the government strived to correct wrongs done to the tribes during colonial period and social injustice done to them in Indian social hierarchy.
- The government of free India repealed Criminal Tribes Act, 1871 and gradually replaced colonial policies through amendment of acts and introduction of new acts. Acts were enacted to abolish social evils like the practice of bonded labour, untouchability, exploitation, etc. Acts were also enacted to prevent land alienation of the tribals.
- Tribes enjoy constitutional safeguards for their uplift. The Constitution has outlined the provisions within the framework of positive discrimination and affirmative action.
- Tribal development is based on the principle of discriminatory compensation.
- There are purely tribal friendly acts like PESA, 1996 and FRA, 2006. These acts aim at ensuring tribal self-governance, protecting their traditional rights, preventing the incidence of land alienation and abolishing the practice of exploitation through indebtedness.
- There were debates on how to approach tribal development. Three main policy approaches, namely policy of isolation, policy of assimilation and policy of integration were suggested for tribal development.
- The approach of isolation was a product of colonial policy but it was pioneered by Verrier Elwin in 1930s. A.V.Thakkar, G.S.Ghurye and other national leaders along with a few anthropologists were champions of assimilation approach. They were influenced by the spirit of nation building.
- In independent India approach of integration is adopted. This approach is incorporated in five principles enunciated by Nehru. These principles are also called *tribal panchsheel*. Verrier Elwin is also credited for this approach.
- Other approaches adopted for tribal development are *human rights* approach, *planned* approach, *political* approach, *administrative* approach, *voluntary agency*

approach, *religious* approach etc. These approaches are governmental and non-governmental. These are primarily implementation strategies in operation.

1.6 Keywords

<i>Damin-in-koh</i>	a Persian word meaning the skirts of the hills, was the name given to a forested and hilly area of Rajmahal Hills.
Eminent domain:	the right of the government or its agency to expropriate private property for public use with payment of compensation; believes in the principle that public interest is superior to individual interest.
Gm land:	uncultivated “waste” and jungle land under common property resources in Jharkhand referred to as <i>gairmazrua khas</i> or gm land.
Gross domestic product (GDP):	total money value of all the final goods and services produced in a period of time by all the people and companies in the country.
Inter alia:	among other things.
Khuntkhatii:	a traditional institution of land ownership among all the families of the same clan of the Mndas who cleared the forest and made the land cultivable.
Manki:	a traditional administrative system among some tribes in Jharkhand. Among the Hos it refers to a cluster of villages like <i>Bango</i> of the Adis. Manki also refers to the head of the <i>patti</i> which is a group of villages in <i>khuntkhatii</i> area of the Mundas.
<i>Per capita income definition:</i>	average income earned per person in a country in a year; it is calculated by dividing the total <i>income</i> of the country in a year by the number of people in it.
Social capital:	mutual trust and cooperation among members of society to achieve common goal.
Social Cohesion:	a cohesive society displaying characteristics of social inclusion, social capital and social mobility; a cohesive

society works toward the well being of all its members through inclusion; creates a sense of belonging, promotes trust and provides its members opportunity for upward mobility.

Social inclusion: process by which poor, marginalised and weaker sections take advantage of rising global opportunities.

1.7 Probable Questions

Short Answer Questions

1. What do you mean by the idea development? Explain.
2. Mention three objectives of development as outlined by M.P.Todaro.
3. Does development mean economic betterment? Justify your answer.
4. Write a brief not on tribal participation in state formation.
5. Do you think the British followed the policy of isolation? Discuss with reference to various colonial Acts.
6. Distinguish between 'excluded' and 'partially excluded' areas.
7. Do you think colonial policies are responsible for criminal activities of some people and communities? Justify your answer with suitable examples.
8. Discuss the provisions of Criminal Tribes Act.
9. What are the main provisions of Land Acquisition Act, 2013?
10. Examine the consequences of Permanent Settlement Act,1793 on tribal society.
11. Why was not general forest policy of independent India tribe friendly? Examine.
12. Why was it necessary to formulate Resettlement and Rehabilitation Policy? Discuss the objectives of R & R Act,2007.
13. Do you think PESA, 1996 and FRA,2006 are helpful to tribes? Why?
14. Write a short not on the approach to PVTG development.
15. What do you mean by the concept eminent domain? Name a few acts in free India which perpetuated the principle of eminent domain?
16. Why were national leaders concerned about tribal people at the time of independence?
17. What is National Parks approach? Discuss its provisions.
18. On what ground Elwin tried to defend his isolationist approach? Describe.
19. Discuss M.N.Srinivas's stand against the approach of isolation.
20. What do you mean by emotional and political integration?
21. What is *tribal panchsheel*? Mention.
22. On what ground Ghurye criticised isolationist approach of Elwin? Discuss.

Long Answer Questions

1. What is development? What is tribal development? Discuss tribal development with reference to *development as freedom*.
2. Who were the people who resorted to crime? Why? What was the impact Criminal Tribes Act on the so called criminal tribes?
3. Write a note on the conflict between the Paharias and the Santals. Do you think colonial policy is responsible for it? Give reasons to your answer.
4. Critically examine the impact of forest policy during colonial and post colonial India on tribes and other traditional forest dwellers.

5. What were the measures taken in Independent India to prevent land alienation and exploitation of the tribes? Make a critical assessment.
6. Discuss the problems of displacement. What was the status of resettlement and rehabilitation before enactment of R & R Policy, 2007? Make a critical assessment with suitable examples.
7. Critically evaluate colonial land and forest policies and their impact on tribal society.
8. Critically examine isolation approach to tribal development.
9. Compare and contrast between isolation and assimilation approaches to tribal development? Why were both discarded in independent India?
10. Critically examine integration approach to tribal development? Do you think it is superior to isolation and assimilation approaches? Why?
11. Assimilation is a part and parcel of tribal culture in India. Critically examine the statement with suitable examples.
12. Assimilation approach was an opposite alternative of isolation approach. Do you agree? Critically examine A.V.Thakkar's argument in favour of tribal assimilation.
13. Critically examine Elwin's argument in support of *tribal panchsheel*?
14. Write short notes on i. Administrative approach, ii. Political approach, (iii) Human rights approach and (iv) Planned approach to tribal development.
15. Discuss critically the journey of Elwin from isolationist approach to integrationist approach through protectionist stand.

1.8 Answers to Check Your Progress

Check Your Progress-I

1. No, tribal development is not tribe specific.
2. Amartya Sen
3. Nation
4. Political freedoms, economic facilities, social opportunities, transparency guarantees, and protective security
5. GDP means gross domestic product. It is calculated as total money value of all the final goods and services produced in a period of time by all the people and companies in the country.
6. People
7. Development is the sustained elevation of an entire society and social system towards higher level of consumption and better quality of human life.

Check Your Progress-II

- | | | | | |
|-----------|----------|----------|----------|----------|
| 1. False | 2. True | 3. False | 4. True | 5. False |
| 6. True | 7. False | 8. False | 9. False | 10. True |
| 11. False | 12. True | | | |

Check Your Progress- III

1. 31st August. On this date of 1952 the Criminal Tribes Act was repealed.
2. Protected areas to keep the tribals separated.
3. The Government of India Act 1935.
4. (i) to earn revenue within the protected area land
(ii) to create separatist tendency and division between tribals and non-tribals.
5. Etic. Social workers are normally outside the culture of a tribe.
6. Imitation of the tribals to the wider culture and losing own cultural richness
7. Policy of integration.
8. Tribal culture is adaptive to changes
9. Because it was a western concept.

1.9 Further Reading

- Behera, M.C. (ed.) 2018. *Perspectives of Tribal Studies History, Archaeology and Culture, Volume-II* Jaipur: Rawat. IN PRESS.
- Behera, M.C. (ed.) 2019. *Anthropology and Beyond: Emerging Perspectives in Tribal Studies*. Jaipur: Rawat. IN PRESS.
- Behura N.K. 1992. 'Tribal Development-A Critical Review'. In *Adibasi- Journal of the Tribal and Harijan Research-cum- Training Institute, Bhubaneswar* , Special Issue, Vol. XXXII No.4, pp.15-19.
- Chandrasekharan, K.S.1983. 'Forest Policy and Tribal Development'. In *Adibasi- Journal of the Tribal and Harijan Research-cum- Training Institute, Bhubaneswar*, Vol XXIII, No.3, pp.13-31.
- Dube, S. C 1990. 'Approaches to Tribal Development. in L. P Vidyatthi (ed.) *Applied Anthropology*. Allahabad: Kitab Mahal.pp107-112.
- Ekka, A. 2011. *Status of Adivasi/Indigenous Peoples Land Series-4*. Delhi: Aakar Books.
- Elwin V. 1959/1988. *A Philosophy for NEFA*. Itanagar: Directorate of Research, Government of Arunachal Pradesh.
- Elwin, V. 1939. *The Baiga* . London: John Murray.
- Gadgil, Madhav and Ram Chandra Guha 1992. *This Fissured Land: An ecological History of India*. New Delhi: Oxford University Press.
- Ghurey,G.S.1943. *The Aborigines- So Called and their Future*. Poona: Gokhale Institute of Politics and Economics.
- Ghurye G. S 1963. *The Scheduled Tribes*. Bombay: Popular Prakashan.
- Guha, Ramachandra 1996. 'Savaging the Civilised: Verrier Elwin and the Tribal Question in Late Colonial India'. *Economic and Political Weekly*, Vol. 31, No.35-37, pp. 2375-2380,2382-2383 and2385-2389.
- Guha, A. 2005.'Resettlement and Rehabilitation: First National Policy'. *Economic and Political Weekly*, Vol.XL No.46 pp. 4798-4802.
- Handa, Om Chand 2005. *Gaddi Land in Chamba: Its History Art & Culture: New Light on the Early Wooden Temple*. New Delhi: Indus Publishing Company.

- Majumdar, D.N.1937. *A Tribe in Transition A Study in Culture Pattern*. Calcutta/London: Longmans, Green and Co., Ltd.
- Menon, T. Madhava (ed.) 2002. *A Handbook of Kerala*, Vol. II, Dravidian Linguistics Association: Trivandrum.
- Mishra, S.S. and R.P. Athparia 1995. 'Impact of Urbanization on the Karbis of Assam'. pp199-205.
- Nayak, P.K.1999. 'Tribal Development: From "Sport" to "Sonata" to Science'. In *Adivasi-Journal of the SCs & STs Research and Training Institute, Bhubaneswar*, Vol.39, No.1&2, pp.1-11.
- Prasad, C. B. 1970. *Final Report on the Survey and Settlement Operations in the District of Singhbhum, (1958-1965)*. Patana: Government of Bihar.
- Rao, P. Venkata and Hari Charan Behera 2017. 'Agrarian Questions under Neoliberal Economic Policies in India: A Review and Analysis of Dispossession and Depeasantisation'. *The Oriental Anthropologist*, Vol. 17, No. 1, 2017, pp.17-42.
- Rath, G.C.2006. *Tribal Development in India: Contemporary Debate*. New Delhi: Sage.
- Roy S. C 1931. 'The Effects on the Aborigines of Chhotanagpur of their Contact with Western Civilisation. *Journal of Bihar and Orissa Research Society*, Vol. 17.
- Roy S. C 1937. 'The Hill Bhuiyans of Orissa'. *Man in India*, Ranchi, pp.46-57.
- Rustomji, N. (ed).1989/2001. *Verrier Elwin: Philanthropologist*. New Delhi: Oxford University Press.
- Sachidananda 1992. 'Integration of Tribes in Indian Society'. In ISRAA (ed), *Tribal India: Past and Present*. Calcutta: Institute of Social Research and Applied Anthropology.
- Sharma, B.D. 1978. *Tribal Development: The Concept and the Frame*. new Delhi: Sahyog Pustak Kuteer Trust.
- Singh K. S 1982. 'Tribals Transformation: Integration vs. Assimilation'. *Economic and Political Weekly*, Vol. 17, No. 34 , August 21, pp . 1376-1384.
- Singh, Bhupinder 1987. 'Forest Policy and Tribal Developemnt'. In *Adivasi- Journal of the Tribal and Harijan Research-cum- Training Institute, Bhubaneswar*, Vol XXVII, No.1, pp.4-9.
- Srinivas M.N. 1944. 'Review of the Aborigines'. *Journal of the University of Bombay (History, Economics and Sociology)*, New Series, Vol.12, No.4,pp.91-94.
- Upadhyay, Carol 2005. 'Community Rights in Land in Jharkhand'. *Economic and Political Weekly*, Vol.40, No.41, October 8-14, pp.4435-4438.
- Vidyarthi, L. P., Rai B. K. 1976/1985. *The Tribal Culture of India*. New Delhi:Concept Publishing Company.

Unit-II

CONSTITUTIONAL PROVISIONS AND SAFEGUARDS

Structure

- 2.1 Learning Objectives**
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 - 2.4.5 Agency, Administration and Other safeguards**
 - 2.5 Provisions in Acts and Orders**
 - 2.6 Let us sum up**
 - 2.7 Keywords**
 - 2.8 Probable Questions**
 - 2.9 Answers to Check Your Progress**
 - 2.10 Further Reading**
-
- 2.1 Learning Objectives**

After going through this unit you will be able to

- explain constitutional provisions meant to safeguard interest of ST population in India;
- discuss the nature and types of safeguards provided to STs in our constitution;
- know the Articles of the Constitution corresponding to various safeguards;
- understand why there are special provisions for ST communities;
- distinguish between Scheduled and Tribal Areas and between provisions of Fifth and Sixth Schedules;
- identify the states having Scheduled and tribal Areas;
- understand the nature of administration in Scheduled and Tribal Areas of the country;
- explain the functions of the Agency involved in tribal administration and monitoring of tribal affairs at the Centre and in the States;
- understand that special constitutional provisions do not make STS as a special category of citizens in the country;
- find connection between some Acts and articles/constitutional provisions; and

- learn about the Acts and Orders of the governments aimed at tribal safeguards and welfare.

2.2 Introduction

The Constitution of India is a written Constitution because it is an enacted one. It was enacted by the Constituent Assembly constituted for the purpose. In fact it is the longest and most comprehensive among all the written Constitutions of the world. It is a unique document and consists of ethos of modernity and covers the hopes and aspirations of all the sections of Indian population.

In this unit we will discuss various constitutional provisions applied to ST population/citizens of our country. In fact there is no definition of STs in the Constitution itself. In other words Article 342 does not define who is a Scheduled Tribe. But it deals with the mechanism of scheduling tribes. This Article empowers the President to draw up a list in consultation with the Governor of each State, subject to revision by Parliament. The Article also empowers the Parliament to modify the list of Scheduled Tribes by Law. Article 342 reads,

1. 'The President may with respect to any State or Union Territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the tribes, or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union Territory, as the case may be'.
2. 'Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (2) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification'.

You will know that the provisions provided to STs are both general and specific in nature. By general provisions we mean those provisions which are applied to citizens of all social category- STs and others. On the other hand specific provisions refer to those provisions which apply to either STs or both STs and SCs. In this unit we have used the terms ST and tribe interchangeably.

2.3 Constitutional Provisions and Safeguards for Tribes: Nature and Scope

The Constitution of India consist of

- i. Preamble (However, in technical sense Preamble is not considered as a part of the Constitution).
- ii. Parts I to XXV covering Articles from 1 to 395
- iii. Schedules I to XII
- iv. Appendices 1 to 5

All these parts of the Constitution cover diverse themes. But as far as citizens' rights, duties, dignity, etc. are concerned, these are broadly expressed in the Preamble in a trilogy of three commitments- justice, liberty and equality. The first one aims at securing social, economic and political justice. Liberty is secured in thought, expression, belief, faith and worship. Equality guarantees equality both in status and opportunity. These broad and comprehensive provisions of justice, liberty and equality apply to each and every citizen of the country. This trilogy also recognises individual rights and includes provisions to safeguard these rights. In a very simple sense the Constitution has provisions to ensure justice, liberty and equality in the context of citizens and safeguard them.

Originally the constitution contained 395 articles divided in 22 parts and 8 schedules. Now Constitution of India has 448 articles in 25 parts and 12 schedules. New articles are added below original articles with suffix A, B, C etc. We have 448 entries (Articles and Part Articles) grouped under 395 original Articles.

You should not be confused with the terms 'provisions' and 'safeguards'. These are not competing terms; rather these are complementary to each other. To cite an example the Constitution provides for securing 'equality of opportunity' and provisions to protect it. The provisions are safeguards as they protect the interests and prevent anything that might affect these interests.

Now you have understood what does the title of this unit mean. This is a simple way of describing the scope of the Constitution with regard to its commitments to citizens. A detailed study however, will give you deep insights into its ideological base, areas covered, dynamics of provisions, flexibility nature and many other related aspects. As the constitution covers many aspects representing the ethos of modernity, displaying universal characteristics, providing for flexibility to accommodate with changing societal needs and caring to the diversity of the country, it has become bulky in size and is the largest written constitution of the world. B.R. Ambedkar, the Chairman of the Drafting Committee of the Constitution said, ***'Constitution is not merely a lawyer's document, but a vehicle of life and its spirit is always the spirit of age'***, it has to change its laws accordingly in order to meet the needs of changed scenario in the society.

Do You Know?

It took precisely 2 (two) years 11 months and 18 days in the formation of the Constitution of India.

We have discussed that the Constitution of India provides for justice, liberty and equality and safeguards them for its citizens. But the citizens of our country do not present a picture of homogeneity. They present diversity on many counts. One of the bases of this division is social group. Socially, Indian society is divided into two broad groups- caste and tribe. But on the basis of socio-economic conditions the society is administrative categorised into Scheduled Tribes (STs), Scheduled Castes (SCs), Other Backward Castes (OBCs) and General Caste (GCs) groups. As the society is divided along socio-economic criteria, it is but

natural that needs, hopes, capabilities and aspirations of these groups are different. It is not a surprise to read ST and SC communities together as socio-economically disadvantaged social groups.

However, all these categories are bracketed as citizens of the country. This means there must be some commonality in their characters and needs pertaining to humanity in general. As human beings everyone has the right to be treated equally before law and right to protect his/her life and personal liberty. In other words, there are constitutional provisions which apply to all citizens equally irrespective of caste, creed, religion, gender, status, etc.

As we have discussed, all the social groups do not have equal socio-economic status. Obviously, they need different attentions to improve their status further. Those who belong to disadvantageous section need more care and attention than those who are in an advantageous position to come up at par. The Constitution therefore has provisions specific to socially and economically backward groups/communities. You know that STs and SCs do not have adequate representations in the Parliament and in State Assemblies due to socio-economic factors. The Constitution has provisions of reservation of seats in order to give required political representation to these communities in the Legislature. It is now clear to you that some constitutional provisions are meant for two communities of identical level of deprivation.

The inequality may also arise within a social group living in different regions or socio-economic environments. Because of such differences their developmental needs may also differ. As you know the provision of Autonomous Councils is applied to STs within the State of Assam. The Constitution has made this provision under Sixth Schedule. But this provision is not applicable to the tribes living in Fifth Scheduled areas.

By now you must have learnt that the constitutional provisions and safeguards apply to

- i. all citizens irrespective of social category;
- ii. citizens belonging to two or more social categories;
- iii. citizens belonging to a single social category; and
- iv. a section of citizens belonging to a single social category.

So the provisions and safeguards have both general and specific contexts and aims. Through specific aims the Constitution provides for positive discrimination and affirmative action to help raise socio-economic standard of social group(s) who otherwise cannot achieve by themselves if left alone. In this unit, as we have mentioned, you will study constitutional provisions and safeguards meant for STs in view their general and specific needs as the citizens of the country.

By now you must have understood that constitutional provisions are certain safeguards for the protection, socio-economic and political development of Scheduled Tribes. The various safeguards in favour of Scheduled Tribes, as Danda comments (see Vidyarthi,1981) may be broadly divided into two parts, viz.,

1. Protection and
2. Development.

Protection of interests of Scheduled Tribes is very essential for their development.

The protective provisions are contained in Articles 15(4), 16(4), 19(5), 23, 29, 46, 164, 330, 332, 334, 335 and 338, 339 (1), 371 (A), 371 (B), 371 (C), Fifth Schedule and Sixth Schedule. Articles 15 (4), 16 (4) and 19 (5) are exception to the fundamental rights of equality and freedom guaranteed under Part III of the Constitution. Provisions relating to development of Scheduled Tribes are contained mainly in Articles 275 (1) and 339 (2).

The Constitution has provisions to schedule the communities under the category of Scheduled tribes. Scheduling aims at treating the communities with special provisions for their accelerated rate of development and to bring them at par with the rest of the society. The Constitution assigns meaning to the people who are included in the category of Scheduled Tribes. We have already discussed it in section 4.2. By now you know that Article 366 under Part XIX of the Constitution provides qualifications for castes and tribes to be scheduled. In accordance with clause 25 of Article 366, 'Scheduled Tribes, means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution.

Check Your Progress I

Answer each of the following questions in a word or sentence

1. Which Article defines an ST?
2. What is the nature of constitutional safeguards given to Scheduled Tribe population?
3. Which Part of the Constitution is titled Directive Principles of State Policies?
4. Do tribes of Arunachal Pradesh come under Fifth Schedule?
5. What are the purposes of special constitutional provisions for STs?

2.3.1 Why Constitutional safeguards?

Form the above discussion you already know that it is socio-economic backwardness of the STs for which the Constitution provides safeguards for their welfare. The question is why these people are backward?

As you know, the communities which are known as STs mostly lived in primitive conditions in pre-independent India. They were isolated from the so called mainstream life. The British Government in India also kept them in isolation with the policy of 'non-interference'. They were among other weaker sections of Indian society, more vulnerable to economic exploitation. Justifiably, one of our national goals, as was articulated during the national movement and is enshrined in the constitution, is the establishment of an egalitarian society. This entails equity and justice for all sections of the society without any discrimination. Therefore, the Constitution of India provides for a number of safeguards for the weaker

sections in general and scheduled tribes (STs) and scheduled castes (SCs) in particular. In addition to these safeguards, there are laws to bring them at par with the rest of the society.

The social and economic conditions of the people belonging to SCs and STs had been the concern of national leaders. Indeed to Gandhiji, the Father of the Nation, freedom was not a mere political objective, but raising the masses of people from poverty and degradation. The mainstream political and social movements were profoundly influenced by the Gandhian approach as well as relentless struggle by Dr. B. R. Ambedkar, which emphasised the imperative need to transform the economic and social status of poorest of the poor, particularly the STs and SCs. Credit goes to Dr. Ambedkar, Chairman of the Drafting Committee of the Constitution, for incorporation of various safeguards in the Constitution to translate the ideas in to reality.

Apart from the efforts of national leaders and even before the commencement of the Constitution, the government was concerned with the protection of the tribals against exploitation. The Government of India Act, 1935 made special provisions for tribal areas. The Governor was given a special responsibility in respect of these areas. No Act of the Federal or of the Provincial legislature applied to such areas unless the Government so desired.

At the time of the framing of the Constitution of India, the need to have special provisions for the tribals was felt on the three main grounds. These were:

- i. distinct and different tribal social customs, organisations and beliefs;
- ii. the fear of exploitation by the people of plains; and
- iii. the need to make suitable financial provisions so that tribal people could run their run affairs through the local councils.

The Objective Resolution of the Constitution of India was moved by Jawaharlal Nehru in the first session of the Constituent Assembly in December, 1946. It was passed in the second session on January 22, 1947. The resolution mentioned special safeguards for the depressed classes.

Clauses 5 and 6 of the Objective Resolution in fact constituted the foundation of various provisions of the constitution. On this foundation the provisions relating to preamble, fundamental rights, rights of the minorities and compensatory treatment for the backward classes were built up. Clause (5) reads:

‘Wherein shall be guaranteed and secured to all the people of India, Justice, social, economic and political, equality of status, of opportunity, and before the law, freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality’.

This objective declaration was the basis of the provisions laid down in Fundamental Rights. The objective found adequate expression in Article 38 under the Directive principles of State Policies in Part IV of the Constitution. It reads,

‘The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life’.

The Article has dealt with special provisions towards promotion of welfare of the people at large. Obviously, SCs and STs included in it.

Clause (5) had also further provided for weaker section. It reads,

‘Wherein adequate safeguards shall be provided for minorities, backward and tribal areas, and depressed and other backward classes’.

Accordingly, the Constitution of India provides safeguards for Scheduled Tribes and Scheduled Castes and to other socially and economically weaker sections. These safeguards are mainly of

- i. protective and
- ii. ameliorative and concessional in nature.

The first one refers to the Government’s respect for customary laws of the tribes including their rights over lands and forests. This is what A.K. Danda (1981) means ‘protection’. The second one refers to special provisions to improve the socio-economic life of the tribal people. These include the policy of favoured treatment in matters of opportunities and the policy of providing political reservations for overcoming their historically accumulated backwardness. This is covered by the concept of ‘development’ as suggested by Danda (1981).

2.4 Constitutional Provisions and Safeguards

The various safeguards for STs and SCs in the Constitution can be broadly classified under four heads for convenience. These are social, educational and economic, political and other safeguards. The classification is only for convenience. Provisions overlap between the headings. Education is a social provision, but when it relates to reservation for admission and reservation in public employment displays both social and economic contents. Therefore such provisions have been categorised under education and economic heading. A brief outline of these categories is presented as under:

Category	Particulars/ Safeguards	Articles/Schedules of the Constitution
ST as a category	Defining the category for safeguards	266 (25) &342

Social safeguards	Equality before law	14
	Prohibition of discrimination on grounds of caste, race, sex,	15 15(1) 15(2a) & 15(2b)
	Abolition of untouchability,	17
	Protection against exploitation	24
Educational and Cultural safeguards	Educational and cultural safeguards	29, 29 (1), 29 (2)30 ,30 (1), 30 (1a), 30 (1b) & 30 (2)
	Free and compulsory education	21A
	Preferential treatment in education	15(4) & 15(5)
	Language preservation and promotion	350A &350B
	Religious freedom	25, 26, 27 & 28
Political safeguards	Reservation of seats in Lok Sabha, State Assemblies, etc.	330, 330 (1), 330 (2), 330 (3), 332, 243D, 243T, 334 and 371
	Freedom of speech, etc	19, 19(1) &19(5)
Economic safeguards	Equality of opportunity in public employment and promotion of post	16 & 16(4)
	Claim to services, posts, etc.	335 & 320(4)
	Finance provisions	275
Agency, Administration and Other Safeguards	Control & administration of Scheduled Areas	339
	Administration of Tribal and Scheduled Areas	Fifth and Sixth Schedules (Art. 244)
	National Commission for STs	338A
	Ministry of Welfare in State	164(1)
	Special officer for Linguistic minorities	350B
	Provision of Autonomous District Council and Tribal Advisory Council	244 (1) &244 (2)
	Protection of life and property	21
Provision in Directive Principles of State Policy	Promotion of Educational and Economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections; Secure a social order for the promotion of welfare of the people	46,38

These constitutional safeguards protect the interest of Scheduled Tribes and Scheduled Castes in our Country. All these safeguards have apparently been provided to facilitate implementation of the Directive Principles contained in Article 46 of the Constitution. You must know that the declaration made in Clause 5 of the Objective Resolution of the Constitution of India with regard to weaker sections of the society found adequate expression this Article in Part IV of the Constitution. It reads,

‘The State shall promote with special care the educational and economic interest of the weaker sections of the people, and, in particular, of the Schedules Castes and

Scheduled Tribes, and shall protect them from social injustice and all forms of ‘exploitation’.

These safeguards fulfil the trilogy of justice – social, economic and political, as enshrined in the Preamble to the Constitution of the country. The liberty reflects in provisions granting freedom of speech, etc. Equality ensured through provisions of equal opportunity in education employment, etc.

Check Your Progress II

Answer each of the following questions briefly

1. Do we get meaning of ST or the mechanism of scheduling a group under ST category from relevant Articles of the Constitution? Also name the Articles.
2. How many Articles were there in 1949 when the Constitution was adopted? How many Articles are there now? Is there any change? Justify your answer.
3. Why are there Special Provisions in the Constitution for weaker sections including STs?
4. Are social safeguards meant for STs only? Why or Why not?
5. Special constitutional provisions for ST population make them a special category of citizens in the country? Do you agree? Give your reasons.

The Constitution has abolished any type of discriminatory treatment. In addition, it makes various special provisions for the protection of the interests of the Scheduled Tribes and the Scheduled Castes when the general provision is contradicted. These provisions are exempted [Art.15(4)] from the general ban on discrimination on the grounds of race, caste and the like contained in Article 15. In other words, if special provisions are made by the State in favour of Scheduled Tribes and Scheduled castes, other citizens shall not be entitled to impeach the validity of such provisions on the ground that such provisions are discriminatory against them.

A detail of these provisions of safeguards are discussed below:

2.4.1 Social Safeguards

The Constitution provides for equality before law, prohibition of any type of discrimination and practice of untouchability, protection against exploitation to secure social justice.

Equality before law: Article 14 provides for equality before law. It reads, “The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.”

The first part of the Article commands the State not to deny to any person ‘equality before law’. Equality before law means prohibiting discrimination on grounds of religion, race, caste, sex or place of birth, or any of them.

The second part commands the State not to deny the 'equal protection of the laws'. The Article guarantees equal protection within the territory of India. The concept of 'equal protection of the laws' needs an explanation. It requires the State to give special treatment to persons in different situations in order to establish equality amongst all.

Prohibition of Discrimination: Article 15 [15 (1), 15 (2) a & b] deals with prohibition of discrimination on grounds of religion, race, caste, sex or place of birth. It emphasises on the removal of restrictions or conditions with particular reference to (i) access to shops, public restaurants, hotels and places of public entertainment or (ii) use of wells, tanks, bathing ghats, etc. maintained wholly or partly out of State funds or dedicated to the use of general public'

Article 15 (1), 15 (2) a & b reads,

1. 'The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them'.
2. 'No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to
 - a. access to shops, public restaurants, hotels and places of public entertainment;
 - or
 - b. the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of general public'.

Abolition of Untouchability: Article 17 provides for abolition of untouchability in unequivocal terms and declares its practice in any form forbidden. The enforcement of any disability arising out of the practice of untouchability shall be an offence punishable in accordance with law. The Parliament is authorised to make law prescribing the punishment for this offence. In pursuance of Article 17 of the Constitution, the Parliament passed the Untouchability (Offences) Act in 1955. However, it was later felt that the Act was not serving its purpose. Therefore, this Act was amended and renamed in 1976 as the Protection of Civil Rights Act, 1955. The machinery for the enforcement of this Act has been suitably strengthened by the setting up of special cells, special courts, mobile squads, provision of legal aid, etc.

Protection against exploitation: Provisions of Article 23 and Article 24 prohibit human trafficking, forced labour and child labour.

Article 23(1) deal with prohibition of traffic in human beings and forced labour like begar. It reads,

'Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law'.

The human trafficking is the illegal trade in human beings for the purposes of commercial sexual exploitation, prostitution or forced labour. It is the modern form of slavery.

Begar is unpaid forceful labour and considered as modern form of slavery. This system was prevalent during colonial rule. *Begar* is a system in which government (the British Government officers) and *Zamindars* used to compel the persons to carry their goods when they moved from one place to other place and this was a forced labour in which no remuneration was paid.

Bonded labour is a kind of forced labour which is either underpaid or unpaid. In pursuance of this Article, the Parliament passed Immoral Traffic (Prevention) Act 1956 and Bonded Labour System (Abolition) Act 1976 to give legal strength to this constitutional provision.

The Supreme Court of India in *Asiad Workers Case*, 1982 gives the following explanation of forced labour:

‘We are, therefore, of the view that when a person provides labour of service to another for remuneration which is less than the minimum wage, the labour or service provided by him clearly falls within the scope and ambit of the words “forced labour” under Article 23 (of the Constitution of India).’

However, Article 23 (2) gives exemption to the State to make compulsory recruitment of ST population for public purposes, such as military serves only. It reads,

‘Nothing in this article shall prevent the State from imposing compulsory service for public purpose, and in imposing such service in the state shall not make any discrimination of the grounds only of religions, race, caste or class or any of them’.

Similarly, Article 24 prohibits child labour in any factory or mine or in any other hazardous activity. It reads,

“No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.”

Articles 23 and 24 are not ST specific. But it is also significant for Scheduled Tribes as a substantial portion of child labour belonging to Scheduled Tribes is found engaged in factories, mines and other hazardous jobs. These two articles guarantee personal liberty by protecting individuals and children against exploitation.

2.4.2 Educational & Cultural Safeguards

Articles 29 and 30 of the Constitution guarantee educational and cultural safeguards and fall under fundamental rights. These both Articles protect and guarantee certain collective rights for the minorities to help them preserve their language, religion and culture. The Article 29 of the Constitution states that a cultural or linguistic minority has the right to conserve its language and culture. The state cannot, by law, enforce upon them any other culture or

language. The Article 29 of the Constitution states that a cultural or linguistic minority has the right to conserve its language and culture. The state cannot, by law, enforce upon them any other culture or language. However, there are other articles, dealing with language, compulsory education, etc. which also provide for enjoyment of these rights.

Article 29(1) deal with right of any section of the citizens residing in India to preserve their language, script or culture. The Article requires that a section of the citizens, residing in India should have a distinct language, script or culture of its own. If so, then they will have the right to conserve the same. Article 29(2) prohibits discrimination in matters of admission into educational institutions on grounds only of religion, race, caste, language or any of them. This provision guarantees the rights of individual irrespective of the community to which he belongs. You must have understood that the right guaranteed under Article 29 is not restricted to minorities alone. It extends to all citizens whether belonging to majority or minority.

The Article reads,

1. 'Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same'.
2. 'No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them'.

Article 30 provides for the Right of minorities to establish and administer educational institutions. These provisions are also safeguards for ST communities. The Article reads,

1. 'All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice'.

Thus, Article 30 (1) gives the linguistic or religious minorities, but not to other section of the Indian Citizens, the following two rights:

- i) Right to establish, and
- ii) Right to administer educational Institutions of their choice.

It should be kept in mind that Article 30(1) gives right to minority community as such and not to an individual member. However, the right is not absolute. The State can acquire the property of the educational institutions established by the minority communities by making suitable legislation. In this regard Article 30 (1a) reads,

- 1.a In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of

such property is such as would not restrict or abrogate the right guaranteed under that clause.

Article 30(2) is a prohibition against discrimination by the State while granting aid to educational institutions, on the ground that it is under the management of linguistic or religious minority. On the other hand, these educational institutions cannot claim State aid as matter of right. Minority educational institutions are entitled to financial assistance in the same way as other educational institutions. The state is bound to maintain equality of treatment in granting aid to educational institutions whether established by minority or majority communities.

Article 15(4) and Article 15(5) are exceptions to Article 15. Article 15(4) says that, Article 15 shall not prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes. It reads,

‘Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes’.

15(5) reads, ‘Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30’.

Article 29 (2) reads, ‘Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India,] the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence’.

Article 19 (1) (g) of Constitution of India provides Right to practise any profession or to carry on any occupation, trade or business to all citizens subject to Art.19 (6) which enumerates the nature of restriction that can be imposed by the state upon the above right of the citizens

Article 19(6) reads, ‘Nothing in sub clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub clause, and, in particular, nothing in the said sub clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,

- i. the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or
- ii. the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise’.

Article 21(a) provides for free and compulsory education to children, and it was introduced into the Constitution as a fundamental right vide the 86th Amendment Act, 2002. The Article reads,

“The State shall provide free and compulsory education to all children of 6 to 14 years in such manner as the State, may by law determine”

In accordance with the provision of Article 21(a) the Right of Children to Free and Compulsory Education Act, 2009 was enacted.

Along with education provisions to safeguard religion and language rights fall under cultural rights. Religious rights come under fundamental rights and secure freedom of citizens in the matter of professing any religion. The main objective of freedom of religion is to maintain the spirit of secularism in India. Right to freedom of religion, covered in Articles 25, 26, 27 and 28, provides religious freedom to all citizens of India. Out of these, Articles 25, 26 and 28 bear significance for the STs.

Check Your Progress III

State whether True or False

1. Scheduled Caste is a religious category.
2. The Constitution has 8 Schedules.
3. Tribes of Assam come under Fifth Schedule.
4. Part IV of the Constitution deals with Fundamental Rights.
5. Equality before law is a social safeguard.
6. Constitutional provisions for prohibition of discrimination is a Fundamental Right
7. Art.17 prohibits against exploitation.
8. The Constitution of India bars one not to follow any religion of one's own choice.
9. Free and compulsory education is a provision in Article 29.
10. ST community is a minority community.

Article 25 provides for freedom of conscience and free profession, practice and propagation of religion *subject to public order, morality and health*. The condition of public order, morality and health has been put to make it clear that freedom of religion is not absolute. Use of loudspeakers, cracking on Diwali, use of loudspeakers for Ajan has come under scrutiny of Supreme Court.

Article 26 guarantees freedom to manage religious affairs. It gives every religious group a right to establish and maintain institutions for religious and charitable purposes, manage its affairs, properties as per the law. Simply a name attached to a religion if associated with an institution does not come under the provision of Article 26. We can cite the example of the Benaras Hindu University and the Aligarh Muslim University. As both were established under an Act of the

Parliament so no Hindu community claim to run the former and no Muslim community can claim to run the latter as per provisions of Article 26 & Article 29.

In Article 28 you will find freedom guaranteed as to attendance at religious instruction or religious worship in certain educational institutions. As you know Fundamental Rights are meant for all citizens of the country irrespective of any discrimination on any ground. Needless to say these provisions also apply to ST communities.

Chapter IV of Part XVII contains Articles which provide for protection of language and language related topics. The title of Part XVII is Official Language, but Chapter IV commands Special Directives. In this Chapter, Article 350A provides facilities for instruction in mother tongue at primary stage. It reads,

‘It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities’.

Article 350B provides for Special Officer for linguistic minorities. We shall discuss it under the heading Agency, Administration and Other safeguards. It will suffice to say that the main function of the Officer would be to safeguard the interests of the linguist minorities in general and the STs in particular.

2. 4.3 Political Safeguards

The scope of political safeguards is diverse and includes protection of rights pertaining to freedom, reservation of seats and special provisions to various States.

Rights regarding freedom are enumerated as Fundamental Rights in Part III of the Constitution. Article 19 provides for protection of certain rights regarding freedom of speech, etc. The Article has several clauses and sub-clauses. It reads,

- 19 (1) All citizens shall have the right
- (a) to freedom of speech and expression;
 - (b) to assemble peaceably and without arms;
 - (c) to form associations or unions;
 - (d) to move freely throughout the territory of India;
 - (e) to reside and settle in any part of the territory of India; [and]
 - (g) to practise any profession, or to carry on any occupation, trade or business.

The rights enumerated are not absolute. These are subject of certain restrictions in the interests of [the sovereignty and integrity of India or] public order. The State can impose reasonable restrictions. However, certain concessions are also given to STs. In this regard Article 19 clause 5 reads,

‘Nothing in [sub-clauses (d) and (e)] of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe’.

Reservation

Article 330 provides for reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People. It reads

330(1). Seats shall be reserved in the House of the People for -

- a. the Scheduled Castes;
- b. the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam; and
- c. the Scheduled Tribes in the autonomous districts of Assam.

330 (2). The number of seats reserved in any State or Union territory for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State or Union territory in the House of the People as the population of the Scheduled Castes in the State or Union territory or of the Scheduled Tribes in the State or Union territory or part of the State or Union territory, as the case may be, in respect of which seats are so reserved, bears to the total population of the State or Union territory.

330(3). Notwithstanding anything contained in Clause (2), the number of seats reserved in the House of the People for the Scheduled Tribes in the autonomous districts of Assam shall bear to the total number of seats allotted to that State a proportion not less than the population of the Scheduled Tribe in the said autonomous district bears to the total population of the State.

[(3A) Notwithstanding anything contained in clause (3), until the taking effect, under article 170, of the readjustment, on the basis of the first census after the year [2026], of the number of seats in the Legislative Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly of any such State shall be,—

- (a) if all the seats in the Legislative Assembly of such State in existence on the date of coming into force of the Constitution (Fifty-seventh Amendment) Act, 1987 (hereafter in this clause referred to as the existing Assembly) are held by members of the Scheduled Tribes, all the seats except one;
- (b) in any other case, such number of seats as bears to the total number of seats, a proportion not less than the number (as on the said date) of members belonging to the Scheduled Tribes in the existing Assembly bears to the total number of seats in the existing Assembly.]

[(3B) Notwithstanding anything contained in clause (3), until the re-adjustment, under article 170, takes effect on the basis of the first census after the year [2026], of the number of seats in the Legislative Assembly of the State of Tripura, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly, shall be, such number of seats as bears to the total number of seats, a proportion not less than the number, as on the date of coming into force of the Constitution (Seventy second Amendment) Act, 1992, of members belonging to the Scheduled Tribes in the Legislative Assembly in existence on the said date bears to the total number of seats in that Assembly.]

Art.332 provides for reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States. It reads,

Art.332 (1). Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, except the Scheduled Tribes in the autonomous districts of Assam, in the Legislative Assembly of every State.

Art. 332 (2). Seats shall be reserved also for the autonomous districts in the Legislative Assemble of the State of Assam.

Art.332 (3). The number of seats reserved for the Scheduled Castes or the Scheduled Tribes in the Legislative Assembly of any State under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved bears to the total population of the State.

Art.332 (4) The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly

a proportion not less than the population of the district bears to the total population of the State.

Art.332 (5) The constituencies for the seats reserved for any autonomous district of Assam shall not comprise any area outside that district.

Art.332 (6) No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district:

[Provided that for elections to the Legislative Assembly of the State of Assam, the representation of the Scheduled Tribes and non-Scheduled Tribes in the constituencies included in the Bodoland Territorial Areas District, so notified, and existing prior to the constitution of the Bodoland Territorial Areas District, shall be maintained.

Article 243D provides for reservation of seats of in Panchayats. It reads,

1. Seats shall be reserved for-
 - a. the Scheduled Castes; and
 - b. the Scheduled Tribes, in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.
2. Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.
3. Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.
4. The offices of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide:

Provided that the number of offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in the Panchayats at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State:

Provided further that not less than one-third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women:

Provided also that the number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.

5. The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.
6. Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

Art. 243T provides for reservation of seats in Municipalities.

1. Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.
2. Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.
3. Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.
4. The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.
5. The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.
6. Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.

Art. 334 required that provides for 10 years period for reservation. *Originally, it granted 10 years time period of reservation for SCs and STs to be terminated in 1960.* But this period did not serve the purpose of reservation. So the period was further extended to 1970, then to 1980, 1990, 2000 and 2010. But the 95th Amendment has further extended the period of reservation to 2020.

Art. 371 contains special provisions in respect of NE States and Sikkim. Other provisions applicable in specific states

- Article 371A has special provisions with respect to the State of Nagaland.

- Article 371B has special provisions with respect to the State of Assam.
- Article 371C has special provisions with respect to the State of Manipur.
- Article 371F has special provisions with respect to Sikkim.
- 371G Special provision with respect to the State of Mizoram.
- 371H Special provision with respect to the State of Arunachal Pradesh.

2.4.4 Economic Safeguards

Economic safeguards include reservation in public employment, claims in appointments to the services and protection of exploitations. We have already discussed relevant safeguards to protect against exploitation under social safeguards.

Article 16. Equality of opportunity in matters of public employment

1. There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
2. No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.
3. Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.
4. Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.
 - A. Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

Unequivocally, Article 16(4A) of the Constitution permits reservation in promotion posts for the SCs/STs who are not adequately represented.

- B. Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the

vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent reservation on total number of vacancies of that year.

Article 335. Claims of Scheduled Castes and Scheduled Tribes to services and posts

The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State:

‘Provided that nothing in this article shall prevent in making of any provision in favour of the members of the Scheduled Castes and the Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State’.

The main focus of Article 335 of the Constitution is the requirement of the state to acknowledge the claims of the SCs/STs while 'making appointments to posts and services'. However, Article 335 also states that the acknowledgement of such claims shall be consistent with the considerations of efficiency. The article primarily speaks of reservation in services.

How best effect can be given to this provision of the Constitution is also mentioned in the Constitution itself. In this context you should know that the consultancy function of Public Service Commission is restricted in order to provide preferential treatment to STs SCs, etc. to realise the provisions of Article 16(4) and Article 335. This provision is enumerated in Article 320(4). It reads,

‘Nothing in clause (3) shall require a Public Service Commission to be consulted as respects the manner in which any provision referred to in clause (4) of article 16 may be made or as respects the manner in which effect may be given to the provisions of article 335’.

Presently, there is a reservation of 7.5 per cent for the STs in all the posts under the control of the Central Government and Central Public Sector Undertakings. Similar reservations have also been provided in the posts and services under the State Governments/Union Territory Administrations. The percentage of such reservation, which has been kept in the proportion to the population of these communities, varies from state to state. Reservations also have been provided in posts filled in by promotion. As a result of the implementation of the reservation policy, there has been a considerable increase in the representation of Scheduled tribes in various posts and services under the Central Government.

Finance safeguard

Economic safeguard also includes financial grants to states for the development of STs. Article 275 under Finance, Property, Contracts and Suits of Part XII of the Constitution deals with grants from the Centre to certain States. This makes provision for payment from consolidated Fund of India as grants-in-aid to enable a State to meet the costs of approved schemes of the Union Government to promote welfare of the Scheduled Tribes of the State. There is also provision for payments to raise the level of administration of the Scheduled Areas therein to the level of the administration of the rest of the areas of the state.

Welfare schemes having bearing on Scheduled Tribes are post-matric scholarships scheme, book bank scheme, pre-matric scholarships, assistance for Research and Training and pre-examination training centres for various competitive examinations. Grants-in-Aid are given to specified States (STs & SCs) covered under Fifth and Sixth Schedules of the Constitution according to the provisions of Article 275.

2.4.5 Agency, Administration and Other safeguards

This means Agency for monitoring safeguards. We may consider National Commission, Ministry and provisions for administration of tribal areas.

Agency

Article 338A provides for instituting a National Commission for Scheduled Tribes. The Article defines its composition, appointment of Chairperson and other members and the function it would perform for the cause of the STs. It is primarily an advisory Body. It is concerned with broad issues of policies and aspects and levels of development of Scheduled Tribes. The main objective of constituting a National Commission is to report to the President of India upon the administration of tribal areas in general and the provision of educational and medical facilities, etc. in these regions in particular. The Article reads,

- (1) There shall be a Commission for the Scheduled Tribes to be known as the National Commission for the Scheduled Tribes.
- (2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may be rule determine.
- (3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.
- (4) The Commission shall have the power to regulate its own procedure.
- (5) It shall be the duty of the Commission—
 - (a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under this Constitution or under any other law for the

- time being in force or under any order of the Government and to evaluate the working of such safeguards;
- (b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Tribes;
 - (c) to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State;
 - (d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
 - (e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Tribes; and
 - (f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.
- (6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.
- (7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.
- (8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely: —
- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
 - (b) requiring the discovery and production of any document;
 - (c) receiving evidence on affidavits;
 - (d) requisitioning any public record or copy thereof from any court or office;
 - (e) issuing commissions for the examination of witnesses and documents;
 - (f) any other matter which the President may, by rule, determine.
- (9) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes.]

Article 164(1) provides that in the States of Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.

In addition to Ministry of Tribal Welfares in different states (also in states not mentioned in Art.164 (1)), there is also the Ministry of Tribal Affairs at the centre. Before its formation in 1999, tribal affairs were handled by different Ministries at different points in time. This Ministry was set up after the bifurcation of Ministry of Social Justice and Empowerment in 1999. It undertakes activities that follow from the subjects allocated under the Government of India (Allocation of Business) Rules, 1961 and amendment(s) thereafter. The subjects allocated to the Ministry of Tribal Affairs are as under:

- Social security and social insurance to the Scheduled Tribes;
- Tribal Welfare: - Planning, project formulation, research, evaluation, statistics and training;
- Promotion and development of voluntary efforts on tribal welfare;
- Development of Scheduled Tribes
- Scheduled Areas
- Monitoring of Tribal Sub-Plan, based on the framework and mechanism designed by NITI Ayog and The National Commission for Scheduled Tribes.
- Implementation of the Protection of Civil Rights Act, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, excluding administration of criminal justice in regard to offences in so far as they relate to Scheduled Tribes.

The Ministry covers all tribal people and all areas with tribal population across the country. The main objective is to provide focused approach on the integrated socio-economic development of the Scheduled Tribes (STs) in a coordinated and planned manner.

You must know that the Ministry is a nodal agency for overall policy, planning and coordination of programmes of development for the Scheduled Tribes. But with regard to sectoral programmes and schemes of development of these communities each Central Ministry/Department will be the nodal Ministry or Department concerning its respective sector. Policy, planning, monitoring, evaluation etc. and their coordination will be the responsibility of the concerned Central Ministries/ Departments, State Governments and Union Territory Administrations.

As we have discussed, Article 350B of the Constitution provides for Special Officer for safeguarding the interests of linguistic minorities. The Article reads,

350B (1) 'There shall be a Special Officer for linguistic minorities to be appointed by the President'.

350B (2) 'It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under this Constitution and report to the President upon those matters at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament, and sent to the Governments of the States concerned'.

Administration

Article 339 outlines control of the Union over the Administration of Scheduled Areas and the welfare of Scheduled Tribes. The Article reads,

339(1). 'The President may at any time and shall, at the expiration of ten years from the commencement of this Constitution by order appoint a Commission to report on the administration of the Scheduled Areas and the welfare of this Scheduled Tribes in the States The order may define the composition, powers and procedure of the Commission and may contain such incidental or ancillary provisions as the President may consider necessary or desirable'.

339(2) . 'The executive power of the Union shall extend to the giving of directions to a State as to the drawing up and execution of schemes specified in the direction to be essential for the welfare of the Scheduled Tribes in the State.'

However, the administrative provisions of Scheduled and Tribal Areas have been elaborated in Article 244. As you know in many states, there are STs living within the 'Scheduled Area'. Of course here are some tribal groups who reside outside the Scheduled Areas. These groups also attract equal constitutional obligation in so far as their welfare and general development are concerned. Article 244 under Part X of the Constitution of India pertains to the administration of Scheduled and Tribal Areas.

Article 244, Clause(1) contains provisions of Fifth Schedule. These provisions shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State other than the states of Assam, Meghalaya, Mizoram and Tripura which are covered under Sixth Schedule.

Article 244, Clause (2) contains provisions of Sixth Scheduled. These provisions shall apply to administration of the tribal areas in the state of Assam, Meghalaya, Mizoram and Tripura.

The Fifth Schedule makes provision for establishment of Tribal Advisory Councils (TACs), and for examining applicability of laws to the Scheduled Areas, delineation of boundary of the Scheduled Areas and making amendment of the Schedule as such. Broadly speaking, the Fifth Schedule contains provisions regarding the administration and control of Scheduled Areas and Scheduled Tribes. There are ten states with Scheduled Areas viz. Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan and Telangana. These States have established Tribal Advisory Councils (TACs). Besides, two more states namely, Tamil Nadu and West Bengal, which do not have any Scheduled Areas, also have established statutory TACs). In total, twelve states of the country till date have established TACs. The Governors of these ten States have special responsibilities and powers. They have the power to make regulations

for the peace and good governance of any Scheduled Area, particularly for the following reasons:

- i. to prohibit or restrict the transfer of land by or among members of the Scheduled tribes;
- ii. to regulate the allotment of land to members of the Scheduled Tribes; and
- iii. to regulate the carrying on of business as money-lender by persons who lend money to members of Scheduled tribes of such area.

Sixth Schedule contains provisions relating to the administration of the tribal areas in the states of Assam, Meghalaya, Mizoram and Tripura. Some of the important features of the Sixth schedule are as under:

- i. There shall be a district council for each autonomous district.
- ii. There shall be a separate regional council for each area constituted as autonomous region under sub-paragraphs (2) of paragraph (1) of this schedule.
- iii. Autonomous Council shall have powers to make laws on a variety of subjects, i.e. land, forest, shifting cultivation, village or town administration including village or town police and public health and sanitation, inheritance of property, marriage and divorce and social customs.
- iv. The District Council of an autonomous district may make regulations for regulation and control of money lending or trading within the district by person other than Scheduled tribe residents in the district.

The provisions to protect the autonomy of tribal areas have been made in conformity with the constitutional provisions. These are as follows:

- i. to create District Council for Autonomous Tribal districts;
- ii. to give administrative and legislative powers to district;
- iii. to provide for the non- application of the laws of the States to these areas unless the District Council so desires; and
- iv. to empower the Governor not to apply an Act of Parliament or of legislature of the State to an Autonomous District.

Other safeguards

These safeguards include provisions which are general in nature, say equality before law. For example Article 21 lays down that no person shall be deprived of his life or personal liberty except according to procedure established by law. Similarly, Article 300A lays down that no person shall to be deprived of property save by authority of law. The point is that the safeguards applicable to all citizens irrespective of caste, sex, creed, race, etc. are also applicable to members ST communities. As you know the Constitution has empowered the Supreme Court (Art.32) and High Court (Art.226) to issue writs including writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *quo-warranto* and *certiorari* for the enforcement of Fundamental Rights.

A writ is a formal written order issued by a Court. In India any warrant, orders, directions, etc. issued by the Supreme Court or the High Court are called writs.

As writ provisions are meant for each and every citizen of the country they are not mentioned as constitutional provisions and safeguards for STs. However, they are as much important for the STs as for the other citizens. That is why it is indicated so that confusion may not arise about their applicability for the STs who enjoy special privileges.

Awareness and information are prerequisites of claiming safeguards. As provisions specific to tribes and other weaker sections are mentioned, so also a few cases which apply to all citizens. It is in this context five important writs are discussed.

1. Writ to habeas corpus

Habeas corpus is a Latin term, which literally means 'you may have the body'. This writ is designed to protect a citizen from unlawful arrest or detention. For example, when a person is detained without trial, the court can ask the government or detaining authority to produce him/her before the court so that the court can examine whether the person is lawfully detained or not. The primary purpose of this writ is (i) to preserve liberty of a person who is confined without legal justification and (ii) to secure release from confinement of a person unlawfully detained.

2. Writ of mandamus

The Latin word *mandamus* implies 'we order'. It means an order, which commands a person or authority to do which is his/her or its duty to do. Usually, it is an order directing the performance of ministerial acts. For example a licensing officer is obliged to issue a license to an applicant if the latter fulfils all the required conditions for the purpose. In case the licence is not issued the court issues *writ of mandamus*. The main objective of this writ is to enforce the performance of public duties.

3. Writ of prohibition

This is a judicial writ issued out of a court of superior jurisdiction and directed to the lower court. Its purpose is to prevent the lower court from usurping a jurisdiction with which it is not legally competent. In other words, it attempts to compel courts entrusted with judicial duties to keep themselves within the limits of their jurisdiction.

4. Writ of Certiorari

Certiorari is an old prerogative writ, which orders the removal of a case from a lower court to a higher court.

5. Writ of quo-warranto

Literally the word *quo-warranto* means 'by what order'. The writ of *quo-warranto* is issued to prevent illegal assumption of any public officer or usurpation of any public office by anybody till the court has decided the matter. Suppose a person who is below

18 years of age is appointed in any government post. The court can declare him/her unfit and the post vacant as he/she is under aged.

In addition to these general provisions of safeguards there are safeguards of STs' interest through various schemes which the government implement. Such schemes are formulated keeping in view the constitutional provisions. We will discuss here schemes related to education and five year plans for tribal development in brief.

Safeguards and Schemes for Educational Development of Scheduled Tribes in India

Over the years, there is a spectacular change in educational scenario of the STs. This has been the outcome of interventions of welfare government. The government has adopted and implemented various schemes and programmes in this direction. As has been said there are constitutional provisions to safeguard the educational interest of the tribal students. Articles 46, 15(4), 16(4), 29(1) and 350 have provisions to promote, facilitate, financially assist, and safeguard the educational interests of the tribes. On the basis of these provisions various schemes and programmes have been adopted to realise educational objectives since Independence. Many new schemes have been added to the old ones to address emerging problems faced by ST children to pursue education. Some of them are discussed below:

Umbrella Scheme for Education of Tribal Children: The Umbrella Scheme subsumes related Centrally Sponsored Schemes. It has two components. Component one is to provide critical gap filling in the area of infrastructure. Component two is Scholarship to enable ST children from pre-matric stage to the highest level of education through appropriate and adequate financial support. The Umbrella Scheme subsumes following existing schemes of the Education Division of the Ministry of Tribal Affairs.

- i. Establishment and strengthening of Ashram Schools.
- ii. Establishment and strengthening of Hostels
- iii. Vocational Training in Tribal areas
- iv. Pre-Matric Scholarships
- v. Post-Matric Scholarships

Establishment of Ashram Schools in Tribal Sub-Plan Areas (1990-91): The main objective of the scheme is to promote and extend educational facilities in tribal areas on the pattern of the old gurukul type of education. This is a Centrally Sponsored Scheme on a cost sharing basis between the Centre and the States. However, Central Government provides 100% central share for construction of all Girls' Ashram Schools and also for construction of Boys' Ashram Schools in Left Wing Extremist affected areas (identified by Ministry of Home Affairs from time to time). For the Boys' Ashram Schools other than those mentioned above, funding to State Government is on 50:50 basis.

Construction of Hostels for Girls and Boys (1989-90): The main objective of the scheme is to promote literacy among tribal students by providing hostel accommodation to those tribal students who are not in a position to continue their education either because of the remote location of their villages or because of their poor economic condition.

Vocational Training in Tribal Areas (1992-93): The scheme is equally applicable to tribal boys and girls. The main aim of the scheme is to develop the skills of the tribal youth to enable them to get employment or become self employed. It aims to improve their socioeconomic condition by enhancing their income.

The Pre Matric Scholarships Scheme: The scheme of Pre Matric Scholarship for needy Scheduled Tribes children studying in classes IX and X was introduced with effect from 1.7.2012. It has the twin objectives of supporting parents of Scheduled Tribes students for education of their wards studying in classes IX and X. The first objective is to minimise the incidence of drop out, especially in transition from the elementary to secondary and during secondary stage of education. The second one is to improve participation of ST students in classes IX and X of Pre-Matric stage, so that they perform well and have a better chance of progressing to Post-Matric stages of education.

The Post Matric Scholarships Scheme (PMS) (1944-45.) The objective of the scheme is to provide financial assistance and access to the latest books to Scheduled Tribes students studying at post matriculation levels to enable them to complete their education. In this scheme the scheme of Upgradation of Merit, which was operating earlier, has been merged during Tenth Five Year Plan. The objective of the scheme is to provide remedial and special coaching to ST students in classes IX to XII, and also to provide special coaching to prepare students for entry into professional courses.

Rajiv Gandhi National Fellowship (RGNF) (2005-06). The objective of the scheme is to provide fellowships in the form of financial assistance to students belonging to the Scheduled Tribes to pursue higher studies such as M.Phil and Ph.D.

Setting up Educational Complexes in Low Literacy Pockets for the Development of Women's Literacy (1993-94): The primary objective of the scheme is promotion of education among tribal girls in the identified low literacy districts of the country. The scheme also aims to improve the socio-economic status of the poor and illiterate tribal population through the education of women.

Top-Class Education Scholarship Scheme (2007-08.): The scheme provides for full tuition fees for Government Institutions & non-refundable dues for private institutions: ceiling of Rs.2 lakh per student per annum plus other allowances if applicable. The objective of the scheme is to encourage meritorious ST students for pursuing studies at degree and post degree level in any of the selected list of institutes, in which the scholarship scheme would be operative.

Book Bank Scheme: Many ST students selected in professional courses like medical, engineering find it difficult to continue their education for want of books on their subjects. For them the books are often expensive. In order to reduce the dropout rate of ST students from professional institutes/universities, funds are provided for purchase of books under this scheme.

National Overseas Scholarship Scheme for Higher Studies Abroad: This is a Non-Plan Scheme, which is in operation since 1954-55. The objective of the Scheme is to provide assistance to the ST students selected for pursuing higher studies (Masters, Doctoral and Post-Doctoral level) in certain specified fields of Engineering, Technology and Science only.

Policy of reservation in educational institutions and other facilities

There is a reservation of 7.5 per cent for the Scheduled tribes in the matter of admission in all the educational institutions which come under the administrative control of the MHRD (Ministry of Human Resource Development) and other central Ministries. Similar reservations have also been provided by the State governments and the Union territory administrations. The Universities with the exception of a few have also provision for suitable educational facilities like scholarships/stipends, books, stationary, etc. which you already know.

Check Your Progress IV

Rewrite each of the following sentences by correcting the underlined portion

1. Art.46 is an Article under Part III of the Constitution.
2. Art.15 provides for abolition of untouchability.
3. Prohibition of human trafficking is a political safeguard.
4. Art. 29 provides for the Right of minorities to establish and administer educational institutions.
5. Art.350 under Chapter VI of Part XVII provides for instructions in mother tongue at primary level.
6. ST citizens have Right to Freedom of speech, expression, etc.
7. Art.332 provides for reservation of seats for SCs and STs in Lok Sabha.
8. Art.243D provides for reservation of seats in Municipalities.
9. Art.335 of the Constitution provides for finance safeguards.
10. Ministry of Tribal Affairs has been set up according to the provisions of Art.338A.

2.5 Provisions in Acts and Orders

There are a number of laws, both Central and State, which provide safeguards for Scheduled Caste and Scheduled Tribes. Some of these emanate from various constitutional provisions.

Provisions in laws are protective, ameliorative and concessional in nature. It is to be mentioned that STs have been exempted from the Hindu Succession Act, 1956; Hindu Adoption Act, 1956 and Hindu Marriage Act, 1956. Therefore, the customary marriage and succession rules of Scheduled Tribes have remained largely untouched. Tribal land rights have been protected by recognising their traditional rights over it, and restricting alienation of the tribal land. Most of the State Governments have also taken executive and legislative measures in order to protect tribal lands.

As you know, to secure social justice effectively by abolishing untouchability, Untouchability (Offences), Act of 1955 was amended in 1976 and renamed as Protection of Civil Rights Act, 1955. You know that in our Indian social structure STs and SCs have been traditionally considered untouchables. The Act secures their human dignity and provides social justice by abolishing the practice of untouchability. It provides penalties for preventing a person, following the practice of untouchability, from entering a place of public worship and offering prayers or taking water from a sacred tank, well or spring.

Legislative and executive measures have been adopted for the members of the SCs and STs by reserving seats for them in local bodies such as Zila Parishads, Panchayats, etc. in different States. In addition to reservation in services, various States as well as the Central Government have also granted concessions in age, qualifications, rate of fees, etc. The Government of India has also accepted the conventions and recommendations of the International Labour Organisation dealing with protection and integration of tribal communities. In addition, there are Acts like Bonded Labour System Abolition Act, 1976; the forest conservation Act, 1980; the Child Labour (Prohibition and Regulation) Act, 1986, The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989; Minimum Wages Act, 1948; etc. which have bearings in safeguarding the interests of tribals.

There are two tribal friendly central Acts dealing with their governance and accessing to forest based livelihood. The first one is *The Provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996* or *PESA, 1996* and the second one is *The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006* or shortly *FRA, 2006*. The PESA is a law enacted by the Government of India for people living in the Scheduled Areas of India. The law mainly aims at ensuring self governance through traditional Gram Sabhas. The act empowers the tribes in Scheduled Areas to safeguard and preserve their traditions and customs, cultural identity, community resources and customary practices of dispute settlement through traditional Gram Sabha. Provisions in FRA, 2006 secures the rights of forest-dwelling communities to land and other resources, which they were denied of over decades as a result of the continuance of colonial forest laws in the country. You will read about these two Acts in Unit-V of this course.

Land Acquisition Act, 2013, the short name of '*The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013*' aims at repealing the draconian 1894 Act enacted by the British. This Act '*The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement*

(Amendment) Bill 2015, also known as *Land Bill 2015* has been passed by the Lok Sabha on March 10, 2015. The new Land Acquisition Act has a comprehensive chapter recognising assertion of the rights of land owners belonging to scheduled castes or scheduled tribes. It gives special protection to land belonging to SC/ST communities. In this regard, it makes it very clear that such land should not ordinarily be acquired; it should only be acquired as a demonstrable last resort. In other words, cogent and compelling reasons must be shown for the acquisition of such land. In such cases also the acquisition must only be done with the consent of local institutions of self-governance including any autonomous council that might be in existence.

During first week of August,2018 *The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2018* was introduced which aimed at amending The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act,1989. The Bill has been passed in both the Houses of the Parliament. This Act has tremendous bearings on social justice for the members of SC communities. The Act prohibits the commission of offences against members of the Scheduled Castes and Scheduled Tribes and establishes special courts for the trial of such offences and the rehabilitation of victims.

The Act is important because it states that the investigating officer will not require the approval of any authority for the arrest of an accused. Further, it provides that a preliminary enquiry will not be required for the registration of a First Information Report (FIR) against a person accused under the Act. The Act also states that persons accused of committing an offence under the Act cannot apply for anticipatory bail.

Scheduled Areas are areas identified by the Fifth Schedule of the Constitution of India.

As you know Article 46 of the Constitution clearly lays down the responsibility on the State to protect the Scheduled Tribes from Social Injustice and all forms of exploitation. But the Fifth Schedule of the Constitution empowers the Governor of a state to regulate the business moneylenders in Scheduled areas. In pursuance of this provision various state governments have promulgated and enacted various Laws and Acts. Some of these laws to control money lending, debt redemption and abolition of debt bondage in different states are as follows:

11. The Andhra Pradesh Scheduled Areas Moneylenders Regulation, 1963.
12. The Agency Debt Bondage Abolition, 1964.
13. The Assam Moneylenders Regulation, 1968.
14. The Bihar Moneylenders (Regulation of Transaction) Act, 1939.
15. The Bombay Agricultural Debtors Relief At, 1947.
16. The Kerala Money lending Act,1958.
17. The M.P. Anusuchit Jan Jati Rini Sahayata Act, 1966.
18. The Madras Indebted Agriculturists (Repayment of Debt) Act, 1955.
19. The Mysore Pawn Brokers Act, 1961.

20. The Orissa Moneylenders (Application of Certain Provisions) Regulation, 1950.
21. The Rajasthan *Sagri* System Abolition Act, 1961.

With the enactment of several of anti-money lending Acts and their implementation in tribal areas, money lending activities by private money lenders have been checked to some extent. Co-operative institutions, Regional Rural Banks and SHG groups have started providing loans in tribal areas.

In addition to these acts and regulations, there are a number of executive orders issued by the Government of India or the State Governments which are not covered by constitutional safeguards or the Acts mentioned above. These orders provide safeguards to Scheduled Castes and Scheduled Tribes to protect their interests. For instance in pursuance with the constitutional provisions of service safeguards, the Government of India has issued a large number of orders for reservation of seats for SCs and STs in services for posts both in recruitment and promotion.

All the constitutional safeguards are in the nature of social safeguards, economic safeguards, education and cultural safeguards, political safeguards and service safeguards. In spite of these safeguards, several SC and ST communities in different parts of the country continue to suffer from economic disabilities and from such practices as untouchability in one form or the other. Literacy rate is still low among the tribals and dropout rate very high. This demands a stronger political will and social commitment so that Constitutional safeguards achieve the desired goals.

Five-year Plans and safeguard of economic interests

Following constitutional provisions, measures have been undertaken since First Five Year Plan for educational, social and economic development of the Scheduled tribes. The development programmes were formulated in an adhoc manner without proper perspective. Until Fourth Five year Plan, the special programmes for the SCs and STs were undertaken only under 'Backward Classes Sector'. The new strategy for the integrated development of the Scheduled tribes through Tribal Sub-Plan concept was adopted during the Fifth Five Year Plan. Under this strategy funds are earmarked from out of Central and State Plans in proportion to population percentage of Scheduled tribes. This provision is primarily meant for Fifth Schedule Tribal Areas. In tribal states like Arunachal Pradesh tribal development is envision through general plan programmes. You will read details about tribal development during plan periods in Unit-II of this course.

Check Your Progress V

Fill in the blanks choosing correct answer from the racket.

1. The Constitution of India is a-----Constitution. (written/ half written and half unwritten).
2. The Constitution contains ---original Articles (395/448).
3. Special constitutional safeguards for STs are in the nature of ---treatment (compensatory/biased).
4. Claims to services, posts, etc. fall under --- category (political safeguards/economic safeguards).
5. *Begar* is a practice of ---- (exploitation/unemployment).
6. Art.30(1) gives right to ----- to establish educational institutions (minority community/minority individuals).
7. Art.371 contains provisions in regard of ----- (North Eastern States and Sikkim/Kashmiri and Union Territories).
8. ----- looks after welfare of tribes in different states (Ministry of Tribal Affairs/Ministry of Welfare).
9. ----- come under Fifth Schedule (Scheduled Areas/Tribal Areas).
10. ----- is a set up according to the provisions of the Sixth Schedule (Tribal Advisory Council/ Autonomous District Council).
11. ---- deals with the provision of writ petition (Right to Constitutional remedies/Right to Equality Before law)

2.6 Let us sum up

In this unit you have learnt that

- ST is a social category carved out of Indian society on the ground of socio-economic backwardness according to the provisions of our Constitution.
- Because of economic backwardness the Constitution provides safeguards in order to raise their standard at par advanced social category.
- Safeguards mean to secure justice, liberty and equality of opportunity for members of ST communities who have suffered historical injustice due to traditional social structure of the country.
- Safeguards have been discussed under the following heads: Social Safeguards; Educational & Cultural Safeguards; Political Safeguards; Economic Safeguards; and Agency, Administration and Other safeguards.
- Provisions of social safeguards have been laid down in Articles 14, 15, 15(1), 15(2a), 15(2b), 17 and 24.
- Articles 15(4), 15(5), 21A, 25, 26, 27, 29, 29 (1), 29 (2) 30, 30 (1), 30 (1a), 30 (1b), 30 (2), 28350A and 350B have provisions to safeguard educational and cultural interests of the STs.
- Political safeguards are secured under the provisions laid down in articles 19, 19(1), 19(5) 330, 330 (1), 330 (2), 330 (3), 332, 243D, 243T, 334 and 371.
- Articles 16, 16(4), 335. 320(4) and 275 are concerned with economic safeguards.
- Besides these articles there are Acts and Orders to safeguard tribal interests.

- Important ones are PESA,1996; FRA,2006 and Land Bill,2015.
- The special safeguards also express through policy frame of five year plans.
- Special provisions and safeguards do not make STS a special category of citizens.
- So tribals also enjoy general provisions meant for all citizens of the country in addition to special safeguards.
- Part III of the Constitution gives certain fundamental rights which are common to all the citizens of India including minorities. These rights are enshrined in -
 - i. **Article 14:** This ensures equality before law and equal protection of law.
 - ii. **Article 15:** This prohibits discrimination on any ground i.e. religion, race, caste, sex, place of birth.
 - iii. **Article 21:** No person shall be deprived of his life or personal liberty except the procedure established by law.
 - iv. **Article 25:** This ensures freedom of conscience and the right freely to profess, practice and propagate religion.
 - v. **Article 26:** This ensures a right to manage religious institutions, religious affairs, subject to public order, morality and health.
 - vi. **Article 29:** Gives minorities a right to conserve their language, script or culture.
- For the purpose of administration tribal habitations have been categorised as Scheduled Areas and Tribal Areas.
- Scheduled Areas and Tribal Areas are administered according to the provisions of Fifth and Sixth schedules of the Constitution.
- The institution of self-governance in Scheduled Areas is Autonomous District Council and in Tribal Areas it is Tribal Advisory Council.
- There are National Commission for STs and Ministry of Tribal Affairs at the Centre and Ministry of Tribal Welfares in States to control and administer tribal affairs.
- Ministry of Tribal Affairs is a nodal agency for overall policy, planning and coordination of programmes of development for the Scheduled Tribes.
- But sectoral programmes and schemes of development of these communities are looked after by each Central Ministry/Department as the nodal Ministry or Department respectively.

2.7 Keywords

Affirmative Action: Action (not simple idea) in favour of those who tend to suffer from discrimination. The action is taken within the policy frame of positive discrimination. In India it is also called preferential treatment to outweigh the imbalances of the past.

Autonomous District Council (ADC): ADC a district within a state to which central government has given varying degrees of autonomy within the state legislature, established under Sixth Schedule of the Constitution.

Equality of opportunity:	This is Constitutional provision which refers to Uuniversality of Indian Citizenship through equality of opportunity in public employment, equal educational opportunities, equality before law, etc.
Fifth Schedule:	One out of 12 schedules of the Constitution. This Schedule lays down provisions for the control and administration of tribes inhabiting Scheduled Areas in the states other than Assam, Meghalaya, Manipur and Tripura.
Liberty:	Liberty in common language is the ability to do as one pleases. As constitutional provision it refers to social, political, and economic freedoms to which all community members are entitled.
Positive Discrimination:	The practice or policy of favouring individuals/communities belonging to disadvantaged groups like STs and SCs.
Preferential treatment:	Advantage given to one individual or group over others. It is a type of compensatory discrimination, meaning to give preference to a group or group of people with a stated goal of countering and compensating the past or ongoing atrocities, excesses, injustice, or discrimination of any sort against them
Safeguard:	Special provisions of the Constitution given for advancement of other backward classes including STs.
Scheduled Areas:	Scheduled areas are those areas in a state which are treated differently from other areas in it because of tribal domination. The Central government has some responsibility for these areas. Scheduled areas are established under Article 244 and 5 th Schedule of the Constitution.
Sixth Schedule:	One out of 12 schedules of the Constitution. This Schedule lays down provisions for the control and administration of tribes inhabiting Scheduled Areas in the states of Assam, Meghalaya, Manipur and Tripura.
Social Justice:	The way in which human rights are manifested in the everyday lives of people at every level of society.
Tribal Advisory Council:	A governing body in Fifth Schedule Areas set up under the provisions of Fifth Schedule.

Tribal areas:

Tribal areas, mentioned under Sixth Schedule of the Constitution, are those area which are culturally different from others and in past many decades there were no contact between them and other parts of the country.

2.8 Probable Questions

Short Answer Questions

1. What are different parts of the Constitution? Mention.
2. Name the practices which are prevented through constitutional provisions of social safeguards. .
3. What is positive discrimination? Why is it necessary for the STs?
4. Briefly discuss economic safeguards provided in our Constitution.
5. Write constitutional provisions on language safeguards.
6. What are the provisions of religious safeguards?
7. What are the provisions in the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2018
8. Do you think the PESA Act, 1996 and FRA,2006 protect cultural rights of STs? Why or Why not?
9. Mention constitutional provisions on reservation of seats for STs.
10. What is the significance of Art.244 in the administration of Tribal and Scheduled Areas?

Long-Answer Questions

1. How a community is scheduled as a tribe? Discuss with reference to constitutional provisions.
2. Discuss the nature and scope of constitutional provisions and safeguards.
3. STs are citizens of India like other social categories. Don't you think the Constitution promotes inequality and acts bias by giving special safeguards to STs only? Give reasons to your answer.
4. Why do STs need constitutional safeguards? How was it articulated in the Objective Resolution of the Constitution of India?
5. What would have happened if social safeguards were not provided to weaker sections? Explain the types of social safeguards and their corresponding articles.
6. Write a note on political safeguards for Scheduled Cast communities.
7. Constitutional provisions and safeguards express the ideals enshrined in Directive Principles of State Policies. Discuss with reference to Articles 38 and 46.
8. Distinguish between the provisions of the Fifth and the Sixth Schedules.
9. Explain the role of National Commission for Scheduled Tribes and the Ministry of Tribal Affairs in protecting tribal interest.
10. Examine how Acts and Orders help protecting tribal interests with suitable examples.

11. What are educational and cultural safeguards? Why they are important rights? Elucidate.
12. Write a note on various writs issued by the Court. Which constitutional right empower the Court to issue writs? Briefly discuss.
13. Elucidate various schemes of the government for educational development of tribal children.
14. Explain the provisions of educational and cultural safeguards. How do these provisions express the ideals of Directive Principles of State Policies?
15. Write a note on reservation provisions of the Constitution and reservation policy of the government.
16. Are constitutional provisions tribe specific? Give justification to your answer in your own words.

2.9 Answers to Check Your Progress

Check Your Progress I

1. No Article
2. Positive Discrimination and Affirmative Action
3. Part IV
4. No. They come under 371H which lays down special provision with respect to the State of Arunachal Pradesh.
5. Protection and development.

Check Your Progress II

1. Articles in the constitution do not define who is a Scheduled Tribe. There are two Articles namely 366(25) and 242 which state the mechanism of scheduling (listing) a group or part of it under the category of ST.
2. There were 395 Articles in the Constitution originally in 1949 and the same number is noted at present. New provisions have not created new Articles as these provisions have been included as a part of the existing relevant Articles (For example: 371, 371A, 371B, etc.).
3. Indian society was not an egalitarian society at the time of Independence. A large number of people were socially discriminated, economically deprived and politically isolated. This was the result of the nature of Indian social structure and British rule. The people belonged different communities and known as socio-economically backward. Scheduled tribes belonged to the backward section and were victim of social injustice and economic deprivation. Independent India however believed in equality, social justice and committed to welfare of people. It was realised that if special care would not be taken the weaker sections cannot rise at par advantaged groups of the country. So special provisions were laid down in the constitution for the protection and development of backward communities including the STs.
4. No. Social safeguards are meant for all the citizens of the country irrespective of caste, creed, race, sex, religion, etc.
5. No. Special constitutional provisions for STs do not make them special category of Indian citizens. Special provisions are compensatory treatment to

bring them at par other citizens of the country as they have been victim to historical injustice over centuries.

Check Your Progress –III

- | | | | | |
|--------|--------|--------|--------|---------|
| 1. No. | 2. No. | 3. No. | 4. No. | 5. Yes. |
| 6. Yes | 7.No. | 8. No. | 9. No. | 10. Yes |

Check Your Progress –IV

- | | | | |
|---------------------|-----------------|----------------------------------------------|-----------|
| 1. Part-IV | 2. Art.17 | 3. Social | 4. Art.30 |
| 5. 350A, Chapter VI | 6. All citizens | 7. State Legislative Assemblies | |
| 8. 243T | 9. Art.275 | 10. National Commission for Scheduled Tribes | |

Check Your Progress –V

- | | | |
|--------------------------------|--------|--------------------------------------|
| 1. written | 2. 395 | 3. compensatory |
| 4. economic safeguards | | 5.exploitation |
| 6. minority community | | 7. North Eastern States and Sikkim |
| 8. Ministry of Welfare | | 9. Scheduled Areas |
| 10 Autonomous District Council | | 11. Right to Constitutional remedies |

2.10 Further Reading

- Basu D.D. 2008. *Introduction to the Constitution of India*. New Delhi: Prentice Hall of India (see recent edition).
- Danda, Ajit K. 1981. 'Statutory Provisions Safeguarding Interests of Scheduled Tribes and Scheduled Castes'. L.P. Vidyarthi (ed.), 1981, *Tribal Development and Its Administration*, New Delhi: Concept Publishing Company. pp.19-28.
- Goswami, B.2003. *Constitutional Safeguards for Scheduled Castes and Scheduled Tribes*. Jaipur: Rawat.
- Guru, B. P. Mahesh Chandra, V. Shanmugam Somanna and M. Dileep Kumar 2015. 'Constitutional provisions for SCs and STs in India: An analysis,. *International Journal of Current Research*, Vol. 7, Issue, 10, pp.21429-21434.
- Hansaria, B.L. 2005. *Sixth Schedule to the Constitution*. New Delhi:Universal Law Publishing Company.
- Hidayatulla, M. 1979. *The Fifth and Sixth Schedules to the Constitution of India*. Guwahati: Ashok Publishing House.
- Shankaran, S.R 2000. 'Welfare of Scheduled Castes and Scheduled Tribes in Independent India'. *Journal of Rural Development*, 19(4):208-210.
- Srivastava, B.N. and Bindeswar Pathak 1999. *Constitutional Safeguards for Weaker Sectionss/ Minorities*. New Delhi: Concept Publishing Company.

- Srivastava, B.N. 2000. 'Working of the Constitutional Safeguards and Protective Measures for the Scheduled Caste and Scheduled Tribes'. *Journal of Rural Development*, National Institute of Rural Development, Hyderabad, India, *Special Issue*, 19(4):573-602.
- Vidyarthi L.P. (ed.), 1981. *Tribal Development and Its Administration*. New Delhi: Concept Publishing Company.

UNIT-III

PROVISIONS IN FIFTH AND SIXTH SCHEDULES

Structure

- 3.1 Learning Objectives**
- 3.2 Introduction**
- 3.3 Fifth Schedule**
 - 4.3.1 Provisions of Fifth Schedule**
- 3.4 Sixth Schedule**
 - 3.4.1 Bordoloi Sub-Committee and Sixth Schedule**
 - 3.4.2 Assam, Northeast and Sixth Schedule**
 - 3.4.3 Provisions as to the Administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram**
- 3.5 Let us sum up**
- 3.6 Keywords**
- 3.7 Probable Questions**
- 3.8 Answers to Check Your Progress**
- 3.9 Further Reading**

3.1 Learning Objectives

After reading this Unit you shall be able to

- reason out the need of special provisions for ST communities;
- explain Constitutional provisions under Fifth Schedule and Sixth Schedule for tribal self-governance;
- understand the role of Bordoloi Committee behind incorporation of Sixth Schedule in the Constitution;
- identify Fifth Schedule Areas of the country;
- learn various provisions incorporated in Fifth Schedule for tribal self-governance;
- identify areas where provisions of Sixth Schedule are in operation;
- distinguish between provisions incorporated in Fifth Schedule and Sixth Schedule for tribal self-governance, development and protection of cultural and ethnic identity;
- explain role of a Governor in Fifth Schedule and Sixth Schedule areas;
- know the reason of some states in the Northeast having Sixth Schedule while others do not;
- learn types of autonomous institutions in the country and discuss their need; and
- enumerate autonomous councils under Sixth Schedule and explain their structure and functions.

3.2 Introduction

In Unit-I of this Paper you have learnt that the Constitution of India provides special safeguards to tribal communities to protect them from all sorts of exploitation, to raise their standard within the framework of positive discrimination and affirmative action and to promote their traditions and customs. One of the strategies in this regard is to make provisions for their autonomy through self-governance. Such provisions are included in Fifth and Sixth Schedules of the Constitution of India. These two Schedules essentially contain provisions of administration of tribal areas in the process of their own development.

Part X of the Constitution of India provides for the Scheduled and Tribal Areas under Article 244 and 244A.

The Sixth Schedule of the Constitution of India provides for Autonomous Councils particularly for hills tribes living presently in the Northeast states of Assam, Meghalaya, Mizoram and Tripura. Provisions have been made for all-round development of these tribes through self-governance.

The Fifth schedule on the other hand contains special provisions for the administration of certain areas called 'Scheduled Areas'. The President is empowered to declare any area as Scheduled Area. These are the Areas inhabited by 'specified as scheduled Tribes in States other than Assam, Meghalaya, Tripura and Mizoram tribes'. These States in 1984 are Andhra Pradesh, Bihar, Gujarat, Himachal Pradesh, Madhya Pradesh, Maharashtra, Orissa and Rajasthan. The special provisions have been made despite the fact that these areas are situated within a State or Union Territory. These areas are characterised by the backwardness of the people, tribes in particular, living therein.

Article 244 provides for the administration of Scheduled Areas and Tribal Areas. Article 244(1) states: The Provisions of the Fifth Schedule shall apply to the administration and control of Scheduled Areas and Scheduled Tribes in any state other than the States of Assam, Meghalaya, Tripura and Mizoram.

As the people living in such areas are socially and economically backward, they need special efforts to improve their condition. Normal administrative mechanism operating in the states in which these tribes live is presumed to be ineffective to meet their needs different from other sections of people and advanced communities. Therefore, the whole of the normal administrative machinery operating in a State is not extended to the Scheduled Areas. The Central Government has somewhat greater responsibility for these areas which is reflected through the provisions of the Fifth Schedule.

The unit is so designed that you will learn the provisions of Fifth Schedule and Sixth Schedule of the Constitution of India. Secondly, you will study Autonomous Councils which are in operation in the country in general and in Sixth Schedule areas in particular.

3.3 The Fifth Schedule

In Independent India the Union and the State governments created enabling machinery for tribal development administration. At the national level the President of India is responsible for safeguarding the provisions enshrined in the Constitution. At the State level, the Governor and on his behalf the Chief Minister and other Ministers are responsible for the formulation and implementation of schemes in tribal areas of the State. For these provisions the Constituent Assembly initiated the move. It appointed an Advisory Committee on the Rights of Citizens, Minorities and Tribal and Excluded Areas on 24 January 1947 under the chairmanship of Sardar Vallabhbhai Jhaverbhai Patel, popularly Sardar Patel. The Advisory Committee set up two sub-committees on tribal affairs. One of the Sub-Committees was the North-East Frontier (Assam) Tribal and Excluded Areas Committee under the chairmanship of Gopinath Bordoloi. You will read about Bordoloi Committee in section 4.4.1. The other was Excluded and Partially Excluded Areas (Other than those in Assam) Sub-Committee headed by A.V. Thakkar. Both the committees submitted their reports and recommendations which were debated in Constituent Assembly.

Eventually, the tribal areas of the country were divided into ‘Scheduled Areas’ and ‘Tribal Areas’. The recommendations have been enshrined under Article 244 with the provisions of Fifth Schedule for the administration of Scheduled Areas and Sixth Schedule for the administration of tribal Areas of the then Assam. You will read the provisions of Sixth Schedule in section 4.4 and the Autonomous District Councils formed under Sixth Schedule in section 4.5.3.

3.3.1 Provisions of Fifth Schedule

The Fifth Schedule contains four Parts-Part A, Part-B, Part C and part D. Part A contains three paragraphs on general provisions. Part B is an important component of the Schedule and provides for the administration and control of Scheduled Areas and Scheduled Tribes. It also provided for Tribal Advisory Council for the administration of the above mentioned areas and people. Part C provides definition of Scheduled Areas and states how such areas are formed. Part D includes provisions for the amendment of the Schedule.

Role of President

As you know Part C has included provisions for the formation of Schedule Areas. In the Article 244(1) of the Constitution, expression Scheduled Areas means such areas as the President may by order declare to be Scheduled Areas.

The President may at any time by order

- direct that the whole or any specified part of a Scheduled Area shall cease to be a Scheduled Area or a part of such an area;
- increase the area of any Scheduled Area in a State after consultation with the Governor of that State;
- alter, but only by way of rectification of boundaries, any Scheduled Area;

- on any alteration of the boundaries of a State on the admission into the Union or the establishment of a new State, declare any territory not previously included in any State to be, or to form part of, a Scheduled Area;
- rescind, in relation to any State of States, any order or orders made under these provisions and in consultation with the Governor of the State concerned, make fresh orders redefining the areas which are to be Scheduled Areas.

Check Your Progress I

Fill in the blanks

1. Article---- provides for Fifth Schedule and Sixth Schedule.
2. ----Schedule provides for Tribes Advisory Council.
3. ----Schedule provides for the administration of Scheduled Areas.
4. Tribal Area is formed under the provisions of the ---- Schedule.
5. Provisions of ----- Schedule are incorporated under Article 244 (1).
6. Advisory Committee on the Rights of Citizens, Minorities and Tribal and Excluded Areas was chaired by-----

States having Scheduled Areas and Tribal Advisory Councils

According to the provisions of Fifth Schedule and President's order there are 10 States having Scheduled Areas. These are: Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan and Telangana. You will study that Sixth Schedule is applicable in the States of Assam, Meghalaya, Mizoram and Tripura. In other words the Fifth Schedule of the Constitution deals with the administration and control of Scheduled Areas as well as of Scheduled Tribes residing in any State other than the Sixth Schedule States. You have learnt in paper I and Paper II that tribes also inhabit other states like Kerala, Tamil Nadu, Karnataka, Maharashtra, West Bengal, Uttar Pradesh, Sikkim, Manipur, Uttarakhand, Nagaland and Jammu & Kashmir. But tribal habitations in these states of have not been brought under the Fifth or Sixth Schedule.

You also know that Tribes Advisory Councils (TACs) are arranged for the administration of Scheduled Areas. This implies that TACs are found only in 10 states having Scheduled Areas. But West Bengal and Tamil Nadu though do not have Scheduled Areas, they have TACs. In other words while 10 states have Scheduled Areas, 12 States have TACs. However, the Scheduled Areas and TACs can be established under Article 244(1) and Fifth Schedule of the Constitution in any state except Assam, Meghalaya, Tripura and Mizoram. Recently, the directions of the President have been conveyed to the State Government of Uttarakhand for constitution of Tribes Advisory Council in the State.

Declaration of Scheduled Areas

The Constitution does not mention any specific criteria for establishing the Scheduled Areas. But they are well established. Since they are established for protection of the Scheduled Tribes, the characteristics of STs provide guidelines for the purpose. These include

- preponderance of tribal population;
- compactness and reasonable size of the area; and
- underdevelopment and marked disparity in economic standard of the people in those areas.

As you know the British Government had also followed some criteria to declare tribal areas as excluded and partially excluded areas. Obviously, the criteria followed in declaring Scheduled Areas embody principles followed in declaring 'Excluded' and 'Partially-Excluded' Areas under the Government of India Act 1935 Besides they embody recommendations of the Excluded and Partially Excluded Areas Sub-Committee of Constituent Assembly and recommendations of the Scheduled Areas and Scheduled Tribes Commission, 1961.

Tribes Advisory Council (TAC)

With regard to the Tribes Advisory Council, the Para 4 (1) of the Fifth Schedule to the Constitution envisages that “There shall be established in each State having Scheduled Areas therein and, if the President so directs, also in any State having Scheduled Tribes but not Scheduled Areas therein. In terms of clause (2) of Para 4 of the Fifth Schedule, it shall be the duty of the Tribes Advisory Council to advise on such matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to them by the Governor.

The following provisions are made in Fifth Schedule for the constitution and function of TACs:

- A TAC shall consist of not more than 20 members out of which the three-fourths shall be Scheduled Tribes MLAs in the state.
- It shall advise the Governor on matters pertaining to the welfare and advancement of the Scheduled Tribes in the State.
- The number of members of these councils, mode of their appointment, appointment of the chairman, officers and servants of these councils, conduct of its meeting and general business shall be controlled by the Governor of the state in question.
- The Governor also can make a notification that that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State.
- The Governor can also make rules for the better management of peace and good governance in such areas.

Role of the Governor

You have gained some idea on the role of the Governor in the States having Fifth Schedule areas from the discussion of TAC. Part A and paragraph 3 provides for the Report by the Governor to the President regarding the administration of Scheduled Areas. In other words, the Governor has been given plenary powers as far as their administration is concerned. The Governor each State having Scheduled Areas are required to make report to the President annually or as needed by President regarding the administration of the Scheduled Areas in

that State. The executive power of the Union extends to the giving of directions to the State as to the administration of these areas.

In addition, the Governor performs the following role:

- The TAC shall advise on such matters pertaining to the welfare and the advancement of the STs in the State as may be referred to them by the Governor.
- The Governor may make rules prescribing or regulating the number of members of the Council, the mode of their appointment and the appointment of the Chairman of the Council and of the officers and servants thereof, the conduct of its meetings and its procedure in general; and all other incidental matters.
- The Governor may, by public notification, direct that any particular Act of Parliament or of the Legislature of the State shall or shall not apply to a Scheduled Areas or any part thereof in the State, subject to such exceptions and modifications, as specified.
- The Governor may make regulations for the peace and good government of any area in the State which is for the time being has Scheduled Areas

Such regulations may

- prohibit or restrict the transfer of land by or among members of the Scheduled tribes in such area;
- regulate the allotment of land to members of the STs in such area;
- regulate the carrying on of business as money-lender by persons who lend money to members of the STs in such area.

In making such regulations, the Governor may repeal or amend any Act of Parliament or of Legislature of the State or any existing law after obtaining assent of the President. No regulations shall be made unless the Governor, in case a TAC exists, consults such TAC.

Coordinated concerns for tribal development

Scheduled areas are those areas which are treated differently from other areas in a state. That is why whole of the administrative machinery operating in the state is not extended to these areas. In addition to the State Government and the Central Government also has somewhat greater responsibility for these Areas. The responsibility of the State and Central governments can be viewed from the coordination among various agencies.

It is for your information that Welfare Departments of States look after the interest of the tribals as advised by the Tribes Advisory Council (TAC). In tribal concentration states, Tribal Research Institutes (TRIs) are functioning. The TACS and TRIs help in the formulation of tribal policies and programmes. Besides Parliamentary and Assembly Committees, Commissions and Committees from time to time assess and control the working of the tribal welfare activities. The Planning Commission also appoints working groups, Task Forces and Committees to study the problems of the tribals.

3.4 The Sixth Schedule

The Sixth Schedule was incorporated into Articles 244(2) and 275(1)] of the Constitution of India to give autonomy to the hills tribes of the then Assam. Since then Assam has been reorganised and four states namely Arunachal Pradesh, Meghalaya, Mizoram and Nagaland have been carved out of the former Assam. First, the State of Nagaland Act, 1962 (Act No.27 of 1962) of the Parliament provided for the formation of the State of Nagaland. Accordingly, it became a state on 1st April, 1963. Subsequently, in 1971 other parts of Northeast India were reorganised. The North-Eastern Areas (Reorganisation) Act, 1971 (Act of 81 of 1971) provided for the establishment of the States of Manipur and Tripura and for the formation of the State of Meghalaya and of the formation of the Union Territories of Mizoram and Arunachal Pradesh by reorganisation of the already existed State of Assam.

On the basis of the provisions of the Act, 1971 Meghalaya, Tripura and Manipur attained the status of full statehood on 21st January, 1972. Arunachal Pradesh and Mizoram became full-fledged state on 20th February, 1987 on the basis of the State of Arunachal Pradesh Act, 1986 and the State of Mizoram Act, 1986 respectively.

You will learn that the territories of Mizoram and Meghalaya were under Sixth Schedule when they were parts of undivided Assam. The Mizos, after Mizoram became a state apply the sixth schedule only in respect of minority tribes within the state of Mizoram. However, Tripura and Manipur were princely states and only tribal areas of Tripura are covered under Sixth Schedule. Though there were provisions of Sixth Schedule for the areas which formed into Nagaland, the areas were never a part of Sixth Schedule.

As you know Fifth and Sixth Schedules have been designed for the tribal areas of the country. Sixth Schedule is applicable to Assam, Meghalaya, Mizoram and Tripura of North-eastern states based on the recommendations of Bordoloi Sub-Committee. Fifth Schedule is applicable to tribal areas other than in these states. Why two different provisions?

It is to inform you that the conditions in the tribal areas of Assam, Meghalaya, Tripura and Mizoram, are very different from those in the other tribal areas even in today. These areas are divided into fairly large hilly districts inhabited by single tribes like Khasi, Jaintia as in Meghalaya or fairly homogenous groups of tribes as in Karbi Anglong of Assam with highly democratic and mutually exclusive tribal organisations. These tribes in Assam have not assimilated much the life and ways of the other people in the State. Even though there is a certain degree of assimilation, they still maintain their identity distinct from others. They prize their roots in their own culture, customs and civilisation.

In contrast, the tribal people in other parts of India have more or less adopted the culture of the majority of the people in whose midst they live. These areas are therefore treated differently by the Constitution, and sizeable amount of autonomy has been given to these people for self-governance through provisions of Fifth and Sixth Schedules.

Article 244 (2) states: The Provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram.

3.4.1 Bordoloi Sub-Committee and Sixth Schedule

The national leaders and naturally the Constituent Assembly were sensitive to the political aspirations of the tribal people of the country. At the time of Independence, there were also demands by the tribes of the hill areas of Assam for regional autonomy and better status within the constitutional framework. The Constituent Assembly of India therefore, formed an Advisory Committee on the Rights of Citizens, Minorities and Tribal and Excluded Areas on 24 January 1947. The Advisory Committee set up two sub-committees on tribal affairs. One of the Sub-Committees of the Constituent Assembly – the North-East Frontier (Assam) Tribal and Excluded Areas Committee – was chaired by Gopinath Bordoloi, the then Chief Minister of Assam.

The Bardoloi Committee visited the tribal areas in the then State of Assam and interacted with the representatives of the hill people. It also co-opted two members from each district except from the Frontier tracts. When the Sub-Committee interacted with the tribal people of the region, it noted the existence of the traditional tribal self-governing institutions which functioned democratically and settled their disputes in accordance with their own customs and traditions. It realized the need of needed protection and safeguard of such institutions and customs and traditions of the people. It also noted apprehensions of the tribal people that they might not be exploited, subjugated and oppressed by the more advanced people.

Needless to say, Sub-Committee made an objective study of the problems, demands and aspirations of the hills tribes of the then Assam. On the basis of the study the Sub-committee submitted its report in July 1947 for a simple and inexpensive set-up (District Councils) of the tribal areas. After a thorough debate in the Constituent Assembly the recommendations were accepted and incorporated into the Article 244 (2) of the Sixth Schedule of the Indian Constitution. This provided for the formation of the Autonomous District Councils (Autonomous District and Regional Councils) in certain hills districts of the then State of Assam.

Strong debate ensued in the Constituent Assembly for and against the recommendations of the Gopinath Bordoloi Sub-Committee. Patnaik (2017) informs that Kuladhar Chaliaha, who happened to be one of the members of the Constituent Assembly sub-committee headed by Bordoloi, argued,

‘[W]e still have British Mentality— a separatist tendency to keep them (the tribal) away. In future it will be a Tribalstan, just like Pakistan.’

On the contrary, Bordoloi, Nichols Ray and Lakshminarayan Sahu supported the formation of ADCs. They were more practical to the then prevailing situation in tribal areas and tribal aspiration. Patnaik (2017) maintains, the supporters argued that this arrangement will balance between those elements who sought complete independence from British as well as India and those who support the idea of singular nation formation.

The institution of ADC was intended to provide safeguards to tribal people to protect the distinct socio-cultural and religious beliefs, traditional system of justice, land and forest by themselves. They will have maximum autonomy in the management of their affairs. The ADCs also intended to remove the fear of exploitation by the plains people. Eventually, the decision of the Constituent Assembly went in favour of the recommendations of the Bordoloi Sub-Committee.

According to Section-20 of the Sixth Schedule of the Constitution the “tribal areas” of Assam were specified in Part -A and B of a corresponding table. Part-A included- 1) the United Khasi and Jaintia Hills 2) the Garo Hills 3) the Lushai Hills 4) the Naga Hills 5) the North Cachar Hills and 6) the Mikir Hills. Part-B included- 1) North East Frontier Tract including Balipara Frontier Tract, Abor (now Abor word is replaced by Adi) Hills and Misimi Hills Districts and 2) the Naga Tribal Areas. According to the Section-19 of the Sixth Schedule of the Constitution, the Governor was to ensure constitution of an Autonomous District Council for each of these above areas. Under paragraph 2 of the Sixth Schedule to the Indian Constitution, the Government of Assam framed 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. Accordingly, the District Councils and the Regional Councils in the then Assam were constituted in 1952 and 1953 respectively.

3.4.2 Assam, Northeast and Sixth Schedule

India is a country of large ethno-cultural and religious diversities. During the post independence period the nation-building process recognised these diversities. It is clearly evident in various provisions incorporated in the Constitution of India. One of such provisions relate to local Autonomous Administration under the Six Schedule of the Constitution for some tribal communities, particularly hill tribes of present North East India with an aim to preserve and protect their identity, culture and development. For tribes in other States provisions under the Fifth Schedule have been made. However, there are some areas of exclusions. For example, the tribal groups living in the Plains of Assam were left outside the ambit of constitutional protection provided under the Sixth Schedule. Subsequently, these Plain Tribes of Assam also mobilized their ethnic identity to get a share in the political process of Assam following the path of hill tribes. In order to meet the growing demands of the Plain Tribes in Assam the State Government has constituted the Autonomous Councils for the Tiwas, Misings, Deoris, Sonowal Kacharis, Rabhas and Thengal Kacharis.

Check Your Progress II

State whether the following statements are ‘true’ or ‘false’

1. A Tribal Area is declared by the President of India.
2. West Bengal has Scheduled Areas.
3. All North-eastern States have Sixth Schedules.
4. Sixth Schedule is applicable only to plain tribes of four North-eastern states.
5. Provisions of Fifth Schedule are incorporated in Article 244 (1) and Article 275(1).

Among the Plains Tribes of Assam only the Bodos have the Bodoland Territorial Councils (BTC) under the Sixth Schedule of the Constitution. You will learn the conditions for which the Bodos were put under Sixth Schedule in section 4.5.4. The other Autonomous Councils under the Sixth Schedule are for the hills tribes belonging to present Assam, Meghalaya, Mizoram and Tripura. These include North Cachar Hills Autonomous Council and Karbi Anglong Autonomous District Council in Assam; Garo Hills Autonomous District Council, Jaintia Hills Autonomous District Council and Khasi Hills Autonomous District Council in Meghalaya; Chakma Autonomous District Council, Lai Autonomous District Council and Mara Autonomous District Council in Mizoram; and Tripura Tribal Areas Autonomous District Council in Tripura. At present Nagaland, Manipur and Arunachal Pradesh from among the Northeast States do not have Autonomous District Council under the Sixth Schedule. Except Manipur, Arunachal Pradesh and Nagaland were parts of Assam and have hill tribes. Like Manipur, Tripura was not a part of Assam but had hills tribes. The question arises why Tripura has Autonomous District Council but not Manipur; and why other parts of Assam like Meghalaya and Mizoram have Autonomous District Council but not Nagaland and Arunachal Pradesh. You will learn all this in the following paragraphs.

Sixth Schedule and Arunachal Pradesh: The present State of Arunachal Pradesh and its Administration have evolved over a period of more than 100 years. The territorial identity evolved with the recognition of the frontier line (the McMahon Line) between the then Tibet and the Northeast India in 1914. The territory then was known as North-East Frontier Tract (NEFT) from 1914 to 1954. In 1954, it was re-designated as the North East Frontier Agency (NEFA). On January 20, 1972 NEFA became a Union Territory with the new name of Arunachal Pradesh.

The administration of this territory was organised from time to time by creating different statutory posts. In 1937 the post of the Secretary for the Tribal Affairs to the Governor of Assam was created. In the same year, the Frontier Tracts came to be known as 'Excluded Areas' of the Province of Assam under the Government of India (Excluded and Partially Excluded Areas) Order, 1936. The Excluded Areas came under the direct control of the Government and the legislation for these was to be affected only through regulations. There was no line ministry responsible for the administration of the Excluded Areas. In 1943 the post of an Advisor to the Governor of Assam were created with the idea of assisting the Governor with the administration of the North East Frontier Tracts. However, the administration of the Naga Hills District, the Lusai Hills District (present Mizoram) and the North Hills Sub-division of the Cachar district remained with the Advisor from August 15, 1947 to January 26, 1950.

Immediately after the transfer of power in 1947, the Governor of Assam, as Agent to the President, was divested of his discretionary powers in respect of the NEFT. Obviously, the Government of Assam assumed administrative control over the area by virtue of the provisions of the Independence Act, 1947. Chowdhury (1983) informs that the Governor's discretionary powers included the provisions in relation to part two of the Sixth Schedule. Interestingly, the External Affairs Ministry was divested with administrative responsibility of the NEFT as agency for the President.

Practically, right from 1914 the administrative affairs of the territory had remained with the Foreign Department as the NEFT had assumed administrative and territorial recognition through a notification by the Foreign and Political Departments of the Government of British India. However, on 1 August 1965, the Ministry of Home Affairs, Government of India, took over the charge of administration of NEFA from the Ministry of External Affairs. Then it became a Union Territory in 1972 and a full-fledged State in 1987.

The Assam Government did not administer the present Arunachal Pradesh, when it was under its administrative jurisdiction, like other tribal areas in the region. However, reorganisation of territory and administration was undertaken by the Government of Assam. In addition to the Government of Assam, Ministry of External Affairs and Ministry of Home Affairs also had jurisdiction over it as agency of the President. Even NEFT was not given Autonomous District Council status like tribal Karbi Anglong District or North- Cachar Hills District as per the provisions of Sixth Schedule for the then Assam. Evidently, Arunachal Pradesh was never administered according to the provisions of the Sixth Schedule of the Constitution. Chowdhury (1983) maintains that the North East Frontier Tracts displayed an anomalous position as a part of Assam administration according to the Constitution of India.

In this regard the recommendation of the Bardoloi Committee is noteworthy. The Committee emphasised the need to establish administration and control over the whole area of NEFT right up to the International Border. The Committee did not disturb the existing administrative structure of NEFT at least for some time. The recommendation reads,

‘We recommend that when the Central Government which now administers these areas (and which we consider it should continue to do with the Government of Assam as its agent) is of the view that the administration has been satisfactorily established over a sufficiently wide area, the Government of Assam should take over that area by the strength of notification’.

Nagaland and Sixth Schedule: The Sixth Schedule of the Constitution of India provided local autonomy to the Nagas under autonomous Assam in free India. However, the Sixth Schedule was never given a trial in the Naga Hills District as Naga National Council became the platform of Naga extremists under the leadership of A.Z. Phizo just before Independence. The Naga National Council was the reorganisation and re-designation of the Naga Hills District Tribal Council formed in 1945 after World War-II. The Naga Hills District Tribal Council was formed to work for the rehabilitation and reconstruction of the war devastated areas of Naga Hills. But the Council soon converted itself into a political platform of the Nagas. Under the leadership of Phizo, the Nagas unsuccessfully tried to cede from Indian Union. In Independent India the erstwhile Naga Hills District of Assam was placed in ‘Part A’ category of tribal districts as per the Sixth Schedule. During that time Tuensang area which is now a part of Nagaland State was placed under ‘Part B’ category area in North East Frontier Tracts (NEFT). But in 1954 the NEFT was re-designated as the North-East Frontier Agency and in 1957 its Tuensang Frontier Division Tract merged with the Naga Hills District. The Naga Hills District became a full-fledged state of Nagaland in 1963.

Nagaland by itself became a tribal state without any distinction between tribes and non-tribes; and among the tribes, between plains tribes and hills tribes as was the case in

undivided Assam. So the leaders did not want the provision of the Sixth Schedule for Nagaland. However, Tuensang district was relatively backward. So, special provisions were made for a Regional Council for a period of ten years with the Deputy Commissioner as Chairman. The Regional Council was empowered to nominate tribal representatives to be the members of the Nagaland Legislative Assembly. There was a separate Ministry for Tuensang affairs, like the present Ministry of North East Affairs in the Central Government. The nominated members of the area belonged to the Ministry. However, in 1973, at the end of the ten-year period, the Regional Council was abolished and the people of Tuensang district began to participate in the elections to the Nagaland Legislative Assembly along on equal footing like other districts of the state.

Other Northeastern States: In 4.5.2 and 4.5.3 we have discussed about autonomous councils enacted by the Parliament and subsequently by State Legislature for Manipur and autonomous councils created under Sixth Schedule for Meghalaya, Mizoram and Tripura. You will come to know why there are Sixth Schedule areas in Tripura but not Manipur, though both were Princely States before Independence. You will also understand the reasons of continuity of Sixth Schedule areas in Meghalaya and Mizorma even after they attained statehood.

Article 244A was inserted by the Constitution (Twenty-second Amendment) Act, 1969, sec 2. It provides for formation of an autonomous State comprising certain tribal areas in Assam and creation of Local Legislature or Council of Ministers or both therefor.

3.4.3 Provisions as to the Administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram

The provisions of the Sixth Schedule are included in 21 original paragraphs. Out of these 21 paragraphs the paragraph 18 is omitted subsequently, thus leaving the provisions in 20 paragraphs for the administration of Sixth Schedule areas through district and regional councils. But, sub-paragraphs have been inserted to paragraph 3, 12 and 20 through subsequent amendments. The provisions are comprehensive dealing with a number of subjects on the matter of the powers of the Governor; constitution, powers and functions of district and regional councils; funds; collection of revenue; amendment and many such related ones. The paragraphs and sub-paragraphs along with subjects they deal with are given below:

1. Autonomous districts and autonomous regions
2. Constitution of District Councils and Regional Councils
3. Powers of the District Councils and Regional Councils to make laws
 - 3A. *Additional powers of the North Cachar Hills Autonomous Council and the Karbi Anglong Autonomous Council to make laws*
 - 3B. *Additional powers of the Bodoland Territorial Council to make laws*
4. Administration of justice in autonomous districts and autonomous regions
5. Conferment of powers under the Code of Civil Procedure, 1908, and the Code of Criminal Procedure, 1898, on the Regional and District Councils and on certain courts and officers for the trial of certain suits, cases and offences
6. Powers of the District Council to establish primary schools, etc
7. District and Regional Funds
8. Powers to assess and collect land revenue and to impose taxes
9. Licences or leases for the purpose of prospecting for, or extraction of, minerals

10. Power of District Council to make regulations for the control of money-lending and trading by non-tribals
11. Publication of laws, rules and regulations made under the Schedule
12. Application of Acts of Parliament and of the Legislature of the State of Assam to autonomous districts and autonomous regions in the State of Assam
 - 12A. *Application of Acts of Parliament and of the Legislature of the State of Meghalaya to autonomous districts and autonomous regions in the State of Meghalaya*
 - 12AA. *Application of Acts of Parliament and of the Legislature of the State of Tripura to the autonomous district and autonomous regions in the State of Tripura*
 - 12B. *Application of Acts of Parliament and of the Legislature of the State of Mizoram to autonomous districts and autonomous regions in the State of Mizoram*
13. Estimated receipts and expenditure pertaining to autonomous districts to be shown separately in the annual financial statement
14. Appointment of Commission to inquire into and report on the administration of autonomous districts and autonomous regions
15. Annulment or suspension of acts and resolutions of District and Regional Councils
16. Dissolution of a District or a Regional Council
17. Exclusion of areas from autonomous districts in forming constituencies in such districts
18. Deleted
19. Transitional provisions
20. Tribal areas
 - 20A. *Dissolution of the Mizo District Council*
 - 20B. *Autonomous regions in the Union territory of Mizoram to be autonomous districts and transitory provisions consequent thereto*
 - 20BA. *Exercise of discretionary powers by the Governor in the discharge of his functions*
 - 20BB. *Exercise of discretionary powers by the Governor in the discharge of his functions*
 - 20C. *Interpretation*
21. Amendment of the Schedule

However, we will present a few paragraphs dealing with the role of the Governor, constitution of district and regional councils and their powers and functions and a few important subjects.

Paragraph 1. Autonomous districts and autonomous regions

This paragraph provides that the tribal areas as mentioned in paragraph 20 of Sixth Schedule shall be an autonomous district. The Governor by public notification has the power to divide the area or areas inhabited by Scheduled Tribes into autonomous regions. If there are different Scheduled Tribes in an autonomous district, the Governor may, by public notification

- (a) include any area in any of the Parts of the areas as provided for in paragraph 20
- (b) exclude any area from any of the Parts as provided for in paragraph 20
- (c) create a new autonomous district,
- (d) increase the area of any autonomous district,
- (e) diminish the area of any autonomous district,
- (f) unite two or more autonomous districts or parts thereof so as to form one autonomous district,

- (g) alter the name of any autonomous district, and
- (h) define the boundaries of any autonomous district.

Paragraph 2. Constitution of District Councils and Regional Councils

There shall be a District Council for each autonomous district consisting of not more than thirty members, of whom not more than four persons shall be nominated by the Governor and the rest shall be elected on the basis of adult suffrage. Further, there shall be a separate Regional Council for each area with different STs. Each District Council and each Regional Council shall be a body corporate by the name respectively of “the District Council of (*name of district*)” and “the Regional Council of (*name of region*)” shall have perpetual succession and a common seal and shall by the said name sue and be sued.

Paragraph 2 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2. It has inserted provisions of composition of Bodoland Territorial Council. It states,

“Provided that the Bodoland Territorial Council shall consist of not more than forty-six members of whom forty shall be elected on the basis of adult suffrage, of whom thirty shall be reserved for the Scheduled Tribes, five for non-tribal communities, five open for all Communities and the remaining six shall be nominated by the Governor having same rights and privileges as other members, including voting rights, from amongst the un-represented Communities of the Bodoland Territorial Areas District, of which at least two shall be women.”

The paragraph provides that the Governor shall make rules for the first constitution of District Councils and Regional Councils in consultation with the existing tribal Councils or other representative tribal organisations within the autonomous districts or regions concerned. The rules made thus should provide for

- i. their composition and allotment of seats;
- ii. delimitation of territorial constituencies for election purpose;
- iii. qualification for voting, preparation of electoral rolls;
- iv. qualification of members;
- v. the terms of office of members;
- vi. matter related to elections/ nomination of members;
- vii. the procedure and conduct of business; and
- viii. the appointment of officers and staff, etc.

The paragraph also provides that the District or the Regional Council may after its first constitution make rules with the approval of the Governor with regard to (a) the formation of subordinate local Councils or Boards and their procedure and the conduct of their business; and (b) generally all matters relating to the transaction of business pertaining to the administration of the district or region,

Paragraph 3. Powers of the District Councils and Regional Councils to make laws

This paragraph lists powers of the District Councils and regional Councils to make laws. This paragraph has also been amended for additional powers to *North Cachar Hills Autonomous Council* and *the Karbi Anglong Autonomous Council* and to *the Bodoland Territorial Council*

by inserting sub-paragraph 3A and 3B respectively. The laws can be made on following subjects:

- (a) the allotment, occupation or use, or the setting apart, of land, other than any land which is a reserved forest for the purposes of agriculture or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interests of the inhabitants of any village or town, provided that nothing in such laws shall prevent the compulsory acquisition of any land, whether occupied or unoccupied, for public purposes by the Government of the State concerned in accordance with the law for the time being in force authorising such acquisition;
- (b) the management of any forest not being a reserved forest;
- (c) the use of any canal or water-course for the purpose of agriculture;
- (d) the regulation of the practice of jhum or other forms of shifting cultivation;
- (e) the establishment of village or town committees or councils and their powers;
- (f) any other matter relating to village or town administration, including village or town police and public health and sanitation;
- (g) the appointment or succession of Chiefs or Headmen;
- (h) the inheritance of property;
- (i) marriage and divorce;
- (j) social customs.

Powers to *North Cachar Hills Autonomous Council* and *the Karbi Anglong Autonomous Council* under subparagraph **3A**

- (a) industries,
- (b) communications, that is to say, roads, bridges, ferries and other means of communication not specified in List I of the Seventh Schedule; municipal tramways, ropeways, inland waterways and traffic thereon subject to the provisions of List I and List III of the Seventh Schedule with regard to such waterways; vehicles other than mechanically propelled vehicles;
- (c) preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice; cattle pounds;
- (d) primary and secondary education;
- (e) agriculture, including agricultural education and research, protection against pests and prevention of plant diseases;
- (f) fisheries;
- (g) water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of entry 56 of List I of the Seventh Schedule;
- (h) social security and social insurance; employment and unemployment;
- (i) flood control schemes for protection of villages, paddy fields, markets, towns, etc. (not of technical nature);
- (j) theatre and dramatic performances, cinemas subject to the provisions of entry 60 of List I of the Seventh Schedule; sports, entertainments and amusements;
- (k) public health and sanitation, hospitals and dispensaries;
- (l) minor irrigation;

- (m) trade and commerce in, and the production, supply and distribution of, food stuffs, cattle fodder, raw cotton and raw jute;
- (a) libraries, museums and other similar institutions controlled or financed by the State; ancient and historical monuments and records other than those declared by or under any law made by Parliament to be of national importance; and
- (n) alienation of land.

Powers to *the Bodoland Territorial Council* by inserting sub-paragraph under sub-paragraph **3B**

(i) agriculture, including agricultural education and research, protection against pests and prevention of plant diseases; (ii) animal husbandry and veterinary, that is to say, preservation, protection and improvement of stock and prevention of animal diseases, veterinary training and practice, cattle pounds; (iii) co-operation; (iv) cultural affairs; (v) education, that is to say, primary education, higher secondary including vocational training, adult education, college education (general); (vi) fisheries; (vii) flood control for protection of village, paddy fields, markets and towns (not of technical nature); (viii) Food and civil supply; (ix) forests (other than reserved forests); (x) handloom and textile; (xi) health and family welfare; (xii) intoxicating liquors, opium and derivatives, subject to the provisions of entry 84 of List I of the Seventh Schedule; (xiii) irrigation; (xiv) labour and employment; (xv) land and revenue; (xvi) library services (financed and controlled by the State Government); (xvii) lotteries (subject to the provisions of entry 40 of List I of the Seventh Schedule), theatres, dramatic performances and cinemas (subject to the provisions of entry 60 of List I of the Seventh Schedule); (xviii) markets and fairs; (xix) municipal corporation, improvement trust, district boards and other local authorities; (xx) museum and archaeology institutions controlled or financed by the State, ancient and historical monuments and records other than those declared by or under any law made by Parliament to be of national importance; (xxi) panchayat and rural development; (xxii) planning and development; (xxiii) printing and stationery; (xxiv) public health engineering; (xxv) public works department; (xxvi) publicity and public relations; (xxvii) registration of births and deaths; (xxviii) relief and rehabilitation; (xxix) sericulture; (xxx) small, cottage and rural industry subject to the provisions of entries 7 and 52 of List I of the Seventh Schedule; (xxxii) Social Welfare; (xxxiii) soil conservation; (xxxiv) sports and youth welfare; (xxxv) statistics; (xxxvi) tourism; (xxxvii) transport (roads, bridges, ferries and other means of communications not specified in List I of the Seventh Schedule, municipal tramways, ropeways, inland waterways and traffic thereon subject to the provision of List I and List III of the Seventh Schedule with regard to such waterways, vehicles other than mechanically propelled vehicles); (xxxviii) tribal research institute controlled and financed by the State Government; (xxxix) urban development—town and country planning; (xl) weights and measures subject to the provisions of entry 50 of List I of the Seventh Schedule; and (xli) Welfare of plain tribes and backward classes.

Paragraph 4. Administration of justice in autonomous districts and autonomous regions

This paragraph provides that Councils have judicial powers for the trial of cases for offences committed by the members of ST communities in their respective areas of jurisdiction. This paragraph of Sixth Schedule provides for a two tier system of judicial administration; one at the district or regional level and the other at village level. The Village Councils can hear cases where both the parties belong to ST communities, while the Regional Courts, where there is no District Courts can act as courts of appeal. But District Courts are the Courts of appeal.

A Regional Council or District Council, as the case may be, may with the previous approval of the Governor make rules regulating—

- (a) the constitution of village councils and courts and the powers to be exercised by them under this paragraph;
- (b) the procedure to be followed by village councils or courts in the trial of suits and cases
- (c) the procedure to be followed by the Regional or District Council or any court constituted by such Council in appeals and other proceedings
- (d) the enforcement of decisions and orders of such councils and courts;
- (e) all other ancillary matters.

Paragraph 6. Powers of the District Council to establish primary schools, etc.

The District Council for an autonomous district has the power to establish, construct, or manage primary schools, dispensaries, markets, cattle pounds, ferries, fisheries, roads, road transport and waterways in the district. With the previous approval of the Governor, it has also the power to make regulations for the regulation and control of the abovementioned subjects. The Council also has power to prescribe the language and the manner in which primary education shall be imparted in the primary schools in the district.

With the consent of any District Council, the Governor may entrust either conditionally or unconditionally to that Council or to its officers functions in relation to agriculture, animal husbandry, community projects, co-operative societies, social welfare, village planning or any other matter to which the executive power of the State extends.

Article 275(1) states: Such sum as Parliament may by law provide shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of such States as Parliament may determine to be in need of assistance, and different sums may be fixed for different States.

Paragraph 7. District and Regional Funds

This paragraph provides that each Autonomous body whether District or Region shall have its respective Fund. It also provides for fund management by the Autonomous Districts or Autonomous regions. The paragraphs empowers the Governor to make rules for the management of the District Fund/ Regional Fund and for the procedure to be followed in respect of payment of money into the said Fund, the withdrawal of moneys from the Fund, the custody of moneys therein and any other related matter.

Paragraph 8. Powers to assess and collect land revenue and to impose taxes

The paragraph provides that the Regional Council for an autonomous region and the District Council for an autonomous district in respect of all lands within its jurisdiction shall have the power to assess and collect land revenue. They shall also have power to levy and collect taxes on lands and buildings, and tolls on persons resident within such areas.

The District Council for an autonomous district shall have the power to levy and collect all or any of the following taxes within such district:

- (a) taxes on professions, trades, callings and employments;
- (b) taxes on animals, vehicles and boats;
- (c) taxes on the entry of goods into a market for sale therein, and tolls on passengers and goods carried in ferries; and
- (d) taxes for the maintenance of schools, dispensaries or roads.

Paragraph 9. Licences or leases for the purpose of prospecting for, or extraction of, minerals

The paragraphs provides for a share of the royalties to ADCs accruing from licences or leases for the purpose of prospecting for, or the extraction of, minerals granted by the Government of the State in respect of any area within an autonomous district.

Paragraph 10. Power of District Council to make regulations for the control of money-lending and trading by non-tribals

As you know one of the aims of Sixth Schedule is to protect the tribals from exploitation by traders and money lenders. This paragraph provides such safeguards. It empowers the District Council of an autonomous district to make regulations for the regulation and control of money-lending or trading within the district by persons other than Scheduled Tribes resident in the district.

Paragraph 14. Appointment of Commission to inquire into and report on the administration of autonomous districts and autonomous regions

This paragraph empowers the Governor to assess the working of the ADCs. The paragraph empowers the Governor to appoint at any time a Commission to examine and report on any matter specified by him relating to the administration of the autonomous districts and autonomous regions in the State. It also provides that the Governor may appoint a Commission to inquire into and report from time to time. The important areas of enquiry may include

- (a) the provision of educational and medical facilities and communications in such districts and regions;
- (b) the need for any new or special legislation in respect of such districts and regions; and
- (c) the administration of the laws, rules and regulations made by the District and Regional Councils;
- (d) and define the procedure to be followed by such Commission.

The primary objective of the Sixth Schedule is to provide for the administration of ‘tribal areas’ of the then Assam. Accordingly autonomous district councils and regional councils have been formed. The Sixth Schedule, though is a unique arrangement of the provisions for autonomy with regard to self-governance, it has given rise to some challenges on the matter of relevance, uniformity, relation with state legislature, etc. We will discuss these challenges in the section 4.5.3 which is titled Autonomous Councils under Sixth Schedule.

Check Your Progress III

Answer the following questions in a word or in a few words

1. Who can appoint the Commission to inquire into and report on the administration of autonomous districts and autonomous regions?
2. How does the District Council protect tribals from exploitation by traders and money lenders?
3. Which sub-paragraph provides for Bodoland Territorial Council powers to make laws?
4. Who is empowered to make rules for the first constitution of District and regional Councils?
5. For which section of the society Sixth schedule does not have provision of representation in District and Regional Councils?
6. Which paragraph of Sixth Schedule mentions 'tribal area'?
7. Who is empowered to organise 'Tribal Areas' into autonomous region?
8. Which two hills tribes areas have been provided with more autonomy to make laws? Mention the paragraph and sub-paragraph, if any.
9. Which plains tribe is covered under Sixth Schedule?
10. Which Article provides for grants-in-aid to ADCs?

3.5 Let us sum up

After going through this Unit you have learnt that

- The Constitution provides for administration of tribes and tribal areas under Fifth Schedule and Sixth Schedule incorporated in Article 244 in Part X.
- Fifth Schedule and Sixth Schedule have been incorporated into the Constitution on the basis of the recommendations of the North-East Frontier (Assam) Tribal and Excluded Areas Committee under the chairmanship of Gopinath Bordoloi. The Excluded and Partially Excluded Areas (Other than those in Assam) Sub-Committee headed by A.V. Thakkar.
- The tribal areas of the country have been designated as 'scheduled areas' and 'tribal areas'.
- Scheduled Areas are known as Fifth Scheduled Areas. Generally tribal predominant areas of states as declared by the President of India are Scheduled Areas states.
- Obviously, the Fifth Schedule of the Constitution deals with the administration and control of Scheduled Areas and Scheduled Tribes in any state except the four states of Assam, Meghalaya, Tripura and Mizoram.
- The Sixth Schedule of the Constitution, on the other hand, deals with the administration of the tribal areas in the four North-eastern states of Assam, Meghalaya, Tripura and Mizoram.

- The Executive power of the Union shall extend to giving directions to the respective States under Fifth Schedule regarding the administration of the Scheduled Areas.
- The Governors of the State in which there are “Scheduled areas” have to submit reports to the President regarding the administration of such Areas, annually or whenever required by the President.
- Fifth Schedule provides for Tribes Advisory Councils (TACs) to advise on matters pertaining to welfare and advancement of the Scheduled Tribes. Each State having Scheduled Areas has a Tribes Advisory Council consisting of not more than twenty members, three-fourths of whom are to be the representatives of the Scheduled Tribes in the State Legislative Assembly. A Similar council may be created in the state which has Scheduled Tribes, but not Scheduled Areas, if the president so directs.
- The Governor is authorised to direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or shall apply, only subject to exceptions or modifications. The Governor is also authorised to make regulations to prohibit or restrict the transfer of land by, or among members of the Scheduled Tribes.
- The Governor is also empowered to make regulations for the peace and good government of any area in a State which is for the time being a Scheduled Area.
- These provisions of the Constitution relating to the administration of the Scheduled Areas and Tribes may be altered by Parliament or by ordinary legislation.
- The Governor is authorised to decide on number of members of TACs, mode of their appointment, appointment of the chairman, officers and servants of these councils, conduct of its meeting and general business.
- The Constitution provides for the appointment of a Commission to report on the administration of the Scheduled Areas and the welfare of the Scheduled Tribes in the States.
- The President may appoint such Commission at any time, but the appointment of such Commission at the end of 10 years from the commencement of the Constitution was obligatory.
- The Sixth Schedule provides for the administration of tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram, which were under undivided Assam. Sixth Schedule to the Constitution.
- The Sixth Schedule empowers the Governor to organise and re-organise the autonomous districts by increasing or decreasing their areas or changing their names or defining their boundaries and so on.
- If there are different tribes in an autonomous district, the governor can divide the district into several autonomous regions under Regional Councils.
- The Sixth Schedule provides for the composition of autonomous district councils. Each Council consists of elected and nominated members and the number varies from council to Council. The elected members hold office for a term of five years unless the council is dissolved earlier. The nominated members hold office during the pleasure of the Governor.

- The district and regional councils administer the areas under their jurisdiction. They can make laws on certain specified matters like land, forests, canal water, shifting cultivation, village administration, and inheritance of property, marriage and divorce, social customs and so on. But all such laws require the assent of the Governor.
- The district and regional councils within their territorial jurisdictions can constitute village councils or courts for trial of suits and cases between the tribes. The District courts act as Courts of appeal. The jurisdiction of high court over these suits and cases is specified by the Governor.
- The district council can establish, construct or manage primary schools, dispensaries, markets, ferries, fisheries, roads and so on in the district. It can also make regulations for the control of money lending and trading by non-tribals. But, such regulations require the assent of the governor.
- The district and regional councils are empowered to assess and collect land revenue and to impose certain specified taxes.
- The acts of Parliament or the State Legislature do not apply to autonomous districts and autonomous regions, only subject to exceptions or modifications.
- The Governor can appoint a commission to examine and report on any matter relating to the administration of the autonomous districts or regions. He may dissolve a district or regional council on the recommendation of the commission.
- Despite uniform provisions there are variations of provisions among ADCs. ADCs like Karbi Anglong ADC, Dima Hasao ADC and Bodoland Territorial Administration have some special provisions.
- Northeastern states of Arunachal Pradesh, Nagaland and Manipur do not have Sixth Schedule Areas.
- Like Autonomous District Councils under Sixth Schedule, States like Assam, Manipur, West Bengal, Jammu and Kashmir have Autonomous Councils enacted by their respective State legislatures.
- There are frequent conflicts of interests between the District Councils under Sixth Schedule and the State Legislatures.
- Autonomous Councils through State enactment strive for the provisions of Sixth Schedule and ADCs under Sixth Schedule strive for more autonomy.

3.6 Keywords

Autonomy: self-rule/law or self-governance; the word ‘autonomy’ derives from two Greek words ‘auto’ meaning self and ‘nomos’ meaning law or rule

Concerned Community: the Community for which the Council is formed. For example, Mihing is the concerned community in Mising Autonomous Council

Core Area:	compact and contiguous area predominantly inhabited by a Scheduled Tribes (according to Autonomous Council Acts of Assam) with a population of 50% and above
Consolidated Fund:	is a government account consisting of revenues (direct taxes, indirect taxes, money borrowed, receipts of loans given by government) received and expenses made by the government excluding the exceptional items. No money can be drawn from this fund without Parliament's approval. Expenditures on exceptional items are met from Contingency Fund or Public Account. (Contingency Fund: a fund created to meet urgent and possible unforeseen future expenses of the government. Public Account: the account in which the fund constitutes flows for those transactions where the government is merely acting as a banker. For example provident funds, small savings, etc do not belong to the government. They have to be paid back. The government acts as a banker of receiving and paying.)
De facto:	as a matter of fact, not by any law, in reality; it is opposite of de jure
De jure:	formal, by virtue of law, official, in accordance with law, state of affairs that is true as a matter of fact
Exclusive Council:	the Council that includes the people for whom it is formed; if same ethnic group living outside the jurisdiction of the territory are left out the Council is partly exclusive; the Rabhas for example living in Meghalaya are not a part of Rabha Hasong Autonomous Council
Inclusive Council:	the council that includes all sections of people under its jurisdiction; the sections of people outside the Council area are not covered under its jurisdiction; then the council is partly inclusive; for example, the Hajong people living outside Bodoland territorial areas are not included under its jurisdiction
Non-territorial autonomy:	decentralisation of decision making power of a body relating to the matters of maintenance and advancement of socio-cultural affairs of the groups even though dispersed throughout the state

Non-territorial Council:	the Council that covers the people but not the areas inhabited by those people
Regional Councils:	councils within an Autonomous District under Sixth Schedule for distinct sub-tribes; the ADC is for the main tribe of the District.
Satellite Area:	non-contiguous cluster of villages predominantly inhabited by Scheduled Tribes (according to Autonomous Council Acts of Assam) with a population of 50% and above as a whole in the cluster and not necessarily in the individual villages.
Territorial autonomy:	a special administrative local body with a minimum power to legislate in some basic domains of activities with elected executive to implement the legislation, the body is independent from the central/state institutions; it is semi-territorial if the autonomy is subject to Central/State legislation
Territorial Council:	the Council that covers the territory inhabited by the people for whom it is created, but if it covers people but not the territorial area then it becomes semi territorial; the Council, for example, does not cover the territorial area of a village for a few families (less than 50%) of the tribe for whom the council is constituted

3.7 Probable Questions

Short Answer Questions

1. What is the Sixth Schedule?
2. What is the difference between Schedule Area and Tribal Area?
3. What is an autonomous district?
4. What is Fifth Schedule?
5. What are the major differences between the Fifth Schedule and the Sixth Schedule?
6. What was the need to have separate Fifth Schedule Areas?
7. What is the Sixth Schedule and what is its purpose?
8. Name the States covered by the Sixth Schedule and the Fifth Schedule of the Constitution of India.
9. Name two sub-committees of Advisory Committee on the Rights of Citizens, Minorities and Tribal and Excluded Areas.

10. Write a note on Article 244.
11. Discuss the role of the President under Fifth Schedule.
12. What are the principles followed in declaring a Scheduled Area?
13. Present Arunachal Pradesh was a part former Assam administration and is a tribal State like Meghalaya and Mizoram. But it was not under Sixth Schedule. Why?
14. What is a Regional Council? Which Schedule provides for it?
15. Are all Autonomous Councils under Sixth Schedule? Justify your answer with suitable examples.
16. Write Short notes on (a) Deori Autonomous Council, (b) Nagaland and Sixth Schedule, (c)
17. Mention legislative powers of Regional Councils.
18. On what subjects the Governor is empowered to make rules for the first constitution of the District/Regional Councils?
19. Write a short note on Administration of justice in autonomous districts and autonomous regions.
20. Discuss the powers of District Council to assess and collect land revenue and to impose taxes.
21. Enumerate all types of autonomous councils in different states of India.
22. Write a note on the structure of autonomous councils of Indian states.

Long Answer Questions

1. What is Fifth Schedule? What is its purpose? Discuss the role of Tribes Advisory Council in the administration of Scheduled Areas?
2. Discuss the role of the Governor under Fifth Schedule?
3. Critically examine the provisions of Fifth Schedule.
4. Write a note on Bordoloi Committee. Mention the arguments in favour of and against the recommendations of this Committee in Constituent Assembly.
5. Why all the States of North-eastern India do not have Sixth Schedule Areas? Discuss with reference to Arunachal Pradesh, Nagaland and Manipur.
6. Critically examine the provisions of Sixth Schedule.
7. State and explain the legislative powers of District Councils and Regional Councils.
8. Discuss the powers provided in sub-paragraph 3A and 3B under Sixth Schedule.
9. Critically examine Autonomous Councils of Assam established through State legislation.
10. State and explain powers and function of Autonomous Councils and village councils established under state enactment.
11. Write a note on Manipur Autonomous Councils.
12. Discuss the composition, and powers and functions of the ADCs.
13. Why were Tripura Tribal Areas placed under Sixth Schedule? Discuss. Also write a note on powers and functions of the ADC of Tripura.
14. Write a note on the evolution of Karbi Anglong ADC and Dima Hasao ADC.
15. Examine the role of Governor under the provisions of Sixth Schedule.

16. Discuss the challenges faced by Autonomous Councils under Sixth Schedule and established under State legislation.

3.8 Answers to Check Your Progress

Check Your Progress I

1. Article 244
2. Fifth
3. Fifth
4. Sixth
5. Fifth
6. Sardar Vallabhbhai Patel

Check Your Progress II

1. False
2. False
3. False
4. True
5. False

Check Your Progress III

1. Governor of the State
2. By making regulations to control money-lending and trading by non-tribals according to the provisions of paragraph 10 of the Sixth schedule.
3. Sub-paragraph 3B
4. Governor of the concerned State
5. Woman
6. Paragraph 20
7. Governor of the concerned State
8. North Cachar Hills Autonomous Council and Karbi Anglong Autonomous Council; Paragraph 3 and sub-paragraph 3A of Sixth Schedule
9. The Bodo
10. Article 275(1)

Check Your Progress IV

1. **False**
2. **False**
3. **True**
4. **False**
5. False
6. True
7. True
8. False

9. True
10. False

Check Your Progress V

1. In Assam only Autonomous District Councils are under Sixth Schedule.
2. ADCs provide for STs, SCs and non-STs who are living in its jurisdiction.
3. At the time of incorporating Sixth Schedule there was also provision for covering the then Naga Hills. But the provisions are not implemented.
4. De facto autonomy is based traditional autonomy of tribes.
5. Mising Autonomous Council is one of the oldest Council under State legislation.
6. The Ladakh Autonomous Hill Development Councils though enacted through State legislature belong to tribes of Leh and Kargil hills.

Check Your Progress -VI

1. d
2. a
3. d
4. b
5. a

3.9 Further Reading

- Action Aid 2016. *Functioning of Autonomous Councils in Sixth Schedule Areas of North Eastern States*. Bhubaneswar: Natural Resource Hub and Democratisation Hub, Action Aid India.
- Bakshi, P.M. 2018. *The Constitution of India*. Delhi: Universal Law Publishing Company (14th edition).
- Basu, D.D. (nd). *Work Book on Constitution of India*. Gurgaon: LexisNexis.
- Basu, D.D. 2018. *D.D.Basu's Shorter Constitution of India*, 2 vols, (revised by Justice A.K.Patnaik). Gurgaon: LexisNexis.
- Behera, M.C. and K.K. Misra 2013. *Amazing Arunachal Pradesh*. New Delhi: Aryan Books International.
- Benedikter, Thomas 2009. *The World's Modern Autonomy Systems: Concept and Experiences of Regional Territorial Autonomy*. Bozen/Bolzano: EURAC Research Institute.
- Bhuyan, B.C. 1989. 'District Council and the State Government: Karbi Anglong District Council and the Government of Assam'. *The Indian Journal of Political Science*, Vol.50.No.2 (April-June,1989), pp.221-233.
- Chaube, Shibani Kinkar.1999. *Hill Politics in North-East India*. Hyderabad: Orient BlackSwan, First published in 1973 by Orient Longman.
- Chowdhury, J.N. 1983. *Arunachal Pradesh: From Frontier Tracts to Union Territory*. New Delhi: Cosmo Publications.
- Datta, P.S. 1993. *Autonomy Movements in Assam*. New Delhi: Omsons Publications.

- Datta-Ray, B. and S. P. Agrawal (eds.) 1996. *Reorganization of North-East India since 1947*. New Delhi: Concept Publishing House.
- Gassah, L. S. 1997. *Autonomous district council*. New Delhi: Omson Publications.
- Hansaria, B. L. 1983. *Sixth Schedule to the Constitution of India- A Study*. Gauhati: Smti Gita Hansaria, Jyoti Printers.
- Kom, Sekholal 2010. 'Identity and Governance: Demand for Sixth Schedule in Manipur'. *The Indian Journal of Political Science*, Vol. 71, No. 1, pp. 313-322.
- Kumar, B.B. 1998. *Small States Syndrome in India*. New Delhi: Concept Publishing Company.
- Mohapatra, Gadadhara 2017. 'Decentralised Governance and Tribal Development in Scheduled Areas of Northeast India: A Case Study of the Tripura Tribal Areas Autonomous District Council'. *Indian Journal of Public Administration*, Vol. 63, No.3, pp.475-494.
- Patnaik, J. K. 2017. 'Autonomous District Councils and the Governor's Role in the Northeast India'. *Indian Journal of Public Administration*, Vol.63, No.3, pp.431-443.
- Prasad, R. N. 2004. 'Sixth Schedule and Working of the District Councils in North-Eastern States'. *Dialogue*, Vol.6, No. 2.
- Stuligross, David 1999. 'Autonomous Councils in Northeast India: Theory and Practice'. *Alternatives: Global, Local, Political*, Vol. 24, No. 4, pp. 497-525.
- Thakkar, N. 2005. 'Karbi Anglong Autonomous Council'. *Ishani*, Vol 2, No. 1, Guwahati: Mahatma Gandhi Ishani Foundation.
- Veerasha, Nayakara 2017. 'Governance of the Fifth Schedule Areas: Role of Governor'. *Indian Journal of Public Administration*, Vol. 63, No.3, pp.444-455.
- Zahluna, J. 2010. 'Constituent Assembly and the Sixth Schedule: With Special Reference to Mizoram'. *The Indian Journal of Political Science*, Vol. 71, No. 4, pp. 1235-1242.

UNIT-IV

AUTONOMOUS DISTRICT COUNCILS

Structure

- 4.1 Learning Objectives**
- 4.2 Introduction**
- 4.3 Autonomous District Councils**
 - 4.3.1 State Enacted Autonomous Councils**
 - 4.3.2 Autonomy in Other States**
 - 4.3.3 Autonomous Councils under Sixth Schedule**
- 4.4 Let us sum up**
- 4.5 Keywords**
- 4.6 Probable Questions**
- 4.7 Answers to Check Your Progress**
- 4.8 Further Reading**

4.1 Learning Objectives

After reading this Unit you shall be able to

- reason out the need of special provisions for ST communities;
- explain Constitutional provisions under Fifth Schedule and Sixth Schedule for tribal self-governance;
- understand the role of Bordoloi Committee behind incorporation of Sixth Schedule in the Constitution;
- identify Fifth Schedule Areas of the country;
- learn various provisions incorporated in Fifth Schedule for tribal self-governance;
- identify areas where provisions of Sixth Schedule are in operation;
- distinguish between provisions incorporated in Fifth Schedule and Sixth Schedule for tribal self-governance, development and protection of cultural and ethnic identity;
- explain role of a Governor in Fifth Schedule and Sixth Schedule areas;
- know the reason of some states in the Northeast having Sixth Schedule while others do not;
- learn types of autonomous institutions in the country and discuss their need; and
- enumerate autonomous councils under Sixth Schedule and explain their structure and functions.

4.2 Introduction

In Unit-I of this Paper you have learnt that the Constitution of India provides special safeguards to tribal communities to protect them from all sorts of exploitation, to raise their

standard within the framework of positive discrimination and affirmative action and to promote their traditions and customs. One of the strategies in this regard is to make provisions for their autonomy through self-governance. Such provisions are included in Fifth and Sixth Schedules of the Constitution of India. These two Schedules essentially contain provisions of administration of tribal areas in the process of their own development.

Part X of the Constitution of India provides for the Scheduled and Tribal Areas under Article 244 and 244A.

The Sixth Schedule of the Constitution of India provides for Autonomous Councils particularly for hills tribes living presently in the Northeast states of Assam, Meghalaya, Mizoram and Tripura. Provisions have been made for all-round development of these tribes through self-governance.

The Fifth schedule on the other hand contains special provisions for the administration of certain areas called 'Scheduled Areas'. The President is empowered to declare any area as Scheduled Area. These are the Areas inhabited by 'specified as scheduled Tribes in States other than Assam, Meghalaya, Tripura and Mizoram tribes'. These States in 1984 are Andhra Pradesh, Bihar, Gujarat, Himachal Pradesh, Madhya Pradesh, Maharashtra, Orissa and Rajasthan. The special provisions have been made despite the fact that these areas are situated within a State or Union Territory. These areas are characterised by the backwardness of the people, tribes in particular, living therein.

Article 244 provides for the administration of Scheduled Areas and Tribal Areas. Article 244(1) states: The Provisions of the Fifth Schedule shall apply to the administration and control of Scheduled Areas and Scheduled Tribes in any state other than the States of Assam, Meghalaya, Tripura and Mizoram.

As the people living in such areas are socially and economically backward, they need special efforts to improve their condition. Normal administrative mechanism operating in the states in which these tribes live is presumed to be ineffective to meet their needs different from other sections of people and advanced communities. Therefore, the whole of the normal administrative machinery operating in a State is not extended to the Scheduled Areas. The Central Government has somewhat greater responsibility for these areas which is reflected through the provisions of the Fifth Schedule.

The unit is so designed that you will learn the provisions of Fifth Schedule and Sixth Schedule of the Constitution of India. Secondly, you will study Autonomous Councils which are in operation in the country in general and in Sixth Schedule areas in particular.

4.3 Autonomous District Councils

India is a country of linguistic, cultural, ethnic and regional diversities. Moreover, these diverse people also display different degrees of socio-economic attainments. Naturally, the

problems, opportunities, possibilities and aspirations of these people with such diversities are sure to be diverse. This demands different treatment to meet diverse needs of these sections of people of Indian society.

As you know, the government of Independent India is committed to all-round development of these diverse sections of people in order to ensure equality-social, economic and political. No doubt, the Constitution of India incorporates provisions keeping in view the diverse needs of these people. One of such provisions includes creation of autonomous councils for tribal and other under/unprivileged sections of the society for their advancement, preservation of ethnic identity and respect to diversities. Sixth Schedule of the Constitution of India provides for such councils for hill tribes of the present Northeast India. In addition, State legislatures also enact for the creation of such Councils, though not under Sixth Schedule, but with the same objective.

Therefore, we have autonomous councils in India which are under Sixth Schedule or created through an enactment of the State Legislature. Under Sixth Schedule we have 10 autonomous councils in the State of Assam (3), Meghalaya (3), Mizoram (3) and Tripura (1). Benedikter (2009) has prepared a table of such councils. But in his table a few councils are listed which are not created under Sixth Schedule. Benedikter's table containing the name of the councils, year of formation and the tribes/communities covered is presented below:

Autonomous Council	State	Year of Constitution	of Ethnic Composition
North Cachar Hill District	Assam	1952	Dimasa, Kuki, Hmar & Zemei tribes
Jaintia Hill District	Meghalaya	1952	Pnar, Jaintia & Khasi tribes
Khasi Hill District	Meghalaya	1952	Khasi tribes
Karbi Anglong Autonomous District	Assam	1952	Karbi Tribes & SC
Garo Hill District	Meghalaya	1952	Garo, Rabha & Hajong
Tripura Tribal Area Autonomous District	Tripura	1985	STs
Chakma Autonomous District Council	Mizoram	1987	Chakma tribes
Lai Autonomous District Council	Mizoram	1987	Lai tribes
Mara Autonomous Council	Mizoram	1987	Mara tribes
Darjeeling Gorkha Hill Council	West Bengal	1988	Nepalis
Autonomous Hill District Council, Leh	Kashmir	1995	ST- Ladakhi
Autonomous Hill District Council, Kargil	Kashmir	2003	ST- Purigba, Balti & Brokpa
Bodoland Territorial Council	Assam	2003	Bodo, Rabha, Garo, Hajong tribes & SC

Darjeeling Gorkha Hill Council in West Bengal; Autonomous Hill District Council, Leh and Autonomous Hill District Council, Kargil in Jammu and Kashmir, however, do not belong to other category of councils created under Sixth Schedule. These are created by State

Legislature. Similarly, in Manipur and in Assam six councils each are created through state enactment. These councils are presented below:

Name	State	Year of enac
Mising Autonomous Council	Assam	1995
Tiwa Autonomous Council	Assam	1995
Rabha Hasong Autonomous Council	Assam	1995
Sonowal Kachari Autonomous Council	Assam	2005
Thengal Kachari Autonomous Council	Assam	2005
Deori Autonomous Council	Assam	2005
Senapati Autonomous District Council	Manipur	1971/1972
Sadar Hills Autonomous District Council	Manipur	1971/1972
Ukhrul Autonomous District Council	Manipur	1971/1972
Tamenglong Autonomous District Council	Manipur	1971/1972
Chandel Autonomous District Council	Manipur	1971/1972
Churachandpur Autonomous District Council	Manipur	1971/1972
The Ladakh Autonomous Hill Development Council	Jammu and Kashmir	1995
The Ladakh Autonomous Hill Development Council	Jammu and Kashmir	2003
The Gorkhaland Territorial Administration	West Bengal	2011

The Gorkhaland Territorial Administration is reorganisation of earlier Darjeeling Gorkha Hill Council established in 1988. In addition to statutory way of granting autonomy, there is a unique way by which Sentinels people of Andaman and Nicobar Islands have been granted autonomy. This is termed as *De facto* autonomous area.

You will learn about these autonomous councils briefly before you know about Autonomous Councils established under Sixth Schedule.

4.3.1 State Enacted Autonomous Councils

Autonomous Councils in India have been established under Sixth Schedule and State Legislatures. In this section you will learn about them.

Autonomous Councils in Assam

As you know six autonomous councils were created through Acts of the State Legislative Assembly in Assam for the advancement of plains tribes. The Acts were enacted in 1995 and further in 2005 giving autonomous status to three tribes each time. The Councils are presented as follows:

Mising Autonomous Council

Mising Autonomous Council (MAC) is an autonomous administrative division under the Mising Autonomous Council Act, 1995, for all round development of the Misings living in

Assam in the area of economic, educational, socio- cultural and ethnic identity. Mising (also known as Miri), an ST community, is a Tibeto-Burman stock who live in the plains of Assam. The Council covers the Mising areas spread in 8 districts, namely Dhemaji, Lakhimpur, Sonitpur, Tinsukia, Dibrugarh, Sibsagar, Golaghat and Jorhat of Assam. Its headquarters is located at Gogamukh in Dhemaji district.

The Mising Autonomous Council, Act, 1995, (Act No.XXVI of 1995), amended in 2001 (Act No,VIII), 2005 (Act No. XXI of 2005) and 2008 (Act No.VI of 2008) provides for maximum autonomy within the framework of the Constitution of India. Like other Councils established by Assam State Legislature, it consists of village councils comprising ‘Satellite’ and ‘Core’ Areas of Mising habitations. The Council also provides for social, economic, educational, ethnic and cultural advancement of the Misings and other ST communities living therein.

The Act provides for a General Council and an Executive Council. According to the Act, the General Council shall consist of 40 members out of which 36 shall be directly elected and 4 shall be nominated by the Government from amongst the groups of communities residing in the Council Area and not otherwise represented in the general council. It further provides that out of 40 seats, 25 seats shall be reserved for the Scheduled Tribes and 6 shall be reserved for women of any community. The Act provides that Members of Parliament and the Members of the State Legislative Assembly, Assam belonging to ST Reserved Constituencies of the Council Area shall be ex-officio members of the General Council.

Chapter III of the Act details the powers and functions of the general council and Section 18 specifies 34 subjects under the control and administration of the General Council. Section 19 specifies subjects other than those mentioned in section 18 under the control of the administration of the General Council. Accordingly, the General Council shall formulate integrated development plans for the Council Area, implement schemes and programmes for the development of the Council Area, to appoint Class III and Class IV staff within the Council Area and to regulate trade and commerce within its jurisdiction. It shall guide customs and traditions and social justice of the Mising community according to traditional laws.

The Mising Autonomous Council Section 4(1) of the Act, 1995 states that there shall be a village council for each block of villages, each village having 50% or more Mishing population. According to section 4(2), each village council area shall consist of approximately 6000 to 8000 population.

The Act provides that the village council shall consist of 10 members of which 5 seats shall be reserved for the Mishing community out of which at least one shall be a woman. According to section 43 of the Act, the village council has the executive power in relation to the village council areas over 29 subjects.

Section-44 other powers and functions as well as formulating integrated development plans for the area, implementing schemes and programmes for the development of the area, regulating trade and commerce and also the power to collect certain taxes within the village council area.

The section also empowers the Village Council to appoint Class III and Class IV staff of the village council and to regulate trade and commerce within the village council area in accordance with the existing laws including issue of permits or licenses to individuals within the Village Council area.. It shall guide customs and traditions and social justice of the Mishing community according to traditional laws. The Council is also empowered to allot permits for trade and commerce to the people residing in the Village Council area preference being given to the Mishing Community.

Tiwa Autonomous Council

Tiwa (also known as Lalung), an ST community, is a Tibeto-Burman stock live in the hills and plains of Assam. Plains Tiwas live on the flat lands of the Southern bank of the Brahmaputra valley, particularly in Marigaon, Nagaon, Hojai, Kamrup, Sibsagar, Dhemaji, Jorhat and Lakhimput districts. Hill Tiwas live in West Karbi Anglong district of the state. Besides, they are also found in the hills of Ri-Bhoi district of Meghalaya.

The Tiwa Autonomous Council, Act, 1995, (Act No.XXVI of 1995) amended in 2001 (Act No,VI), 2005 (Act No. XXIII of 2005) and 2008 (Act No.8 of 2008) provides for Tiwa (Lalung) Autonomous Council within the State of Assam with maximum autonomy within the framework of the Constitution of India. Like Deori, Rabha Hasong and Thengal Kachari Councils it consists of village councils comprising ‘Satellite’ and ‘Core’ Areas of Tiwa habitations. The Council also provides for social, economic, educational, ethnic and cultural advancement of the Tiwa and other ST communities living therein.

The Act provides that the general Council shall consist of 30 members out of which 26 shall be directly elected and 4 shall be nominated by the Government from amongst the groups of communities residing in the Council Area and not otherwise represented in the general council. It further provides that out of 30 seats, 15 seats shall be reserved for the Tiwa community and out of 15 reserved seats at least 3 seats shall be reserved and for women. The Act states that the elected members of the general council shall on the first meeting after the election for the purpose of constitution of the executive council, select from amongst themselves, in the manner prescribed, one member to be the chief executive shall also be the president of the general council three executive councillors.

Chapter III of the Act details the powers and functions of the general council and Section 18 vests executive power on the General Council to take decision on 34 subjects.

The general council is also empowered under section 19 to formulate integrated development plans for the Council Area, implement schemes and programmes for the development of the Council Area, to appoint Class III and Class IV staff within the Council Area and to regulate trade and commerce within its jurisdiction

The Tiwa Autonomous Council Section 4(1) of the Act, 1995 states that there shall be a village council for each block of villages, each village having 50% or more Tiwa population. According to section 4(2), each village council area shall consist of approximately 6000 to 8000 population.

The Act provides that the village council shall consist of 10 members of which 5 seats shall be reserved for the Tiwa community out of which at least one shall be a woman. The members shall elect from among themselves a President and Vice-President. Chapter VI of the Act details the powers and functions of the village council. According to section 43 of the Act, the village council has the executive power in relation to the village council areas over 29 subjects.

Section-44 other powers and functions as well as formulating integrated development plans for the area, implementing schemes and programmes for the development of the area, regulating trade and commerce and also the power to collect certain taxes within the village council area.

The Council's headquarters is at Morigaon. The Tiwas, however, demand Sixth Schedule status of their council.

Rabha Hasong Autonomous Council

The Rabhas are one among the nine plans tribe of Assam. They Rabhas belong to the Indo-Mongoloid group of people and have similarities with other members of Bodo group such as Garos, Kachari, Mech, Koch, Hajong and others. However, they are also found in West Bengal, mainly , in Jalpaiguri district and Cooch Behar district, and in Meghalaya. In Assam, the Rabhas live mostly in Goalpara and Kamrup districts.

They are provided with an Autonomous Council under Rabha Hasong Autonomous Council Act, 1995. It was constituted for all round development in the area of economic, educational, socio-cultural and ethnic identity of Rabha people residing in the council area. Like the Deories, the Rabha Hasong Autonomous Council is constituted comprising 'Satellite Areas' and 'Core Areas' as the tribes live in both compact and contiguous areas and in non-contiguous cluster of villages. The Act was amended from time to time, the first in 1997 and then in 2001, 2005 and 2008 (Act No.V of 2008). Because of these frequent amendments on account of demands and counter demands of various tribal and non-tribal communities residing in the Rabha Hasong Autonomous Council area, the first elections were held in 2013 to constitute the General Council. Moreover, Rabhas also keep on demanding for creation of Rabha Hasong autonomous State under the Article 244 (A) of the Constitution of India in the south bank of river and Councils in Rabha inhabited districts of the State.

Jurisdiction of Rabha Hasong Autonomous Council includes almost entire Goalpara district, excluding Balijan, Lakhipur and Matia revenue circles; and Rani in Kamrup district. It covers discontinuous satellite areas and Rabha Hasong village councils in areas with not more than 50% tribal population. Headquarters of the council is located at Dudhnoi of Goalpara district. According to the amended Act, the General Council consists of 40 members, out of which 36 are directly elected and 4 members are nominated by the Government to give representation to those communities of the council which are not otherwise represented in it. Out of 40 seats 25 seats are reserved for the tribals and out of 25 reserved seats at least 6 seats are reserved for women of any community. The rest of the seats may be treated unreserved and open for all since the Act does not mention for whom these seats belong to.

The Rabha Hasong Village Council (RHVC) is constituted with the villages having more than 50% of the tribal population or with population of 6000-8000. The Council includes the non-tribals. The RHVC is constituted with 10 elected members out of which five are from the Rabha tribes. Out of five reserved seats one is reserved for a woman member. According to the RHAC Accord, 1995, the executive council of the RHAC is vested with the executive powers and functions on 34 subjects in relation to the council area. According to the Accord, the RHVC has the executive powers and functions on 29 subjects in relation to the village council area.

The Act provides for executive power in respect of execution of development schemes on 29 subjects by an RHVC and 34 subjects by RHAS in relation to the Council areas.

Sonowal Kachari Autonomous Council

The Sonowal Kachari Autonomous Council is another autonomous administrative unit in the state of Assam created by the Assam Legislature with the same objective of empowering the STs for the all-round development like other such councils. The Sonowal Kacharis belong to Tibeto-Burman linguistic family; though at present they have adopted Assamese language. They are mainly distributed in Dibrugarh, Lakhimpur, Dhemaji, Tinsukia, Sibsagar, Jorhat and Golaghat districts of Assam. The concentration of this people is large in Dibrugarh district. Therefore, the headquarters of the Council is located in Milan Nagar of Dibrugarh town, the capital city of the district.

The Sonowal Kachari Autonomous Council Act, 2005 (Act No XX of 2005) have the same objectives and similar coverage area for the Stonewall Kachari people as other Councils provide for the people covered under them. It provides for maximum autonomy within the framework of the Constitution of India to the Sonowal Kacharis and other STs who are living in the Council area. It consists of village councils comprising 'Satellite Areas' formed out of blocks of contiguous revenue villages, each having 50% and above population of Sonowal Kacharis and other ST population without having any compact area. The Council aims at providing for social, economic, educational, ethnic and cultural advancement of the Sonowal Kacharis and other ST communities living therein.

The Act provides for a General Council and an Executive Council. According to the Act, the General Council shall consist of 30 elected members out of whom 4 shall be nominated by the Government from amongst the groups of communities residing in the Council Area and not otherwise represented in the general council. It further provides that out of 26 seats, 20 seats shall be reserved for the Scheduled Tribes and 5 shall be reserved for women of any community. The Act provides that Members of Parliament and the Members of the State Legislative Assembly, Assam belonging to ST Reserved Constituencies of the Council Area shall be ex-officio members of the General Council.

Chapter III, Section 18 of the Act specifies 34 subjects under the control and administration of the General Council. Section 19 specifies subjects other than those mentioned in section 18 under the control of the administration of the General Council. Accordingly, the General Council shall formulate integrated development plans for the Council Area, implement schemes and programmes for the development of the Council Area, to appoint Class III and Class IV staff within the Council Area and to regulate trade and commerce within its jurisdiction. It shall guide customs and traditions and social justice of the Sonowal Kachari community according to traditional laws.

Chapter V of the Act provides that there shall be a village council for each block of villages, each village having 50% or more ST population. According to section 4(2), each village council area shall consist of approximately 3000 to 5000 population.

The Act provides that each village council shall consist of 10 elected members out of which 5 will be from ST community. Out of 5 reserved seats 1 (one) shall be reserved for a woman member. According to section 43 of the Act, the village council has the executive power in relation to the village council areas over 29 subjects.

Section-44 other powers and functions as well as formulating integrated development plans for the area, implementing schemes and programmes for the development of the area, regulating trade and commerce and also the power to collect certain taxes within the village council area.

The section also empowers the Village Council to appoint Class III and Class IV staff of the village council and to regulate trade and commerce within the village council area in accordance with the existing laws including issue of permits or licenses to individuals within the Village Council area. It shall guide customs and traditions and social justice of the Sonowal Kachari community according to traditional laws. The Council is also empowered to allot permits for trade and commerce to the people residing in the Village Council area preference being given to the members of Sonowal Kachari Community.

Thengal Kachari Autonomous Council

The Thengal Kachari community belongs to one of the 14 plains tribe of Assam Thengal Kachari belongs to the Indo-Mongoloid stock. They are once considered a clan of the greater

Bodo Kachari tribe of Assam which is one of the most ancient groups that inhabited the region. The Thengal- Kacharis are found mostly in the northern part of Assam in the districts Jorhat, Golaghat, Sivasagar, Dibrugarh, North Lakhimpur, Nagaon and Karbi Anglong. However, a good number of them are concentrated in the Jorhat district.

The Thengal Kacharis are provided with an autonomous council under the Thengal Kachari Autonomous Council Act, 2005 (Act No. 38 of 2005, amended, 2010) passed by Assam Legislative Assembly, within the State of Assam. This Council is the result of their struggle for identity assertion in order to derive benefit from the Constitution of India accruing to tribals with autonomous councils. The Thengal Kachari Council is constituted within the Satellite Areas model and comprises areas of village councils formed out of blocks of contiguous revenue villages, each village having 50% or more Scheduled Tribe population. The Act grants maximum autonomy to the Council within the frame of the Constitution of India. Each Village Council area shall consist of approximately 3000 to 5000 population. Each village council shall consist of 10 elected members out of which 5 (Five) will be from Scheduled Tribe community. Out of 5 (Five) reserved seats 1 (one) shall be reserved for a woman member. The Act envisages social, economic, educational, ethnic and cultural advancement of the Thengal Kachari and other Scheduled Tribe communities residing therein.

The Act provides for General Council consisting of 26 members out of which 4 (four) shall be nominated. Out of 26 seats 20 seats are reserved for the STs and 05 (five) for women members. The Members of Parliament and the Members of the State Legislative Assembly, Assam belonging to ST Reserved Constituencies of the Council Area shall be ex-officio members of the General Council.

The Act vests the General Council with executive powers and functions on 34 subjects under Section 18. Section 19 of it provides for other matter to be under its control and administration. Section 43 of the Act provides for 29 subjects on which Village Council shall have executive power and function within village council area. Section 44 provides for other matter to be under the control and administration of the Village Council.

Its headquarters is located at Na-Ali Dholi, P.O: Baruaajan in North Lakhimpur district of Assam.

Deori Autonomous Council

The Deori Community is a Scheduled Tribe (Plains) community, numbering about two lakh, is scattered in medium/small villages/parts of villages/settlements in seven upper Assam Districts namely Dhemaji, Lakhimpur, former Sonitpur, Jorhat, Sivasagar, Dibrugarh and Tinsukia. They are provided with an autonomous council under the Deori Autonomous Council Act, 2005 (Act No. XXV of 2005, amended, 2010 (Act No. XI of 2010) passed by Assam Legislative Assembly. The Council comprises areas of village councils of Deori inhabited areas. The Act provides for a Village council for each block of villages, each

village having 3000 or more Scheduled Tribe population. Each Village council area shall consist of approximately 3000 to 5000 population. Each village council shall consist of 10 elected members out of which 5 (Five) will be from Scheduled Tribe community. Out of 5 (Five) reserved seats 1 (one) shall be reserved for a woman member. The Act envisages social, economic, educational, ethnic and cultural advancement of the Deori and other Scheduled Tribe communities residing therein.

The Council Act, 2005 provides that the Deori Autonomous Council shall be constituted comprising 'Satellite Areas' and 'Core Areas' as the tribes live in both compact and contiguous areas and in non-contiguous cluster of villages. The Act grants maximum autonomy to the Council within the frame of the Constitution of India. The Act provides for a General Council consisting of 20 members- 18 elected and 2 (two) nominated, and an Executive Council consisting of 9 members from among the elected members. Out of 18 elected members 17 seats are reserved for the Deoris (STs) including three women, and one for the members of the general community.

The Deori Autonomous Council is provided with executive powers and functions on 34 subjects (Departments). Its headquarters is located at Bhimbora Deori Nagar in Narayanpur of North Lakhimpur district.

A summary

The Autonomous Councils formed by Assam Legislative Assembly aim at social, economic, educational, ethnic and cultural advancement of the major tribe and other Scheduled Tribe communities residing therein. The Acts provide for General Council, Executive Council and Village Councils at the grassroots level. The term of General Council is normally elected for a period of five years. It consists of members who are elected and nominated. It has the provision of reservation for the concerned tribe and women representation.

A General Council is provided with a maximum of 40 members out of which 36 shall be directly elected by the people residing within the council area and the remaining 4 are nominated by the Government. However, some Councils are composed of less members, a maximum of 20 also with the similar reservation criteria. The General Council has Executive Powers in the council area on various subjects which we will mention below. The Executive Council is that body of the Autonomous Council which is responsible for the execution of the functions of the General Council. The Executive body consists of Chief Executive Councillor and the Executive Councillors who are elected by the members of the General Council. Each of the Village Councils consists of 10 members who are directly elected by the people within the area of the Council. In Village Council there is also the provision of reservation for the concerned community and women representation.

As you have learnt, the Councils exist both at Core (General Council) and grassroots levels (Village Councils), each level having functions under its administrative control. Subjects are

specified for councils at both levels. The subjects for which executive power is vested on the General Council and Village Councils are listed below:

Powers and Functions of the General Council

The General Council shall have executive powers in relation to the Council Area over the following subjects:

1. Cottage Industry
2. Animal Husbandry and Veterinary
3. Forest other than reserved forest
4. Agriculture
5. Rural Roads and Bridges,
6. Sericulture
7. Education: (i) Adult Education (ii) Primary Education (iii) Up to Higher Secondary including vocational training
8. Cultural Affairs
9. Soil conservation
10. Co – operation
11. Fisheries
12. Panchayat & Rural Development
13. Handloom & Textile
14. Public Health Engineering - Drinking Water
15. Minor Irrigation
16. Social Welfare
17. Flood Control Schemes for protection of Villages (not of highly technical nature)
18. Sports & Youth Welfare
19. Weights & Measures
20. Library services
21. Museum and Archaeology
22. Urban Development, Town & Country Planning
23. Tribal Research
24. Land & Land Revenue [provided that no allotment or settlement of land shall be made in the Council area without the recommendation of the Executive Council]
25. Publicity & Public Relation
26. Tourism
27. Transport
28. Any other matter connected with development.
29. Municipal Board, Improvement Trust, District of Boards & other local-self Government of Village Administration.
30. Tribal Welfare
31. Market and Fair
32. Lotteries, Theatres, Dramatic performances & Cinema
33. Vital Statistics including registration of birth and deaths.

34. Food & Civil Supplies

Other matter to be under the control of administration of the General Council subject to the general policy of the Government, the General Council shall be as follows:

1. Formulate integrated development plans for the Council Area.
2. Implement schemes and programmes for the development of the Council Area.
1. Have powers to appoint class III and Class IV staff within the Council Area.
2. Have powers to regulate trade and commerce within the council area in accordance with the existing laws including issue of permit or licenses to individuals within the council area.
3. Guide customs and traditions and social justice of the concerned community according to the traditional laws.
4. Organise special recruitment drive into Army, Navy, and other para - military forces, Police Forces and other Central Government establishment for appointments of the persons belonging to the concerned Community.
5. Allot permits for trade and commerce to the people residing in the Council Area preference being given to the concerned Community.

Powers to impose levy and collect taxes:

- a. Levy tolls on persons, vehicles or animals of any class, for the use of any bridge, or road other than *kacha* road, or ferry constructed or established by it.
- b. Levy the following fees and rates namely
 - i. Fees on the registration of boats or vehicles.
 - ii. Fees for providing sanitary arrangements as such places or worships, pilgrimage, fairs, melas or other public places within the Council area as may be specified by the Government by notification in the official gazette.
 - iii. Fees for licenses.
 - iv. Water rates where arrangements for irrigation or drinking water is made by it within the Council area.
 - v. Lighting rate where arrangements for lighting on public streets or places are made by it within the Council area.

Village Council shall have the executive power in relation to the Village Council area over the following subjects:

1. Agriculture including agricultural extension.
2. Animal Husbandry, Dairy Development and Poultry.
3. Fisheries.
4. Social and Farm Forestry/Minor Forest produce fuel & fodder.
5. Khadi, village & cottage Industries.
6. Rural Housing.

7. Drinking water.
8. Road, building, culverts, bridges, tunnels, waterways and other means of communication.
9. Rural Electrification.
10. Non-conventional Energy Sources.
11. Poverty alleviation programme.
12. Education including Primary Schools.
13. Adult & Non-formal Education.
14. Libraries.
15. Cultural Activities.
16. Markets and Fairs.
17. Rural Sanitation.
18. Public Health & Family Welfare.
19. Women & Child Development.
20. Social Welfare including welfare of handicapped & mentally retarded.
21. Welfare of weaker section and in particular the SC/ST.
22. Public Distribution System.
23. Maintenance of community assets.
24. Construction and maintenance of cattle sheds, similar institutions.
25. Construction and maintenance of cattle sheds, pounds and cart stands.
26. Maintenance of public parks and play grounds.
27. Construction and maintenance of slaughter houses.
28. Maintenance and regulation of manure.
29. Such other functions as may be entrusted by the Government from time to time.

Other Matters to be under the control of administration of the Village Council

Subject to the general policy of the Government and subject to the general control and supervision of the General Council, the Village Council shall

- (i) formulate integrated development plans for the Village Council Area;
- (ii) implement schemes and programmes for the development of the Village Council Area;
- (iii) have powers to appoint Class - III and Class - IV staff of the Village Council;
- (iv) have powers to regulate trade and commerce within the Village Council area in accordance with the existing laws including issue of permits or licenses to individuals within the Village Council area;
- (v) guide customs and traditions and social justice of the communities according to their traditional laws; and
- (vi) allot permits for trade and commerce to the people residing in the Village Council area preference being given to the concerned Community.

The Village Council also enjoys the power to impose, levy and collect taxes within the Village Council area. These are presented below:

- a. Levy tolls on persons, vehicles or animals of any class for the use of any bridge, or road other than *kacha* road, or ferry constructed or established by it.
- b. Levy the following fees and rates namely
 - vi. Fees on the registration of boats or vehicles.
 - vii. Fees for providing sanitary arrangements as such places or worships, pilgrimage, fairs, melas or other public places within the Village Council area as may be specified by the Government by notification in the official gazette.
 - viii. Fees for licenses.
 - ix. Water rates where arrangements for irrigation or drinking water is made by it within the Village Council area.
 - x. Lighting rate where arrangements for lighting on public streets or places are made by it within the Village Council area.

The Autonomous Councils created by the Assam Legislative Assembly aimed to address aspirations of some smaller tribal communities of the state which do not fulfil the criteria of Sixth and Fifth Schedules. Many of these are however, partly exclusive and partly inclusive and neither territorial nor non-territorial completely. Always there is a debate with regard to the status of Panchayati Raj Institutions, ADCs under Sixth Schedule and Autonomous Councils through State Legislature. In view of this, the issue of autonomy is a highly contested one in Assam. Moreover, these autonomous councils have not been effective in stopping emerging ethnic unrest. Many believe that creation of such councils is a cause of provoking further ethnic unrests in different parts of Assam. For example, in the context of Rabha hasong Autonomous Councils other tribals (Garos) and non-tribals are mobilized under the banner of Non-Rabha Coordination Forum urging the Government of Assam to exclude their villages from the council. Moreover, under the banner of said organization the non-tribals are raising demand for panchayat election to be held in non-tribal dominated villages of the council area. There have always been constant demands from the Councils to include them under the Sixth Schedule of Indian Constitution.

Manipur Autonomous District Councils

Manipur has six Autonomous District Councils (ADCs). These ADCs are not created by an enactment of the State Legislature like that of Assam. Initially they were created by an Act of the parliament. Subsequently, these ADCs are governed by State legislations. In 1971, the Parliament had passed the Manipur (Hill Areas) District Councils Act, 1971 for the establishment of District Councils in the Hill Areas of Manipur. By then Manipur was a Union Territory; it attained statehood in 1972. The Government of Manipur enforced the Act, 1971 by an order of the Legislative Assembly known as Manipur Legislative Assembly (Hill Areas Committee) Order, 1972. Accordingly, six Autonomous District Councils were established in the five hill districts of Manipur viz. Senapati ADC and Sadar Hills ADC in Senapati District, Ukhrul ADC in Ukhrul District, Tamenglong ADC in

Tamenglong District, Chandel ADC in Chandel District, and Churachandpur ADC in Churachandpur District.

The Act has been amended in the year 1975, 2000, 2006, 2008 and 2011. These amendments are known as Manipur (Hill Areas) Autonomous District Council Bill, 2000, The Manipur (Hill Areas) District Councils (Third Amendment) Act, 2008 and The Manipur (Hill Areas) District Councils (Fourth Amendment) Bill, 2011. The Manipur Hill Areas Autonomous District Councils Act, 2000 (Manipur Act No.11 of 2000) provided for repeal of the Manipur (Hill Areas) District Councils Act, 1971. Further, the Assembly enacted the Manipur (Hill Areas) District Councils (Second Amendment) Act, 2006 which repealed the Manipur Hill Areas Autonomous District Council Act, 2000.

As you know six autonomous districts were created in the hill areas of Manipur on 14 February, 1972 according to the provisions of Manipur Autonomous District Councils Act, 1971. Each district council consisted of 18 directly elected members and 2 nominated members. The Manipur (Hill Areas) District Councils (Third Amendment) Act, 2008 increased number of elected members from 18 to 24. The Act however, did not provide for any reservation of seat for women in the District Councils. The first election of the autonomous district councils was held in May, 1973. But, due to public demand for extension of the provisions under the Sixth Schedule to the Constitution of India, election to the Manipur Hill District Councils was kept in abeyance since 1978 to 2008. After the amendment of 2008, elections to the District Councils after 20 years of suspension were held in 2009 and the Councils have been functioning under the Third Amended District Councils Act of 2008.

The Amendment Act, 2008 empowers the Councils to take decisions on 26 subjects. These are:

- (i) the maintenance and management of such property, moveable and immovable, and institutions as may be transferred to the Council by the Governor;
- (ii) the construction, repair and maintenance of such of the roads, bridges, channels and buildings as may be transferred to that Council by the Governor;
- (iii) the establishment, maintenance and management of schools upto class VIII;
- (iv) the establishment, maintenance and management of medical dispensaries and Primary Health Sub-Centres;
- (v) the establishment and maintenance of cattle pounds including such function under the Cattle-trespass Act, 1871 as may be transferred to that Council by the Governor;
- (vi) the establishment, maintenance and management of markets and fairs and the construction, repair and maintenance of all buildings connected therewith;
- (vii) water supply and sanitation schemes;
- (viii) the construction, repair and maintenance of embankments and the supply, storage and control of water for agricultural purposes including minor irrigation schemes;
- (ix) the preservation, reclamation and conservation of soils;
- (x) animal husbandry and veterinary dispensaries;

- (xi) management of such ferries as may be entrusted to the charge of that Council by the Governor;
- (xii) the initiation, inspection, and control of relief works;
- (xiii) the allotment, occupation or use, or the setting apart of land, other than land acquired for any public purpose or land which is a reserved forest, for the purpose of agricultural or grazing or for residential or other non-agricultural purposes or for any other purposes likely to promote the interest of the inhabitants of any village or town situated within the autonomous District for which that Council is Constituted;
- (xiv) the management of any forest not being a reserved forest, minor forest produce including fuel and fodder;
- (xv) the regulation of the practice of Jhum or other form of shifting cultivation;
- (xvi) fisheries;
- (xvii) co-operatives;
- (xviii) sports and youth affairs;
- (xix) adult and non formal education;
- (xx) horticulture and floriculture;
- (xxi) rural housing and schemes under rural development including tribal development;
- (xxii) khadi & village industries and cottage industries;
- (xxiii) small scale industries;
- (xxiv) non-conventional energy sources;
- (xxv) library and culture activities; and
- (xxvi) any other matter which the Governor may, in consultation with the Hill Areas Committee, entrust to the District Council in the field of agriculture, animal husbandry, community development, .social and tribal welfare, village planning or any other matter.

In Manipur the ADCs are not functioning as envisaged. It is told in many quarters that the ADCs have never been empowered in practice/spirit. As a result there is always a demand for more autonomy and power. A national seminar held on 'Understanding Autonomous District Councils of Manipur' at Delhi in June, 2018 emphasised on devolutions of legislative and judiciary powers the same way Autonomous District Councils in Assam, Meghalaya, Mizoram and Tripura were empowered. Obviously there is a demand for upgradation of ADCs to the status of Sixth Schedule of the Constitution. The members of ADCs argue that unlike those under Sixth Schedule, the Councils do not have legislative and judicial powers. Moreover, their functions are executive in nature with the thrust in economic issues. Hence, while these Councils are similar to those under Sixth Schedule in form, these are not effective like the latter.

In a memorandum submitted to Prime Minister Narendra Modi on 30 August, 2014 the Chairmen of the six ADCs of Manipur stated that devolution of power to the ADCs according to the Manipur (Hill Areas) District Council (3rd Amendment) Act, 2008 in more than half of the 26 subjects has not taken place yet. They alleged, 'No rules corresponding to the Act of 2008 in regard to Finance, Powers and Functions, etc. were framed till today. The

Vice Chairman (one) and the Executive Members (five) of the Council were appointed as per the amended Act of 2008, but they remained like mere members as there are no corresponding Rules on powers and Functions’.

The dissatisfaction is also there regarding the status of six Autonomous Councils of the tribes created by the State Legislative Assembly in Assam. We have already discussed it above.

4.3.2 Autonomy in Other States

In this section you will learn about autonomy granted to a few communities in other than Northeast States.

Jammu and Kashmiri: The Ladakh Autonomous Hill Development Councils

The Ladakh Autonomous Hill Development Councils Act, 1995, No. 1 of 1995 was enacted in exercise of the powers conferred by section 3 of the Jammu and Kashmir State Legislature (Delegation of Powers) Act, 1992. The Act covers whole of the districts of Leh and Kargil in the State of Jammu and Kashmir. So we have two councils namely the Ladakh Autonomous Hill Development Council, Leh and the Ladakh Autonomous Hill Development Council, Kargil. Autonomous Hill Development Councils in Jammu and Kashmir came into existence following the demands of Ladhak people to make Leh district a Union Territory of India. The apparent religious and cultural differences with the rest of Jammu and Kashmir were forwarded for the demand. Kargil got its Council in 2003 though it was bifurcated from Leh as a separate district in 1979. The Council in Kargil had the objective of strengthening participatory development, governance in the ward devastated district. However, these Councils in the state of Jammu and Kashmir are not created according to the Sixth Schedule of the Constitution.

West Bengal: The Gorkhaland Territorial Administration

The Gorkhaland Territorial Administration, Act 2011 (West Bengal Act XX of 2011 of West Bengal Legislature) provided for The Gorkhaland Territorial Administration comprising three subdivisions, namely, Darjeeling, Kalimpong and Kurseong, and some villages of Siliguri sub-division of the District of Darjeeling. In fact the whole of Kalimpong district at present is covered by the body. When it was commissioned it replaced the Darjeeling Gorkha Hill Council established in 1988. The main objective was to provide Gorkhas opportunities for their and their land’s all-round development. So, the Act envisaged the autonomous self-governing body to administer the Gorkha region and establish their ethnic identity. The Act also aimed at socio-economic, infrastructural, educational and cultural and linguistic development of the area and people.

The Gorkhaland Territorial Administration is a semi-autonomous administrative body with little control over governance. Chapter III of the Act does not give full independence to the body in most of the matters under its jurisdiction. For example, Section 25(1) states that the

body shall conduct the business in such manner and in accordance with such procedure as may be determined by regulations with the approval of the government. Little control over governance, issue of poverty and under- development, and difference in ethnicity, culture and language are presented as reasons of movements demanding a separate state of Gorkhaland after the Council was established and later upgraded into Territorial Administration. The Gorkhaland movement is however very old and traced back to colonial period of territorial expansion. But even after Independence the Gorkhas launched movements in 1947, 1952, 1977-81, 1986, 1988, 2005,2007,2011 and recently in 2017. The recent movement triggered of as the Education of West Bengal Minister declared in June,2017 to adopt Bengali language in all sections from Class –I to Class IX in Gorkhaland territory. The demand for autonomy in the form of a separate state is so strong that the ‘Sixth Schedule Solution’ offered to them in 2005 yielded no result. Obviously, this Territorial Administration is not under the purview of the Sixth Schedule of the Constitution of India.

North Sentinel Island in Andaman and Nicobar Islands: *De facto* autonomous area

There is no enactment to grant autonomy to Sentinels in the North Sentinel Island of Andaman and Nicobar Islands. The area inhabited by the Sentinel tribe is under the administration of the Union Territory of Andaman and Nicobar Islands, but the administration follows minimal interference in their life ways. This means they are autonomous as a matter of fact (*de facto*) following their traditions more than government rules. The administration recognised Sentinelese traditional life ways to be beneficial for them and for their survival after the Great Tsunami of 2004. *De facto* autonomous area means the area with minimal administrative interference in the traditional life ways of the people. You have already learnt that autonomy to the area and people is at the core of granting autonomous councils under Sixth Schedule or enactment through State Legislature. Such autonomy cannot be given to the Sentinels as they have to acquire capabilities for the self-governance in order to achieve benefits of modernisation. So they are within the frame of Indian administration following some degrees of traditional autonomy This type of autonomy is in contrast to the autonomy granted, say under Sixth Schedule of the Constitution of India, which is *de jure* in nature. You will compare this autonomy of minimal interference with that of the colonial policy of tribal administration, but you will find difference behind the motives. Here the minimal interference is for the benefit of the tribes while during colonial period it was for the colonial interest. Such logic of minimal interference is evident in various approaches like isolation and gradual integration of tribes in development process envisaged by national leaders and scholars at the beginning of planning era. You have already studied about it in Unit-III of this Paper.

Article 275 is incorporated in Part XII which is titled *Finance, Property, Contracts and Suits*. The Article provides for grants from the union to certain States.

4.3.3 Autonomous Councils under Sixth Schedule

Councils (ADC's) are Institutions of local governance created under the Sixth Schedule of the Constitution of India with Executive, Legislative and Judicial powers for the hills tribe of the then Assam . The purpose was that the tribes theme selves should regulate the social, cultural The Autonomous District and economic development of their society in a manner which would be conducive to such tradition, customs, practices and conventions. Over the years, areas covered by many of the former Autonomous Councils have been organised into full-fledged states of Indian Union. We will discuss ADCs existing in some North-eastern states.

Tripura

The Tripura Tribal Areas Autonomous District Council

Tripura was a princely state before Independence. It was ruled by the Maharajas of the Manikya Dynasty. It merged with the Indian Union on the basis of *Tripura Merger Agreement* signed by the representatives of the Tripura Kingdom and the Government of India on 9th September, 1949. Tripura became a Union Territory on 1st September, 1956 and a full-fledged State on January 21, 1972.

But during the partition, subsequent war and further political situation a large scale migration from present Bangladesh (the former East Pakistan) took place into Tripura. This resulted in tribal land alienation. Large tracts of lands, particularly to which tribals claimed their ownership rights, were required to accommodate the displaced population from Bangladesh. Furthermore, in post-Independent India the Tripura Land Revenue and Land Reforms Act of 1960 abolished the tribal land reserves which were created by The Royal Government of Tripura. In view of this Tripura tribes men formed Tripura Upajati Juba Samiti (TUJS) on 10th June, 1967, a political party to safeguard the interest the tribals. We learn from Action-Aid's report (2016) that the TUJS made the following demands:

- i) Creation of Autonomous District Council within the framework of the Sixth Schedule;
- ii) Restoration of tribal land from the non tribals who have illegally migrated into their lands;
- iii) Recognition of Kokborok language; and
- iv) Adoption of Kokborok to be written in Roman Script.

Tribal problems created simmering discontent among the tribes. One of the major events was the creation of *Tripura National Volunteers* in 1978 that demanded independence of Tripura from India. They involved in terrorist activities. Tribal movements and militant movements gained momentum demanding protection of tribal rights. As a measure to safeguard tribal interests the Legislative Assembly of Tripura passed Tripura Tribal Areas Autonomous District Councils Act, 1979, constituting an ADC for the tribal areas of Tripura on the same model as the District Councils under the Sixth Schedule. it was amended in 1982.

But this did fulfil the aspirations of the people. The movement continued and the Government of Tripura also urged the Government of India to apply the provisions of the Sixth Schedule

to the tribal areas of the State of Tripura. Accordingly, the Constitution was amended by the Constitution (49th Amendment) Act, 1984 and the provisions of the Sixth Schedule were made applicable to the tribes of Tripura under Tripura Tribal Areas Autonomous District Councils (TTAADC). Accordingly, the Tripura Tribal Areas Autonomous District Council (TTADC) was formed in 1985, a successor to the earlier Council area formed in 1982 under the Fifth Schedule and then transferred to the Sixth Schedule.

The main objective of the TTAADC has been to empower the tribal people to govern themselves for their all-round development, and to protect and preserve their culture, customs and traditions. Further, it is empowered to remove disparities between the advanced and backward sections of the rural societies, to strengthen the bonds of unity between the tribal and the non-tribal masses and thus ensure social, economic and political equality.

Structure

With regard to decentralised governance Tripura is divided into Sixth Schedule area and Panchayat area. Sixth Schedule area is under the control and administration of TTAADC. Territorially, TTAADC areas are divided into four zones. Further, the zonal areas are divided into 32 sub-zones. In each Zone there is a Zonal Development Committee comprising a Chairman of the elected Village Committees, Members of District Council (MDCs), MLAs and the Executive Members of the District Council. The District Council has 30 members. Out of 30 members 28 elected and 2 are nominated by the Government, Out of the elected members 26 seats are reserved from the Schedule Tribes.

The Executive Committee consists of 9 members including the Chief Executive. The Village Committee is a body of 527 elected village committees.

There are 35 Rural Development Blocks in the State, out of which 19 blocks are within the Sixth Schedule area and the rest, of a mixed nature, are within the jurisdiction of both the Sixth Schedule and Panchayati Raj areas.

As you know the Village Councils form a body consisting of 527 villages in the Sixth Schedule Area. These villages are co-terminus with Revenue villages. There are 4165 elected members in all Village Committees out of which one-thirds are women members. From 2016 there is fifty per cent reservation for women for the post of Chairperson of Village Committee. Reservations are also made for Schedule Tribes and Schedule Castes in proportion to the percentage of their population. Chairpersons and Vice Chairpersons are elected by the Members of Village Committee.

TTAADC is working for the development of the tribes of Tripura. However, as we learn from the report of Action-Aid, it suffers from some limitations.

The first one relates to unclear coordination of various components. A delay occurs in the constitution of District Planning Committee as the Revenue District of the state comprises of Areas which comes under both the PRI and Sixth Schedule Areas. This affects the functioning of the council. The coordination problem is also reflected in the role of the TTAADC with regard to preparation of the plans for Gramodaya programme where Village committees, Block Advisory Committees and the Zonal Development Committees are involved, but without any defined role each one will play.

The Council lacks financial autonomy. As a result there exists a huge gap between the approved budget and the funds received from the State Government. It has a direct bearing on the execution of the functions and plans of the TTAADC.

There is a conflict between the State and the TTAADC over certain issues. For example, the State Government has not granted adequate legal authority to deal with land alienation problem for which Sixth Schedule Areas were created.

TTAADC lacks judicial power in certain important matters. Para 4 of the Sixth Schedule states that the councils should constitute Village and District Council Courts in the Autonomous Areas to deal with cases pertaining to customary laws. TTAADC does not have any legislation regarding setting up of village courts for cases dealing exclusively in tribal affairs such as marriage, land, inheritance, etc. As a result, the Council lacks judicial authority to codify customary laws. This is a failure on the part of the TTAADC to realise the objectives for which Sixth Schedule areas were formed in the State.

There is only one Autonomous Council in the State of Tripura. This Council covers the major and minor tribes. Because of less population, many small tribes and ethnic groups do not find adequate representation in the Council. Their socio-economic interests are unrepresented adequately.

Assam

The Bodoland Territorial Council (BTC)

The plains tribes of Assam being disillusioned with the government of Assam formed Plain Tribal Council of Assam (PTCA) in 1967 to place their demand for political autonomy. Among the members of the PTCA there was a division of opinion on the matter of a full-fledged state and autonomous region. The All Bodo Students Union (ABSU), who have been playing a very active role in PTCA reiterated the demand for a full-fledged state and articulated their demand separately. ABSU resolved for 'Bodoland' in its 20th Annual Conference at Bashbari in Dhubri from 19 to 22 December 1988. The Bodos under the leadership of ABSU ushered a very strong movement for Bodoland.

To resolve the Bodo problem the historic Bodo Accord was signed on 20th February 1993 by the representatives of central government, state government as well as ABSU. Under the Accord the Bodo Autonomous Council was constituted to give political autonomy to the Bodos in Assam. But the Accord could not resolve the political aspirations of the Bodos. The Act was amended in 1999. But still the demand of the people persisted. The movement continued. After a prolong violence committed by some Bodo militant organizations i.e. National Democratic Front of Bodoland (NDFB), Bodoland Liberation Tiger (BLT), another memorandum of settlement was signed on 10th February 2003. According to the provisions of this memorandum the Bodoland Territorial Administrative District (BTAD) under the 6th Schedule of the Indian constitution was created by a constitutional amendment. Accordingly, the Bodoland Territorial Council (BTC) was formed on 7th December 2003.

The objectives of BTC have been to fulfill economic, educational and linguistic aspirations; to preserve of land-rights, socio-cultural and ethnic identity of the Bodos; and to speed up the infrastructure development in BTC area. The Council is also provided for looking the interests of the non-tribals living in the BTC area.

The Bodoland Territorial Council consist of 46 members, out of them 40 are members are elected on the basis of adult suffrage. Out of elected members 30 shall be reserved for the Scheduled Tribes, 5 for non-tribal communities, 5 open for all communities and the remaining 6, including at least two women, shall be nominated by the Governor from the unrepresented communities living in BAS area. The nominated members shall have 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. You should know that the BTC is the only tribal council in the country having reservations of seats for non-tribals.

It is to be mentioned that the BTC empowers the minority to rule the majority. Action Aid report mentions that Bodos constitute only 25 per cent of the total population in BTC area. Moreover, stakeholders like NDFB were not involved which does not guarantee long term peace. In fact they continue their struggle and the area has seen ethnic violence after the Council took over the administration.

There are also charges of corruption, misutilisation of funds and so on. We learn from Action Aid report that there are charges to the effect that only a small group of people in the Bodo People's Front led BTC are enjoying the funds, depriving the entire Bodo population from the benefits of development in the region. There are also allegations on funding pattern and timing of the State government which directly affects the working of the Council.

Article 275(1A) was inserted in Article 275(1) on the matter of grants to the States created under Article 244A.

The Karbi Anglong District Council

The United Mikir and North Cachar Hills district was created in November, 1951 by combining partially excluded areas of Nagaon and erstwhile Sivasagar (Mikir Hills Tract), Block-I and Block-II of United Khasi and Jaintia Hills District and North Cachar Hills (excluded area) Sub-Division of Cachar District. It was bifurcated into two separate districts, namely Mikir Hills and North Cachar Hills districts in 1970. Later, on 14th August, 1976, Mikir Hills district was re-designated as Karbi Anglong District.

The Karbi Anglong District Council was constituted in 1952 under Sixth Schedule. Functioning of the Council, however, was not upto satisfaction because of Council's incompetence, state's indifference and growing aspirations of youths in a changing situation. Grievances gave birth to various movements. There was a demand for implementation of Article 244(A) of the Constitution.

Functioning of sixth schedule however continued to be marred by District Council's incompetence and state's indifference etc. Accumulation of grievances and new aspiration of tribal youths to have economic power gave birth to various movements As a result, an M.O.U. was signed between Government of Assam and leaders of the movement in the presence of the Union Home Minister on 1 April, 1995 granting more autonomy to the

district councils. Accordingly, *the Karbi Anglong District Council* was renamed as *Karbi Anglong Autonomous Council (KAAC)*.

Further, the Secretariat of KAAC is provided with the following officers and officials under its disposal. These are: a Principal Secretary in the rank of Commissioner & Secretary to the Government of Assam as the head; 2(two) Secretaries in the rank of Secretary to the Government of Assam (one of whom from a Technical Department) and 3(three) Deputy Secretaries (one of whom from a technical Department and remaining ones from the Assam Civil Services). Besides, Council have also a few officers under Council sector like Deputy Secretary(C) ; Asstt. Secretary (C),etc.

The Karbi Anglong Autonomous Council consists of 30 members out of whom 26 are elected from 26 constituencies, and remaining four are nominated with a view to provide representation to the minorities who constitute a considerable proportion of the total population of the area.

The tenure of the District council is for five years unless it is dissolved earlier. The District Council has a Chairman and a Deputy Chairman who are elected by the members of the Council in accordance with the provisions of the Assam Autonomous Districts (Constitution of District Councils) Rules,1951. The Deputy Commissioner functions as the Returning Officer in respect of the elections to Karbi Anglong Autonomous Council.

There is an Executive Committee of the Autonomous Council. It is headed by the Chief Executive Member. There are also a number of other members not exceeding one third of the total number of members of the Karbi Anglong Autonomous Council. They are appointed by the Governor of Assam as Executive Member on the advice of the Chief Executive Member. But the Chairman and the Deputy Chairman are not eligible to hold office either as Chief Executive Member or as a Member of the Executive Committee. The Executive committee formulates policy decisions besides discharging of day to day functioning and matters of the council. The provision of holding Council Session headed by its Chairman and is also enshrined in the constitution to discuss and consider Acts, Bills, Policy etc. formulated by the Executive Committee of Council.

According to the M.O.U of 1995, the Council has been entrusted 30 subjects under its administration and control along with other sponsored schemes for the welfare of the people. The Council also enjoys legislative, executive, judicial and financial powers.

Legislative Powers :The Karbi Anglong Autonomous Council in respect of all areas within the district shall have the power to make laws with respect to :-

- The allotment , occupation , or use or the setting apart of land other than any land which is reserved forest, for the purpose of agriculture or grazing , or for residential or other non-agricultural purposes likely to promote the interests of the inhabitants of any village or town.

- The management of any forest not being a reserved forest.
- The use of any canal or water course for the purpose of Agriculture
- The regulation of the practice of Jhum or other forms of shifting cultivation.
- The establishment of village or town committees or Councils and their powers
- Any other matter relating to village or town administration including village or town policies and public health and sanitation.
- The appointment or succession of chief or headman.
- The inheritance of property.
- Marriage.
- Social Customs.
- The District Council has also been empowered to frame laws to regulate and control money lending and trading by persons other than the scheduled tribes.

Though the Karbi Anglong Autonomous Council have the powers to make acts, rules, but the Governor must give his assent to the acts, rules made by the Council. The Governor has the power to suspend or annul any act or resolution of the Council if he is satisfied that it is likely to endanger the safety of India.

Executive Powers: These include establishment, construction or management of primary schools, dispensaries, markets, cattle pounds, ferries, fisheries, road and waterways in the district. The Council is empowered to prescribe the language and manner in which primary education should be imparted in the primary schools of the district.

1. **Judicial powers:** For administration of justice, the district councils are vested with judicial powers. Important among them are:
 1. Constituting village councils and courts for the trial of suits and cases of the scheduled tribe communities.
 2. The district council or any court constituted on its behalf can exercise the powers of a Court of Appeal in respect of all suits and cases of tribals by the village councils or courts so constituted.

Financial Powers: These include powers to assess and collect revenue and impose taxes on lands and buildings, and tolls on persons residing within council area. The Council is empowered to levy and collect all or any or the following taxes:-

1. Taxes on profession, trades, callings and employment.
2. Taxes on entry of goods into a market for sale therein and tolls on passengers and goods carried in ferries.
3. Taxes for the maintenance of schools, dispensaries and roads.
4. Licenses or leases for the purpose of prospecting for, or extracting minerals

The Karbi Anglong district has been further bifurcated into two districts in 2016, namely Karbi Anglong and West Karbi Anglong. These two districts, however, have one Autonomous Council, namely the

Karbi Anglong Autonomous Council (KAAC) and administered according to the provisions of the Sixth schedule.

The North Cachar Hills District Council

As you know the United Mikir and Cachar Hills of Assam had comprised parts of the former districts of the United Khasi and Jaintia Hills as well as parts of the erstwhile Nogaon, Sibsagar and Cachar districts of Assam. In 1970 parts of the United Khasi and Jaintia Hills of the United Mikir and Cachar Hills District along with Garo Hills formed into Meghalaya State, and the District Councils of Meghalaya were formed in 1972.

However, the process of protection began with the formation of the first District Councils in Assam, as far back as 1951. Two councils, namely North Cachar Hills District Council and Mikir Hills District Council were constituted within the boundary of the then United Mikir and Cachar Hills District. The North Cachar Hills sub-division of the United Mikir and Cachar Hills District was upgraded to a district in 1970.

The main objective has been to enable them to secure their legitimate interests and play a more useful role in the national life. Liberty from forced labour, right to follow one's own social customs, usages and institutions and non-interference in the cultural life of the community were also some of the important objectives for which the Council was set up.

The North Cachar Hills district has been further redesignated as Dima Hasao District on 1st April, 2010. Action Aid (2016) report informs the struggle of changing the name of the council also. In 2012 the two factions of the Dima Halom Daogah- DHD (major insurgent faction demanding autonomy of the Dimasa headed by Dilip Nunisa) and the other headed by Jewel Garlosa signed a tripartite agreement with the Central Government and State Government to bring an end to violent movements. According to the MoS the North Cachar Hills Autonomous Council would be reorganized to Dima Hasao Autonomous Territorial Council granting more financial and administrative powers to the council.

In fact both the Karbi Anglong Autonomous Council and the North Cachar Hills Autonomous Council (NCHAC) have been enjoying special privileges as compared with other autonomous councils of the region under Sixth schedule. Like KAAC the year 1995 was crucial in the political history of N.C. Hills district. You have studied how an M.O.U was signed KAAC got more autonomy through an amendment of the Constitution. This amendment also expanded the scope of activities of the NCHAC to a great extent and provided it the opportunity to play significant role for removal of backwardness in the district. This amendment also brought about a change in the functioning of the NCHAC. The NCHAC like KAAC has 30 subjects under its control and also has legislative, executive, judicial and financial powers. You have studied these powers granted to KAAC.

Unlike KAAC, NCHAC/ Dima Hasao Council have a total of 27 members out of which 23 are elected. Four members are nominated by the Government to give representation to unrepresented communities. The Executive Committee consists of one Chief Executive Member and nine Council Members.

The functioning of the Council however is not free from shortcomings. It is charged with corruption and for facilitating concentration of power at a fewer hands. Low growth of economy also shows its ineffective functioning.

Meghalaya

The State of Meghalaya has three Autonomous District Councils, namely Khasi Autonomous District Council, Jaintia Autonomous District Council and Garo Autonomous District Council. These three ADCs existed in two names, namely United Khasi and Jaintia Hills Autonomous District Council and Garo Hills Autonomous District Council when present Meghalaya was a part of Assam. It will be of your interest to know that Meghalaya is the only State in North East India where the Autonomous District Councils cover the entire territory of the state except the cantonment and municipality of Shillong.

As you know the Bordoloi Sub-Committee, in its report, recommended setting up of District Council bodies in the Hill Districts of the north east region, which was subsequently debated in the Constituent Assembly and accepted. The Sixth Schedule was adopted in September 1949. In the beginning the Garo Hills Autonomous District Council (GHADC) was set up in April 1952, which covers present West Meghalaya. Two months later, the composite United Khasi and Jaintia Hills Autonomous District Council (UK&J Hills ADC) was inaugurated in June 1952. In 1964 Jowai District was carved out of the UK & J Hills District. So, a separate Autonomous District Council was created by the name of Jowai Autonomous District Council. When Meghalaya state came into existence by the North Eastern Areas (Reorganisation) Act 1971, it had three districts namely; United Khasi-Jaintia Hills District, Jowai District and Garo Hills District. In 1973 the Governor of Meghalaya redesignated the United Khasi-Jaintia Hills District as the *Khasi Hills District* and the Jowai District as the *Jaintia Hills District*.

So at the time of attaining statehood Meghalaya has three districts namely, Khasi Hills District, Jaintia Hills District and Garo Hills District with correspondin ADCs such as Khasi Autonomous District Council, Jaintia Autonomous District Council and Garo Autonomous District Council. At present we have these three ADCs though the districts have been bifurcated.

The Khasi Hills Autonomous District Council (KHADC)

The KHADC had its origin in the United Khasi and Jaintia Hills district in 1952, but it assumed its present name in 1964. The Council presently covers four districts namely, East Khasi Hills, (ii) West Khasi Hills, (iii) South West Khasi Hills and (iv) Ri-Bhoi. It consists of 30 Members out of which 29 are elected on the basis of adult suffrage and one member is

nominated by the Governor. It consists of one Chief Executive Member and five Executive Members.

The KHADC has 53 Administrative units known as Elakas and thousand of Villages having their own administrative and judicial functions. The Council is vested with legislative, executive and judiciary powers according to the provisions of Sixth Schedule. So it has three branches such as legislative, executive and judiciary.

Legislative: The Council in session legislate and enact laws and regulations on such powers as conferred by the Sixth Schedule. Bills on laws and regulations passed by the Council in session are sent to the Governor of the State for his assent or approval. To run the affairs of the Legislative Secretariat, the Council in session elects a Chairman and Deputy Chairman whose duties are similar to the speaker and the Deputy Speaker of the State Legislature. The Office of the Legislative is looked after by officers and staff headed by the Secretary Legislative. To be précised this Legislative Secretariat looks after the administrative matters pertaining to the legislative functions of the Khasi Hills Autonomous District Council.

Executive: The executive function is the responsibility of the Executive Committee of the KHADC. As mentioned earlier, the Executive Committee of the KHADC consist of one Chief Executive Member (CEM) and five Executive Members (EM). The CEM is the head of the Committee and is elected by the members of the Council in Session in a simple majority votes. The election of the CEM is to be approved by the Governor of the State. The Chief Executive Member then nominates Members of the Executive Committee from amongst the members of the Council. The Executive Committee remains in Office as long as they enjoy the majority support of Members of the Council. The KHADC has a number of departments through which the Executive Committee discharge its executive duties. The departments are:

- The General Administration Department
- Law Department
- The Revenue, Budget and Finance Department
- Forest Administration Department
- The Education Department
- Civil Works and Development Department
- The Enforcement Department

Precisely, Executive Committee runs the administration of the KHADC, implements various subjects provided under Sixth Schedule, prepares Annual Budget of the Council and places before the Council in session during each financial year.

Judiciary: The KHDAC is vested with judicial powers and accordingly it constitutes courts to try suits and cases only between the parties all of whom belong to Scheduled Tribes. The Courts under the Khasi Hills Autonomous District Council are constituted under The United Khasi-Jaintia Hills District (Administration of Justice) Rules, 1953. Needless to say, these

provisions are also applicable to the Jaintia Hills Autonomous District Council which was a part of the United Khasi-Jaintia Hills Autonomous District Council. The Courts provided are:

1. Village Courts
2. Subordinate District Council Courts
3. Additional Subordinate District Council Courts
4. District Council Court
5. Additional District Council Court.

The courts dispense justice at different levels in line with the traditional customs and usages at a very speedy, simple and inexpensive manner. The Judge and Additional Judge of the Courts of the KHADC are conferred with powers for the trial of offences punishable with death and transportation for life under the Indian Penal Code or under any other law applicable. The District Council Courts are under the direct supervision of the Meghalaya Branch of Guwahati High Court.

Finances: The council has three main sources of funds. These include taxes and revenue raised by the councils, share of royalties collected by the state government and grants from the state government. The Council also has another source of funds in the form of grants from the Finance Commissions.

The Garo Hills Autonomous District Council (GHADC)

You have learnt that the GHADC was one of the oldest ADCs even in the Northeast India. Functionally and structurally it resembles other ADCs of the state. At present it covers West Garo Hills District, East Garo Hills District and South Garo Hills District. It consists of 30 Members out of which 26 are elected on the basis of adult suffrage and four nominated by the Governor. The GHADC has an Executive Committee consisting of one Chief Executive Member as its head and five Executive Members.

As you know, Garo social system is wholly kinship oriented. The household of a Garo village is linked up by kinship ties. The *Nokmaship* is considered as the symbol of kinship. During British period two posts- *Laskar* and *Sarder* were created. At present appointment of *Nokmas*, *Laskars* and *Sardars* are to be approved by the GHADC. Naturally, all these institutions function under the administrative control of the District Council.

Under the present administrative set up, the territory of Garo Hills is divided into seventy nine (79) administrative areas known as *elakas*. Each *eleka* is under one *Laskar* and includes about 20 villages. Administration of the *elakas* is under the control of the GHADC. The District Council has provided a reconstituted Village Council for each *eleka* consisting of both nominated and elected members.

The Jaintia Hills Autonomous District Council (JHADC)

You have already studied the historical background of the constitution of the Jaintia Hills Autonomous District Council (JHADC). It covers East Jaintia Hills District and West Jaintia Hills District. Though its structure is similar the numbers of members differ. The General Council consists of only 19 members out of whom 16 are elected and 3 nominated by the Governor. Naturally the Council consists of 19 *elakas* with a number of villages under each *elaka*. The JHADC has also an Executive Committee. The Committee has one Chief Executive Member and five Executive members like other two ADCs of the state. Functionally, it is similar with other two ADCs of the State and performs legislative, executive and judiciary functions.

The JHADC has 16 departments under its jurisdiction. Some important among them are:

- The General Department
- Finance and Accounts Department
- Land Revenue and Land Reform Department
- Land Record and Land Settlement Department
- Taxation Department
- Forest department
- Political Department
- Civil Works Department
- Education Department
- Market, Agriculture, Soil & Fishery Department
- Judicial Department
- Legislative Department.

Mizoram

Mizoram was known as Lushai Hills District in undivided Assam. Like other tribal districts of Assam it was declared Excluded Area in 1935 and the society was administered by traditional chieftains. During British rule the Mizo Common People's Union was formed, to be specific, on 9 April 1946. It was later redesignated as Mizo Union. Following Bordoloi sub-committee's suggestion, the areas of Lushai Hills were brought under Sixth Schedule of the Constitution. Under paragraph 2 of the Sixth Schedule to the Indian Constitution, the Government of Assam formed 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. Accordingly, the District Councils and the Regional Councils were constituted in 1952 and 1953 respectively. The name of the Lushai Hills District was changed to Mizo District by an act of Parliament on 29th April, 1954 and the accordingly Mizo District Council was formed.

With the establishment of Mizo District Council, chieftainship was abolished. In 1959 there was a great famine in Mizoram, known as Mautam Famine. During that time Mizo National Famine Front was created which later was renamed as Mizo National Front. Right from Independence the Mizo Union and later the Mizo National Front were demanding for independent Mizoram by including other Mizo inhabited areas with Lushai Hills. Even Mizo National Front involved in insurgency and demanded sovereign independence of Greater

Mizoram. However, the uprising was suppressed and the Mizo national front was outlawed in 1967. But the demand for a separate state remained alive. Keeping the people's demand in view Lushai Hills became a Union Territory on 21st January, 1972 with the name of Mizoram. In accordance with the provisions of the North-Eastern Areas (Re-organisation) Act, 1971 the Mizo District Council was abolished in 1972. The Pawi-Lakher Regional Council which was constituted for the Pawis, the Lakhers and the Chakmas, was also trifurcated into the Lakher Regional Council, the Pawi Regional Council and the Chakma District Councils in 1972 under the provisions of the said Act. 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.

But Laldenga, the leader of the Mizo National Front, continued his extremist activities. To keep peace in the territory, during Rajiv Gandhi's Premiership, an Accord, known as the 'Mizoram Accord' was signed in 1986. Accordingly, the Union Territory of Mizoram was granted the status of a full-fledged state of Indian Union on 20 February, 1987. The ADCs namely the Lai Autonomous District Council (LADC) and Mara Autonomous District Council (MADC) and the Chakma Autonomous District Council (CADC) continue after the attainment of statehood. Their powers and subjects of jurisdiction are similar to those of the other district councils in the Sixth Schedule.

The Chakma Autonomous District Council (CADC)

As you know from earlier discussion the CADC was formed under the Sixth Schedule of the Constitution of India on 29 April 1972. The Council is the replication of the state assembly and exercises executive power over 27 allotted departments at present. The entire population of Chakma Autonomous District Council belongs to schedule tribe. The Chakma Autonomous District Council has a total of 24 Members of District Council (MDC), out of which 20 MDCs are elected and 4 MDCs are nominated. The CADC has an Executive Committee. It is headed by a Chief Executive Member (CEM) and has other five Executive Members (EMs).

Check Your Progress IV

Write whether the following statements are 'True' or 'False'

1. Tripura and Assam had ADCs at the same time.
2. An ADC has only elected members in its General Council.
3. Provisions for women representative in Village Councils under Sixth Schedule has been incorporated recently.
4. ADCs do not have legislative power.
5. Chairpersons and Vice Chairpersons are nominated Members of Village Committee.
6. The tenure of the District council is for five years unless it is dissolved earlier.
7. The Executive Committee of the Autonomous Council is headed by the Chief Executive Member.
8. All the ADCs are composed of 30 members.
9. *Eleka* is an administrative area in Meghalaya.
10. The Governor of a State organises 'Scheduled Areas'.

The Lai Autonomous District Council (LADC)

You have studied the evolution of the Lai Autonomous District Council (LADC) from the Pawi-Lakher Regional Council. The Pawis are known as Lais. They inhabit South-eastern Mizoram bordering Myanmar and Bangladesh. The Lai Autonomous District Council was constituted on 29 April 1972 in its present form under the Sixth Schedule to the Constitution of India. The council is a replication of the State Legislative Assembly like other ADCs of the State. It exercises power over 18 allocated subjects. It has legislative, executive and judiciary powers. The LADC has a chairman to conduct the business of the Council in session and presided over its meeting. At present it has a total strength of 27 Members, out of which 23 are directly elected by the people and 4 members are nominated by the Governor. The nominated members are recommended by of the Chief Executive Member of the Lai Autonomous District Council.

The executive functions of the Council are vested in the Executive Committee headed by the Chief Executive Member. The Executive Committee can dispose of all matters falling within its purview. Each Member of the executive is allocated specifies subject (s). The Chief Executive Member is the head of the Committee. There are other seven Executive Members. The power and functions are vested through various Acts. For example, the Lai Autonomous District (Village Councils) Act, 2007 provides for the constitution of village councils and powers of these councils. The Executive body of each village council is vested with the executive functions and the body consists of President, a Vice President, and a Secretary in each Village Council to form an executive body in which the executive function shall be vested. The members are both elected and nominated. The number of members depends on the number of houses covered by the village council. For example, the Act provides 3 elected members and one nominated member for a village having 50-120 houses. For a village having 121-240 houses, elected members are five and nominated member is one. For a village having 241 and above houses, elected members are five and nominated members two.

Check Your Progress –V

Correct the following statements

1. In Assam all the Autonomous Councils are under Sixth Schedule.
2. ADCs provide for the STs living in its jurisdiction.
3. At the time of incorporating Sixth Schedule there was no provision of covering the then Naga Hills.
4. De facto autonomy is based on legal sanction.
5. Mising Autonomous Council is one of the oldest Council under Sixth Schedule.
6. All Autonomous Councils enacted through State legislature belong to plains tribes.

The Mara Autonomous District Council (MADC)

Like the Lai Autonomous District Council the Mara Autonomous District Council (MADC) has evolved from the Pawi-Lakher Regional Council created in 1952. Its autonomy was established thorough Pawi-Lakher Regional Council on 29 May 1971 and separated the next year as Lakher Autonomous District Council and redesignated as the Mara Autonomous

District Council in 1988 It is also located in Southern Mizoram. Like other ADCs it enjoys legislative, executive and judiciary powers. At present the Council has a total strength of 23 Members, out of which 19 are directly elected by the people by adult franchise and 4 members are nominated by the Governor. Its executive Committee is headed by the Chief Executive Member. In addition the Committee has seven Executive Members.

The Mara Autonomous District Council looks after many departments. According to the Mara Autonomous District Council (transaction of Business) Rules,2011, the Council has executive power over 28 departments.

Challenges: The ADCs function according to the provisions of the Sixth Schedule of the Constitution. Considering local expediency some ADCs like Karbi Anglong Autonomous Council or Dima Hasao Autonomous Council the Constitution vests more power. In some councils like Mara in Mizoram, the electorate are eligible adults, but in others such as Karbi Anglong, right of access to traditional lands and length of stay in the region are regarded as "qualifying criteria" for an eligible voter. Similarly, for Bodoland Territorial Administrative District there are variations in the provisions.

The ADCs enjoy autonomy under Sixth Schedule with a view to protect the interest of the people within its jurisdiction. The Sixth Schedule has given unique status to the tribal areas of present Northeast region of India. The following provision gives ADCs special power:

‘No Act of the State Legislature in respect of tribal affairs shall apply to any autonomous districts unless the District Councils so direct’.

As Kumar states, these areas were given full share in the State Legislature and the State Cabinet. As a result there are conflicting areas between state Legislature and ADCs’ jurisdiction. Obviously, ADCs face a number of challenges. A few of them are as follows:

1. Autonomy was given to tribal areas within the State of Assam. Now most of these areas have attained statehood. District Councils prove to be expensive in terms of establishment expenditure as they duplicate the works of the State.
2. Councils do not use their taxation powers effectively and so fail to mobilise resources properly and therefore rely more and more on government plans.
3. There is a lack of constitutional provisions for the coordination of their activities with that of the State government create inefficiency and conflict.
4. Leadership is found concentrated at a fewer hands or in a few families. This was not in the spirit decentralisation and participation in the process of self-governance.
5. The functioning of ADCs is subject to State laws on many matters. The regulations passed by the Autonomous Councils come into effect only after obtaining the assent of the Governor. However, Governor works as per the aid and advice of the state Council of Ministers. This makes many a times, the autonomous councils irrelevant as far as power to legislate is concerned. So, there is pull and push over some issues between ADCs and the State government. Action Aid report (2016) informs that the ADCs face challenges in terms of the treatment meted out to them by the State government, in dealing with matters for the provision of grants, approval of the legislative proposals which in a way reflects the suppression of ADCs by the State government functionaries.

6. Disparity among Autonomous Bodies and Local Bodies: The local bodies established via Seventy-third Amendment are more liberally funded through the State Finance commissions. In a state where there are more than one autonomous council; one claims that it is being treated less favourably than the other. For example, in Assam, there is a perceived preferential treatment to Bodoland Territorial Council in matters of budget allocations.
- 7.

Nevertheless, the arrangement of self governance has been useful to protect the tribes from the exploitation of some unscrupulous members of advanced communities. Some ADCs have achieved in the field of education, agriculture upto satisfaction. However, their functions need to be evaluated and opportunities provided for functioning more effectively.

Check Your Progress -VI

Select the right answer from among the alternative choices

1. Under provisions of the 6th Schedule, which of the following areas are Tribal Areas?
 - 1) North Cachar Hills District.
 - 2) Karbi Anglong District.
 - 3) Chakma District.
 - 4) Lai District.
 - 5) Bodoland Territorial Areas District.

Choices

- a. 1, 2, 4 and 5
- b. 2, 3 and 4
- c. 2 and 3 only
- d. All of the above

2. Which of the following are true?

- 1) District Councils can make regulations to control trading with non-tribal population.
- 2) District Council can establish and manage waterways in the district.
- 3) For Meghalaya, Governor decides applicability of acts of Parliament to autonomous regions.
- 4) There are maximum 4 nominated members in District Council.

Choices

- a. 1, 2, and 4
- b. 1, 2 and 3
- c. 1 and 3
- d. All of the above

3. Which of the following are true regarding features of 5th Schedule of Constitution?

- 1) Regulations regulating money-lending to scheduled tribes in state need assent of the President of India.
- 2) Tribes Advisory Council has maximum of 20 members.
- 3) Dilip Bhuria headed the 2nd Commission to report on the administration of the Scheduled areas and the welfare of the scheduled tribes in the states.

Choices

- a. 1, 2
- b. 2, 3
- c. 1, 3
- d. All of the above

4. **The Non-Scheduled Areas States having Tribes Advisory Council are**

- 1) Odisha and Assam
- 2) West Bengal and Tamil Nadu
- 3) Uttar Pradesh and Kerala
- 4) None of the above.

Choices

- a. 1
- b. 2
- c. 3
- d. 4

5. ADCs cover the whole State except selected areas in

- 1. Meghalaya
- 2. Assam
- 3. Mizoram
- 4. Tripura

Choices

- a. 1
- b. 2
- c. 3
- d. 4

a. Let us sum up

After going through this Unit you have learnt that

- The Constitution provides for administration of tribes and tribal areas under Fifth Schedule and Sixth Schedule incorporated in Article 244 in Part X.
- Fifth Schedule and Sixth Schedule have been incorporated into the Constitution on the basis of the recommendations of the North-East Frontier (Assam) Tribal and Excluded Areas Committee under the chairmanship of Gopinath Bordoloi. The Excluded and Partially Excluded Areas (Other than those in Assam) Sub-Committee headed by A.V. Thakkar.
- The tribal areas of the country have been designated as ‘scheduled areas’ and ‘tribal areas’.
- Scheduled Areas are known as Fifth Scheduled Areas. Generally tribal predominant areas of states as declared by the President of India are Scheduled Areas states.
- Obviously, the Fifth Schedule of the Constitution deals with the administration and control of Scheduled Areas and Scheduled Tribes in any state except the four states of Assam, Meghalaya, Tripura and Mizoram.
- The Sixth Schedule of the Constitution, on the other hand, deals with the administration of the tribal areas in the four North-eastern states of Assam, Meghalaya, Tripura and Mizoram.
- The Executive power of the Union shall extend to giving directions to the respective States under Fifth Schedule regarding the administration of the Scheduled Areas.
- The Governors of the State in which there are “Scheduled areas” have to submit reports to the President regarding the administration of such Areas, annually or whenever required by the President.
- Fifth Schedule provides for Tribes Advisory Councils (TACs) to advise on matters pertaining to welfare and advancement of the Scheduled Tribes. Each State having Scheduled Areas has a Tribes Advisory Council consisting of not more than twenty members, three-fourths of whom are to be the representatives of the Scheduled Tribes in the State Legislative Assembly. A Similar council may be created in the state which has Scheduled Tribes, but not Scheduled Areas, if the president so directs.
- The Governor is authorised to direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or shall apply, only subject to exceptions or modifications. The Governor is also authorised to make regulations to prohibit or restrict the transfer of land by, or among members of the Scheduled Tribes.
- The Governor is also empowered to make regulations for the peace and good government of any area in a State which is for the time being a Scheduled Area.
- These provisions of the Constitution relating to the administration of the Scheduled Areas and Tribes may be altered by Parliament or by ordinary legislation.

- The Governor is authorised to decide on number of members of TACs, mode of their appointment, appointment of the chairman, officers and servants of these councils, conduct of its meeting and general business.
- The Constitution provides for the appointment of a Commission to report on the administration of the Scheduled Areas and the welfare of the Scheduled Tribes in the States.
- The President may appoint such Commission at any time, but the appointment of such Commission at the end of 10 years from the commencement of the Constitution was obligatory.
- The Sixth Schedule provides for the administration of tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram, which were under undivided Assam. Sixth Schedule to the Constitution.
- The Sixth Schedule empowers the Governor to organise and re-organise the autonomous districts by increasing or decreasing their areas or changing their names or defining their boundaries and so on.
- If there are different tribes in an autonomous district, the governor can divide the district into several autonomous regions under Regional Councils.
- The Sixth Schedule provides for the composition of autonomous district councils. Each Council consists of elected and nominated members and the number varies from council to Council. The elected members hold office for a term of five years unless the council is dissolved earlier. The nominated members hold office during the pleasure of the Governor.
- The district and regional councils administer the areas under their jurisdiction. They can make laws on certain specified matters like land, forests, canal water, shifting cultivation, village administration, and inheritance of property, marriage and divorce, social customs and so on. But all such laws require the assent of the Governor.
- The district and regional councils within their territorial jurisdictions can constitute village councils or courts for trial of suits and cases between the tribes. The District courts act as Courts of appeal. The jurisdiction of high court over these suits and cases is specified by the Governor.
- The district council can establish, construct or manage primary schools, dispensaries, markets, ferries, fisheries, roads and so on in the district. It can also make regulations for the control of money lending and trading by non-tribals. But, such regulations require the assent of the governor.
- The district and regional councils are empowered to assess and collect land revenue and to impose certain specified taxes.
- The acts of Parliament or the State Legislature do not apply to autonomous districts and autonomous regions, only subject to exceptions or modifications.
- The Governor can appoint a commission to examine and report on any matter relating to the administration of the autonomous districts or regions. He may dissolve a district or regional council on the recommendation of the commission.

- Despite uniform provisions there are variations of provisions among ADCs. ADCs like Karbi Anglong ADC, Dima Hasao ADC and Bodoland Territorial Administration have some special provisions.
- Northeastern states of Arunachal Pradesh, Nagaland and Manipur do not have Sixth Schedule Areas.
- Like Autonomous District Councils under Sixth Schedule, States like Assam, Manipur, West Bengal, Jammu and Kashmir have Autonomous Councils enacted by their respective State legislatures.
- There are frequent conflicts of interests between the District Councils under Sixth Schedule and the State Legislatures.
- Autonomous Councils through State enactment strive for the provisions of Sixth Schedule and ADCs under Sixth Schedule strive for more autonomy.

4.5 Keywords

Autonomy:	self-rule/law or self-governance; the word ‘autonomy’ derives from two Greek words ‘auto’ meaning self and ‘nomos’ meaning law or rule
Concerned Community:	the Community for which the Council is formed. For example, Mihing is the concerned community in Mising Autonomous Council
Core Area:	compact and contiguous area predominantly inhabited by a Scheduled Tribes (according to Autonomous Council Acts of Assam) with a population of 50% and above
Consolidated Fund:	is a government account consisting of revenues (direct taxes, indirect taxes, money borrowed, receipts of loans given by government) received and expenses made by the government excluding the exceptional items. No money can be drawn from this fund without Parliament’s approval. Expenditures on exceptional items are met from Contingency Fund or Public Account. (Contingency Fund: a fund created to meet urgent and possible unforeseen future expenses of the government. Public Account: the account in which the fund constitutes flows for those transactions where the government is merely acting as a banker. For example provident funds, small savings, etc do not belong to the government. They have to be paid back. The government acts as a banker of receiving and paying.)

De facto:	as a matter of fact, not by any law, in reality; it is opposite of de jure
De jure:	formal, by virtue of law, official, in accordance with law, state of affairs that is true as a matter of fact
Exclusive Council:	the Council that includes the people for whom it is formed; if same ethnic group living outside the jurisdiction of the territory are left out the Council is partly exclusive; the Rabhas for example living in Meghalaya are not a part of Rabha Hasong Autonomous Council
Inclusive Council:	the council that includes all sections of people under its jurisdiction; the sections of people outside the Council area are not covered under its jurisdiction; then the council is partly inclusive; for example, the Hajong people living outside Bodoland territorial areas are not included under its jurisdiction
Non-territorial autonomy:	decentralisation of decision making power of a body relating to the matters of maintenance and advancement of socio-cultural affairs of the groups even though dispersed throughout the state
Non-territorial Council:	the Council that covers the people but not the areas inhabited by those people
Regional Councils:	councils within an Autonomous District under Sixth Schedule for distinct sub-tribes; the ADC is for the main tribe of the District.
Satellite Area:	non-contiguous cluster of villages predominantly inhabited by Scheduled Tribes (according to Autonomous Council Acts of Assam) with a population of 50% and above as a whole in the cluster and not necessarily in the individual villages.
Territorial autonomy:	a special administrative local body with a minimum power to legislate in some basic domains of activities with elected executive to implement the legislation, the body is independent from the central/state institutions; it

is semi-territorial if the autonomy is subject to Central/State legislation

Territorial Council: the Council that covers the territory inhabited by the people for whom it is created, but if it covers people but not the territorial area then it becomes semi territorial; the Council, for example, does not cover the territorial area of a village for a few families (less than 50%) of the tribe for whom the council is constituted

4.6 Probable Questions

Short Answer Questions

23. What is the Sixth Schedule?
24. What is the difference between Schedule Area and Tribal Area?
25. What is an autonomous district?
26. What is Fifth Schedule?
27. What are the major differences between the Fifth Schedule and the Sixth Schedule?
28. What was the need to have separate Fifth Schedule Areas?
29. What is the Sixth Schedule and what is its purpose?
30. Name the States covered by the Sixth Schedule and the Fifth Schedule of the Constitution of India.
31. Name two sub-committees of Advisory Committee on the Rights of Citizens, Minorities and Tribal and Excluded Areas.
32. Write a note on Article 244.
33. Discuss the role of the President under Fifth Schedule.
34. What are the principles followed in declaring a Scheduled Area?
35. Present Arunachal Pradesh was a part former Assam administration and is a tribal State like Meghalaya and Mizoram. But it was not under Sixth Schedule. Why?
36. What is a Regional Council? Which Schedule provides for it?
37. Are all Autonomous Councils under Sixth Schedule? Justify your answer with suitable examples.
38. Write Short notes on (a) Deori Autonomous Council, (b) Nagaland and Sixth Schedule, (c)
39. Mention legislative powers of Regional Councils.
40. On what subjects the Governor is empowered to make rules for the first constitution of the District/Regional Councils?
41. Write a short note on Administration of justice in autonomous districts and autonomous regions.
42. Discuss the powers of District Council to assess and collect land revenue and to impose taxes.
43. Enumerate all types of autonomous councils in different states of India.

44. Write a note on the structure of autonomous councils of Indian states.

Long Answer Questions

17. What is Fifth Schedule? What is its purpose? Discuss the role of Tribes Advisory Council in the administration of Scheduled Areas?
18. Discuss the role of the Governor under Fifth Schedule?
19. Critically examine the provisions of Fifth Schedule.
20. Write a note on Bordoloi Committee. Mention the arguments in favour of and against the recommendations of this Committee in Constituent Assembly.
21. Why all the States of North-eastern India do not have Sixth Schedule Areas? Discuss with reference to Arunachal Pradesh, Nagaland and Manipur.
22. Critically examine the provisions of Sixth Schedule.
23. State and explain the legislative powers of District Councils and Regional Councils.
24. Discuss the powers provided in sub-paragraph 3A and 3B under Sixth Schedule.
25. Critically examine Autonomous Councils of Assam established through State legislation.
26. State and explain powers and function of Autonomous Councils and village councils established under state enactment.
27. Write a note on Manipur Autonomous Councils.
28. Discuss the composition, and powers and functions of the ADCs.
29. Why were Tripura Tribal Areas placed under Sixth Schedule? Discuss. Also write a note on powers and functions of the ADC of Tripura.
30. Write a note on the evolution of Karbi Anglong ADC and Dima Hasao ADC.
31. Examine the role of Governor under the provisions of Sixth Schedule.
32. Discuss the challenges faced by Autonomous Councils under Sixth Schedule and established under State legislation.

4.7 Answers to Check Your Progress

Check Your Progress I

7. Article 244
8. Fifth
9. Fifth
10. Sixth
11. Fifth
12. Sardar Vallabhbhai Patel

Check Your Progress II

6. False
7. False
8. False
9. True
10. False

Check Your Progress III

11. Governor of the State
12. By making regulations to control money-lending and trading by non-tribals according to the provisions of paragraph 10 of the Sixth schedule.
13. Sub-paragraph 3B
14. Governor of the concerned State
15. Woman
16. Paragraph 20
17. Governor of the concerned State
18. North Cachar Hills Autonomous Council and Karbi Anglong Autonomous Council; Paragraph 3 and sub-paragraph 3A of Sixth Schedule
19. The Bodo
20. Article 275(1)

Check Your Progress IV

- 11. False**
- 12. False**
- 13. True**
- 14. False**
15. False
16. True
17. True
18. False
19. True
20. False

Check Your Progress V

7. In Assam only Autonomous District Councils are under Sixth Schedule.
8. ADCs provide for STs, SCs and non-STs who are living in its jurisdiction.
9. At the time of incorporating Sixth Schedule there was also provision for covering the then Naga Hills. But the provisions are not implemented.
10. De facto autonomy is based traditional autonomy of tribes.
11. Mising Autonomous Council is one of the oldest Council under State legislation.
12. The Ladakh Autonomous Hill Development Councils though enacted through State legislature belong to tribes of Leh and Kargil hills.

Check Your Progress -VI

6. d
7. a
8. d
9. b
10. a

4.8 Further Reading

- Action Aid 2016. *Functioning of Autonomous Councils in Sixth Schedule Areas of North Eastern States*. Bhubaneswar: Natural Resource Hub and Democratisation Hub, Action Aid India.
- Bakshi, P.M. 2018. *The Constitution of India*. Delhi: Universal Law Publishing Company (14th edition).
- Basu, D.D. (nd). *Work Book on Constitution of India*. Gurgaon: LexisNexis.
- Basu, D.D. 2018. *D.D.Basu's Shorter Constitution of India*, 2 vols, (revised by Justice A.K.Patnaik). Gurgaon: LexisNexis.
- Behera, M.C. and K.K. Misra 2013. *Amazing Arunachal Pradesh*. New Delhi: Aryan Books International.
- Benedikter, Thomas 2009. *The World's Modern Autonomy Systems: Concept and Experiences of Regional Territorial Autonomy*. Bozen/Bolzano: EURAC Research Institute.
- Bhuyan, B.C. 1989. 'District Council and the State Government: Karbi Anglong District Council and the Government of Assam'. *The Indian Journal of Political Science*, Vol.50.No.2 (April-June,1989), pp.221-233.
- Chaube, Shibani Kinkar.1999. *Hill Politics in North-East India*. Hyderabad: Orient BlackSwan, First published in 1973 by Orient Longman.
- Chowdhury, J.N. 1983. *Arunachal Pradesh: From Frontier Tracts to Union Territory*. New Delhi: Cosmo Publications.
- Datta, P.S. 1993. *Autonomy Movements in Assam*. New Delhi: Omsons Publications.
- Datta-Ray, B. and S. P. Agrawal (eds.) 1996. *Reorganization of North-East India since 1947*. New Delhi: Concept Publishing House.
- Gassah, L. S. 1997. *Autonomous district council*. New Delhi: Omson Publications.
- Hansaria, B. L. 1983. *Sixth Schedule to the Constitution of India- A Study*. Gauhati: Smti Gita Hansaria, Jyoti Printers.
- Kom, Sekholal 2010. 'Identity and Governance: Demand for Sixth Schedule in Manipur'. *The Indian Journal of Political Science*, Vol. 71, No. 1, pp. 313-322.
- Kumar, B.B. 1998. *Small States Syndrome in India*. New Delhi: Concept Publishing Company.
- Mohapatra, Gadadhara 2017. 'Decentralised Governance and Tribal Development in Scheduled Areas of Northeast India: A Case Study of the Tripura Tribal Areas Autonomous District Council'. *Indian Journal of Public Administration*, Vol. 63, No.3, pp.475-494.
- Patnaik, J. K. 2017. 'Autonomous District Councils and the Governor's Role in the Northeast India'. *Indian Journal of Public Administration*, Vol.63, No.3, pp.431-443.
- Prasad, R. N. 2004. 'Sixth Schedule and Working of the District Councils in North-Eastern States'. *Dialogue*, Vol.6, No. 2.
- Stuligross, David 1999. 'Autonomous Councils in Northeast India: Theory and Practice'. *Alternatives: Global, Local, Political*, Vol. 24, No. 4, pp. 497-525.
- Thakkar, N. 2005. 'Karbi Anglong Autonomous Council'. *Ishani*, Vol 2, No. 1, Guwahati: Mahatma Gandhi Ishani Foundation.

- Veerasha, Nayakara 2017. 'Governance of the Fifth Schedule Areas: Role of Governor'. *Indian Journal of Public Administration*, Vol. 63, No.3, pp.444–455.
- Zahluna, J. 2010. 'Constituent Assembly and the Sixth Schedule: With Special Reference to Mizoram'. *The Indian Journal of Political Science*, Vol. 71, No. 4, pp. 1235-1242.




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