

**NATIONAL COMMISSION TO REVIEW THE
WORKING OF THE CONSTITUTION**

**A
Consultation Paper*
on**

**EMPOWERING AND STRENGTHENING OF PANCHAYATI RAJ
INSTITUTIONS/AUTONOMOUS DISTRICT
COUNCILS/TRADITIONAL TRIBAL GOVERNING
INSTITUTIONS IN NORTH EAST INDIA**

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FOREWORD AND ACKNOWLEDGEMENTS

This Consultation Paper on 'Empowering and Strengthening of Panchayati Raj Institutions/Autonomous District Councils/Traditional Tribal Governing Institutions in North East India' is partly based on two papers, namely the paper prepared by Dr. Bhupen Sarmah of the Omeo Kumar Das and the other paper prepared by the Institute of Social Change and Development and Prof. Apurba Baruah of the North East India Social Science Congress (NEISSC) (see at Annexures I and II respectively), for the Commission. The Paper was also developed out of the various memoranda received by the Advisory Panel from organizations, State Governments, traditional institutions, communities and individuals as well as interviews and fieldwork conducted by Shri Sanjoy Hazarika, member of the Advisory Panel.

The Advisory Panel discussed and modified the Consultation Paper written and edited by Shri Hazarika. The conclusions and suggestions have grown out of collaborations with the Omeo Kumar Das Institute, NEISSC and Shri P.A. Sangma, Member-in-charge.

The Papers prepared by the Omeo Kumar Das Institute and NEISSC are attached as Annexures I and II respectively to this Consultation Paper.

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CONTENTS

Chapters	Pages
I. Historical background	1137
II. Local self-governing institutions in the North Eastern States	1139
A Nagaland	1139
B The Sixth Scheduled States	1141
C Non-Sixth Schedule States which have called for extension of the Sixth Schedule	1150
D Non-Sixth Schedule Staes	1150
E General Suggestions	1152
F Specific Statewise suggestions for change	1154
G General Observations	1156
Questionnaire	1157
ANNEXURE – I	1159
ANNEXURE – II	1178
ANNEXURE - III	1204

CHAPTER I

Historical Background

The North East of India, home to numerous diverse communities and located strategically with borders with Bhutan, Tibet/China, Myanmar and Bangladesh, has seen much violence and bloodshed over the past few decades. These include insurgencies in the States of Nagaland, Mizoram, Manipur, Tripura and Assam and the growth of militant groups in Meghalaya. In addition, there are conflicts and confrontations over land use and control as well as issues of language, identity formation, demographic change and minority-majoritarian relations. Every year, the Brahmaputra and its tributaries flood the Assam and Barak valleys, displacing millions of people and destroying property worth crores of rupees. Yet, these rivers also bring fertility to their banks, a result of fresh silt deposits^[1].

1.1 Alienation from the rest of India, misgovernance and corruption as well as underdevelopment are stated as common frustrations in this region which is one of the richest regions in terms of natural resources in India and also one of its most beautiful part. Ironically, the area has also become among the poorest in income levels and the incidence of rural poverty is growing^[2].

1.2 To tackle the problems of this unique area and to preserve the democratic traditions and cultural diversity of its people whose ancestors have come from distant South East India, Tibet as well as from other parts of India, the framers of the Constitution conceived of the instrument of tribal self-rule. This stands embodied in the Sixth Schedule to the Constitution of India. The drafting of this Schedule was done by a Sub-Committee on North East Frontier (Assam Tribal and Excluded Areas) of the Constituent Assembly headed by Shri Gopinath Bardoloi, the then Premier of Assam. The effort was to accommodate the collective aspirations of tribal communities within the broader framework of a democratic political system characterized by centralized powers, in a situation characterized by a mix of apprehension, confusion and hope in the days immediately preceding the adoption of the Constitution of India^[3].

1.3 The Sixth Schedule operates in parts of Assam, Mizoram and Tripura and throughout the State of Meghalaya. Earlier, Arunachal Pradesh (known earlier as North Eastern Frontier Agency) was also part of the Sixth Schedule and administered by the Governor of Assam as the agent of the President. But currently, Assam (barring the two districts covered by the Sixth Schedule), Arunachal Pradesh, Manipur and Sikkim have passed legislation bringing local bodies under the 73rd and 74th Constitution Amendments (i.e., three-tier Panchayati Raj system and Nagarpalikas).

1.4 This area with its large number of (tribal) communities^[4] and emerging educated elites of recent origin has a peculiar political history. Most of these communities have self-governing village councils and are organised as tribal chiefdoms even during the late British period. Nation and State formation was virtually absent and even in the most advanced area of the region, ruled then by the Ahoms, the economy was monetised only by the British^[5]. But the effort should be to give all States the opportunities provided by the 73rd and 74th Constitution Amendments. This should be done with respect to their unique

traditions and genius, without tampering with their essential rights and giving each State the chance to use its own nomenclature for such systems of governance, which will have local acceptance.

1.5 There are a slew of Constitutional clauses and complex laws developed by Parliament which seek to deal with the complexities of the North East. But how effective have these been? What systems and segments of the Constitutional provisions have been effective? Which have not? What are the possibilities of changes or reform in those areas which should be considered to bring self-governance and greater responsibility, both political and social, back to the ground level?

1.6 Our efforts, surely, must be to develop those instruments of political government through the framework of the Constitution which brings self-governance to the region and confront the false hopes and angers generated by forces proposing disintegration. The future of the States of North East India, in political terms, hinges on those seeking and choosing self-governance over those seeking separation.

1.7 Over the past decades, the systems of local-governance promoted under the Sixth Schedule have been seeking to guarantee political dominance for backward groups, better local governance at the community level, better economic development and ethnic security for those who feel threatened by large scale influx of illegal migrants and even settlers from other parts of India.

1.8 There are other regions in India which also have large populations of tribals, outside of the North East. These areas are covered by the Fifth Schedule and are protected by the Central Government in a paternalistic manner. This is totally different to the Sixth Schedule States where the emphasis is self-rule because many of the communities inhabiting these areas had ruled themselves until the British subjugated them in the 19th century.

1.9 Indeed, this has led to strong tribal political formations in the North East and weaker movements in Central and Northern India. Thus, until 2000, only the North East had tribal states which were ruled by tribal elites. Formation of the new States of Chhattisgarh, Jharkhand and Uttarakhand will bring considerable changes to the scenario.

1.10 But the issues of emotional, physical and political distance and alienation still remain. The Constitution is an enabling document which provides a framework for solutions. The latter, in the final analysis, is in the hands of people and the Governments they elect, at the national, state and local levels.

1.11 Constitutions by themselves cannot make for good people. But they can and should provide the framework for good governance and good conduct, for governments and societies, in the sense that social and political realities are reflected in the framework of governance. In these times of democratic governance, both here and elsewhere in the Review of the Working of the Constitution, the effort has been to give the greatest degree of individual and community independence in terms of decision-making and implementation. This Paper aims at developing interest, generating information and involvement in such a process of review leading to change. Without such involvement, no proposal, no matter how laudable or important it may be, can work. But these do provide, we believe, a basis for discussion and public debate especially within the North East. We seek their dissemination as widely as possible, through the media and other fora.

CHAPTER II

Local-Self Governing Institutions in the North-Eastern States

2. Structuring

This Chapter is divided into the following parts:-

- A. Nagaland
- B. The Sixth Schedule States^[6]
 - i. Assam
 - ii. Meghalaya
 - iii. Tripura
 - iv. Mizoram
- C. Non-Sixth Schedule States which have called for extension of the Sixth Schedule
- D. Non-Sixth Schedule States
- E. General suggestions
- F. Specific State-wise suggestions for change
- G. General observations.

2.1 A. NAGALAND

2.1.1 In response to an influential and politically organized popular movement for separation, the State of Nagaland was created in 1963. Despite 38 years of existence, the creation of the State and the manner of its creation continues to divide Naga society with an influential group still opposed to its formation, saying that it is not sufficiently representative of all Nagas^[7]. Others have made their peace with the Government of India, accepting the ground reality but taking little responsibility for the functioning of the administration^[8]. However, others who are still fighting for a separate Nagalim (Naga homeland) continue to influence the politics not only for the State of Nagaland but the country as a whole. The result is an administration and a society in a state of acute dysfunction, with confrontation, violence, inefficiency and corruption ruling; in short, a complete failure of governance.

2.1.2 Constitutionally, Nagaland is a case apart, even from other North Eastern States with the passage of article 371A of the Constitution [enacted by the Constitution (Thirteenth Amendment Act), 1962] which specifies that no Act of Parliament in respect of (i) religious or social practices of the Nagas, (ii) Naga customary law and procedure, (iii) administration of civil and criminal justice involving decisions according to Naga customary law and (iv) ownership and transfer of land and its resources shall apply to the State unless its Legislative Assembly by a Resolution so decides. This provision gives such powers including the right to deny the Government of India prospecting/mining rights to the Nagaland Government which few other States have in India.

2.1.3 In addition, the Governor of Nagaland has special powers to act with regard to internal disturbances, powers which are virtually unchallengeable. The administration of Tuensang District, in particular, has been singled out for special attention and direct control by the Governor in the Constitution [articles 371A(1)(d) and 371A(2)(a) to (g), both inclusive]. Setting up of a Regional Council for Tuensang is provided for [in sub-clause (d) of clause (1) of Art. 371A].

2.1.4 Further, there is the Nagaland Tribe, Area, Range and Village Council Act of 1966 which provides for the creation of such Councils - a tribal council for each tribe, an Area Council for Kohima and Dimapur, a Range Council where there is a recognized range in the Mokukchung and Kohima Districts and Village

Councils for one or more villages in Kohima and Mokokchung, wherever they may be deemed necessary by the Deputy Commissioner.

2.1.5 The Nagaland Tribe, Area, Range and Village Council Act is a highly centralised piece of legislation which vests enormous powers in the person of the Deputy Commissioner of the respective districts and gives local bodies little or no effective role in managing their own affairs^[9]. Little wonder that neither this nor the Regional Council mentioned previously has played any significant role either in social formation or development^[10]. Indeed, few of them have ever been set up in the past nearly 40 years of the existence of the provisions on the statute book.

2.1.6 Because of a complicated political situation, caused by turmoil, a sense of identity as well as violence, there is little sense of ownership of these systems. An exception, to a degree, is the innovative Village Development Board (VDB) scheme which was started in the 1970s. This was set up initially by the State Government to enable village councils to function effectively and autonomously, with some basic funds put at their disposal to use as they felt best. Later, the VDBs began receiving Central funds and currently about 1,000 of them are functional with assets totalling about 20 crore rupees^[11]. Yet, this is only a tiny fraction of the funds made available to the State and indicates the attitude in the ruling elite toward self-governance.

2.1.7 In the case of Nagaland, the relevant questions relate to the following [some of the suggestions are valid for the rest of the North East, including Sixth Schedule and non- Sixth Schedule States]:-

- (a) Whether parts of article 371A and the 1966 Act should be merged to make them a more effective and useful legislation?
- (b) Whether, with the existing ceasefires between the Government of India and the principal militant groups and growing areas of peace in the State of Nagaland since 1997 and the attendant possibilities for greater decentralisation and more devolution of powers, the time has come to review the extraordinary powers of the Governor and reduce those powers; if so, to what extent?
- (c) Whether the Regional Council specified in Article 371A (which has never been set up) and the other Councils should be disbanded and their place be taken by a combination of elected representatives of Naga civil society organisations which have greater acceptance among all political and ethnic groups of the Naga people and that elections to such bodies be held every five years and whether the name of such a representative organisation and its local bodies should be decided in consultation with the Naga civil society organizations and the State Legislature?
- (d) These autonomous bodies could be Constitutionally protected from interference from the State Government; the State Government may not have direct control over these institutions and provision for Central funding for Plan expenditures should be incorporated
- (e) Funds could be sent to these bodies for Plan expenditure and local development work, on a range of subjects for which the Karbi Anglong Autonomous District Council be taken as a model, and disbursed according to this panel's recommendations.
- (f) Whether such local bodies should review the use of State projects and public funds, affecting the development of areas within the local bodies and covering projects in the infrastructure sector such as roads, highways, bridges, drinking water projects, health and education facilities, bringing a greater sense of ownership and responsibility to local communities.
- (g) Such bodies be given responsibility to decide, in consultation with but not necessarily with the approval of, local Members of Parliament, State Legislators and the permanent executive (i.e., Block Development Officers, Deputy Commissioners, etc.) for the implementation of article 371A. The greatest degree of internal autonomy is a must for any future political arrangement as far as Nagaland and the Nagas are concerned.
- (h) A Constitutional Amendment may be made making it mandatory for such bodies as well as the State Government and the Centre to co-operate in the protection and preservation of the natural resources, habitat and biodiversity of the Naga areas.

- (i) Given the worrying demographic transformation in Nagaland where nearly 65 per cent decadal growth rate has been reported for 1991-2001 by the latest census report, a regular exercise should be carried out by the Election Commission of India, the State Election Commissioner and the Chief Electoral Officer involving village bodies and public organisations, to identify genuine voters (both Naga and non-Naga) and illegal settlers and disenfranchise the illegal ones from the voters' lists. Those who have been in the State for over ten years should be asked to come forward and report to the local authorities so that they can be issued temporary work permits without giving settlement, voting or citizenship rights. If such groups and individuals do not voluntarily come forward, then the local police must be given the responsibility of ousting them from the State.
- (j) The help of NGOs and student groups as well as lawyers should be taken in identifying such "doubtful" groups; human rights groups cutting across ethnic frontiers should be associated with such a process so that genuine nationals are not harassed.
- (k) All Indian nationals resident in the State be issued Identity Cards.
- (l) There should be careful consideration of a non-territorial approach to the overall Naga issue, particularly in the light of the tragic incidents in Manipur and opposition in Assam and Arunachal Pradesh to the extension of the ceasefire area between the Government of India and the National Socialist Council of Nagaland (I-M) to parts of the NER, outside of Nagaland. There are suggestions from some quarters¹² that the Sami model of Scandinavia where members of the Sami tribe belonging to different countries be suitably amended to make it useful for the NER. The problem is that such an approach would trigger many demands for similar arrangements in different parts of the country and along its borders, including Myanmar and Bangladesh which would be totally unacceptable, not just to the Government of India but also to many areas of public opinion.
- (m) It must be conceded that much of the above and other issues with regard to Nagaland depend on a long-term settlement of the political issues being discussed between the Naga leadership and the Government of India. But the above are pointers to giving as much autonomy to local communities as possible to promote self-governance and a sense of ownership.

B. SIXTH SCHEDULE STATES

Background:

2.2.1 The Sixth Schedule to the Constitution of India contains provisions as to the administration of tribal areas in the State of Assam, Meghalaya, Tripura and Mizoram. The aim of the Sixth Schedule was to protect hill and other tribal communities from the control and power of the groups of the plains. The process of protection began with the formation of the first District Councils in Assam, as far back as 1951. These District Councils were first set up as the United Mikir and Cachar Hills of Assam, comprising parts of the former districts of the United Khasi and Jaintia Hills as well as parts of the erstwhile Nagaon, Sibsagar and Cachar districts of Assam. Today, the Khasi, Jaintia and Garo Hills comprise Meghalaya State, which was announced in 1970; District Councils were formed in the State in 1972.

2.2.2 The Sixth Schedule provisions are regarded as a mini-Constitution within the main Constitution but the whole Schedule needs a close look to remove flaws, contradictions and shortcomings.

2.2.3 The provisions relating to entrusting subjects to the Councils were without giving them powers to legislate for the same. For decades, confusion continued in various Sixth Schedule areas about village councils or courts as frequent references were made to both in a synonymous manner. Similarly, at one point in Meghalaya, there were three forms of courts functioning - the District Judge and the Deputy Commissioners and the "village councils or courts for the trial of suits and cases between the parties all of whom belong to Scheduled Tribes within such areas" with some exceptions.

2.2.4 Such anomalies and contradictions need to be ironed out and some of the suggestions below may help ease the problems.

(i) Assam:

2.2.5 The division of the composite State of Assam led to the drawing of new administrative boundaries. The North Cachar hills sub-division of the United Mikir and Cachar Hills District was upgraded to a district in 1970. The Mikir Hills District section was renamed as Karbi Anglong in 1976. Both districts have Autonomous Councils.

2.2.6 For each autonomous district, the Sixth Schedule provides for a District Council consisting of not more than 30 members for a term of five years. The Governor is empowered to nominate not more than four members to the Council while the others are elected on the basis of adult suffrage. The Chief Executive Member (CEM), the chairman and the deputy chairman of the council (equivalent of speaker and deputy speaker) are elected from the members and the CEM selects the other executive members.

2.2.7 There are different internal rules for different Autonomous District Councils (ADCs). In some councils like Mara in Mizoram, the electorate are eligible adults (i.e. anyone above the age of 18 years); 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 being included in the voters' list for the ADCs.

2.2.8 It is suggested that **the above relevant provision of the Mara ADC of Mizoram should be made applicable to all such councils, with specific provisions to protect the interests of small minorities, such as non-tribals who may not be eligible to vote but who also reside in such traditionally tribal areas.**

2.2.9 The extensive powers of the District Councils are wide-ranging. These include legislative, judicial, executive and financial powers.

2.2.10 **Legislative:** An ADC or DC is authorised to allot the use of land for agriculture, grazing, residential and non-agricultural purposes; the regulation of the practice of jhum or other forms of shifting cultivation; use of water courses/canals for agriculture; the appointment of headmen or chiefs; property inheritance and social customs as well as regulation of money lending.

2.2.11 **Judicial:** Constituting village councils and courts for the trial of suits and cases of ST communities as well as courts of appeal; only the State High Court and the Supreme Court of India have jurisdiction here; the ADCs can modify and make procedures for the village councils/courts.

2.2.12 **Executive:** Establish, construct and manage a range of public projects including primary schools, ferries, fisheries, roads, road transport and waterways in the district

2.2.13 **Financial:** A district fund to be set up for each autonomous district, levies on land, buildings, professions, vehicles, passengers and goods carried in lorries and the rights to sharing royalty from licenses or leases for the purpose of prospecting for or extraction of minerals granted by the State Government in any area within the jurisdiction of the ADC as mutually agreed upon by the State Government and the district council.

2.2.14 The infirmities in the functions and powers endowed by the Sixth Schedule were apparent after some years of functioning. ADCs, for example, had legislative power over the subjects listed above. But their laws required the Governor's assent^[13]. There have been cases of Governors in one particular State withholding assent to laws passed by the ADC for ten years and more. As far back as 1960, an official committee remarked that the councils suffered from a lack of coordination with the State Government, spent money meant for development work on administrative expenses and suffered from an excess of clerical staff^[14]. These sound familiar more than 40 years down the line.

2.2.15 In a bid to assuage tribal concerns, the State Government transferred 16 departments to the ADCs in 1970 including agriculture and minor irrigation, fisheries and forests, dairying and milk products, general education and health and family planning. But devolution was ineffective because the State Government retained tight control. Thus, while education was a Council subject, the appointment of teachers was under the State.

2.2.16 The emergence of new social forces accentuated discontent over the state of affairs and led to the movement for an autonomous state within Assam and led to a Memorandum of Understanding between the Autonomous State Demand Committee (ASDC) and the Government of Assam in the presence of the Ministry of Home Affairs^[15]. Consequently, the State Government transferred another 14 departments (making a total of 30) including Panchayat and Rural Development including DRDA, handloom and textiles, sports and youth welfare, town and country planning, transport, excise and finance (including sales tax, excise and professional tax). An office order laid down specific guidelines for the administration and transfer of funds within the Council and from the State Government to the ADCs. The budget estimates passed by the council are independently developed and are sent to and cleared by the State Budget. All Centrally sponsored schemes are implemented by the Council.

2.2.17 Because of this MOU, the two Assam Autonomous District Councils are much more powerful than their counterparts/local governing institutions in other parts of the North East, within or outside the ambit of the Sixth Schedule.

2.2.18 One problem is the over-centralisation of power in the ADCs at the hands of the executive committees. All planning and plan implementation are decided at this central level. Hierarchy is frozen, the influence of the bureaucracy is growing and initiatives to decentralise are few.

2.2.19 A major gap is the lack of interaction at the village and field level. There are no elected village councils or regional councils. This is the critical tier of the Panchayati Raj system that needs to be implemented at the village level.

2.2.20 It should be considered whether the functioning of the ADCs should be amended to make them more accountable through the insertion of a clause that makes mandatory the creation of village councils/bodies with a degree of representation to the traditional institutions of chiefs and goan buras, without giving the latter any primacy. The politicisation of the system in these districts has meant that these institutions are no longer above politics but deeply immersed in it. **The village councils, as in the case of the DCs, should be elected every five years.**

2.2.21 Indeed, the structured manner in which the Karbi Anglong and North Cachar Hills Autonomous District Councils have strengthened their position vis-à-vis the State Government is worth emulating despite questions being raised on their record of internal democracy and transparency.

2.2.22 This Paper suggests that all District Councils, whether described as Autonomous or otherwise and other local governing bodies (PR system as well), may examine the possibility of adopting the thirty subjects controlled by the Karbi Anglong and North Cachar Hills Autonomous District Councils. In addition, they must devolve power to the village level through elections and enabling local communities to take charge of their lives. Both are necessary steps.

2.2.23 Two other proposals also evolved during the preparation of this paper: firstly, defections have led to instability in some of the district councils and hence, it is proposed that the Anti-Defection Law should apply here. In this context it is necessary to keep in mind that in view of the experiences of the implementation of the anti-defection provisions, it may be necessary to review the Act itself and plug the loopholes and remove the possibilities of misuse. Secondly: the accounts and finances of the councils should be regularly audited by the Comptroller and Auditor-General of India instead of the State Auditor-General. The Public Accounts Committee of the State Legislature should also scrutinize their conduct.

2.2.24 The independence of the District Councils from “national” laws and the influence of Parliament is visible in that for all the four States covered by the Sixth Schedule - the hill districts of Assam, Meghalaya,

Tripura and three district councils of Mizoram - there are similar clauses (i.e., 12, I2A, I2AA and I2B) which specify that the President may, with respect to any Act of Parliament, order that it will not be applicable to the autonomous district or region of the concerned State. But the control of the State Legislature varies. In Meghalaya, any regulation made by a ADC will have to pass muster in the State Assembly; if it is rejected, the local law falls. In Assam, no law enacted by the State Government with regard to the ADCs will be given effect to unless the ADC so directs.

(ii) Meghalaya

2.2.25 The District Councils in Meghalaya are among the oldest in the country. As noted above, they began at the time of undivided Assam. Essentially built to protect the hill groups from domination by the plains, there is a distinctly anomalous situation in Meghalaya today: the District Councils are dominated by the tribal communities. So is the legislature of the State and political leadership which are controlled by the three major tribes of Meghalaya: Khasi, Jaintia and Garo. So, certain questions arise: whose interests are the Autonomous District Councils protecting? Have they been effective in taking self-governance to the grassroots? If not, where have they fallen short?

2.2.26 It has been observed in Meghalaya, especially in recent years, political instability, floor crossings combined with abrupt changes of leadership have disrupted the functioning of the Councils^[16]. In addition, there appears to be a growing public perception that these groups have become a smaller version of the state government without giving a commensurate public benefit and that politicians here appear to be preparing themselves for the next stage - i.e., elections to the state assembly instead of working for their constituents.

2.2.27 Given the small size of the hill states under the Sixth Schedule, a conflict of interest was bound to arise between the legislators to the state assembly and the District Councils. Thus, many local issues such as road repair, water and electricity supply, cutting of forests, disposal of waste, building licenses and fees come up not just before members of District Council but are taken up by the public with the local state legislator as well as the Members of Parliament. There is, therefore, an overlap of authority.

Traditional systems in Meghalaya

2.2.28 In addition, there are the traditional ruling systems of Meghalaya viz. the Syiems (rajas) of the Khasis Hills, who signed the Instrument of Accession to India; the Dolois of the Jaintias and the Nokmas of the Garos. Of these three, the Syiems and their "courts" - Durbars [councils which traditionally deliberate on issues of concern, especially taxation, land rights, marriages etc.] with myntris (ministers) and headmen in attendance] function.

2.2.29 The Dolois of the Jaintia Hills and the Nokmas, or traditional headmen of the Garos, are not as influential or well organized as the Syiems, which still collect tithes, exercise their influence to arbitrate in disputes but have been marginalised in the political process by the State Legislature and the District Councils, especially the latter. It should be pointed out here that the Syiems are a clan based political system more in the line of a feudal and monarchical political authority than tribal democratic traditions. The limited political participation available to the common tribal under the traditional system need not necessarily fulfil the political aspirations of newly-emerging, forward-looking tribal elites.

2.2.30 It could be cogently argued therefore that in Meghalaya, there are not two but three competing systems of authority - each of which is seeking to "serve" or represent the same constituency. The result has been confusion and confrontation especially at the local level on a number of issues.

2.2.31 There is a long list of provisions for subjects and powers as far as all District Councils in the four States covered by the Sixth Schedule, viz. Articles 244 (2) and 275 (I). This is an extremely comprehensive list which covers subjects such as allotment, occupation or use, or setting apart, of land. Apart from land which is a reserved forest for the purposes of agriculture or grazing or for residential or other non-agricultural purposes, the list includes the regulation of jhum (shifting cultivation), establishment

of village or town committees or councils and their powers as well as administration, town and village police, flood control, trade and commerce.

2.2.32 The rules of town administration under the Sixth Schedule are not necessarily in consonance with those of the 74th Constitution Amendment. Indeed, there are proposals for amendments to the Constitution from the Meghalaya Autonomous District Councils which seek to do away with Municipalities because they are said to be "not popular with the tribals". Apart from Shillong, Jowai has a municipality under a Chief Executive appointed by the Government and the move to abolish the municipality will enable the ADC to re-establish a Town Committee under the Jaintia Hills Autonomous District Village and Town Administration Act of 1974.

2.2.33 There have been differences of opinion on the relevance of even the implementation of the 74th Amendment with regard to Nagar Palikas or Municipalities, applicable in the case of Meghalaya to the city of Shillong. Indeed, the clash between a "Constitutional" exigency and local views was most recently seen when elections could not be held to the Shillong Municipality because of the pressure from some political parties, student organisations and other non-government groups. All this happened despite a Supreme Court ruling ordering the elections. A senior minister in the cabinet told a workshop^[17] that local people did not want elections to city administrations and that for small constituencies, they felt that the local state legislator who had been elected from these wards should do the job. Yet, in the case of Shillong, the municipality has a history of decades of functioning with 11 elections.

2.2.34 The District Councils in the Khasi hills have a unique history: although not barred by law, non-tribals have rarely contested and won elections here. There are charges that non-tribals are not encouraged to vote in these elections and that their names are frequently deleted from the rolls. The tribal and non-tribal divide appears more acute here than in other Sixth Schedule areas^[18]. This is not the case, for example, in the Garo Hills Autonomous District Council where there are non-tribal members.

2.2.35 Ideally, the Government should consider the creation of non-tribal voters' constituencies, to be delimited not in geographical terms but only in the manner of a specific number of seats earmarked for the purpose in a people-proportionate manner. In such a situation, the non-tribals, for example, in the Khasi Hills could vote for a non-tribal candidate in a non-tribal, non-geographical constituency. If, however, for purposes of political exigency, it is not possible to create such constituencies, the Governor should be empowered to nominate a maximum of five and a minimum of three non-tribal members. In such a case, the Government may also consider increasing the strength of the ADC to either 35 or 33, as the case may be. Such a provision might help defuse the problem arising out of the political confrontation between tribals and non-tribals, without jeopardizing the legitimate political aspirations for self-governance of the tribal population.

2.2.36 It may be noted that the powers of the District Councils do not extend to all of the city areas of Shillong. However, opinion is divided on the future of the District Councils: senior officials and politicians in the State Government say that the District Councils have outlived their utility and view them as a drain on scarce public resources and should be dispensed with, especially with the existence of the State Legislature. This is strongly opposed by various sections of society in Meghalaya, not least by the District Council members themselves. Indeed, such a drastic step is unlikely to have extensive support and could instead lead to further alienation of a new segment of society in Meghalaya.

2.2.37 Trends towards militancy in the State can be discouraged through measures leading to self-governance. For this to happen, the traditional systems of governance will have to be included and given specific roles and opportunities, instead of being marginalised as they have been for decades.

2.2.38 It is, therefore, to be considered whether an intermediary tier be placed under the existing Autonomous District Councils (which can be called by another name, if so desired, be divided). This tier could be representative of existing village councils and traditional systems as the First Tier of self-government where such institutions are functional and strong. This may be called the Durbar in the Khasi Hills and by the local nomenclature elsewhere and may comprise elected members of each village from the community/traditional systems. There should not be more than 15 members.

2.2.39 The situation needs to be assessed realistically. Such institutions were extremely influential but can they go back in time and hold those powers of the pre- independence period? This is unlikely. Compromises will have to be struck by all sides with a great deal of flexibility and vision for the sake of the immediate and the future.

2.2.40 It is suggested that provisions for decentralisation in any form should always take into account the need for democratisation and gender justice. In Meghalaya, five members of each of the three Autonomous District Councils should also be elected from the First Tier. This should include the traditional chiefs/rajas (Syiems).

2.2.41 The details of subject and power sharing can be worked out but it would suffice to suggest here that those facilities/powers which affect village communities - village roads, births and death registry, marriages, property alienation and divisions, power, water bodies, forests, education, agriculture, preservation of animal stock and cattle pound, etc. (all at the village level) -should be in the hands of the village-level system. At the international border, they will be associated with assisting border security agencies and help both in identification and settlements, etc.

2.2.42 Larger issues and subjects can go to the Second Tier - i.e., the amended District Councils. The State Legislature in this case is the Third Tier of governance, an overall supervisory and policy-making body that Constitutionally delegates powers - as in the case of the 73rd Amendment - to local governing bodies but is not associated with the daily running of detailed projects. That may be left to the First and Second Tiers.

2.2.43 The lacunae in the functioning of the District Councils lies in their lack of financial powers and their subsequent dependence on State Governments. This dependence can be reduced with the appointment of a State Finance Commission (although these are now currently appointed in Sixth Schedule States and are required to be set up in those States following the 73rd Amendment; however, this is no reason why such Finance Commissions should not be set up in the Sixth Schedule States, thereby making them beneficiaries of the 73rd Amendment. The life of the State Finance Commission should be renewed at the end of every five-year term) which can authorise the division of the funds necessary for the smooth functioning of the newly-structured Councils. The State Finance Commission should report directly to the Governor and should make recommendations on the net proceeds of the taxes, duties and tolls and fees leviable by the state, grants-in-aid to the District Councils, etc. from the Consolidated Fund of the State. This is not a new suggestion but needs to be given legal status.

2.2.44 Such a Commission should lay down that the monies should go to the Councils as a matter of course and, as in the case of Karbi Anglong and North Cachar Hills, with detailed plans drawn up by the Councils and the traditional institutions in consultation with the State Government. A group of technical and financial advisors, under the overall supervision of the Executive Council, should help draft these proposals. The budgets can be a part of the annual State budget and should be passed with as little changes as possible.

2.2.45 The role of the Governor needs to be examined, especially as he has powers to hold up legislation passed by the District Councils. It should be made mandatory for the Governor to pass legislation proposed by the Council, if he does not respond within six months. There have been cases in Meghalaya where proposals by a Council have been held up for more than 10 years.

2.2.46 Some District Councils, both in Assam and Meghalaya, have been characterised by political instability caused by defections and efforts to oust the Chief Executive Councillor. The provisions of the anti-Defection Act should be made applicable here and in other States under the Sixth Schedule.

2.2.47 An extremely sensitive issue in Meghalaya is the possibility of a political role for women in the District Councils and traditional institutions. There is considerable opposition to the suggestions of reservations of one-third of all seats for women, as in the panchayats and nagar palikas. The matrilineal system of inheritance and controls on society in Meghalaya has made this a difficult political and social question. But while reservation may not be acceptable, local governing systems should accept the basis of gender representation and if necessary by way of nomination as in other district councils. Thus, the

State Governor should be empowered to nominate women to not less than three seats in each District Council. Some traditions are good for all time; but any legislation or tradition which discriminates is undemocratic and unacceptable in today's society. In Meghalaya, public opinion is growing in favour of women's participation in politics and adoption of principles of modern liberal democracy. This progressive trend may be strengthened with Constitutional recognition of the Durbars on the basis of the arguments developed above (also see Appendix on Meghalaya).

(iii) Tripura

2.2.48 The Tripura Tribal Areas Autonomous District Council (TTADC) was formed in 1985, a successor to an earlier Council area formed in 1982 under the Fifth Schedule and then transferred to the Sixth Schedule.

2.2.49 Again, this was a paternalistic intervention to meet an ethnic demand for preservation of tribal rights in the face of what has been seen as a majoritarian flow. One must remember that Tripura was, till after independence, a dominantly tribal state. Migrations and settlements from East Bengal/East Pakistan made it a Bengali Hindu majority area.

2.2.50 The TTAADC has 28 elected members; two are nominated by the Governor on the basis of the Chief Executive Members' recommendation. The nominated members must be tribals.

2.2.51 The population structure of Tripura is two-third non tribal and one-third tribal of the total of 3.1 million (2001 Census, Provisional). Yet, the TTADC comprises two-third of the State's geographical size.

2.2.52 Significantly, the party that came to power in last year's elections was the IPFT (Indigenous Peoples Front of Tripura) which strongly favours tribal rights and control. Apart from other demands, the issue of financial autonomy was a rallying cry of the IPFT which won a comfortable majority of the 28 seats being contested.

2.2.53 It has been noted here and in other States that where the Councils and State Governments are of the same political party, financial relations and political relations are reasonably good, in a smaller replay of the relations between the Centre and the States. Otherwise, there is frequent confrontation and charges and counter-charges of discrimination.

2.2.54 The tribal council members are demanding direct funding of their budgets from the Centre under article 244A of the Constitution.

2.2.55 It is suggested that devolution of powers be effectively carried out in the financial segment through an independent state finance commission, as mentioned earlier in this paper. The monies for the Autonomous Council should come from the recommendations of the State Finance Commission and it should receive grants in aid, etc. from the Consolidated Fund of the State. Without financial devolution, programmes will be non-implementable, and that will lead to growing frustration and alienation.

2.2.56 It should be noted here that throughout the NER that the perception of the Centre (New Delhi) as a controlling, all-powerful, distant authority is now changing. Currently, there is as much resentment directed against the failure of governance at the local level, with criticism growing of state capitals and local ruling elites (also see Annexure II).

(iv) Mizoram

2.2.57 There are three Autonomous District Councils in Mizoram, viz. the Lai Autonomous District Council, the Mara Autonomous District Council and the Chakma Autonomous District Council. These are representative of numerically small populations of which the Lai is the largest with 40,000 persons^[19]. The

percentage of Scheduled Tribes in each Council area is 98.7 per cent, 97.7 per cent and 100 per cent respectively.

2.2.58 They handle 18 subjects each, similar in listing to those of Meghalaya.

2.2.59 The Chakmas have 13 elected posts and three nominations. The Lai ADC has 23 elected members; there are four nominated members by the Governor. The Mara ADC has 19 elected members and four nominated members.

2.2.60 State Government officials say that article 275 is faulty in relation to the Sixth Schedule: it continues to mention only the tribal areas of Assam, without taking into cognizance the changed political circumstances in the NER. This needs to be amended.

2.2.61 A number of departments have been handed over to local bodies, including school education up to the middle level, land, forests and local revenue. The allotment for the District Council comes from the State budget.

2.2.62 Non-tribals have voting rights but are not known to have contested the elections.

2.2.63 The District Councils here and in other States are ethnic in nature in addition to being subject to political interventions to protect tribal communities, as noted earlier.

2.2.64 Their powers and subjects of jurisdiction are similar to those of the other district councils in the Sixth Schedule. It should be noted here that earlier, Mizoram was a district of undivided Assam and in subsequent incarnations it was governed by a Council with powers not dissimilar, though less elaborate, to those of today.

2.2.65 The overall suggestions and recommendations for other district councils should also apply here so that they are not controlled by the State Government and state-level politicians, who are not closely associated with governance and development among these ethnic groups. For this, the Centre should fund all Plan expenditure of the three District Councils. The basic functions of governance are not possible in a place such as the Chakma Autonomous District Council which has neither proper roads or a sub-treasury, a bank, a post office or a hospital. The Centre must ensure that these basic minimum infrastructure facilities for governance are made available at the earliest.

2.2.66 The size of the ADCs may be increased to 30 with nominated members being limited to four: two may be nominated by the CEM and two by the Governor. Of those nominated, two should be reserved for women.

2.2.67 To make decentralisation and devolution of power meaningful, it is necessary to insert enabling clauses in the rules governing the function of the ADCs to strengthen the position of the Village Councils, so that they become more self-sustaining. Given the small size of villages in the ADCs, it should be considered whether a VC should consist of not less than 100 houses and a population of not less than 1,000 persons, by combining the voting strength of two or three villages. They should be empowered to raise their own resources by way of taxes and reducing their dependence on District Councils. In addition, more local judicial powers may be considered for the VCs as well as an increase in the remuneration of the Village Council members.

2.2.68 As with other States, Mizoram needs to set up a State Finance Commission whose term will be renewed at the end of every five years and which can decide on division of funds to the Autonomous Councils and the State Government from the Consolidated Fund of the State.

2.2.69 The Mizo situation is extremely complex for it brings into sharp focus the difficulties of governance in a region which has multiple micro-minorities and a 'national' minority (i.e., the Mizos) as the State majority! There are demands from groups such as the Paites in western Mizoram, the Hmars (who already have a Hill Development Council) and the Brus (Reangs) for autonomous District Councils. This can be decided only through a process of political consensus but suffice to say that given the

Memorandum of Settlement between the Government of Mizoram and the Hmar Peoples Convention (27 July 1994), the GOM agreed to extend the Sixth Schedule Provisions to the Hmar demand area. It has not been able to do so, despite many requests from the HPC. The cases of Paites and the Bru (Reangs) will also need to be reviewed in the light of this agreement. Otherwise, there is every possibility of radicalisation growing, especially among the youth.

2.2.70 A difficult issue is that of the Bru, many of whom were evicted by a campaign against them. An estimated 40,000 have taken refuge in neighbouring Tripura. The Bru have demanded a separate autonomous council which is opposed by the State Government.

2.2.71 It may be noted here that there is a growing opinion in the non-Sixth Schedule areas of the State which regards the gap between the Village Councils and the State Government/ Legislature as very wide. A spectrum of views indicate considerable support for an intermediary tier of governance. Given the small populations in the districts of the State, it may be appropriate for Mizoram to consider developing an intermediary level of governance at the District Level, called the District Council (specific name of the district to be appended) or any appropriate Mizo title. The Village Council may be reconstituted with two or more village councils forming one village council.

2.2.72 The State Government seeks to form District Development Boards with the local MLA as the Chairperson of the Board and nominated officials as members. It is unlikely that such a body can lead to decentralisation; it is therefore suggested that the District Council should comprise of elected members, the number of which should depend on the size of the district population. The officials can function as advisors to the District Council and the MLA may be a non-voting member of the same. The local Member of Parliament should also be a non-voting member, in the constituency/district where he/she is a voter.

2.2.73 The State Government should consider reservations for eligible persons from the Sixth Schedule area of the State in government services such as police and civil departments, in proportion to the percentage of population of the scheduled tribes in the State.

C. NON-SIXTH SCHEDULE STATES WHICH HAVE CALLED FOR EXTENSION OF THE SIXTH SCHEDULE

2.2.74 Manipur has been seeking Sixth Schedule status for its hill areas for decades and nothing much has come of it, leading to opinion that the demand was not really serious. The communities in the Hills of Manipur have traditionally comprised of about one-third of the total population of the State. The provisional state total has been placed at 2.3 million, up from 1.8 million in 1991.

2.2.75 The Hills of Manipur are dominated by various Naga Tribes, including the Tangkhuls. There is a separate community, the Kukis, which has been pitted against the Tangkhuls, both politically and in terms of militancy, and which dominates one of the hill districts, i.e., Churachandpur.

2.2.76 The previous State Cabinet has passed a resolution asking the Centre to confer Sixth Schedule status on the hills. Yet, its predecessor government had only last October passed legislation through the state assembly which conferred Autonomous District Council status on the Hill Area of Manipur. This piece of legislation has been opposed by influential groups in the Hills which are demanding extension of the Sixth Schedule.

2.2.77 There is a lack of consensus on this issue and it needs to be thrashed out within a time framework, after detailed discussions with representative groups from both sides.

2.2.78 While the Government of India should seriously consider the request to extend the Sixth Schedule provisions to the Manipur Hill areas, it should also consider invoking and involving the traditional tribal institutions of the various hill tribes as a Tier of the Autonomous District Council. This issue needs to be viewed in the light of the complications arising out of the Naga situation.

D. NON-SIXTH SCHEDULE STATES

2.2.79 The non-Sixth Schedule States in the North East i.e. where the 73rd and 74th Amendments have been implemented are Assam (barring Karbi Anglong Autonomous District Council and the North Cachar Autonomous District Council); Manipur, Tripura (barring the Tripura Tribal Areas Autonomous District Council) and Arunachal Pradesh.

2.2.80 Assam passed the Assam Panchayat Act in 1994, dividing rural governance into gaon, anchalik and zilla parishad enclaves. Yet, the powers passed on to these systems are little more than perfunctory and the last election was held in 1992, when the Congress swept the polls. The term of the panchayats expired in 1997 and despite a number of promises, no fresh elections have been held. New election have been announced for December, 2001. An earlier announcement in October, 2000 was postponed after a legal challenge to the proposal. The opposition came from those who said that it would not be possible to have panchayat elections in such an area as the Bodoland Autonomous Council.

2.2.81 The Bodoland Autonomous Council (BAC) evolved its own laws and structure as per the 1993 agreement between a group of the Bodo community and the Government of Assam. The Bodos say that elections should be under the system assured by the 1993 accord and not the 73rd Amendment. But this is contradictory to a stipulation in the accord, that panchayat and zilla parishads would have the same meaning as defined in the Assam Panchayat Act. This is no longer acceptable.

2.2.82 The accord was signed in haste without even having the borders of the said Council clearly demarcated. The greater problem is that the area has not been notified as a Scheduled Area, i.e., a place where the laws would be in consonance with systems other than the panchayat form of government. Until this notification takes place, the BAC will continue to be troubled by an identity problem and little development work can be conducted. In its present form, the BAC is toothless and unable to have a say in matters of routine functions-- maintenance of roads, veterinary services, buildings and irrigation systems despite these being notified in the Act!

2.2.83 The T.L. Baruah Committee suggested ways of increasing revenue flow into the BAC, taking into account the demographic pattern of the region. New rules need to be written into the BAC that will enable the devolution of funds on a scientific basis. These should include the remoteness of the area, the persistent rural poverty among the Bodos and other plains tribal communities. But most urgent is the election of a General Council, the top decision-making body in the BAC. It should be constitutionally mandatory to have these elections every five years.

2.2.84 Nothing barring a state of emergency (which the State cannot declare but the Centre can), should be allowed to disrupt this procedure. In addition, the delineation of the borders have to be conducted without delay and a time frame developed for this purpose.

2.2.85 There are major hurdles in extending the Sixth Schedule to the BAC. One problem lies in the fact that the demographic profile of the BAC is of a non-Bodo majority, already smarting under what it regards as an unrepresentative ruling group.

2.2.86 Yet, if it is not brought under the Sixth Schedule - the politics of the Bodo area will be characterised by a curious fact: tribals from other parts of eastern India will contest the reserved seats for tribals (Kokrajhar). This has happened in three successive Lok Sabha elections and created much tension and resentment locally.

2.2.87 It is suggested that the Karbi Anglong "package" of policies/laws should also help shape BAC structural functioning.

2.2.88 Indeed this package could be the basic model for Panchayat functioning in Assam and self-governance in the North East.

2.2.89 While the Assam Panchayat Act is little different to similar legislation prevailing in other parts of the country, it could be argued that it could be improved with the inclusion of some of the traditional structures such as the mel, or an assembly of village elders which functioning will be not only to settle disputes but also to take important collective decisions as and when required. Thus, in 1892, the people of Kamrup and Central Assam organised themselves into local mels and decided to oppose increase in land revenue rates notified by the colonial authorities.

2.2.90 It is to be noted that the Panchayat Acts cannot be a blind imitation of other legislation passed by certain States such as Kerala and Karnataka. Those States such as Assam should have a flavour of existing useful institutions, such as the mel, and the naamghar or prayer house. The latter was once set up to proselytize a reformed Vaishnavism but became the nerve centre of community activities, ranging from worship to thrashing out problems relating to daily activities.

2.2.91 The Naam ghar and the mel are not strictly speaking institutions of self-government but they are unique and could inject both a sense of realism and of strong values to the Panchayats. It would be useful to bring in mel members into the village councils and encourage their participation.

(v) Manipur

2.2.92 Manipur adopted the Manipur Panchayat Act in 1994 and the most recent elections here took place in January 2001. The State Government has not devolved a number of the subjects to the Panchayats and elected members went on strike, demanding reinstatement of their rights.

2.2.93 The 73rd and 74th Amendments are applicable only to those parts of Manipur which are in the plains and are yet to be fully implemented.

2.2.94 The recommendations and views expressed in the Nagarpalika Network's report to the Commission are in consonance with thinking along on these issues in the North East, not just for Manipur, but for all States listed in this Paper and should be developed appropriately for local conditions, considering the size of rural and urban populations and existing infrastructure.

(vi) Arunachal Pradesh:

2.2.95 The Arunachal Pradesh Panchayati Raj Act was passed in 1994. However, there has not been any election to these bodies because the Assembly rejected a Central Bill which sought to delineate the Scheduled Castes of the State and make provisions for political reservation for them. The State Government said there were no Scheduled Castes in the State. The Government drafted and sent a bill to this effect to the Central Government for obtaining the assent of the President. This should be completed quickly. In Arunachal Pradesh, there is also a traditional gathering of villagers known as the kebang, which meets to sort out problems. In some cases, it may be adultery, in others theft. It is proposed that members of the Kebang be associated with the gaon panchayats and encouraged to contest elections.

(vii) Tripura

2.2.96 The Tripura Panchayats Act was passed in 2001. Tripura's Panchayats cover only one-third of the State. Two-thirds of the area is with the TTAADC (See **Annexure II**).

E. GENERAL SUGGESTIONS

2.2.97 The choices before the North East are not easy: between local self-governance and self-determination, between survival and devastation, between accountability, transparency and responsibility

on the one side and corruption, continuing poverty and conflict on the other. The Commission feels that the following steps will help strengthen the former.

2.2.98 While the suggestions for each State are set out clearly at the end of each section, the following points need to be re-emphasised:

- (i) Careful steps should be taken to devolve political powers through the intermediate and local-level traditional political organisations, provided their traditional practices carried out in a modern world do not deny legitimate democratic rights to/of any section in their contemporary society. The details of state-wise steps to devolve such powers will have to be carefully considered in a proper representative meeting of traditional leaders of each community, opinion builders of the respective communities and leaders of state and national stature from these very groups. The Karbi Anglong Autonomous District Council may serve as a possible model and help all groups to arrive at an acceptable position as far as powers and functions are concerned (A List of subjects is given in **Annexure III**). A hasty decision could have serious repercussions, unforeseen and unfortunate, which could further complicate and worsen the situation. The system of in-built safeguards, such as the Sixth Schedule, should be maintained and strengthened for the minority and micro-minority groups while empowering them with greater responsibilities and opportunities, for example, through the process of Central funding for Plan expenditure instead of routing all funds through the State Governments. The North Eastern Council can play a central role here by developing a process of public education on the proposed changes, which would assure communities about protection of their traditions and also bring in gender representation and give voice to other ethnic groups.
- (ii) That traditional forms of governance must be associated with self-governance because of the political failure of local elites. However, positive democratic elements like gender justice and adult franchise should be built into these institutions to make them broader based and capable of dealing with a changing world where globalisation is critical, at both the national and international levels.
- (iii) That the State Election Commissions (SECs) function independently of State Governments, with their own funds, staff and activities on the lines of the Central Election Commission, with a corpus from either the State Consolidated Fund or the Consolidated Fund of India. SEC should decide, independent of the State Government, on elections to local bodies and ensure that the five-year term and deadline for elections is adhered to.
- (iv) A State Finance Commission be appointed in each state, including Sixth Schedule States; areas under the Sixth Schedule but located in states which are not otherwise under this Schedule would also benefit from the existing State Finance Commission.
- (v) Funds to self-governing institutions be issued with as little interference as possible from State Governments and this be mandated under the respective Finance Commissions of the States; Central funding (for all Plan Expenditure) may be routed through the Planning Commission and the North Eastern Council and (earmarked specifically to the Autonomous District Councils; the implementation of centrally funded projects from various departments of the Union Government should be entrusted to the ADCs and to revived village councils with strict monitoring by the Comptroller and Auditor-General of India.
- (vi) Penal provisions, such as loss of Central funding to state projects, should be instituted if State Governments fail to hold local body elections regularly and on time; funds should be given directly through the structure proposed by the SFC to the local bodies.
- (vii) That the Government may consider invoking the 74th Amendment with regard to civic bodies, with appropriate changes for the NER, to cities and towns in the region. Given the small populations of the area, it is suggested that Municipal Corporations, comprising elected members, should be created in those towns and cities having a population of not less than two lakhs. Those with a population of 50,000 to less than two lakhs should have their own elected Town Councils. Each Corporation/ Town Council should have elections on the basis of adult franchise. However, given the peculiar situation of the North East and concerns about ethnic identity, the majority of seats in the Sixth Schedule and tribal

areas may be reserved for the ST nominees. A fixed quota, not to exceed one-tenth of the size of the whole Corporation/Council, should be kept for non-tribals. The size of the Councils should not be less than 30 for urban areas with populations of over one lakh and not more than 20 for those under one lakh. The number of non-tribal nominees would thus be not less than three in the first category and not more than two in the second category of urban areas. Given the current political situation, the sensitive issue of reservation of seats for women may, for the time being, be made through nominations by the Governor as outlined earlier and not as in article 243T.

- (viii) Since there are no metropolitan areas in the NER and only small and middle-size urban areas, it may not be necessary to have ward committees in those areas with populations of less than one lakh. Such ward committees may be set up in towns with populations of above one lakh. In Aizawl, Mizoram, for example, the State Government is considering setting up a nominated body such as a City Development Council. The city has no building by-laws; like many other towns in the NER, unrestrained construction sprawls haphazardly along the edges of roads, on hilltops and down steep slopes, presenting a maze of concrete structures and leading to traffic, communication and other infrastructure problems. It has been suggested that the body should be an elected one and could be drawn from the 15 village councils which currently exist in Aizawl and which could, in turn, be converted into city wards; two members of the Council could be elected from each of these sections. All the members would vote to elect a Chairperson. In addition, the three non-tribal nominees and three women nominees would give the house a total strength of 36. To help the smooth functioning of such a system and overcome the relative inexperience of new members in the management urban affairs, the Corporation, in consultation with the State Government, may appoint a group of technical experts to help develop systems and processes for specific departments such as sanitation and water supply, electricity and power distribution, building by-laws and other infrastructure. In addition, there should be a clause enabling the Governor of the State to nominate not less than three women to the Corporation/Council in addition to any women who may be elected directly to the Corporation/ Council. The Panchayats, Village and District Councils/Autonomous District Councils/Municipal Corporations/Town Councils should prepare a joint District Development Report for the whole district as in article 243ZD. Other clauses of Part IXA: "The Municipalities" of the Constitution, i.e., article 243P through till the last article (article 243ZG) should be made applicable throughout the North East, with special protection for Sixth Schedule and tribal areas by deleting the words Nagar Panchayats/ Municipalities and substituting them with the words "Town Council" or "Municipal Corporation", wherever applicable.
- (ix) The process of protection of identity and the process of development and change are extremely sensitive. These twin processes need to be understood in the framework of a changing world and the role of all communities, small and large, in that world. Therefore, the North Eastern Council should be mandated to conduct an intensive programme of public awareness, sensitization and education through non-government organizations, State Governments, and its own structure to help bring about such an understanding of the proposals given below in the next years.
- (x) That the provisions of the Anti-Defection Law be made applicable to all Sixth Schedule areas. That the Governor of a State where ADCs are functional cannot delay the passage of proposed legislation for more than six months; currently, these can be held up for years.
- (xi) All changes as proposed in the Advisory Panel's recommendations relating to the Constitution 73rd and 74th Amendments for the rest of the country shall also to apply to the North East, as relevant. In addition, the following changes are suggested for the different States in the North East Region.

F. SPECIFIC STATE-WISE SUGGESTIONS FOR CHANGE

(i) ASSAM

1. The Sixth Schedule should to be extended to the Bodoland Autonomous Council with protection for non-tribal, non-Bodo groups. Other Autonomous Councils to be upgraded to Autonomous Development Councils with more Central funds for infrastructure development; to remain within the purview of the 73rd Amendment but also use traditional governing systems at the village level.

(ii) MANIPUR

2. Provisions of the Sixth Schedule may be extended to hill districts of the State; also, implement 73rd Amendment vigorously in the areas of the plains where, despite elections, the system is virtually non-existent.

(iii) ARUNACHAL PRADESH

3. Integrate traditional governing systems such as the Kebang in the local governing systems; members of the Kebang may be elected to the Gram, Anchal and Zilla Parishad through quotas which will give them a maximum of five seats.
4. Not less than four women may be nominated to each unit of each tier (by the Panchayat chairperson) and the size of the Panchayat be increased accordingly.

(iv) TRIPURA

5. Implementation of the changes as proposed by Advisory Panel for other States with Panchayati Raj [See this Commission's Consultation Paper on 'Review of the Working of the Constitutional Provisions for Decentralization (Panchayats)'].

(v) ARTICLE 371A: NAGALAND

6. Naga Councils to be replaced by elected representatives of various Naga society groups with an intermediary tier at the district level.
7. The Karbi Anglong model could be followed at this level.
8. Village Development Boards to be less dependent on State and receive more Centrally-sponsored funds.
9. The Government should conduct a study to consider proposals and a possible framework for the Naga situation.

NON-SCHEDULED/SIXTH SCHEDULE STATES:

(vi) MEGHALAYA

10. A tier of village governance to be created for a village or a group of villages in the Autonomous District Councils, comprising of elected persons from the traditional systems plus from existing village councils with not more than 15 persons at each village unit.
11. A total of 40 seats in each Autonomous District Councils up to 10 seats from the existing 30 (currently one non-tribal is nominated by the Governor) with the following break-up:
 - Five seats to be reserved for Syiems and Myntris, Dolois and Nokmas in the Khasi Autonomous District Council, the Jaintia Autonomous District Council and the Garo Autonomous District Council respectively.

- Women and non-tribal representatives to be nominated to a total of not more than five seats in all.

(vii) MIZORAM

12. An intermediary elected 30-member tier, to be developed at the district level in areas not covered by the Sixth Schedule, i.e., excluding the Chakma, Lai and Mara District Autonomous Councils. There would thus be two tiers below the State Legislature: the District and the Village.
13. Village Councils in non-Scheduled areas to be given more administrative and judicial powers; two or more villages to be combined to form one village council, given the small population in the State.
14. Consideration to be given to groups seeking Sixth Schedule status, depending on viability of the demand, including size of population, territorial and ethnic contiguity.
15. Central funding as outlined in general suggestions to the ADCs.
16. Nominated seats for women, non-tribals and Sixth Schedule tribes in non-scheduled area (not to exceed six over and above the size of the Councils, making a total of 36 members); current size of ADCs to be increased to 30 with a similar provision for women and non-scheduled tribes.

(viii) TRIPURA

17. The size of the Council should be increased from 28 to 32.
18. The number of nominated members be increased to six from the current level of two. It is suggested that the existing non-tribal seats (currently, they have three elected seats) be converted to tribal seats. These non-tribals may be nominated by the Governor and three tribal women may be nominated by the Chief Executive Member.

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G. GENERAL OBSERVATIONS

The following general observations arise from the study though beyond its scope:-

- (a) That Identity Cards be made mandatory for all Indians resident in the North East, to begin with, and that the national Citizenship law be reviewed to plug loopholes which enable illegal settlers to become "virtual" citizens in a short space of time, using a network of touts, politicians and officials.
- (b) That local communities be involved in the monitoring of our borders, in association with the local police and Border Security Force.
- (c) That, given the demographic imbalance which is taking place in the North East as a result of migration from Bangladesh, Nepal and also of settlers from other parts of India and to disable such groups from entering electoral lists and the citizenship rolls of this country, that reservations for the local communities and minorities from other parts of the country be made in the State Legislature.
- (d) That a National Immigration Commission be set up under law to examine a range of issues including Work Permits for legal migrants, Identity Cards for all residents, a National Migration Law, a National Refugee Law, to review the Citizenship Act, the Illegal Migrants Determination by Tribunal Act and the Foreigners Act.
- (e) The Central Government should consider authorizing a further study to evolve proposals and framework for the Naga situation, one of the most challenging tasks before the Constitution, Government and civil society. This could serve as a platform for discussion and political change in the region.

QUESTIONNAIRE*
ON
EMPOWERING AND STRENGTHENING PANCHAYATI RAJ INSTITUTIONS
/AUTONOMOUS DISTRICT COUNCILS/TRADITIONAL TRIBAL GOVERNING
INSTITUTIONS IN THE NORTH EAST INDIA

1. What, according to you, are the working problems faced by the institutions set up under the Sixth Schedule to the Constitution of India to bring greater self-governance (i.e. District Councils).

Working problems:

(Not more than 200 words)

2. (a) What is the relationship of the State Government with the District Councils/institutions set up under the Sixth Schedule?

(Not more than 200 words)

(b) Are these local self-governing bodies seen as a parallel administration or a threat to the larger system or one that has become increasingly irrelevant; if the last point is true, then what steps should be taken to correct this trend?)

(Not more than 200 words)

3. Please state your views with regard to the future of such institutions mentioned in Question No. 2?

(Not more than 200 words)

4. What are your views on giving a specific, Constitutional role to traditional institutions to make the third tier of self-governance more effective?

Views

(Not more than 200 words)

5. Should a role be visualized for the traditional systems in the existing instruments of governance, such as the District Councils, either by reservation or direct election?

By Reservation ☐

By Direct election ☐

No role ☐

6. Should the traditional systems be made more democratic, gender friendly and representative of all communities living in the region, instead of being ethno-centric?

Yes ☐

No ☐

7. (a) Should the salient features of the Bhuria Committee's recommendations, i.e. the provisions of the Panchayat (Extension to the Scheduled Areas) Act, 1996 be extended to the Sixth Schedule areas?

(b) If so, which clauses should be included?

(Not more than 200 words)

8. Whether any part of your State, currently falling under the purview of the 73rd and 74th Amendments would be better served by being notified under the Sixth Schedule?

Yes ☐

No ☐

9. Should anti-defection legislation be introduced into all local government bodies?

Yes ☐

No ☐

10. Please indicate any other specific suggestions relating to the Sixth Schedule to strengthen self-government at the grassroots which you would like to make?

Suggestions:

ANNEXURE I

EVOLUTION AND FUNCTIONING OF PANCHAYATI RAJ INSTITUTIONS IN ASSAM*

(I)

1.1.1 The Ahoms settled down in the Brahmaputra Valley as migrants from Upper Burma in the early thirteenth century, and initiated their kingdom in Upper Assam. With their growing political and economic influence, the Ahom established a strong state covering almost the entire Brahmaputra Valley by the end of the seventeenth century. The social formation and the politico-administrative arrangement of Assam during the Ahom rule fostered certain local institutions such as *mels*, *khels*, etc. which had some judicial functions.

1.1.2 The *mels* were, in fact, the estates conferred on the sons, brothers, wives and other close relations of the reigning monarch, and the chief of a *mel*, was empowered to settle the minor disputes. The *khels* were essentially occupational and territorial Panchayats constituted primarily by the *paiks*. The *paiks*, i.e. the adult male manual workers were arranged in *khels* with regular gradation of officers, and the officer in charge of a *khel* had the power to settle minor disputes among the members of his *khel*.

1.1.3 In addition to that, the neo-Vaisnavite movement which secured a strong footing towards the last part of the fifteenth century under the leadership of Sri Sankardeva, also fostered a rapid proliferation of the *namghar* in almost every Assamese village. The *namghars* were initially set up for Panchayat functions of neo-Vaisnavism, but in course of time, this religious institution had become the nerve centre of the village community. Besides working for spread of intellectual and cultural activities, the institution of *namghar* also started playing political as well as judicial role as it became the centre for the village community to discuss and solve most of their day-to-day problems.

1.1.4 Therefore, the *mels*, the *khels* and the *namghars* were some of the very important social institutions of local character during the Ahom period. The political chaos in the mid-eighteenth century which led to the Civil War (1769 to 1806) and the Burmese invasion of Assam brought an end to the era of Ahom rule. Consequently, the *khel* system became irrelevant, but the institution of *mel* assumed the character of a broad social institution since beginning of the British rule. The *mel* thus became assembly of the village elders not only for settlement of disputes but also for arriving at important collective decision when required. For instance, the people of Kamrupa and

Central Assam Panchayats themselves into local *mels* and decided to oppose enhancement of land revenue rates notified by the colonial authorities in 1892. There are many such instances, and the *mel* is still an important social institution of rural Assam.

1.1.5 Similarly the institution of *namghar* is also an intrinsic part of the Assamese rural life. The three institutions mentioned above i.e. *mel*, *khel* and *namghar*, however, can not be considered as institutions of local self government in true sense of the term.

1.1.6 The institutions of local self-government were gradually introduced in Assam by the colonial rule. The history of local self-government in Assam began with the Assam Local Self Government Act, 1915 which was enacted following the recommendations of the Royal Commission on Decentralisation.

1.1.7 The Royal Commission submitted its report in 1909 and the importance of village Panchayat. The Chief Commissioner of Assam accepted the major recommendations made by the Commission, and believed that certain problems of the villages such as sanitation and water supply could be solved by inducing the villagers to undertake these works themselves supplemented (by grant-in-aid from the Government) and the local boards.

1.1.8 The Chief Commissioner of Assam, therefore, proposed to include in the Local Self- Government Bill, provision for delegation by local boards to Village Authorities, of the powers and duties regarding sanitation, primary education and other such petty village works. Accordingly, the Assam Local Self Government Act was passed in 1915, and this Act empowered the Chief Commissioner to constitute Village Authority in each village. As per the provisions of the Act, the members of the Village Authorities could be wholly appointed or wholly elected or partly appointed and partly elected for a period of three years.

1.1.9 The Chief Commissioner was authorized by the Act to decide the number of elected or appointed members. The Act made provision for both election and nomination of the President of the village authority. The Village Authorities were established in Assam as per provisions of the Act and there were 80 Village Authorities in Assam in 1919. The newly established village Authorities, however, faced certain major difficulties.

1.1.10 The unit of a Village Authority was a cadastral village which was not always a homogenous unit. Quite often a cadastral village was a collection of hamlets, and therefore, the inhabitants of one hamlet were hardly interested in the matters of other parts although they belonged to the same Village Authority. Secondly, the elections to the Village Authorities were a farce, and most of the Village Authorities contained only nominated members. As a result, the Act of 1915 had failed to achieve its limited objectives.

1.1.11 In the meantime, the Government of India Act, 1919 transferred the subject of local self-government to the Provincial Government. Thus in the ethos of Dyarchy, the Assam Legislative Council brought the Assam Rural Self Government Bill, 1925 and subsequently passed the Rural Self Government Act, 1926. The new Act provided that every village should have a Village Authority, consisting of not more than nine members elected on the basis of adult manhood franchise. As per the provisions of this Act, the members of the Village Authorities were to be elected for a term of three years.

1.1.12 The Rural Self Government Act, 1926 was passed with the objective of creating a machinery through which the villagers might undertake the management of their own affairs and develop capacity for self-help. The Village Authorities however, failed to bring about any significant change mainly due to inadequate financial support from the colonial government. The Village Authorities, therefore, had only nominal existence.

1.1.13 Independence and inclusion of village panchayats in the Directive Principles of State Policy of the Constitution of India inspired the Government of Assam to establish rural Panchayats in the State. With the stated objective of all-round development of the villages, the Chief Minister of Assam introduced the Assam Rural Panchayat Bill in the Legislative Assembly as early as in March 1948. The Bill was referred to a Select Committee which submitted the report with certain amendments in the same month. Subsequently, the Assam Rural Panchayat Act, 1948 was passed by the Legislative Assembly and it received the assent of the Governor General in November, 1948.

1.1.14 The Assam Rural Panchayat Act, 1948 provided for the constitution of two-tier system of Panchayati Raj Institutions comprising Rural Panchayats and Primary Panchayats. The Primary Panchayat would consist of all the resident adults of the area. The Executive Committee of a primary Panchayat would consist of not more than eleven but not less than five members including the President and a Vice – President elected by the adults of the area for a period of three years. Every Primary Panchayat was required to elect one representative for every five hundred of its members and an additional one when the fraction thereof was a figure between two hundred and fifty and four hundred and ninety-nine to the Rural Panchayat provided that the total number of members would not exceed five. A Rural Panchayat thus constituted, had to elect its President and Vice-President for a period of three years from among the members. The President had the power to constitute his Mantri Parishad by selecting five to nine members representing various interests.

1.1.15 The Act of 1948 empowered the Government to declare any area to be a Rural Panchayat Area. In each such area, there might be as many Primary Panchayats (not exceeding fifteen) as deemed necessary by the Deputy Commissioner or the Sub-Divisional Officer. Covering almost all aspects of rural life, the Act included a long list of thirty four functions.

1.1.16 The Assam Rural Panchayat Act, 1948 was in operation for a decade, and the number of Rural Panchayats gradually increased from 29 at the end of 1950-51 to 422 in 1959. In 1959, the Rural Panchayats covered total 2,657 Primary Panchayats scattered in all the plain districts of Assam.

1.1.17 It may, however, be pointed out in this context that instead of involving the Panchayats in the task of rural development, Government of India emphasised on building up alternative institutions for implementing its major programme. The Community Development Programme was launched in October 1952, under which an entirely new unit of governance called Community Development Block was set up. Each Community Development Block was headed by a Block Development Officer. Similarly, the National Extension Service (NES) was launched in 1953. NES blocks were carved out as the lowest administrative units, each comprising 300 villages and functioning under the supervision of a Block Development Officer. Extension Officers were also posted in blocks to provide technical support to farmers and small entrepreneurs. Though both the programmes were initiated with great expectations, they failed to achieve the desired results in terms evoking popular participation. The failure may be attributed to the inability / unwillingness of the Government to get organically linked with the programmes. They got increasingly bureaucratized and elite dominated. Corruption and malpractice's leading to wastage of funds marred their efficacy and public image.

1.1.18 On 16 January, 1957, a committee was appointed under the chairmanship of Sri Balwantry Mehta, to review critically the working of the Community Development Programme and the National Extension Service and to suggest measures through which the participation of the rural people could be ensured. It was also asked to examine 'the extent to which community development movement has succeeded in utilising local initiatives and in creating institutions to ensure continuity in the process of improving economic and social conditions in rural areas'. The Committee submitted its report to the National Development Council on 24 November, 1957. The philosophy underlining the report was to move the decision making centers closer to the people. The main recommendations of the Mehta Committee report were (a) A three-tier system of Panchayati Raj from the village to the district level with multi-level linkages should be created. The institutions envisaged were the Zila Parishad at the district level Panchayat Samity at the Block level and Gram Panchayat at the village level. (b) There should be a genuine transfer of power to these institutions. (c) Adequate resources should be transferred to these bodies. (d) All developmental schemes at these levels should be channeled through these Panchayati Raj institutions.

1.1.19 In 1958, the Standing Committee of the National Development Council agreed broadly with recommendations of the Committee. The Union Government tried to persuade, guide and support the State Governments to establish the proposed system with minor modifications to suit local conditions. Consequently the period 1959-64 witnessed the establishment of the Panchayati Raj institutions in the States and Union Territories of the country.

1.1.20 The Legislative Assembly of Assam enacted the Assam Panchayat Act, 1959 which was enforced from 1960. This Act provided for a three-tier system with the Gaon Panchayat at the village level, the Anchalik Panchayat at the Block level, and the Mohkuma Parishad at the sub-divisional level. The Gaon Sabha was at the bottom of the three-tier system, and consisted of all adults, whose names were included in the electoral roll, of an area with minimum 2500 population. The Gaon Panchayat was the executive body of the Gaon Sabha. As per provision of the Act, the Gaon Panchayat would be consisted of eleven members including the President and the Vice-President, elected directly by the Gaon Sabha. The Act also made provision for co-opting one woman if no woman was elected, and one each from the Scheduled Castes and Scheduled Tribes if they constituted at least five per cent of the total population of the area. The term of the Gaon Panchayat was three years, and the Act empowered the Gaon Panchayat to appoint its own Secretary.

1.1.21 The Act of 1959 provided that every Gaon Sabha would elect one representative to the Anchalik Panchayat. The Act also provided for co-option of two members, one each from Scheduled Castes and Scheduled Tribes. However, there was no such provision for co-option of woman. The Chairman of the Co-operative Societies falling within the area of Anchalik Panchayat could elect one representative, and the member of the Legislative Assembly representing the area would be an ex-officio member. In addition to that, the Act also empowered the State Government to appoint members to the Anchalik Panchayat without the right to vote. The President and the Vice-President of an Anchalik Panchayat were elected by the members from among themselves.

1.1.22 The Mohkuma Parishads consisted of the following four categories of members :

- (i) Presidents of all the Anchalik Panchayats falling within its jurisdiction;
- (ii) All the members of the Legislative Assembly and Parliament representing the area;
- (iii) Chairman of the Municipalities, Town Committees and School Boards falling within the Sub-division as ex-officio members;
- (iv) Officers appointed by the Government as ex-officio members.

1.1.23 The Act further provided for co-option of one member from the Schedule Castes and one from the Scheduled Tribes if no member was elected from such categories. But the Act did not make any provision for co-option of woman member to the Mohkuma Parishad also. The President and the Vice-President were elected by the members from among themselves.

1.1.24 After four years of enforcement of the Assam Panchayat Act, 1959, the Government of Assam appointed a study team to suggest the modifications required for satisfactory functioning of the Panchayati Raj in Assam. Following the recommendations of the study team, the Legislative Assembly enacted the Assam Panchayat (Amendment) Act, 1964.

1.1.25 The important changes made at the level of the Gaon Panchayat included abolition of the provision of direct election of the President and Vice-President. The Act of 1964 provided that the President and the Vice-President would be elected by the members from among themselves. The Act also deleted the provision for the appointment of a Secretary by the Gaon Panchayat and provided for appointment of the Secretary by the State Government. Further, the Act extended the term of the Gaon Panchayat from three to four years, and brought the system of secret ballot instead of open voting.

1.1.26 At the level of Anchalik Panchayat, the Act of 1964 provided that one-third of the total number of Presidents of the Gaon Panchayats or at least three, which ever was greater, were to be elected by the Gaon Panchayats. The Act provided for co-option of two women members if no one was elected, and one if one was elected. Further, the Act empowered the State Government to nominate some members representing the forest villages and the tea gardens falling within the area. So far as the Mohkuma Parishad was concerned, the Act of 1964 increased the number by including the Chairman of the Co-operative Central Bank, the Deputy Commissioner and the Sub-Divisional Officer. The Act also provided for co-option of two women members if no one was elected, and one if one woman member was elected.

1.1.27 Following the recommendations of the Estimate Committee of the Government of Assam, the Legislative Assembly of Assam enacted the Assam Panchayati Raj Act, 1972. This Act reintroduced a two-tier system of Panchayati Raj in the state with Gaon Panchayats at the base and Mohkuma Parishads at the sub-divisional level. Thus the Act abolished the Anchalik Panchayats that existed under the Act of 1959. The Gaon Panchayats, as per provision of the Act of 1972 covered an area with population not less than 15,000 and not more than 20,000.

1.1.28 The maximum strength of the Gaon Panchayat was fixed at maximum fifteen elected members. The Act empowered the State Government to appoint any officer as an ex-officio member to the Gaon Panchayat. Besides, the Councillor of the Mohkuma Parishad representing the area of the Gaon Panchayat was an ex-officio member of the Gaon Panchayat. The Act provided for direct election of the President, however, the Vice-President was elected by the Panchayat members from among themselves. The Secretary of the Gaon Panchayat was appointed by the Mohkuma Parishad.

1.1.29 The Mohkuma Parishad consisted of the following four categories:

- (i) One Councillor elected by each of the Gaon Panchayat;
- (ii) One representative each, not being a member of the State Legislative Assembly or Parliament, from the Municipality, Town Committee, Regional Board of Elementary Education and the Central Co-operative Bank as ex-officio Councillors;
- (iii) The other Government officer as ex-officio Councillor appointed by the State Government from time to time; and

(iv) Two Councillors nominated by the State Government from the tea gardens.

1.1.30 The Chairman and the Chief Executive Councillor of the Mohkuma Parishad were elected by the non-official Councillors from amongst themselves. The term of the Panchayati Raj bodies under this Act was four years.

1.1.31 The Act of 1972 was repealed by the Assam Panchayati Raj Act, 1986 which was adopted with effect from September 1990. It brought back the institution of Anchalik Panchayats in the Panchayati Raj thus reverting to a three-tier system. The term of office for all the three – tiers i.e. Gaon Panchayat, Anchalik Panchayat and the Mohkuma Parishad, was fixed at five years.

1.1.32 The Act of 1986 provided for constituting a Gaon Panchayat with an area having population of six to ten thousand. The tea gardens were included within the jurisdiction of the Gaon Panchayat. The Act also made the provision of 30 per cent reservation of seats for the women in Gaon Panchayat and the Anchalik Panchayats.

1.1.33 The Act provided for constitution of a Gaon Panchayat by ten elected members, and direct election for its President. The Anchalik Panchayat was formed by the Presidents of the Gaon Panchayats. The MLA, and the MPs were ex-officio members, and the Government could nominate such officers as deemed necessary to the Anchalik Panchayat. The ex-officio members, however, had no right to vote.

1.3.34 The Mohkuma Parishad established under the Act of 1986 consisted of all the presidents of the Anchalik Panchayats with the area of the Mohkuma Parishad; the Deputy Commissioner and Sub-Divisional Officer; MLAs and MPs representing the area of the Mohkuma Parishad; and the district heads of different departments nominated by the State Government. The President and the Vice President of the Mohkuma Parishad were elected by the members of the Mohkuma Parishad.

1.3.35 The 1986 Act had substantially enhanced the powers of the State Government and the bureaucracy. For instance, the power to appoint their own staff was taken away from the Panchayats. The Panchayats could retain only such staff as was prescribed by the State Government and appointed by the director of Panchayats. The Act of 1986 was amended by the Assam Panchayati Raj (Amendment) Ordinance, 1992 and it was replaced by the Assam Panchayati Raj (Amendment) Act, 1992. The few amendments, however, made the structure of Panchayati Raj more bureaucratic.

1.1.36 Broadly in conformity with the Constitution (73rd Amendment) Act, 1992, the State Legislature enacted Assam Panchayati Raj Act, 1994. The new Act repealed the Act of 1992, and it extended to all the rural areas of Assam except for the areas under the Sixth Schedule of the Constitution. The Act of 1994 reintroduced a three-tier system of Panchayati Raj consisting of the Gaon Panchayats, Anchalik Panchayats and the Zila Parishad.

1.1.37 The Assam Panchayat (Constitution) Rules, 1995 specified the rules relating to conduct of Panchayat elections, election of members to represent district

planning committees, delimitation of constituencies for the different tiers, determination of constituencies reserved for STs/SCs and women, and allied matters. A five year term was fixed for the Panchayati Raj institutions in Assam by the Act of 1994.

1.1.38 The Act of 1994 provided for constitution of Gaon Sabha, consisting of persons registered in the electoral rolls. The area of Gaon Panchayat would be comprising a revenue village or a group of revenue villages or a Forest village or a Tea Garden area or hamlets forming part of revenue village or Forest village or Tea Garden area or other such administration unit or part thereof with a population not less than six thousand and not more than ten thousand. Besides the seats reserved for SCs/STs, the Act provided that not less than one-third of the total number of seats would be reserved for women.

1.1.39 The Gaon Sabhas are given the responsibility of considering reports in respect of development programmes of the Gaon Panchayats, Promotion of unity and harmony among all sections of society in the villages, and considering other matters as may be prescribed. It may, however, be noted that the Gaon Sabha is only a recommendatory body, and therefore, it may make recommendations and suggestions to the Gaon Panchayats.

1.1.40 In accordance with the 73rd Amendment, a number of local functions have been earmarked for the Gaon Panchayats. The fund for the Gaon Panchayats, set up under the Act of 1994 includes contributions and grants if any, by the Central or the State Government besides other receipts such as local tax, share of market, Ghat/Ferry, etc.

1.1.41 The Anchalik Panchayats are coterminous with the development blocks, and the Act provided for the similar pattern of reservation of seats in the Anchalik Panchayats as in case of the Gaon Panchayats. Altogether twenty eight functions have been entrusted with the Anchalik Panchayats. The Anchalik Panchayat funds include contributions and grants, if any, made by the Central and the State Government, Zila Parishad grants, and other receipts including such part of the land revenue collected in the state as may be determined by the government. However, each Anchalik Panchayat is required to set apart annually such sums as may be required to meet the cost of its own administration including the payment of salary allowances, provident fund and other gratuity to officers and employees. The Act of 1994 provided for appointment of an ex-officio secretary to an Anchalik Panchayat.

1.1.42 The Act of 1994 provided for constitution of Zila Parishad having jurisdiction over the entire rural area of the district. Reservation of seats in the Zila Parishad for SCs/STs and women has also been the same with the Gaon Panchayat or the Anchalik Panchayat. The Act, however, further provided that if women from Scheduled Castes and Scheduled Tribes categories or even general category are not represented, the Government may by notification in the Official Gazette, nominate one member from such category.

1.1.43 According to the provisions of the Act of 1994, there will be a President and a Vice – President for each Zila Parishad, but its administration will be headed by the Chief Executive Officer. The government can appoint an officer not below the rank of the additional deputy commissioner of a district as chief executive officer of a Zila Parishad besides a chief accounts officer and a chief planning officer. The Act of 1994 also provided that it shall be lawful for the government to issue directions to any Panchayat in matters relating to state and national policies and such directions shall be binding on the Panchayat.

1.1.44 The fund of the Zila Parishad mainly comprises :

- (i) The amount transferred to the Zila Parishad by appropriation from out of the consolidated fund of the state;
- (ii) all grants, assignments, loans and contributions made by the government;
- (iii) i.e.all fees and penalties paid or levied by or on behalf of the Zila Parishad, and all fines imposed under the Act;
- (iv) all rents from land or other properties of the Zila Parishad;
- (v) all interests, profits and other money acquired by gifts, grants, assignments or transfer from private individual or institutions;

1.1.45 The Act of 1994 provides for setting up of standing committees at all the three levels. At the Gaon panchayat level there are three standing committees. Development committee performing the functions relating to agricultural production, animal husbandry and rural industries and poverty alleviation programmes; social justice committee for performing functions relating to promotion of economic, social and educational reforms, etc. in respect of SC/ST and backward classes; and social welfare committee performing the functions of education, public health and other public works of the gaon Panchayat. The Anchalik Panchayat has three standing committees, viz., general standing committee, finance audit and planning committee and social justice committee. The Zila parishad, however, has got four standing committees - the general standing committee, the financial and audit committee, the social justice committee and the planning and development committee. The planning and development committee is incharge of education, public health and industrial development including cottage industries but it is not involved in district planning.

1.1.46 The Act also made provision for the district planning committee which is to be constituted at the district level to consolidate the plans prepared by zila parishad, anchalik panchayats, Gaon panchayat, town committees, municipalities and municipal corporation in the district and prepare a draft development plan. The planning committee consists of MPs, MLAs, ZP president, and mayor / chairperson of municipal corporations/boards/town committees. Four-fifths of the total number are members of ZP/municipal corporation etc. The deputy commissioner will be a permanent invitee. The president of the ZP shall be the ex-officio chairman and the chief executive officer of the zilla Parishad shall be the ex-officio secretary of the DPC.

1.1.47 As per provisions of the Act of 1994, the State Government has set-up a State Finance Commission to look into the financial aspects of the PRIs and sharing of taxes duties, tolls and fees which may be assigned to and appropriated by the PRIs at different levels. The Finance Commission will also look into grants-in-aid to panchayats from the Consolidated Fund of the State.

1.1.48 The changes in the new Act as compared to the 1986 Act are as under :

- (i) The sharing of the cess from the hat is 20 per cent to the ZP (10 per cent to Mohkuma Parishad as per 1986 Act) 40 per cent in GPs (same as in 1986 Act) and 40 per cent in Aps (50 per cent in 1986 Act).
- (ii) The clause for providing honorarium to president, vice-president and members under the 1986 Act has been deleted in the new Act and instead allowances / sitting allowances are to be paid subject to such rules as may be made in this context. No mention is made regarding allowances at a gram panchayat level for its members and president.
- (iii) The total expenditure on establishment shall not exceed one-third of the total expenditure of the GPs. In Aps it can exceed one-third only with the approval of the State Government.

1.1.49 The Act of 1994 has been amended in April 1997, and under the Assam Panchayat (Amendment) Act, 1997, the minister-in-charge of the respective district has been made the chairman of the district planning committee in place of the President of the Zila Parishad. The Act was again amended in September, 1997. However, the amendments were regarding only some of the routine matters.

1.1.50 Mainly due to the controversy over an acceptable electoral roll in the wake of the Assam Movement (1979-85) against the presence of foreign nationals in Assam, Panchayat elections in the state had been stalled for a long time after the last elections held in 1979 under the Act of 1972. The first elections under the Act of 1986 were held in 1992. In 1993 the chief minister announced that a separate Panchayat election commission for the state would be established and the Panchayat laws would be suitably amended to ensure that elected Panchayats were not dissolved without any reason with every change of government. However, with the change of the government in 1996, the new government headed by the Asom Gana Parishad dissolved all rural bodies on 4 April 1997. As per relevant provision of the Constitution, elections should have been held within six months, nevertheless, these have not been held so far.

1.1.51 In the conference of Rural Development and Panchayat Ministers by the Eleventh Finance Commission at Delhi on 9 September 1998, the Minister of Panchayat and Rural Development, Assam reported that the Panchayat elections in the state have not been held "because of problems of insurgency and law and order". This clearly reflects the political will and commitment of the political leadership to the constitution. The State Government apparently prepared for Panchayat elections in Assam in 2000, but this time the elections were held not due to certain unresolved issues of the autonomous councils of different plain tribes of the Brahmaputra Valley. In absence of elections, the Panchayati Raj in Assam has become a moribund institution. Besides elections smooth functioning of Panchayati Raj in the State will require certain amendments in the existing Act.

1.1.52 The Legislative Assembly of Assam enacted the Act of 1994 ostensibly in conformity with the 73rd Amendment. Although the mandatory provisions regarding enactment of state legislation was mechanically satisfied, many of the provisions of the Act of 1994 turned out to be repugnant of the ethos of the 73rd Amendment, the Act of 1994 contains obnoxious provisions which make elected Panchayat representatives subservient to the state bureaucracy. Sub-section (4) of Section 4 of the Act requires the Secretary of the G.P. to consult the B.D.O. even after receiving approval from the President of the G.P. for convening a meeting of the G.S. sub-section (5) of the same section authorises the Secretary of the G.P. to convene a meeting of the G.S. in time in consultation with the B.D.O. if the President fails the convening of the G.S.

1.1.53 Similarly, State Government has amended the act enacted after the 73rd amendment supposedly in consonance with its letters and spirit deliberately making the elected panchayat representatives subordinate to the political masters. The Assam (Panchayat) Amendment Act, 1997 provides that the Minister-in-charge of the respective district, to be notified by the government, shall be the Chairperson of the District Planning Committee. The 1994 Act provided that the President of the Zilla Parishad shall be the ex-officio Chairman of the District Planning Committee. Noteworthy that the President and the Vice-President of the Zilla Parishad are to be elected from amongst the members directly elected to it. This amendment is a retrograde step and an encroachment by the state political masters on the space earmarked for the elected representatives.

1.1.54 For forging vertical linkages among all the layers of elected representatives (Panchayat representatives, MLAs and MPs) it may be desirable to provide that the Members of the House of People and the Members of the State Legislative Assembly representing a part or whole of the district whose constituencies lie within the district shall be members of the Zilla Parishad in addition to the Zilla Parishad members directly elected and the Presidents of the Anchalik Panchayats. But conferring the right to vote also to the MLAs and MPs on issues exclusively falling within Zilla Parishad's jurisdiction is an over democratic provision which makes some people more equal than others.

1.1.55 Functional control over village level functionaries by G.P. is an indicator of the G.P.'s self-government status. This has not been ensured in Assam. Karnataka has placed VLW, ANM, Patwari, Anganwadi Sebika and Primary School teachers under the control and supervision of Taluk Panchayat. Madhya Pradesh has ensured functional control by G.P. over all village level functionaries except the Patwari. Similarly, G.P. in Rajasthan has control over VLW and Primary school teachers. In West Bengal, while some functionaries have already been placed under the control of G.P., reorganisation of the VLW cadre is under consideration.

1.1.56 Although Panchayats have been empowered to prepare area plan for economic development and social justice, in Assam G.P. can take up execution of only those small works which are financed by its own resources. In fact, except Kerala and Madhya Pradesh, other State Acts limit the power of the G.P. quite drastically.

1.1.57 All of the states with the sole exception of Bihar have received and accepted, either in full or in part, the recommendations of the State Finance Commissions. More important, however, is the financial devolution recommended by the State Finance Commissions, which reflects their perception on the issue of financial autonomy of the Panchayats. It is significant to note that States where the Panchayats more active have been recommended more favourable financial devolution by their respective State Finance Commission. For example, Kerala State Finance Commission recommends 25 per cent of surcharge on Stamp Duty, 25 per cent of M.V. tax, and 25 per cent of court fee stamps to the Panchayats. West Bengal State Finance Commission recommends 16 per cent of the net proceeds of the state taxes, while Karnataka State Finance Commission recommends 36 per cent of the total non – loan gross revenue receipts. Madhya Pradesh State Finance Commission recommends 3.24 per cent of the net total revenue of the preceding year and 40 per cent of Plan funds. Punjab State Finance Commission recommends 20 per cent of the Stamp Duty, Motor Vehicle Tax, Electricity Duty, and Entertainment Tax. Tamilnadu State Finance Commission recommends 15 per cent of the state's tax revenue every year during the period 1998 to 2001. Tripura State Finance Commission recommends 20 per cent of the state's share of central taxes, 50 per cent of the revenue from Sales Tax, Purchase Tax and Luxury Tax, 35 per cent of Professional Tax, 32 per cent of Agricultural Income Tax and Land Revenue and 15 per cent of Forest Revenue. As against the above, Assam's State Finance Commission recommends merely 2 per cent of State taxes and 10 per cent of Motor Vehicle Tax. In the perception of Assam State Finance Commission, Panchayats are local bodies for performing activities of peripheral nature.

1.1.58 With the emergence of Panchayats as units of self government under the mandate of the Constitution, "the question of government agencies (like the DRDA) continuing to perform the very same functions is wholly untenable and anachronistic, if not hostile and repugnant to the constitutional scheme". This implication of the 73rd amendment is understood by a few states only (Karnataka, Kerala., Madhya Pradesh and Maharashtra) which have merged DRDA with the Zilla Parishads. A few other states have provided for Chairman of Zilla Parishads as Chairman of DRDA (Himachal Pradesh, Orissa, West Bengal, for example). Other State Acts, including the Assam Act, are silent on the issue.

1.1.59 Most of the state Acts (including the Assam Act) provide for suspension of G.P. members by the D.C. and dissolution of the Panchayat by the State Government, making a mockery in the process, of the self-government status of Panchayats.

1.1.60 It is clear that despite the 73rd Amendment, the Government of Assam is not taking initiative in setting up Panchayats as units of self-government. This may be reflective of the difficulty of changing the mind set or reluctance to share power with the elected representatives at the grass root level.

(II)

FUNCTIONING OF THE AUTONOMOUS DISTRICT COUNCILS IN ASSAM

1.2.1 Most of the tribal communities of north east India have their own socio – political institutions, customs and traditions to help them assert their autonomous existence. Considering all such institutions and the underlying ethos of autonomy, the framers of the Indian Constitution contemplated the instrument of tribal self-rule embodied in the Sixth Schedule. The Sixth Schedule was, therefore, designed to accommodate the collective aspirations of the tribal communities in a political system characterized by centralized bias. The Gopinath Bordoloi Sub-committee on North East Frontier (Assam Tribal and Excluded Areas) of the Constituent Assembly drafted the Sixth Schedule and it was passed by the Assembly with certain modifications.

1.2.2 Another significant development in respect of administration of the hill areas of Assam dominated by various tribal communities was the formation of the United Mikir and North Cachar Hills district in 1951. It covered some parts of the erstwhile districts of Nowgong, Sibsagar, Cachar and United Khasi and Jaintia Hills. This administrative reorganisation was followed by formation of the Karbi Anglong Autonomous Council and the North Cachar Hills Autonomous Council under the Sixth Schedule.

1.2.3 Consequent upon the further reorganization of administrative boundaries, a new district comprising the North Cachar Hills sub-division of the United Mikir and North Cachar Hills district came into being in 1970. The remaining part constituted the Mikir Hill district which was renamed as Karbi Anglong in 1976. Therefore, the autonomous council has been in operation in both of the autonomous hill districts of Assam since 1952.

1.2.4 For each autonomous district, the Sixth Schedule provides for District Council consisting of not more than 30 members for a term of five years. The Governor is empowered to nominate not more than four members to the Council, while the rest are elected on the basis of adult suffrage. The chief executive member, the chairman and the deputy chairman are elected from among the members. The chief executive member selects the other executive members.

1.2.5 Under different provisions of the Sixth Schedule, the Autonomous District Councils (ADC) had the powers and functions listed below:

A. Legislative Powers :

- Allotment, occupation or use, or the setting apart of land, other than any land which is 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;
- 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 town police and public health and sanitation;
- The appointment or succession of chiefs or headmen;
- The inheritance of property;
- Social customs;
- Regulation and control of money-lending and trading by persons other than the members of the schedule tribes.

B. Judicial Powers :

For administration of justice, the district councils are vested with the following powers:

1. Constituting village councils and courts for the trial of suits and cases of the scheduled tribe communities. District council can appoint members of village councils and presiding officers of the courts. They may also appoint officers for the administration of the laws made by the district councils.
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. No other courts except the High Court of that province and the Supreme Court of India have jurisdiction over such suits and cases.
3. District council may with the prior approval of the Governor, make rules regulating –
 - (i) the constitution of village councils or courts and the powers to be exercised by them.
 - (ii) the procedure to be followed by the village councils or courts in the trials of suits or cases.
 - (iii) the procedure to be followed by the district council or any court constituted by such council in appeals and other proceedings.
4. The Governor may, for the trial of suits or cases arising out of any law in force in any autonomous district confer on the district council or on courts constituted by such council or any officer appointed in that behalf by the Governor, such powers under the code of civil and criminal procedures, as he deems appropriate and thereupon the said council, court or officer shall try the suits, cases or offences in exercise of the powers so conferred.
5. The Governor is authorized to withdraw or modify any of the powers conferred on district council, court or officer so far as the judicial matters are concerned.

C. Executive Powers :

The following executive powers have also been vested with the district councils under the Sixth Schedule of the Constitution.

- The district council may establish, construct and manage primary schools, dispensaries, markets, cattle pounds, ferries, fisheries, roads, road transport and waterways in the district and may make regulations with the approval of the Governor for their control.
- The Governor may, with the consent of the district council, 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.

D. Financial Powers :

- (i) The Sixth Schedule to the Constitution provides for the constitution of a district fund for each autonomous district to which all the money received by the district council shall be credited.
- (ii) For the management of the district fund, the Governor may make rules in respect of procedures of payment to the fund, withdrawal from the fund and other matters.
- (iii) The Comptroller and Auditor General of India is authorized to conduct audit of the accounts and his reports on audits shall be placed before the council.
- (iv) The district council in their respective territorial jurisdictions have the powers to assess and collect revenue on land in accordance with the principles followed by the Government of the State.
- (v) The district councils in their respective territorial jurisdiction have the power to levy taxes on land and buildings and tolls on resident persons.
- (vi) The district council has also been authorized to levy and collect all or any of the following taxes :
 - (a) taxes on professions, trades, callings and employments;
 - (b) taxes on animals, vehicles and boats;
 - (c) taxes on entry of goods into a market for sale therein and tolls on passengers and goods carried in lorries;
 - (d) taxes for maintenance of schools, dispensaries and roads.
- (vii) The district council has the right of sharing the royalties accrued each year 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 areas within the

jurisdiction of the district council as may be agreed upon by the State Government and the district council.

E. Other Matters :

- (i) Laws and regulations made under the Sixth Schedule of the Constitution of India by a district council shall have the force of law only when they are published in the official Gazette of the State.
- (ii) Any Act of the State Legislature or any act of the Parliament in respect of the subjects and powers vested with a district council shall not be applicable within the territorial jurisdiction of a district council unless the authority of such a council decides to accept them in toto or with exceptions and modifications. The applicability or otherwise of such Acts shall have to be publicly notified by the Governor concerned.
- (iii) The Sixth Schedule of the Constitution also clearly indicates the manner in which the annual budget of an autonomous district is to be reflected in the State Budget or Annual Financial Statement.
- (iv) The Governor has also been empowered to appoint a commission to enquire into the report on administration of the autonomous district and autonomous regions in the State.
- (v) The Governor is also empowered to annul or suspend an act or a resolution of a district council subject to the subsequent approval of the State Legislature if he is satisfied that the continuance of such an act or a resolution is detrimental to the national interest.

1.2.6 The district councils, with the powers and functions given by the Sixth Schedule could not fulfil the aspirations of the common tribal people. Apart from failure of the political leadership to sincerely utilise the available opportunities, the function of the district councils was also suffered from certain constitutional provisions. For instance, the district councils had the legislative power over the subjects pointed out earlier. However, the laws enacted by the councils required the Governor's assent.

1.2.7 Similarly, the district councils had no legislative or regulatory power on the subjects over which they could exercise executive power. In 1960, the committee appointed by the Governor of Assam to examine the financial conditions and working of the district councils reported that the financial conditions of the district councils was not satisfactory. The councils suffered from an excess of clerical staff and even spent government subsidy meant for development works on administrative expenses.. There was no adequate effort to increase revenue and no coordination with the government. There was a great deal of compartmentalization in the council's office.

1.2.8 Despite such problems, the State Government transferred sixteen departments to the district councils in June 1970 to satisfy the political aspirations of the tribal leadership. The subjects were, (1) agriculture, (2) minor irrigation, (3) soil conservation, (4) animal husbandry, (5) dairying and milk supply, (6) forests, (7) fisheries, (8) roads and buildings, (9) general education, (10) cultural programme, (11)

water supply, (12) health and family planning, (13) social welfare, (14) cottage industries, (15) community development, and (16) panchayat.

1.2.9 The subjects were transferred, nevertheless the State Government had a strong control over them. For instance, community development and panchayat were in the list of transferred subjects, but the centrally sponsored schemes were not given to the district councils for implementation. Similarly, education was transferred, but appointment of teachers was done by the State Government. Therefore, the State Government continued to interfere with the departments which were transferred to the district council.

1.2.10 In reality, there was no devolution of powers and fund. There were instances where the money for development works was transferred to the district councils towards the end of the financial year with an oral instruction to the principal secretary to deposit the money back to the treasury as unspent balance.

1.2.11 In such a situation, although the State Government transferred sixteen departments to the autonomous councils of the two hill districts of Assam i.e. Karbi Anglong and North Cachar hills, the discontent gave rise to the demand for constitution of an Autonomous State within Assam. The movement for an Autonomous State was led by the Autonomous State Demand Committee (ASDC) comprising the leaders and representatives of the students organisations of the two hill districts besides other groups and organisations. After a prolonged agitation under the aegis of the ASDC, a Memorandum of Understanding (MoU) was signed between the Government of Assam and the representatives of the ASDC in the presence of the Union Home Minister on 1 April, 1995 granting more autonomy to the district councils.

1.2.12 On the basis of the MoU, the State Government transferred altogether thirty subjects/department (including the earlier sixteen subjects) to the autonomous councils. The subjects are: (1) Industry, (2) Animal Husbandry and Veterinary, (3) Forest, (4) Agriculture, (5) P.W.D., (6) Sericulture, (7) Education (Primary, higher secondary and adult education), (8) Cultural affairs, (9) Soil conservation, (10) Co-operation, (11) Fisheries, (12) Panchayat and rural development including DRDA, (13) Handloom and textile, (14) Health and family welfare, (15) Public health engineering, (16) Irrigation, (17) Social welfare, (18) Flood control, (19) Sports and youth welfare, (20) Weights and measures, (21) Food and civil supplies, (22) Town and country planning, (23) College education including library, museum and archaeology, (24) Land reforms, (25) Publicity and public relations, (26) Printing and stationery, (27) Tourism, (28) Transport, (29) Excise, (30) Finance including sales tax, excise and professional tax.

1.2.13 Consequent upon the changes made, an office memorandum was issued providing details of the administrative changes and modalities adopted for the management of the above subjects. The salient features or the changes that have been brought forward through this office order are :

1. The money to be transferred by the State Government to the district council should be transferred in April and October.
2. Reappropriation of funds from one major head to the other by the council was allowed with intimation to the State Government.
3. A Principal Secretary is appointed to the district council who is in the rank of commissioner and secretary to the Government of Assam.
4. One of the secretaries is appointed from the technical departments.
5. All the officers below the rank of zonal heads and staff of the entrusted departments are to be placed under the administrative control of the council.
6. The departmental officers placed under the control of the council shall report directly to their heads of departments at the state headquarters in the matter of technical control and technical section.
7. The executive committee of the council shall prepare the budget estimates and the council will pass the budget of the entrusted subjects and send it to the finance department of the State Government for inclusion in the state budget generally without any change.
8. There shall be no common outlay (for both the districts). The existing schemes under 'common outlay' shall be transferred to the council as per their geographical locations.
9. All the centrally sponsored schemes/central sector schemes/NEC schemes/external aided schemes will be implemented by the council.

1.2.14 It is, therefore, clear that a positive development in entrustment and empowerment of the autonomous councils has taken place in Assam from the original provisions of the Sixth Schedule to the signing of the MoU on 1 April, 1995. Consequently, the two autonomous councils established for the hill tribes of Assam have become much more powerful compared to the other autonomous councils created under the Sixth Schedule in other states of north east India.

1.2.15 The 73rd Amendment of the Constitution has added the Eleventh Schedule which lists 28 subjects as coming within jurisdiction of the Panchayats. Subject to the provision of the Constitution, the Legislature of a state may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institution of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to –

1. the preparation of plans for economic development and social justice;
2. the implementation of schemes for economic development and social justice as may be entrusted with them including those in relation to the matters listed in the Eleven Schedule.

1.2.16 When the provisions of the 73rd Amendment about the powers scope and functions of the Panchayat bodies are compared with those attached to the Karbi Anglong Autonomous Council and the North Cachar Autonomous Council, it is found that the councils are in a more advantageous position in respect of development

functions. Similarly, the sources of finance for the autonomous councils are also more diversified. Nevertheless, mainly due to the strong intervening role of the State Government, both the councils are found to be crippled with financial crisis.

1.2.17 The Legislative Assembly of Assam enacted the Assam Panchayati Raj Act, 1994 and the three-tier system was extended to all the rural areas except for the areas under the autonomous councils. The autonomous councils of Karbi Anglong and North Cachar Hills have, however, neither accepted the Panchayat bodies nor taken any step for devolution of powers from the district. In the absence of any elected body such as regional councils or village councils, the autonomous councils pretend to reach the people at the grass-root through nominated gaon-buras who are relics of the colonial era.

1.2.18 With progressive empowerment and the scope for interference of the State Government, the autonomous councils of the hill districts of Assam are now emerging as a distinct organ of the state with frozen hierarchy, increasing bureaucratization and lack of initiative for further decentralisation. The autonomous councils of Assam are now marked by over centralisation of power in the hands of the executive committee, because all planning and plan implementation are decided at the central level. The scope for initiative at the level below the districts has been minimised by the political leadership. Consequently, the participation of people in the development process has been found to be absent.

(III)

STRUCTURE AND FUNCTIONS OF THE AUTONOMOUS COUNCILS FOR THE PLAIN TRIBES OF ASSAM

A. BODOLAND AUTONOMOUS COUNCIL :

1.3.1 The policy of reorganisation of Assam on Federal basis announced by the Prime Minister of India in January 1967 was essentially to fulfil the aspirations of some of the autochthon tribes which could assert themselves politically. That announcement also inspired the Bodos to form a regional political party called the Plain Tribal Council of Assam (PTCA) in February 1967.

1.3.2 The sole objective of the newly formed PTCA was creation of a autonomous region called 'Udayachal' comprising the areas of the Brahmaputra Valley dominated by different tribes of the Bodo group. The demand of autonomous region became a demand of a separate Union Territory in 1973 and it plunged the Bodos into a vigorous movement which continued till 1974. The movement for a separate Union Territory was followed by the movement for Roman script for Bodo language till the declaration for internal emergency in 1975.

1.3.3 After the period of emergency, the PTCA made electoral alliance with the Janata Party in Assam in 1977, and subsequently the leadership of the party decided to give up the demand of a separate Union Territory. Such an abrupt decision of the leadership obviously led to split. The splinter group with the support of the All Bodo Students Union (ABSU) formed another party called the Plain Tribal Council of Assam (Progressive) in May 1979 to continue the movement for a separate Union Territory. The ABSU, however, made several attempts to reunite the two regional political parties of the plain tribes for a concerted movement for a separate state.

1.3.4 When the ABSU failed in its attempt for unification of PTCA and PTCA(P), it organised a convention of all the existing tribal organisation of Assam in April 1984. That convention decided to dissolve the PTCA(P) and form a new regional party called the United Tribal Nationalist Liberation Front (UTNLF) in 1988, which was subsequently renamed as the United Bodo Nationalist Liberation Front (UBNLF). The UBNLF demanded a separate "Homeland" or "Bodoland" for the Bodos covering the entire north bank of the river Brahmaputra, thus dividing Assam into two equal halves. Besides that, the UBNLF demanded inclusion of the Bodo language in the Eight Schedule of the Constitution of India, and formation of a District Council for the people of the Bodo group living in the south bank of the river Brahmaputra.

1.3.5 While the UBNLF violently intensified its movement in late 1980s, the Assam Government led by the Asom Gana Parishad (AGP) remained indifferent to the basic issues raised by the Bodos. The Congress(I) once again came back to the power in 1991, and the Government headed by Hiteswar Saikia sought to fulfil the political aspirations of the Bodos by providing them Autonomous Council in lieu of a separate State.

1.3.6 Accordingly, in February 1993, a Memorandum of Settlement, popularly known as the 'Bodo Accord', between leadership of the Bodo movement and the Government of Assam in presence of the Government of India was hurriedly signed. The leadership of the movement, therefore, agreed to the decision to set-up an "administrative authority within the State of Assam" within the framework of the Constitution to ensure social, economic, educational, ethnic and cultural advancement of the Bodos.

1.3.7 As the Accord stated, there should be formed, by an Act of Assam Legislative Assembly, a Bodoland Autonomous Council (BAC) comprising contiguous geographical areas between the Sankosh and Pansoi rivers, and the villages having not less than 50 per cent of tribal population shall be included in the BAC.

1.3.8 The BAC would comprise of a General Council comprising 35 directly elected and 5 members nominated by the Government of Assam particularly from the groups which could not otherwise be represented for a period of five years. The Council would have powers to make by laws, rules and orders for application within the BAC area on total 38 subjects. As per provision of the Accord, the finance for the BAC would be earmarked under a separate sub-head within the State budget, and the Government of Assam would have no power to divert this earmarked allocation to other heads. Allocation of funds should be in the line and the spirit of the Constitution, particularly seventy third and seventy fourth amendment. Besides that, the General Council would have powers to raise finances from levies / fees / taxes etc. on the specified subjects.

1.3.9 To translate the avowed objective of the Accord in to reality, the Assam Legislative Assembly enacted the Bodoland Autonomous Council Act, 1993 which received the assent of the President of India on May 13, 1993. The Act *inter alia* made provision for a General Council to be constituted by 40 elected members including 30 seats reserved for the Scheduled Tribes.

1.3.10 The executive powers in the area relating to the subjects specified in the Accord are entrusted with the General Council. Besides that, subject to the general policy of the Government, the General Council has been given the powers to formulate integrated development plans for the Council area, appoint class III and class IV staff, regulate trade and commerce within its jurisdiction in accordance with the existing laws, and guide customs and traditions and social justice of the Bodos according to the traditional laws. The Act has also given power to the General Council to make bye-laws for regulation and control of the subjects entrusted with it. However, the by-laws framed by the General Council attain validity only when the same are published in the Official Gazette.

1.3.11 As per provisions of the Act, there shall be an Executive Council to be called the Bodoland Executive Council consisting of the Chief and the Deputy Chief as the ex-officio members and seven other members of the General Council all of whom shall be nominated by the Chief from amongst the elected members of the General Council. On completion of the General Election, the Governor shall invite the leader of the party enjoying the simple majority to be the Chief of the Executive Council. However, the Deputy Chief shall be elected by the members of the General Council in its first meeting held after the General Election.

1.3.12 The Act also makes provision for a secretariat for the Autonomous Council to be headed by the Principal Secretary who shall be appointed by the Government in consultation with the Chief of the Executive Council. Being the principal executive officer of the General Council, the Principal Secretary shall act under the direction of the Chief of the Executive Council and shall be responsible to the General Council. The Government may appoint such other Secretaries for the General Council on such terms and conditions as the Government may determine in consultation with the Chief of the Executive Council.

1.3.13 It is, however, worth noting that the Bodoland Autonomous Council Act does not provide for creation and administration of Village Councils or other subordinate bodies. The Act stipulates that Panchayat and Zila Parishad have the same meaning as

defined in Assam Panchayati Act. Therefore, it means that the BAC will work through the existing panchayat bodies as the grass-root level institutions.

1.3.14 In the spirit of the Accord, the Act has also stated that there shall be a fund to be called “Council Fund” under the separate sub-head within the state Budget to be held for the purpose of the Act, and the Government shall not divert the fund allocated under this sub-head except in exigencies when there is unavoidable budget deficit. In each financial year, the General Council is responsible for preparation of its budget for the following financial year and submit the same to the Government by 1st November of the current financial year.

1.3.15 The Government of Assam unilaterally demarcated and declared the boundary of the BAC on December 10, 1993 consisting of 2570 villages with a total population of about 21 lakhs. But, the political leadership of the plain tribes of the Brahmaputra Valley believed that such demarcation was not proper as it left out a major part of contiguous Bodo inhabited area including the 10 k.m. Belt comprising international and interstate boundaries, forest areas besides some of the towns such as Gossaigaon, Bijni, Bongaigaon North, Barpeta Road and Tangla. The Bodos do not constitute majority population of such towns, but these towns are encircled by the Bodo dominated villages. More over, a large number of forest villages of which about 65 per cent of the population belong to different tribes were also excluded from the jurisdiction of the BAC as such villages are located in the 10 km. Belt. In addition to that, more than 30 tea gardens probably could be brought under the jurisdiction of the BAC.

1.3.16 The dispute regarding jurisdiction of the BAC soon became a serious issue which resulted in large scale violence in different parts of Bongaigaon and Kokrajhar districts in 1993, and the most gruesome massacre in Barpeta district in 1994. A large number of people including women and children were butchered and merely 70 thousands rendered homeless in the series of ethnic violence in lower Assam in 1993-94, nonetheless, the boundary issue of the BAC remained unresolved till today. Consequently, no election to the General Council of the BAC could be held till now. In absence of General Council or Executive Council constituted by the elected members, the functioning of the BAC since its inception has been depending upon the interim arrangements made by the Government of Assam.

1.3.17 Section 24 of the Act provides executive powers to the BAC on the transferred subjects. Devolution of the executive powers as specified in the Act, however, has not been found in practice. The executive and other staff serving in the BAC area are still under the direct control of the state, and the BAC has no say in the matter of their appointment, posting, transfer or any other service matter. Their salary is being paid by the Government but the total amount paid to them as salary or otherwise is debited to the BAC account.

1.3.18 In fact, the BAC is not aware of the actual number of officers in different cadres actually associated with the BAC affairs. All the staff of a particular transferred subject of a BAC district area treated as BAC employees and their salaries etc. are

debited to the BAC account although they are engaged in both BAC and non-BAC matters. As a result, in some cases, only the salary component of the employees of the department exceeds the total annual allocation to the BAC for the particular subject. It is also worth noting in this context that the BAC has to spend about 70 per cent of its plan allocation only to meet the overhead cost.

1.3.19 In practice, the BAC in its present form has virtually no say in matters of normal maintenance of roads, bridges, buildings, irrigation system, medical services, veterinary services, land revenue and other normal administration of the BAC, notwithstanding all these subjects are transferred to it by the Act. The Government of Assam has retained under its direct control both staff and funds related to all such services, and consequently the BAC has been deprived of the required non-plan fund.

1.3.20 In fact, there is a dual administration in the BAC in respect of all transferred subjects – one by the State Government for “Individual Schemes” and another by the BAC for the residual schemes termed as “Divisible”. For instance, state Roads, National Highways falling in the BAC areas, RCC bridges, Municipal Roads, IRDP, etc. have all been declared as “Indivisible” and therefore, control, supervision, etc. and the fund for these works have not been handed over to the BAC. Such division of the departments as “Divisible” and “Indivisible” is contrary to the ethos of the Bodo Accord and the subsequent BAC, Act.

1.3.21 The mechanism thus adopted by the Government of Assam to release fund to the BAC with a direct control over the non-plan fund, and division of the transferred subjects into “Divisible” and “Indivisible” schemes has adversely affected functioning of the BAC. The total annual budget allocation to the BAC during the period between 1993-94 to 2000-2001 is more than rupees 394 crore, out of which the BAC has actually received only rupees 89 crore. In other words, the State Government has not released more than 77 per cent of the total annual budgeted amount to the BAC (shown in Annexure).

1.3.22 It has also been mentioned in the Act that the Council may collect certain taxes payable under the law for the time being in force as may be prescribed and from such date as the Government may fix. However, the Government has not yet prescribed the laws under which and the date from which the BAC may collect the taxes and duties including land revenue, and royalty in the BAC areas. Similarly, the BAC has not also been delegated with statutory power under departmental Acts for effective exercise of the power over the control of distribution of essential goods, issue of permit and licences, etc. and such other statutory powers where required.

1.3.23 Some of the major problems which have crippled the BAC in its inception are briefly pointed out. The Government of Assam, as it appears, has been deliberately ignoring the fundamental problems faced by the BAC. In this context, a brief discussion on some of the major recommendations made by the T.L. Baruah Committee on affairs of the BAC would be relevant.

1.3.24 The Government of Assam constituted a committee under the chairmanship of Shri T.L. Baruah, IAS (Retd.) in February, 1994 to work out the modality and quantum of devolution of funds to the BAC; to frame rules under the BAC Act 1993 to carry out various provisions of the Act; and also to identify the administrative difficulties which may crop up in implementation of the Act and methods of sorting them out.

1.3.25 To make the Council directly accountable to the people, the Committee recommended that the elections to the BAC should be held at the earliest, and the responsibility of preparation of the electoral rolls and conduct of the elections may be entrusted with the State Election Commission.

1.3.26 Regarding the problems of administration, the Committee suggested that the jurisdiction of the officers of various departments working in the BAC should be clearly defined. The officers on deputation to the BAC Secretariat should be paid from the BAC fund while all other field officers and staff in the BAC area should be paid by their respective departments as has been done in the past. Further, salary component of the staff working in the BAC should be clearly intimated to the Council at the beginning of the financial year to avoid the probable confusion about allotment funds to the BAC.

1.3.27 Considering the total population of the BAC area as percentage of the total population of Assam excluding the two hills districts, the Committee recommended that in respect of general population, 10 per cent of the funds from the divisible pool of the General Area Plan of the identified sectors should flow to the BAC. Similarly, considering the total ST and SC population in the BAC area as percentage of the total plain tribe and scheduled caste population of Assam respectively, the Committee recommended 30 per cent flow from the Tribal Sub Plan (TSP) and 3.5 per cent from Scheduled Caste Component Plan (SCCP) from the identified sectors. The total amount of TSP and SCCP for the vested subjects should be treated as "Divisible."

1.3.28 However, categorising certain funds as "Indivisible" the Committee recommended that no share of such funds will flow to the BAC. Regarding allocation of non-plan funds, the Committee did not make any specific recommendation, but suggested that non-plan expenditure may be made by the State Government. The Committee also recommended that as funds have been separately earmarked for the BAC, there should not be fresh allocation of funds under decentralised sector.

1.3.29 The Government of Assam has been following the recommendations made by the T.L. Baruah Committee for devolution of funds to the BAC. The methodology for devolution of fund adopted by the Committee, however, is based on a mechanical approach. It takes into account only the population factor and ignores certain other important aspects such as remoteness of the areas inhabited by the Bodos, persisting relative deprivation and intensity of poverty among the plain tribes of Assam, and infrastructure required for socio-economic development of the areas covered by the BAC, etc. It is, therefore, essential to work out a more scientific method

for devolution of funds to the BAC. Nevertheless, nothing can be done in absence of a democratically elected General Council, and it demands immediate demarcation of territorial boundaries of the BAC.

1.3.30 Similarly, the Committee arbitrarily categorised a good number of schemes as “indivisible” in certain transferred subjects such as Cottage Industries, Education, Land Reforms, P.W.D., etc. Therefore, the immediate need is to work out a better alternative to it, and also to ensure allocation of non-plan funds to the BAC for an effective decentralization of the financial powers of the State. Besides that, the required administrative rearrangements should be worked out urgently, if necessary by redrawing the district boundaries part of which are covered by the BAC, to make the Council a separate entity so that it can effectively exercise the maximum autonomy to meet the aspirations of the common people.

B. OTHER AUTONOMOUS COUNCILS :

1.3.31 Granting of autonomy to the Bodo tribe paved the way for the establishment of similar autonomous councils for other plains tribes also. In the wake of rising ethnicity, the Government of Assam adopted a flexible attitude towards the growing movement among different plains tribal groups seeking autonomy within the State for the preservation of their ethnic identity and managing their affairs in tune with the customary laws and traditional practices. The year 1995 witnessed a series of accords and legislations for constituting autonomous councils for Lalung, Mising and Rabha-Hasong plains tribes of Assam under the State Act. These Acts are patterned on Bodoland Autonomous Council Act but with the significant difference that these tribal councils will not have any specified territory but will have jurisdiction over the entire state. The autonomous councils will “comprise satellite areas of village councils formed out of the blocks of contiguous revenue villages, each having more than 50 per cent population of the (concerned) tribe without having any compact area”.

1.3.32 The Act provides for the General Council and the Executive Council like the Bodoland Council. The General Council consists of 30 members of which 26 are reserved for the concerned tribe. The remaining members will be nominated by the State Government from among the groups and communities residing in the council area and not otherwise represented in the General Council. Besides, the Member of Parliament and Member of Legislative Assembly belonging to schedule tribe reserved constituencies of the council area are also ex-officio members of the General Council. There are three executive councilors including one chief executive councillor who is also the President of the General Council. These autonomous councils have been delegated some powers and assigned some functions as in the case of Bodoland Autonomous Council.

1.3.33 One distinctive feature of these Acts is that it provides for formation of village councils for each block of villages or village having 50 per cent or more population of the concerned tribe. Each “village council shall consist of 6000 to 8000 population”. Like the General Council, the village council is also a body corporate with defined powers and functions. The village council consists of 10 members of which 5 are reserved for the specific tribe. The village council members shall elect one among

them as the president of the village council who is also to be the chief of the village council.

1.3.34 The village council has been delegated executive powers in 26 subjects transferred to it. It is also authorized to levy taxes and tolls on the lines of the autonomous councils and perform similar functions at the village level. The Act also provides for creation of two funds viz. (i) the general council fund and (ii) the village council fund. Each fund shall be under separate sub-heads within the state budget.

1.3.35 The autonomous councils, with their distinct ethnic character have been suffering from certain problems since inception. Some of the problems faced by the Bodoland Autonomous Council have already been pointed out. All the four autonomous councils were constituted of nominated members as an interim measure pending elections. Nevertheless, the elections have not yet been held, nor can be held without resolving certain basic issues.

1.3.36 It has already been pointed out that the demarcation of the boundaries of BAC is one of the most serious issues which should be resolved amicably. Similarly, identification of villages for constitution of village councils has become a major problem for the remaining three autonomous councils for their unique ethnic character as well as the demographic parameter stipulated in the Acts of 1995.

1.3.37 The Mishing Autonomous Council Act, 1995 provides that “there shall be a village council for each block of villages or village having 50 per cent or more Mishing population”. The other two Acts i.e. the Tiwa Autonomous Council Act, 1995 and the Rabha Hasong Autonomous Council Act, 1995 also stipulated similar ethnic criterion in favour of the respective ethnic group. In the context of heterogeneous ethnic composition of most of the villages of the Brahmaputra Valley and growing identity consciousness of each ethnic group, it has become difficult to constitute the village councils. One village may have 50% or more tribal population, but all of them may not belong to the same tribe. As a result, all the tribal people of the same village may not opt for becoming a part of an autonomous council which is constituted apparently to promote the interests of a particular tribe.

1.3.38 Consequently, the autonomous councils in fact have become an additional authority alienated from the people and constituted by the members nominated by the ruling party of the state. Change of government, therefore implies change of the Executive Council of each of the autonomous council. The middle level political workers usually who can not come up to the level of the State Assembly, are provided with a platform to fulfil their political aspirations without being representatives of the people. Nevertheless, the common grievance of all the autonomous councils is that the council have been assigned 38 departments, but in absence of adequate devolution of powers and finances, the councils have failed to achieve the stated goals.

ANNEXURE II

HILL STATES OF THE NORTH EAST – GOVERNANCE AND TRADITIONS

Traditional and Constitutional institutions of self-governance in six Hill States of the North East[#]

ARUNACHAL PRADESH

2.1 The State of Arunachal Pradesh which was created out of the Frontier Tribal Areas of Assam, and formerly known as the North East Frontier Agency (NEFA), is the first hill state of the North-Eastern Region, to have introduced the Panchayati System. The state introduced the Panchayats as early as 1969. This was partly because it did not enjoy the benefits of Autonomous District Councils or Regional Councils provided under the 6th Schedule of the Constitution, and partly because of the shift in policy of the Government of India towards these areas following the Chinese aggression of 1962. It was only in 1987 that Arunachal Pradesh attained the status of a full-fledged State.

Traditional Institutions

2.2 The traditional village councils of the various tribes in Arunachal Pradesh served as effective institutions of Self Government at the grass root level. These village councils existed from time immemorial, where they enjoyed some sort of sovereign status, controlling and regulating all aspects of individual and community life as well as activity in the village.

2.3 A typical village council generally consists of the village chief, local priest and elderly mature, respectable and influential persons of the village. Since the Adis are among the most advanced of the ethnic groups in the state in their methods of democratic evolution of tribal administration, reference may be drawn to the Kebang (Adi Village Council).

2.4 The Kebang is generally informal in nature and importance for leadership is attached to age and one's oratorical power. Every adult male becomes an active member of the Assembly. In the past women were not active participants in the Kebang, although participation was not a taboo. However, of late, there has been significant representation and participation of women. For instance, amongst the Nishis, there is an example of a woman gram (chief) at Palin.

2.5 The Kebang represents a three tier structure –

- * At the village level, there is the Bore Kebang and Atok Kebang (ad hoc body).
- * At the inter-village level, the Bango Kebang
- * The apex body is known as the Bogum Bokang Kebang.

Bore Kebang

2.6 The Bore Kebang is a regular Village Council. Women generally are not allowed in its meetings. Such Kebangs can take decision on peace, war, agriculture, communication, education or any other problem pertaining to the village. Even government plans are discussed here. The Atok Kebang basically functions as a judicial body. However, its discussions are not final.

Bango Kebang

2.7 The Bango Kebang acts like a Parliament for the Adis, settling inter-village disputes. It includes all the Grams (headman) of respective villages, distinguished persons and reputed public leaders. This Kebang works as a representative body of member villages and makes people think in terms of a larger community above the village level.

Bogum Bokang Kebang

2.8 The Bogum Bokang Kebang is the supreme Kebang, having jurisdiction over almost the whole district. Sessions are invoked to consider a particular case of high importance concerning Adi society. The chief difference between the older Bokang and the Bango is that the latter do not have the same super national or social authority. They are more sophisticated and official. The highest Kebang enacts the laws of society, formulates policies for Adi community, discusses matters regarding war, peace, culture, religion, language and development. Sometimes even resolutions are passed and forwarded to the Government for implementation or necessary action.

Constitutional Bodies

Panchayati Systems

2.9 The North East Frontier Agency Panchayati Raj Regulation was promulgated in 1967, after recommendations of the Dying Ering Committee, although with minor modifications. These included a Gram Panchayat at the village level; Anchal Samiti at the block level; Zilla Parishad at the district level. Besides, an apex body called the Agency Council, organically linked with the Panchayats was also created by the Regulation.

2.10 According to the Panchayati Raj Regulation, 1967, there was to be a Gram Panchayat member for every hundred persons and each Gram Panchayat was to have a minimum of three hundred electors – to be elected through a secret ballot. Besides the elected members, some village level government functionaries were also made *ex-officio* members, although with no voting rights.

Anchal Samiti

2.11 Every Gram Panchayat in the Anchal was to elect one member to the Anchal Samiti, which has a maximum of 25 members. These elected members were to elect their Vice-President from amongst themselves. Besides the elected members, the Anchal Samiti could have a maximum of 5 nominated members representing tribes which had not secured representation in it. Chairpersons of co-operative societies in the Anchal Samiti area were also its ex-officio members. The President and its executive officer could be appointed by the Deputy Commissioner. Apart from the elected and ex-officio members, the heads of all the development departments were associated with the Samiti in preparation of development schemes relating to their respective departments.

2.12 The Anchal Samitis had the responsibility of creating their own assets through remunerative schemes using grant in aid from the Government. They were empowered to acquire vehicles, build shops, barracks for bachelors, mini-cottages, rice mills with the grant and collect revenue in the form of rent or charges for use of the facilities. They could earmark certain forest areas of their jurisdiction as anchal revenue and earn revenue from the sale of forest produce. The Anchal Samiti also coordinated the activities of the Gram Panchayat.

Zilla Parishad

2.13 This comprised of one elected member from every Samiti in the districts and their Vice-Presidents. The heads of all development departments in the district were also associated in their ex-officio capacity with the sponsorship of schemes pertaining to their respective areas. The Deputy Commissioner was the President of the Zilla Parishad while its Vice-President was elected by its members in their first meeting. The Zilla Parishad was mainly an advisory body and has no executive function.

Conclusion

2.14 The Arunachal Pradesh Regulation Act deviated from the Ering Committee recommendations on certain important issues. Although the Gram Sabha Panchayats were made an elective body, it was not given any specific function except electing the Anchal Samiti members. Nor was it provided with a President or Chairman. The tribal village councils were also not linked statutorily with the Gaon Panchayats. Thus while such traditional institutions continued to function along side the Gaon Panchayats, yet they even included the elected Panchayat members in their leadership structure to strengthen themselves. Ironically, however, it was because the Gaon Panchayats did not have any functions assigned to them which prevented any major conflict of interests that would have otherwise arisen.

2.15 Studies carried out by the Sub-Regional Workshop at Itanagar, 23-25 March 1995, came to the following conclusions –

The Panchayat Institutions have succeeded in bringing a uniform pattern of village level institutions throughout the state, including a gradual change in constitution and mode of functioning of traditional village councils. It has also created a greater awareness among the people regarding modern political processes and creating a set of grass root leadership as recruiting ground for higher level leadership. However, it was also recognized that the Panchayats had failed to act as effective agents of rural development and had parted to integrate traditional village councils into Panchayat Institutions.

2.16 The Arunachal Pradesh Panchayati Raj Bill 1994, failed to receive the premier assent as the Bill made certain deviations from the 73rd Amendment Act.

These were as follows –

- * It did not provide for a Gram Sabha at the bottom level
- * It did not provide for direct elections at all levels.
- * The government could dissolve a Panchayat but no time limit was prescribed.
- * No reservation for Scheduled Caste population.

Later, there were modifications with provisions for Gram Sabha and direct election for reserved seats for Scheduled Castes.

2.17 The important issues which need to be considered concerning decentralization in Arunachal Pradesh include the following –

First, whether the traditional village councils should be integrated with the Panchayats, or exist as parallel bodies.

Second, reservation of seats for women has generated a major debate. In an interview^[20], the Arunachal Pradesh Chief Minister Mukut Mithi, expressed reluctance to grant 33 1/3 percent reservation for women, as the percentage of educated women was low. It was also stated that the absence of Scheduled Castes in the State, makes it unnecessary to retain such reservation for the latter.

2.18 Prof. A.C. Talick^[21] who observed that almost all persons welcomed the idea of introducing Gram Sabha into Arunachal Pradesh and integrating traditional village councils into the Panchayat systems. This is expected to take place once the statutory status of Gram Sabhas is established. But some fear that in areas where chieftainship is practiced, it may lead the commoner to acquire power which the chiefs may not like. But all individuals including the above, expressed the view that administration of justice should be left to traditional village councils till such integration takes place.

2.19 The proposed role of women remains controversial. While most men interviewed by Prof. Talick were of the opinion that there will not be enough women in rural areas capable of filling to fill reserved seats in Panchayats and tribal people may not like such an idea, yet all women, students and social activists, among others, were convinced that given the opportunity sufficient number of women will be forthcoming in all areas to become members of Panchayats. A gradual introduction of women to Panchayat bodies

seems to be the viable solution. In 1997, the percentage of rural female literacy rate already constituted 45 percent of the total. Lastly, the generation of funds also needs to be considered seriously. The Panchayats functionaries were not satisfied with financial arrangement and demanded direct funds and more discussion making powers. A leader of a prominent zilla parishad says that it was futile to expect Panchayats to impose taxes and raise funds in a tax free state where even the State Government is not able to impose any tax and raise revenue^[22]!

Public Opinion

2.20 Public debate concerning decentralization in Arunachal Pradesh revolves primarily around the following issues:

- Whether traditional institutions should be integrated with the Panchayats or should exist as independent bodies.
- Deletion of reservations for Scheduled castes, as the population structure in the State does not justify the inclusion of such a provision.
- Devolution of more powers and direct access to funds.
- Deletion of 33 1/3 percent reservation for women.

This issue has generated heated controversy because various women organizations, intellectuals, students, etc. have suggested inclusion of such provisions.

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MEGHALAYA

SYSTEM OF LOCAL GOVERNANCE

WITH SPECIAL REFERENCE TO THE KHASIS

Traditional Institutions

Traditional Khasi polity was regulated under a three tier system, with the Durbar Shnong, i.e., Village Council presided by the Rangbah Shnong (headman) at the bottom, and the Durbar Hima, i.e., State Assembly presided by the Syiem or the equivalent of a king at the apex. In between, was the Durbar Raid presided by an elected headman known as Basar or Lyngdoh, or Sirdar.

The Rangbah Shnong, is elected to the office by all inhabitants of the village irrespective of their clan affiliation. However, till today, this form of selection is conducted by voice vote.

Representation at the Raid and Hima level is more rigid. For instance, the Syiem can be elected only from the Syiem's family or its legitimate branch. The electoral council besides Myntries also comprise of other heads of clans. This electoral council used to elect and appoint the Syiem. In some cases the Bakhraws proposed the name of the candidates, whereas the people chose the Syiem.

Powers and Functions of Durbar Shnong

- * Developmental - such as construction and maintenance of roads, bridges, water sources and sanitation.
- * **Establishment and maintenance of markets including settlement of disputes and collection of dues.**
- * Welfare works and community service.
- * Judicial powers to solve petty cases.
- * To initiate and organize cultural festivals.

In several urban areas, the Durbar Shnong works together with government agencies, functionaries and NGOs on local issues such as water supply, electricity, roads, schools, as well as tackling anti-social elements such as bootleggers and drug peddlers. It also collaborates with Church organizations to construct Churches, cremation grounds. Recently, the Khasi Jaintia Presbyterian (KJP) Synod, sponsored by the North Eastern Council (NEC), was instrumental in bringing non-conventional solar energy to a few villages in West Khasi Hills. The Durbar Shnong is usually approached to implement other government programmes like Adult Literacy and Non-Formal Education, Public Distribution System, Navodya Vidyalayas, etc.

Legislative these include rules and regulations to be followed by members of the village such as compulsory participation in community service, and regulations concerning social conduct.

Financial Resources

The Durbar Shnong has limited funds which are generally self generated. These include the imposition of fines, contributions, duties from households to meet general expenses.

Constitutional Bodies

District Councils

The Autonomous District Councils were constituted according to the provisions of the Sixth Schedule to the Constitution of India since 1950's.

Paragraph 2(i) of the Sixth Schedule provides that the council shall consists of not more than 30 members, of whom not more than 4 persons shall be nominated by the Governor and the rest shall be elected on the basis of Adult Suffrage. All the political parties (National or Regional) can participate in the elections. A person not belonging to a Scheduled Tribe is not be entitled to vote unless he/she is a permanent resident.

Powers and Functions

Communications relating to roads and ferries; primary education; establishment of dispensaries; establishment of markets which also included the regulation of money-lending and trading by non-tribal; cattle pounds; fisheries, etc.

In addition, the 1969 Amendment to the 6th Schedule further empowered the State Governments to entrust the Autonomous District Council's with functions relating to the following

- * Agriculture
- * Animal Husbandry
- * Community Development Projects
- * Co-operative Societies
- * Social Welfare
- * Village Planning
- * Land Reforms and Land Development
- * To constitute Village Courts, Subordinate Courts and District Council Courts for the trial of cases of Scheduled Tribes within autonomous areas. However, these do not include cases connected with security related matters.

Legislative Powers

To make laws and regulations on all matters relating to the

- * Customs, traditions and practices of the tribal people;
- * Land tenure system;
- * Water courses;
- * Forests;
- * Marriages;
- * Divorce;
- * Inheritance;
- * Appointment and succession of chiefs and headman, including an acting chief;
- * Trading by non-tribals;
- * Laws relating to establishment of town committees and village committee for local administration including village or town police;

* To make laws relating to the establishment of town committees and village committee for local administration including the village or town police. All such laws were however subject to the approval of the Governor of the State.

Financial Resources

* To assess and collect land revenues and impose taxes to raise funds for its administration, such as follows

- * Land revenue
- * Forest royalty
- * House tax including local rates
- * Sale of local markets, fishery ponds including cattle ponds
- * Grazing tax including residential toll
- * Royalty on mineral shared with the State Government on 60/40 basis
- * Motor vehicle tax share with State Government on 60/40 basis
- * Fees for trading license (TNT).

Public Opinion

Issues concerning decentralisation and devolution of powers in the context has generated intense political debate in the hill state of Meghalaya. The crux of the matter lies in the demand made by the traditional institutions (represented by the Federation of Khasi State) for Constitutional recognition to such self governing institutions of local polity which says in one memorandum (see References): "The inclusion of the Khasi States within the framework of the Indian Union was glaringly violative of the true and underlying spirit of the Instrument of Accession and was not consistent with the provisions of Section 290-A of the Government of India Act 1935. A remedy of this Constitutional anomaly can be found by giving due recognition and protection of the traditional institutions under the Constitution of India".

The Congress Party (Meghalaya) in its Election Manifesto to the Assembly Elections 1993, clearly stated that Panchayat Systems was not necessary in Meghalaya. Support was offered to the traditional institutions for constitutional recognition. The Bharatiya Janata Party (BJP), Peoples Democratic Movement (PDM) also held similar views.

On the other hand, the issue has generated controversy between the District Council and traditional institutions, whereby the very effectiveness and validity of District Council are being questioned. In particular, the Federation of Khasi States (FKS) have strongly opposed the Appointment and Succession of Chief and Headman Act, 1959, which thereby condemn as a "draconian piece of legislation" passed by the Khasi Jaintia Hills Autonomous District Council (KJHADC).

The failure of the District Council to purportedly effectively safeguard and develop tribal interests also provides further legitimacy to traditional bodies for vocalising their demands. There are many who have reportedly experienced the view that District Council have become redundant in the state. For instance, T.H. Rangad, the then Home Minister of the State, opined that District Councils should be dismantled, to be reconstructed along political lines. Such views are also held by the academia, social workers, etc. In an interview with Eastern Panorama, the columnist and development

worker, Ms. Patricia Mukhim, stated that since District Councils had become redundant and that, after statehood, there was no longer any need to retain them.

It is however obvious that the main problem confronting local elites representing traditional institutions, with those of District Councils, borders on the issues of power and financial resources. A spokesman for FKS, while denouncing the District Councils as an 'unnecessary burden and a white elephant on the State exchequer', also asserted that developmental funds should be sent directly to the Durbars. Under the prevailing setup, not only are the existing powers and functions of the traditional bodies extremely limited, but their access to resource allocation is severely poor.

It is obvious that the demand of traditional institutions for constitutional recognition, and greater devolution of powers and functions cannot be overlooked. However, two crucial issues need to be taken into consideration.

In the first place, there has to be a proper co-ordination or adjustment between traditional practices and usages with changes that have occurred within the Khasi society today. These imply specifically to system of election to the Syiem's post, which is still reserved for members belonging only to the Syiem family or its legitimate branch.

Secondly, the issue on representation needs to be seriously reconsidered, which still has limited participation of women in the decision making process, and also excludes the non-tribals of the State.

Lastly, adequate accountability and transparency of funds generated should be entrusted to authorities such as the Comptroller-General and Auditor-General of Accounts to prevent misuse.

APPENDIX I

**OFFICE OF THE DORBAR HIMA MYLLIEM,
MAVIS DUNN ROAD, MAWKHAR
SHILLONG 793001
MEGHALAYA
NO. DHM/SC/2001/1**

Dated: Shillong the 28th February 2001-07-06

To,

Your Excellency/Respected Sir,

Enclosed, please find herewith the Memorandum submitted by the Steering Committee, Dorbar Hima Myllem seeking constitutional recognition and protection of

the traditional institutions of the Khasi race for the favour of the perusing it and exercising your good office to meet the just and legitimate demand of the Khasi People.

We are now looking forward to getting positive response.

JAI HIND

Yours Faithfully

Sd/-

(H.P.Oflyn Dohling)
General Secretary,
Steering Committee,
Dorbar Hima Myllem
Shillong

**MEMORANDUM
SEEKING CONSTITUTIONAL
RECOGNITION AND PROTECTION OF
THE TRADITIONAL INSTITUTIONS OF
THE KHASI RACE**

Submitted by

STEERING COMMITTEE : DORBAR HIMA MYLLEM
Mavis Dunn Road : Mawkhar
Shillong-793001
Meghalaya

I-Historical Perspective

For many centuries, the Khasi Hima had existed as independent principalities with all the parameters of sovereign status. Their boundaries were traditionally demarcated by rivers or streams or foothills or any other natural markings or pillars.

In the gradual evolution of the Khasi Hima, Geography, History and Tradition had worked as powerful mechanisms. The Khasis have consistently cherished and recapitulated the working of this trinity with a sense of pride.

According to the Khasi tradition, the institution of the Rangbah Kur has been maintained as the oldest institution. With the passage of time and due to the pressure of social and occupational forces, the Khasi clans were united together to form a village, which resulted in the emergence of the institution of the Reangbah Shnong. This has been held an elective institution with the male residents forming the electoral college. The

progressive nature of the Khasi civil organisation had generated the need to unifying the villages and brought them under one administrative arrangement of the Khasi Raj with the institution of the Syiem Raj as the administrative head. In the ultimate and final stage of the administration formation, the Hima was formed comprising of the Khasi Raj and other independent areas as constituent units. With the formation of the Hima, the institution of the Syiem was constituted. This institution was and is, till now, an elective institution held in deep respect by the Khasi People.

The administrative hierarchy of the Khasi Hima is traditionally governed by the principle of accountability and transparency with the following traditional pillars:

First, the institution of the Dorbar Hima;

Second, the institution of the Dorbar Synshar Hima;

Third, the institution of the Dorbar Synshar Raj;

Fourth, the institution of the Dorbar Synshar Shnong;

Fifth, the population of Khasi residents known as ki khum-ki hajar, recognised by tradition as the natural citizens of the Khasi Hima.

II-Post Independence Scenario

India became free and independent on August 15, 1947. "The independence of India witnessed the incorporation of the Khasi States into the Indian Union, some willingly, others with persuasion and still others with tact and intimidation. The Khasi States had hoped their future in the new India would safeguard their interests."

The Constitution of India was inaugurated on January 26, 1950

The inclusion of the Khasi States within the framework of the Indian Union was glaringly violative of the true and underlying spirit of the INSTRUMENT OF ACCESSION and was not consistent with the provisions of Section 290-A of the Government of India Act, 1935. A remedy of this 'constitutional anomaly' can be found by giving due recognition and protection of the traditional institutions under the Constitution of India. The independence of India, and the inauguration of the sovereign Constitution notwithstanding the most potential issues confronting and convulsing the mind of the Khasi people have been:

Can there be adequate protection of their age-old traditional customs and usages under the Constitution?

Will the Constitution of India recognise the unique and distinct status of the traditions institutions of the Khasi?

Giving his reply to the Welcome Address given to the Viceroy of India on the 3rd October 1933 by the Khasi ruling heads, the Viceroy inter alia said:

"there is no place within our Indian Empire where wider diversity is found within a smaller compass than in the uplands of Assam where the Syiem and princely houses of the Khasis represent, perhaps, the oldest and certainly one of the most interesting of the ancient tribal migrations. It is proof of the stamina and virility and competence of your people that when greater empire in the East and the West have throughout the ages come and gone, you still maintain in your pleasant hills the freedom of your small republics based on the ancient ways and tenets of your race."

In the words of Pandit Jawaharlal Nehru, the first Prime Minister of free India. "The Khasis are an extremely discipline people, often more democratic than most of India. Without a constitution, they function democratically and carry out the decisions made by their elders and representatives without exception."

The much-talked-about issue has been the District Council under the Sixth Schedule vis--vis the traditional administrative heads of the Khasi Hima. The late Reverend J.J.M. Nichols Roy, member of the sovereign Constituent Assembly of India had experienced his 'Great Disappointment' on seeing how the Sixth Schedule was not able to generate a sense of celebration and achievement in the mind of the Khasi People due to the glaring deviations made by forces inimical to the Khasi interests in the final stage of drafting it. The late Reverend had recorded, with a sense of prophecy, in his MEMORANDUM OF PERSONAL VIEWS how the five thousand Khasi women "stormed the District Council hall while they were in session" protesting against the suspension of the Syiem of Myllem and how "the suspension of the Syiem of Myllem had to be withdrawn afterwards."

Soon after India became independent, the Federation of Khasi States constituted the Khasi States Constitution Making Dorbar. This Constitution Making Dorbar had urged upon the Constituent Assembly of India to provide adequate constitutional safeguard as will not interfere with and undermine the democratic and traditional institutions of the Khasi race.

III-Popular Mandate

The Dorbar Hima of Hima Myllem was held December 12,2000. It was attended by the discipline crowd of traditional chiefs, village elders and ki khum ki hajar. The main theme of the Dorbar Hima which had received unanimous endorsement underlined the need TO PRESERVE THE AGEOLD CUSTOMS AND USAGES AND THE TRADITIONAL INSTITUTIONS OF THE KHASI RACE AND HOW BEST THEY CAN BE MODIFIED IN THE CONTEXT OF CHANGES WHICH ARE TAKING PLACE IN THE KHASI SOCIETY. The Dorbar Hima has also given the mandate to seek constitutional recognition and protection of the Khasi traditional institutions.

As an instance, voices of dissent have been recorded about how the Khasi traditional chiefs have been stripped off their traditional status by the APPOINTMENT AND

SUCCESSION OF CHIEF AND HEADMEN ACT, 1959, a draconian piece of legislation passed by the Khasi Jaintia Hills Autonomous District Council.

IV-Chosen Alternatives

In keeping with the popular endorsement given to the theme of the DORBAR HIMA field on December 12, 2000 and the subsequent endorsement given by other Khasi Hima, this MEMORANDUM submitted with due respect to the corridors of decision-making of the Union Government places before their consideration the following:

To initiate constitutional measures aimed at restoring and preserving the traditional status and powers of the traditional institutions by a suitable constitutional amendment;

That, the constitutional amendment will define the legislative, administrative and judicial jurisdiction of the Khasi traditional chiefs in Dorbar in accordance with the customs and usages practised and respected by the Khasis since time immemorial.

According to tradition, the Rangbah Shnong in Dorbar and the Syiem Raij/Banggthai Raij in Dorbar constituted the traditional limbs in the hierarchical organisation of the politico-administrative system and the Syiem in Dorbar is being recognised as the institution representing the uniqueness and distinctiveness of the Khasi race.

(L.M.S.Syiem),
Syiem of Hima Myllem
President
Steering Committee
Dorbar Hima Myllem
Dated/Mawkhar
Shillong 1,
The 22th February 2001

(Dr.B.R.Kharlukhi),
Chairman,
Drafting Committee
Dorbar Hima Myllem

(H.P.Oflyn Dohling)
General secretary
Steering Committee
Dorbar Hima Myllem

Explanatory notes:

Rangbah Kur-head of Khasi clan;

Rangbah Shnong-village headman;

Syiem Raij/Bangthai Raij-traditional administrative heads of Khasi commune;

Raij a commune as a combination of several villages;

Hima territorial conglomeration of communes and independent villages falling under the jurisdiction of administrative heads known as Syiem or Lyngdoh or Sordar or Wahadadar;

Syiem traditional administrative head of the Khasi Hima. The office is traditionally occupied by members of the Syiem Clan.

Myntri elected representative of Khasi clan functioning as traditional aids to the heads of Khasi Hima;

Lyngdoh priestly clan exercising temporal and/or religious functions;

Basan elders exercising administrative functions;

Ki khum ki hajar a Khasi administrative terminology applicable only to the Khasi residents of the Khasi state recognised by tradition as the natural citizens;
Dorbar Hima a popular assembly of the Khasi Hima and recognised by tradition as the highest body in the administrative set up of the Khasi Hima.

Respectfully submitted

His Excellency the President of India, New Delhi;
His Excellency the Vice President of India, New Delhi;
His Excellency Prime Minister of India, New Delhi;
The Honourable Speaker of Lok Sabha, New Delhi;
His Excellency Home Minister of India, New Delhi;
Chairman of National Commission for Review of the Working of the Constitution;
The Honourable Leader of Opposition in Parliament, New Delhi;
His Excellency the Governor of Meghalaya, Shillong;
Shri P.A. Sangma., MP (Lok Sabha);
Shri. P.R.Kyndiah., MP (Lok Sabha);
Shri. O.L.Nongtdu, M.P. (Rajya Sabha).

sd/-
(L.M.S.Syiem),
Syiem of Hima Myllem
& President
Steering Committee
Myllem
Dorbar Hima Myllem

Sd/-
(Dr.B.R.Kharlukhi),
Chairman,
Drafting Committee
Dorbar Hima Myllem

Sd/-
(H.P.Oflyn Dohling)
General secretary
Steering Committee
Dorbar Hima

APPENDIX II

OFFICE OF THE DORBAR HIMA MYLLEM
Mavis Dunn Road, Mawkhar
SHILLONG 793001
MEGHALAYA

THIRTEENTH SCHEDULE **(Article 244 (3))**

Article 244 (3) the provisions of the Thirteenth Schedule apply to the Khasi Hima(s) in the state of Meghalaya.

Provisions as to the giving of constitutional recognition and protection of the customary usages and practices and the traditional institutions of the Khasi (s) in accordance with the Instrument of Accession and the Annexed Agreement.

Interpretation in this Schedule, unless the context otherwise requires:

Traditional institutions means:

Dorbar Shnong (village dorbar) presided over by the Rangbah Shnong (village headmen);

Dorbar Raid (commune dorbar) presided over by the Syiem Raid or Lyngdoh Raid or Sordar Raid or anghthai Raid or any other traditional designation;

Dorbar Synshar-Hima (State dorbar) presided over by the traditional administrative heads known variously as Syiem or Lyngdoh or Sirdar or Wahadar with the Myntri (s), the Bakhraw (s) and the Basan (s) representing their respective clans or villages. It exercises legislative, executive and judicial functions;

Dorbar Hima the apex body in the administrative set up of the Khasi Hima (s) presided over by the traditional administrative heads;

Hima (a territorial conglomeration of villages and/or communes with boundaries traditionally demarcated by rivers or streams or foot hills or pillars);

Ki Khum ki Hajar (the Khasi population of the Khasi Hima).

B. Steering Committee means the Steering Committee of the Dorbar Hima Myllem duly recognised by the Federation of Khasi States.

Note The Khasi administrative heads are elective and permanent and in the exercise of their functions, they are guided by the principles of transparency and accountability and the Khasi democratic tradition.

There shall be the Federal Council of the Khasi Hima (s) to be hereinafter referred to as Federal Council.

The Federal Council shall be composed of:

The ruling administrative heads of the Khasi Hima (s);

Four members to be nominated by the Dorbar Synshar Hima or Dorbar Hima as the case applies from amongst person belonging to ki khum ki hajar subject to future administrative arrangement as the Federal Council may decide;

Ten members to be nominated by the Steering Committee, from amongst its members, for a term of five years. The term is extendable as the Federal Council may decide. The Steering Committee shall evolve the modalities for the nomination of members.

The term of the nominated members as specified in paragraph 2, sub para (A) (ii) and (iii) shall be five years, subject to recall by the Dorbar Synshar Hima or Dorbar Hima or Steering Committee as the situation so warrants.

The Federal Council shall exercise legislative, executive and judicial functions and it shall be the custodial and protective body of the customary usages and practices and the traditional institutions of the Khasi (s) in their several, collective and respective Hima

(s), and of the traditional rights of the Khasi Hima (s) over land, forest, water and their natural resources and excise.

The Federal Council shall elect any of its members as Chairman to preside over its meetings. It shall frame its own rule of procedure and conduct of business.

No acts of the Union Parliament or of the State Legislature or of the District Council shall apply to the Khasi Hima (s) without the consent of the Federal Council, if such acts interfere with or bring about changes of the customary usages and practices, and the traditional institutions of the Khasi (s), and the traditional rights of the Khasi Hima (s) over land, forest, water and their natural resources and excise.

The Federal Council shall maintain its administrative staff under the overall supervision of the Chairman, and it shall frame rules regarding staff emolument and service conditions.

There shall be the Federal Fund from central assistance and other modes of income generation, as the Federal Council may decide.

The Federal Council shall make rules and regulation for the control and management of the Federal Fund in respect of payment of money into the said fund and withdrawal there from

The Federal Council shall function as a transitory body and it shall evolve the mechanisms for the exercise of its functions during the transitional period.

APPENDIX - III

From the Office of:
Bah John F. Kharshiing, Smit

Meghalaya Pradesh Congress Election Manifesto Assembly Elections, 1993.

Traditional Tribal Institutions and Powers to Local Authorities:

"The State of Meghalaya was exempted from the purview of the Panchayat Bill 1992 because there already exist very strong local institutions of Syiemship, Nokmanship, Laskership and Dolloiship in rural areas. The Central Government decided that there is no need to introduce Panchayat Raj System as functioning in other areas. The Congress Party shall take steps for strengthening these Traditional Tribal Institutions in the State and make efforts to vest them with statutory"

Bharatiya Janata Party

Chapter IV-Political Policies and Programmes, Article No.: 24, On Old Agreement/Instrument:

"The Party shall pay full respect to any or all the old agreements or instrument's solemnly entered in between the tribal rulers and the then Dominion of India immediately after India's Independence and shall take appropriate steps in confirmation and fulfilment of the spirit enshrined therein".

Constitution of the Hill State People's Democratic Party (HSPDP)

Article 2. Ki Jingthmu: sub-clause (a) is as follows:

(a) Ban iada ia ki hok ki trai ri ha kaba iadei bad ka khyndew ka shiap, ki khlaw ki bta, bad ban pynshlur pynbah ia ka jingtbit babha barim bajah bad ruh ban ialeh ban pynroi pynpar ia ki trai ri katkum ka jinglong tynrai jong ki hi.

Constitution of the United Democratic Party (UDP)

Article 3. Aims and Objects: sub-clause 1 and 4 states as follows:

3(1) To secure the rights, justice, liberties and progress of the tribal people and for their all round development according to their own genius.

3(4) To safe guard and preserve the identity of the tribal people and in particular to protect their interest, especially in respect of their inalienable rights to land, forest minerals and such other resources germane to their economic development.

Manifesto of the People's Democratic Movement (PDM):

6. Traditional Identity

The indigenous people of the State are living in perpetual fear and cherish great pride at the uniqueness of their traditional systems and rights. The party stands committed:

To preserve the unique identity of the indigenous people by promoting their democratic institutions, customs, culture, languages, values and aspirations.

To strengthen the provisions of the Sixth Schedule with regard to the protection of the traditional rights of the people over land, forest and minerals, and develop more powers to the Traditional Local Institutions.

Ka jinglong tynrai ki riewlum:

Ki riewlum jong kane ka jylla ki im ha ka jingtieng bad jingsyier; hynrei ki long pat kiba sngewsarong ia ki jinglong tynrai halor ki hok la jong. Ka Part ka Kular:

Ban pynneh pynsah ia ka jinglong kyrpang jong ki paidbah riwlum da kaba kyntiew is ki rukom shynshar paidbah kaba bat tynrai is ki riti ki dustur, ka ktien ka thylliej bad ki jingangnud jong ki ban pynneh ia la ki jong. Ka party ka kwah ban pynkhlain bad pyntreikam ia ki kyndon kiba don ha ka sixth schedule kiba iadei ban iada ia ki hok tynrai jongngi halor ka khyndew ka shiap, ki khlaw ki btap bad ki marpoh khyndew; bad ruh ban ai bor shuh shuh sha ki Durbar Hima.

Nationalist Congress Party

Political Resolution, North East People's Convention, August 21, 1999, Guwahati.

"The Party shall take appropriate steps in confirmation and fulfilment of any or old agreements or instruments solemnly entered in between the tribal rulers and the Government of India, immediately after India's Independence. The Party shall also take appropriate legal measures to resolve this long pending issue".

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MANIPUR

Traditional Institutions

3.1 Panchayats have existed in Manipur for long. However, these were confined only in the valley districts and Jiribam Sub-division. In the hill districts, there were village authorities almost similar to village Panchayats. The hill districts were dominated mainly by the tribal people, who formed 32.5 percent of the total population of Manipur in 1971. These tribal villages were administered by village councils consisting of Khunbu, Luplakpa and other village elders headed by Khullakpa, the village headman. These councils settled all disputes of a civil, criminal, religious and social nature. Under the Manipur State Courts Act, 1947, such village institutions were conferred with powers of the lowest court for administration of justice in criminal and civil cases.

3.2 In the hill districts, the chiefs are represented as the ex-officio chairman of the Village Authority Systems (VAS). Elected members of the VAS are also included within the Block Development Committees (BDC), but with the Panchayat Samitis in the valley, these BDCs do not have regular offices or establishments.

3.3 District Autonomous Councils are in existence in the hill areas of Manipur. These have few real powers: they have several regulatory powers subject to state control. In the exercise of developmental functions, they are at the mercy of the State Government. Since their incomes are unstable, they become more dependent on the State Government.

3.4 With the exception of the hill areas (tribal dominated), cantonment areas, municipal areas and notified areas, the Panchayat System has been introduced in Manipur since 1960.

References

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MIZORAM

Traditional Institutions

5.1 Traditional Mizo polity was under an authoritarian system of chieftainship. The chief of the village was the supreme administrative head whose word was law within the limits of territory. Succession to the post of chieftainship was on a hereditary base.

Powers and Functions

5.2 As protectors of village life and property, the entire village land belonged to the chief who accordingly distributed jhum land (land under slash and burn cultivation) to villagers. The chiefs also administered justice according to customary Mizo laws. They saved men from revenge and took them under their protection. Regarding financial resources, the chiefs, were entitled to tribute from the villages, and royalty from natural resources within his territory. This traditional system of village administration under the system of chieftainship was abolished in 1954 by the Mizo District Council, under the Lushai Hills Districts 'Acquisition of Chiefs Rights Act, 1954, and replaced by the Village Councils.

5.3 The initiative to abolish chieftainship in Mizoram came from the emerging educated elites. The disillusionment of the people with the system of chieftainship can be gauged from the results of the village council elections. For instance, in 1960, the United Mizo Freedom organization (UMFO), pro-chief party captured only 83 seats while the anti-Chief Mizo Union won 280 seats. The same trend continued in the 1963 and 1971 elections, where the UMFO's support base further dwindled.

5.4 The Mizo District Council continued until 1972, when it was replaced by the Legislative Assembly. However, the Pawi, Lakher, and Chakma Autonomous District councils continue to exist but the first two have been renamed as the Lai and Mara. These three Councils fall under the provisions of the Sixth Schedule of the Constitution.

Structure, Composition and Representation of the Lai Autonomous District Council (LADC):

5.5 The council has an executive committee consisting of the Chief Executive Member and the Executive Member. The Chief Executive Member is elected by members of the council, while Executive Members are appointed by the Governor on the recommendation of the Chief Executive Member. In addition, there is a deputy chairman, who is elected by Council members.

5.6 The power and functions of the District Council include executive powers such as the construction or management of primary schools, dispensaries, markets, cattle ponds, ferries, roads and road transport.

Legislative powers

5.7 The ADC has powers to make laws with respect to the following i.e., allotment, occupation, use and setting apart of land; management of any forest that was not reserved; use of canal or water ways for purposes of agriculture, regulation of the practice of jhum or other forms of shifting cultivation, establishment of village or town committee, any matter relating to village or town police public health, Sanitation, appointment or succession of chiefs or headman, inheritance of property, marriage and divorce, power to control money lending and trading among non-tribals.

Financial

5.8 The Sixth Schedule had entrusted the District Councils with the responsibility of constituting a district fund and also making rules for the management of this fund. Its internal resources are, however, limited, and it depended mostly on government grants for running its administration. For example, the total internal revenue generated during the period 1972-1980 constituted only 3 percent of the total income.

Village Councils

5.9 With the coming into being of the Mizoram Assembly, the Village Councils were placed under the Local Administration, Town Planning and Housing Department. The Councils comprised of 5 to 11 members depending upon the size of the village. Two-thirds of the members were to be elected on the basis of adult franchise and one-third were to be nominated by its executive committee. The term of a village Council was three years.

Powers and Functions

5.10 Construction and repair of footpaths, roads, bridges, playgrounds, community halls, school buildings (mostly repairs); allotting land for jhumming, to enforce public work; judicial - a village court consisting of not less than three members appointed by the village Council which followed the customary laws for scheduled tribes to try cases involving petty offences. Criminal cases were rarely tried. The village council did not

look after elementary education, public libraries, recreation games, regulation of market places and public entertainment.

Financial Resources

5.11 The resources of the Village Councils are extremely limited and they depend on financial grants from the government.

Public Opinion

5.12 Decentralisation of power as per the provisions of the 73rd Constitution Amendment Act has received a favourable response from the people of Mizoram. The keen interest of the State Government for implementing these provisions was seen as early as 1995, when the Department of Personnel, Administrative Reforms wing constituted the Administrative Reforms commission to study the implication of the 73rd and 74th Constitution Amendment Acts, and explore the possibilities of harmonious implementation in context of the state. All other political parties and village council activists also agreed to the applicability of the Act. 1

5.13 A voice of dissent was raised by the Mizo students union, which was reluctant to accept the implementation of Panchayati Raj institutions in the State. The students also wanted a revival of the District Council system. Their argument revolves around three crucial issues, i.e., that the District Councils would provide greater access to developmental functions, greater devolution of financial powers, protection of tribal interests. The example of Karbi Anglong District Council which has 30 departments (developmental functions) is cited. Similarly, in the absence of a State Finance Commission, it is argued that District Councils could use funds without interference from local politicians. PRIs, do not have judicial functions, whereas District Councils have various courts to try cases under customary laws and lastly, introduction of PRIs would grant reservation of seats for non-tribals.

5.14 It is, however, important to remember here that these issues i.e. conflict situations between traditional vis--vis constitutional bodies of local polity, has not assumed the magnitude it has reached in Meghalaya. For example, a majority of the Mizo students in North Eastern Hill University are not even aware of the 73rd Amendment Act. What can be sensed, however, is growing disillusionment with the working of the village councils which, it is claimed, have not only failed to protect tribal interests, misappropriated developmental funds, but are also marginalised by members of the state legislature and influential politicians and district-level officials.

5.15 Research on the LADC itself showed that between 1972-1982, the District Council spent 44.5 per cent of its total income on general administration and only 14.6 per cent on developmental activities.

5.16 The progressive thinking among the Mizo people is evident from two developments which are cited here. In the first place, chieftainship was abolished as

early as 1954, which came through a consistent and united effect of the Mizo elites themselves. Secondly, Mizoram provide a model example of a state which has successfully adapted and modified tribal customs and usages to suit changes in the modern set up.²

5.17 However, an important issue which needs to be seriously considered before the implementation of PRIs is the precise role of the village council and whether it should be retained or abolished. The state Administrative Reforms Commission contemplated the retention of the powers of the present village council and at the same time given the powers and privileges under the 73rd Constitutional Amendment. This may imply modifications of some laws and rules now in force.

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Notes:

1 A draft Bill was even prepared but by the time it reached the Select Committee of the State Assembly, the life of the legislature expired and the proposal lapsed. It has not been revived.

2 However, lack of extensive public knowledge about the 73rd Amendment Act does not necessarily mean that this debate does not have much significance or there is little interest in the relevant issues. Indeed, field research and extensive interviews with a

wide cross-section of Mizo public leaders in July 2001 indicated a growing demand for the implementation of relevant "provisions" of the 73rd and 74th Amendments and the need for an Intermediary tier of self-governance. **See main Consultation Paper for details.**

NAGALAND

Traditional Institutions

6.1 There are 16 tribes in Nagaland, each occupying a distinct area. Each tribe tends to treat itself virtually as a race apart. As a rule all villages are mono-tribal, though there has of late been certain changes, especially in the foothills bordering Assam. The traditional system of Naga polity therefore varies from autocracy (Konyaks), gerontocracy (Aos, Tangkhuls) and democracy (Angamis, Chakesangs, Rengmas, Maos). Amongst the Semas, the position of the chief is a little less arbitrary than among the Konyak, but is nevertheless highly autocratic.

6.2 In a village consisting as a rule of people of one particular tribe but belonging to different exogamous clans, the supreme decision – making body was the council of elders and leaders, with each member representing a clan. The tenure of a council varied from tribe to tribe, but two broad patterns were discernible.

6.3 The most widespread one was the one in which the clan replaced its representative following his demise or on his reaching the age of about sixty years or so, or when the clan families came to the conclusion that their representative was incapable of discharging his duties. In the second system, the council had a fixed tenure in 30 years and all members were replaced at the same time. There was yet another system, where each village was governed by a hereditary chief, who owned all land and parcelled it out to families for cultivation.

6.4 Amongst the Angamis, the policy formulation and implementation is more democratic, the village chief is only a *prima inter pares*. Though he is chosen for his wealth, physical prowess and skill in diplomacy, the authority exercised by the chief is very nominal. For all important decisions, the villagers usually assemble and take a collective decision.

Constitutional Bodies

6.5 After the formation of the State of Nagaland in 1963, these traditional village councils were restructured and replaced by village, Area and Regional Council under the village, Area and Regional Council Act. In general, the village councils had the following duties -- to function as the highest court in the village, to function as the custodian and manager of village common property and to function as the war council of the village.

6.6 At the village level the members were to be chosen by their respective clans. The size of the village council was to be determined according to the customs of the village. The supra-village councils i.e. the Area and Regional Councils, were much more intimately linked with the next lower level. In 1978, a new act was passed which did away with the regional councils, while the duties and powers of the village councils were more elaborately defined – including that of constituting a village Development Board. In 1980 statutory rules were promulgated to cover the latter also. In 1990, the Act was amended to do away with the area councils leaving only the village councils.

Village Councils – Representation and Composition

6.7 The members of village council are chosen by the villagers in accordance with customary practices and usages for a period of five years. The names of the members are then submitted to the government through the Extra Assistant Commissioner/Sub-Divisional Officer (civil) for formal approval. The elected members choose a chairman and a secretary, from among the men, who are assigned with certain duties and responsibilities. different clans are represented in the village council and existing rural institutions.

Powers and Duties

6.8 The powers and duties of the Village Councils are:

- (a) To formulate village development schemes, to supervise proper maintenance of water supply, roads, forests, education, etc.
- (b) To help government agencies in carrying out developmental council in village, or on its own initiative. This is carried out through the Village Development Boards.
- (c) To initiative preventive measures on outbreaks of epidemics
- (d) To administer justice according to customary laws and usages
- (e) To act as a supportive agent of the government in village administration, including maintenance of law and order
- (f) To handle all aspects of application and receipts of funds for the village
- (g) To constitute a Village Development Board

Village Development Board Structure

6.9 Members of the Village Development Board (VDB) to be chosen by the village Council could include - (a) members of the village council or non-members (b) those who are ineligible to be chosen in the Village Council (VC) by virtue of age or tradition and custom (c) the deputy commissioner of the district was the ex-officio chair-person of all VDBs in his district (d) At least one woman was to be a member of the VDB (e) government servants could be chosen as members of the board with permission of the government. The tenure of the members was three years unless decided otherwise by the village council. The VDBs cannot be dissolved by the State.

Functions

6.10 The VDBs were entrusted with a number of developmental activities in coordination with the Block Development officers. A number of state development programmes are also coordinated with the VDB such as I.R.D.P., TRYSEM, DWCRA and JRY.

Under the model list scheme, the village was asked to choose from a list containing only infrastructure items, but over the past decade this pattern has been undergoing a change to include production oriented items within its scope.

6.11 For example, schemes undertaken in Kohima Block from this list are cited below:

- ❖ Education – construction, extension and improvement of school building.
- ❖ Agriculture - cash crop cultivation, community orchard; kitchen garden.
- ❖ Animal husbandry – poultry form, piggery, goat and cattle rearing
- ❖ Construction of public wells
- ❖ Construction of footsteps
- ❖ Construction of latrines
- ❖ Small scale industry – construction/procurement of rice mills. Weaving units, biscuit factory, charcoal production unit
- ❖ Construction of community granary/purchase of paddy
- ❖ Social forestry
- ❖ Rural electrification
- ❖ Construction of community fishery pond
- ❖ Construction of resting shed, market shed, women welfare centre, community hall, approach road, community shop, community building outside village
- ❖ Purchase of mini-bus.

Financial Resources

6.12 The VDB is the recipient of two forms of grants from the state plan funds: (a) a one-time grant equal to the amount of common fund which the VDBs can invest in fixed deposits in a bank, called a matching grant; this fund also had to be invested in fixed deposits, thus enabling the VDB to draw from the banks, either for community use or to give to needy individuals. (b) An annual recurring grant-in-aid for executing developmental schemes chosen by the VDB out of a list of model schemes. One-fourth of this grant was reserved for schemes chosen by women of the village. The total of the fixed deposits of the VDBs in the state stood at Rs. 700 lakhs.

The VDB is also free to receive funds from sources other than the state exchequer.

Public Opinion

6.13 In the state of Nagaland, traditional political systems have been accommodated and amalgamated with the provisions under the constitutional status accorded to the

state. Many still question the very creation of the state in 1963, saying that this was a knee-jerk reaction by the Centre to a broader demand. Yet, this has not prevented a reasonable turnout at most elections to the state assembly. Yet, a sense of ownership of the system is still missing in many parts of the state although there is also a growing feeling that, after nearly 50 years of struggle and bloodshed, there is a need for realism in the political context.

6.14 The conflict between traditional elites adopting a revivalist stand, and those deviating from it does not arise because of the issues cited above. The issues concerning decentralization and devolution of power and responsibilities, has therefore not generated the form of debate as seen in other states, particularly Meghalaya.

6.15 The public to a large extent is passive to such issues, but this passivity has to be understood in the background of insurgency, inter-tribe clashes, years of torture and abuse from the army and even insurgent groups themselves. Along with it arises the question of compulsory donation of money to the militants, which the latter define as taxes for their cause. It is in fact an open secret that 25-30 per cent of village development funds are earmarked for such insurgent groups.

6.16 However, amongst Naga scholars, political thinkers and planners, there has been an attempt to discuss the possibilities of restructuring such units of local polity. The primary motivation for such a move has been the ineffectiveness of VDBs, which has actually exposed the hollowness of claims of rural development and has failed to solve the socio-economic problems of the people. In this context, the most important stumbling block for proper development is alluded to the inappropriateness of the present system of state sponsored elections, which is marred by rigging and squandering of money and violence. It is therefore believed that a local restructuring of existing socio-political structure requires urgent attention.

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TRIPURA

Traditional Institutions

7.1 Like other hill tribes of the North-Eastern states, the traditional system of local chieftains in Tripura is based on their social customs and cultures and to attend to their day-to-day needs and for arbitration of local disputes. The Reangs have a three-tier system with the supreme traditional council at the apex and village council at the bottom. In between, there is the zonal office. Such systems of traditional polity do exist but in most areas they have become almost defunct.

Constitutional Bodies

Panchayat Raj Institutions

7.2 Tripura was the first state in the North-Eastern Region to adopt (with modifications) the United Provinces Panchayat Raj Act 1947. The Tripura Panchayati Raj Rules 1961, called for a single tier system of Self Government Gaon Sabha and Nyaya Panchayat. The Nyaya Panchayat over looked judicial functions. Under the Tripura Panchayat Act of 1983, the Nyaya Panchayat was abolished and Gaon Sabhas replaced by Gaon Panchayat.

7.3 The strength of a Gaon Panchayat varied from 7-15 depending upon the total population of the Gaon members of the Gaon Panchayat were to be elected through secret ballot and political parties were permitted to participate in the elections. The tenure of Gaon Panchayat was fixed for 5 years. The Pradhan and upa-pradhan were to be elected from the members.

Powers and Functions

7.4 The act of 1983, assigned a wider range of functions to the Gaon Panchayat. They were entrusted with the State Government programmes and schemes, including an innovative scheme called the state rural employment programme. Its purpose was to help the landless labourers and the poorest sections, whose identification lists were maintained by the Panchayat. This was an omnibus Act which empowered the panchayat to look after an array of functions including the following:

construction and maintenance of public streets, ponds, wells, tanks, fairs, markets, cremation grounds, registration of births and deaths, marriages, prevention of diseases (epidemics), maternity and child welfare; development of agriculture, commerce, corporation and industry; other responsibilities included the planting and maintenance of roadside trees, library schools, hospitals, gymnasiums, playground, relief to the destitute and sick, preservation and improvement of public health, general care of livestock and preservation and

goodwill and harmonious relations among various communities. It also was authorised to act as a channel through which government assistance may reach the villages.

7.5 The Panchayats in Tripura had control over streets, waterways and other public places; it could acquire, own, improve, maintain and dispose khas lands and other properties, to own and establish public institutions, to impose certain taxes, to undertake profitable business, to lodge genuine complaints against government employees, to impose penalty on Gaon Panchayat members, to appoint, punish and discharge staff.

Financial Resources

7.6 Each Gaon Panchayat can derive income from fees, tax, loans, grants and gifts. These fees and taxes can be imposed on domestication and sale of animals, simple vehicles, Octroi, fairs, festivals, entertainment, slaughter houses, trade, profession, supply of water, latrines drains etc. However, financial grants remains the biggest component of the Panchayats revenue receipts grants in kind are also provided.

7.7 After the Constitution 73rd Amendment Act was brought in the Tripura Panchayat Act of 1993, provided for a three-tier Panchayati Raj structure with Gaon Panchayat at the village level, Panchayat Samiti at the block level and Zilla Parishad at the district level. This Act does not cover those areas of the State which are under the provisions of the Sixth Schedule which constitute 75 per cent of the state's total geographical area.

District Councils (1982)

7.8 The Tribal Areas Autonomous District Council (TTAADC) was constituted under the Sixth Schedule of the constitution.

Powers and Functions

7.9 The TTAADC has its own rules, regulations for performing activities within its domain. These include, settling private disputes, administrative – market, water supply, footpath, judicial – murder, theft and divorce.

7.10 The TTAADC passed a resolution in September 1991 seeking the enforcement of the Inner Line Permit System. In 1997, a bill was passed to set up its own police force.

Public Opinion

7.11 In Tripura, public debates concerning decentralisation and devolution of power do not revolve around the traditional vis-à-vis constitutional bodies of polity. In the first place, the traditional system of local polity does not acquire much significance and influence today, unlike other tribal hill states of North East India. Secondly, this state has had a long history of extreme violence and militancy in the backdrop of more crucial issues, such as the tribal, non-tribal divide and the threat of militancy. It is therefore not

surprising that the tribals consider the Chief Executive Member (CEM) of TTAADC as their Chief Minister rather than the actual Chief Minister himself who is a non-tribal and thus a member of the majority ethnic and linguistic community.

7.12 In the same way, the headquarters of TTAADC, i.e. Khumulang is considered as the capital by many tribals who seldom venture to Agartala. Tribe-based political parties such as the Tripura Upajati Juba Samiti (TUJS) demand the creation of an autonomous state for the tribals.

7.13 The main area of confrontation exists between the TTAADC and the State Government in relation to devolution of power and functions.

7.14 It is argued that the terms of representation and devolution of power runs contradictory to the spirit of the Sixth Schedule. For instance, three non-tribals are represented in the District Council.

7.15 The TTAADC is entirely dependent upon state funds, and there exists a great gap between approved funds from the state. For instance, out of the approved budget of Rs. 21.23 crore between 1985-86 to 1993-94, only Rs. 15.63 crore was received by the District Council. Blaming the government for an "economic blockade" against the tribal council, the TTAADC has urged devolution of more powers and direct funding by the Centre.

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ANNEXURE III
[See para 2.2.98(i)]

List of subjects under the Karbi Anglong Autonomous District Council

1. Industry,
2. Animal Husbandry and Veterinary,
3. Forest,
4. Agriculture,
5. P.W.D.,
6. Sericulture,
7. Education (Primary, higher secondary and adult education),
8. Cultural affairs,
9. Soil conservation,
10. Co-operation,
11. Fisheries,
12. Panchayat and rural development including DRDA,
13. Handloom and textile,
14. Health and family welfare,
15. Public health engineering,
16. Irrigation,
17. Social welfare,
18. Flood control,
19. Sports and youth welfare,
20. Weights and measures,
21. Food and civil supplies,
22. Town and country planning,
23. College education including library, museum and archaeology,
24. Land reforms,
25. Publicity and public relations,
26. Printing and stationery,
27. Tourism,
28. Transport,

29. Excise, and
30. Finance including sales tax, excise and professional tax.

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- [1] Flood figures of the Ministry of Finance.
- [2] Basic Statistics, 2000, North Eastern Council, Shillong, Meghalaya.
- [3] See Hansaria, Sixth Schedule to the Constitution of India.
- [4] See K.S. Singh, People of India series, Introductory Vol.
- [5] See Alamendu Guha, Planter Raj to Swaraj, Peoples Publishing House, New Delhi.
- [6] The National Commission to Review the Working of the Constitution has gone into the details of the Karbi Anglong/North Cachar Hills Autonomous District Councils as well as the Autonomous District Councils of Meghalaya as the former have maximum powers among the District Councils of the North Eastern region and the latter have extremely unique problems.
- [7] See Asielie Pusa, Politics in Naga Society – the Inter-Tribal relations, Phd. Dissertation, NEHU, 1996.
- [8] Various Statements of the Naga militant groups about State Government published from time to time in various newspapers.
- [9] See The Nagaland Tribal, Area, Range and Village Councils Act, 1966, section 3(d) empowering the Deputy Commissioner to establish village councils in Kohima and Mokokchung districts only where he deemed it necessary.
- [10] Horam M., Naga Polity, BR Publishing Corporation, New Delhi, 1975.
- [11] Discussion with A.M. Gokhale, former Chief Secretary, Nagaland, December, 2000.
- [12] Prof. B.K. Roy – Burman's views on this have been published widely.
- [13] This point was emphasized strongly at a meeting at Shillong with members of the three District Councils of Meghalaya
- [14] See B. Lalthakima, Evolution Of The Pawi District Council , M.Phil Dissertation, NEHU 1996.
- [15] See Jidung, Phd dissertation on Karbi Anglong District Council, NEHU (P.S. Dutta, Autonomy Movements in Assam).
- [16] Newspaper reports of defections and discussions with Council members led us to this conclusion.
- [17] Meghalaya Cabinet Minister at a workshop on development in the North East in New Delhi, 2000.
- [18] there is an organised political opinion of a major section of the non-tribals in Meghalaya, often represented by organisations like Non- Tribal Youth Union (for information on important student and youth organisations and their views, see report of the ICSSR NERC Project on: Youth organisations in North East India, mimeo, NERC, Shillong, Meghalaya, 2000.
- [19] Figures quoted by the Lai Autonomous District Council.
- * This annexure is based on a Paper prepared by the Omeo Kumar Das Institute for Social Change and Development, Guwahati, Assam.
- # This annexure is based on a Paper prepared by the North East India Social Science Congress.
- [20] Eastern Panorama magazine, March 2000.
- [21] Prof. Talick held interviews with a cross section of the population in Arunachal Pradesh between November 19-23, 1996.
- [22] Interview by Prof. A.C. Talukdar with Shri Tacher Hina, Vice-President of Upper Subansiri Zilla Parishad, Daprijo on 22.11.1996. From "73rd Amendment And Panchayati Raj in Arunachal Pradesh", op.cit.