

Functioning of Autonomous Councils in Sixth Schedule Areas of North Eastern States



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PREFACE

The setting up of District Autonomous Councils is arguably one of the most crucial structural changes in tribal area administration towards promoting social, cultural and political autonomy to the people in tribal areas of Assam, Meghalaya, Tripura and Mizoram. It is an effective tool for governance having immense potential for protection and safeguarding the cultural identities of diverse groups and communities. The genesis of this process goes back to the appointment of the North-East Frontier (Assam), Tribal and Excluded Area Sub-Committee of the Advisory Committee of the Constituent Assembly of India, headed by ShriGopinathBardoloi, later to become the first Chief Minister of Assam. The committee recommended setting up of District Autonomous Councils (DAC), which was later, incorporated into Sixth Schedule (Art 244 (2) and Art 275(1)) of the Indian constitution. The people of this area enjoy Executive, Legislative and Judiciary power conferred under this provision.

While the people in sixth schedule areas enjoy autonomy in their administration, tribal people in fifth schedule area covering nine states are struggling for implementation of the Provision of Panchayat Extension to Schedule Act (PPESA) 1996 since the last two decades. Although PPESA provides lot of opportunity for tribal people to exercise their traditional customary laws and practices, it has been not been fulfilled till date. On the other hand, albeit with limitations and flaws, the functioning of autonomous councils has been effective to protect traditional governance systems. One of the major objectives of this study is to explore how the autonomous councils function so lessons can be learnt for application in fifth schedule areas to give people greater and more effective autonomy.

The present study has explored various aspects of the functioning of district autonomous councils in different sixth schedule areas. It has looked at both the achievements and drawbacks of DACs and studied the functioning at different levels. The report has also suggested changes needed for more effective administration under DACs.

I congratulate colleagues from the Natural Resources and Democratisation Knowledge Activist Hubs of ActionAid India for the publication of this report. The study has captured views from a cross section of people, from records and published reports with an aim to help people in other areas understand how autonomous councils function. The learning in this document will be of immense value to tribal people in other parts of the country and for policy makers align perspectives on autonomous bodies for fifth schedule areas. This study is published with an aim to serve all those who are struggling for a better governance system in tribal areas. We hope it will prove to be a significant step towards advocating for autonomous administrative structures in fifth schedule areas.

Sandeep Chachra
Executive Director
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ABBREVIATIONS

ABSU	All Bodo Students' Union
ADC	Autonomous District Council
APHLC	All Party Hill Leaders Conference
BAC	Bodo Autonomous Council
BCS	BoroChatraSanmiloni
BLTF	Bodo Liberation Tiger Force
BPAC	Bodo Peoples Action Committee
BSS	BodoSahityaSabha
BTADC	Bodoland Territorial Autonomous District Council
BTC	Bodoland Territorial Council
CADC	Chakma Autonomous District Council
CAG	Comptroller and the Auditor General
CBI	Central Bureau of Investigation
CEM	Chief Executive Member
DHD	DimaHalomDaogah
DHDAC	DimaHasao District Autonomous Council
EC	Executive Council
EM	Executive Member
GHADC	Garo Hills Autonomous District Council
GOI	Government of India
HDI	Human Development Index
JHADC	Jaintia Hills Autonomous District Council
KAAC	KarbiAnglong Autonomous Council
KAATC	KarbiAnglong Autonomous Territorial Council
KADC	KarbiAnglong District Council
KHADC	Khasi Hills Autonomous District Council
LADC	Lai Autonomous District Council
MADC	Mara Autonomous District Council
MDC	Member of District Council
MLA	Member of Legislative Assembly
MNF	Mizo National Front
MNFF	Mizo National Famine Front
MoS	Memorandum of Settlement
NCHDC	North Cachar Hills District Council
NDFB	National Democratic Front of Boroland
NIA	National Investigation Agency
PAPA	People's Alliance for Peace Agreement
PRI	Panchayati Raj Institutions
PTCA	Plains Tribal Council of Assam
SFC	State Finance Commission
ST	Scheduled Tribe
TTAADC	Tripura Tribal Areas Autonomous District Council
TUJS	Tripura Upajati Juba Samiti
UMFO	United Mizo's Freedom Organization
UPDS	United People's Democratic Solidarity



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CHAPTER – I

INTRODUCTION

1.1 Introduction and Historical background

Administration of Tribal areas in India has always been a matter of concern. Each tribal community has their own traditional governance system and rule of law. Government has failed to understand this. Tribal areas in India are divided into Schedule V and Schedule VI as per constitution. While administrative autonomy has been given to schedule VI area of North Eastern States, people in Schedule V area are striving for implementing PPESA, a law that recognize their customary practices, for last twenty years. Many laws and policies have been made from time to time, but neither the administrator nor the policy makers ever understand what tribal in India need to lead a dignified life.

In 1929 the Nagas submitted a petition to the Simon Commission demanding for autonomy from the Indian State. However, the Khasis, Garos, Mizos and Karbis raised the demand for the separation from the larger state of Assam and self-governance for the people of their own tribal communities. The constitution makers of India realized the importance of separate political and administrative mechanism for the administration of the hill tribal areas, thus, the making the decision of creating Autonomous District Council under the Sixth Schedule of the Constitution of India.

The Sixth Schedule of the Constitution of India is based on the recommendations of the North-East Frontiers (Assam) Tribal and Excluded Areas Sub-Committee popularly known as Bordoloi sub-committee, under the chairmanship of Gopinath Bordoloi, the then Chief Minister of Assam. The Bordoloi sub-committee (a sub-committee of the Constituent Assembly) studied, the then existing administrative set up in the hill areas of the North East India with a view of setting up of an autonomous body for the administration of the hill areas and thus recommended setting up of an administrative body which would be based on the concept of regional autonomy in all matters relating to customs, laws of inheritance, administration of justice, land, forests etc (Report, of the North East Frontiers, 1950).

Hence, the constitution of India, grants local self governing powers to safeguard the affairs of the tribal communities in respect of the land, forest, social customs and practices etc. in order to ensure smooth functioning democratic decentralization of powers and more importantly to preserve and protect the unique cultural identity of the indigenous communities of the North Eastern part of India.

1.2 Objective of the study:

- To comprehend the profiles of the Autonomous Councils functioning in the North East India
- Highlight the achievements, drawbacks and suggest recommendation in the functioning of these councils
- To understand the rising conflict among different groups of people who are being excluded and how such conflicts can be resolved
- It will also look at the feasibility of replicating the model of Autonomous Council in other parts of India, based on the positive results achieved in North East.

1.3 Data source:

The study has been based on secondary literatures, Internet sources, reports, articles, Census reports, Government documents and websites.



1.4 Provisions under the Sixth Schedule for the Administration of Tribal areas in the States of Assam, Mizoram, Meghalaya and Tripura:

1. **Autonomous Districts and Autonomous regions :** The governor by public notifications has the power to divide the area or areas into Autonomous regions for the different Scheduled Tribes living in the region (Sixth Schedule, The Constitution of India).
2. **Constitution of District Councils and Regional Councils :** There shall be a District Council for each Autonomous district consisting of not more than thirty members, out of which four shall be nominated by the Governor while the rest are elected on the basis of adult suffrage.
3. **Powers of District Councils and regional councils to make laws :** The regional council for an autonomous region and a District Council for an autonomous district have power to make laws with respect to:
 - The allotment, or use, or the setting apart, of land, other than any land which is a reserved forest for the purposes of agriculture or grazing or for residential or other non-agricultural purposes or for any other purpose which will promote the interests of the inhabitants of any village or town; provided that nothing in such laws shall prevent the compulsory acquisition of any land, whether occupied or unoccupied, for public purposes by the Government of the State.
 - 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 jhumor other forms of shifting cultivation;
 - The establishment of village or town committees or councils and their powers;
 - Matter relating to village or town administration, including village or town police and public health and sanitation
 - The appointment or succession of Chiefs or Headmen
 - The inheritance of property
 - Marriage and divorce
 - Social customs
4. **Administration of Justice in Autonomous Districts and Autonomous Regions :** the councils have judicial powers for the trial of offences committed by members of Scheduled tribes in their respective areas of jurisdiction. There is a two-tier system for judicial administration at the district and village levels. The village council can hear cases where both the parties are scheduled tribes while the District Courts act as court of appeal.
5. **Power of District council to establish primary schools :** the district council of an Autonomous District may establish, construct, or manage primary schools, dispensaries, markets, cattle pounds, fisheries, ferries, roads transport and waterways in the district and make regulations for the control and management of the above mentioned subjects with the approval of the governor. It also has the power to prescribe language and decide on the manner on which education will be imparted in the primary schools.
6. **District and Regional funds :** For each Autonomous District and for each Autonomous region there is a District Fund and a Regional Fund respectively, the governor makes rules for the management of the funds, payment of money into the fund, withdrawal of money from the fund, custody of money, and other money related matters.



7. **Power to assess and collect land revenue and impose taxes :** The Regional Council for an autonomous region in respect of all lands within such region and the District Council for an autonomous district in respect of all lands within the district, shall have the power to assess and collect revenue from the lands in accordance with the principles followed by the government in assessing lands for the purpose of land revenue and collect taxes on lands and buildings, and tolls on persons resident within the areas.
8. **License or lease for the purpose of prospecting for, or extraction of minerals :** The ADCs can issue licenses and leases for the prospecting and extraction of minerals and are entitled to get a share of royalties accruing to the State from mineral extraction.
9. **Power of District council to make regulations for the control of money lending and trading by non-tribals:** The District Council can regulate money lending and trading by non-residents or non-tribal people living in the area.

Hence the Sixth Schedule (Article 244(2) and 275(1)) endows the Autonomous District Councils and Regional Councils with Executive, Legislative and Judiciary powers for effective administration of Tribal Areas.



CHAPTER - II

ADMINISTRATIVE STRUCTURE

2.1 Types of Autonomous councils in the North Eastern States

There are two types of Autonomous councils in North East India in terms of the status granted by the Central and State Government. In the first category, are the Autonomous District Councils established by the Central government under the Sixth schedule of the Constitution, while the second category consists of the Autonomous District Council established by the State Legislature.

The ADCs granted by the State Legislature do not enjoy the provisions under the Sixth Schedule (Report of the High Level Committee on the Socio-Economic, Health and Educational Status of the Tribal Communities of India, Ministry of Tribal Affairs, 2014). The list of ADCs under the Sixth Schedule is :

State	Autonomous District Councils/ Year of Formation
Assam	<ul style="list-style-type: none">• Bodoland Territorial Council (BTC)/ 2003• KarbiAnglong Autonomous Council (KAAC)/ 1951; 1976• DimaHasao District Autonomous Council (DHDAC) 1951;1970;2014
Meghalaya	<ul style="list-style-type: none">• Khasi Hills Autonomous District Council (KHADC)/ 1972• Garo Hills Autonomous District Council (GHADC)/1972• Jaintia Hills Autonomous District Council (JHADC)/1972
Tripura	<ul style="list-style-type: none">• Tripura Tribal Areas Autonomous District Council (TTAADC)/1982
Mizoram	<ul style="list-style-type: none">• Chakma Autonomous District Council (CADC)/1987• Mara Autonomous District Council (MADC)/1987• Lai Autonomous District Council (LADC)/1987

On the other hand, the administrative structure operational in the other three North Eastern States with majority tribal population are as follows :

State	Administrative Structure
Arunachal Pradesh	Panchayati Raj Institutions
Manipur	Hill Village Authority Act and Manipur Hill Areas District Council
Nagaland	Village Councils

2.2 Structure of Statutory Autonomous Councils

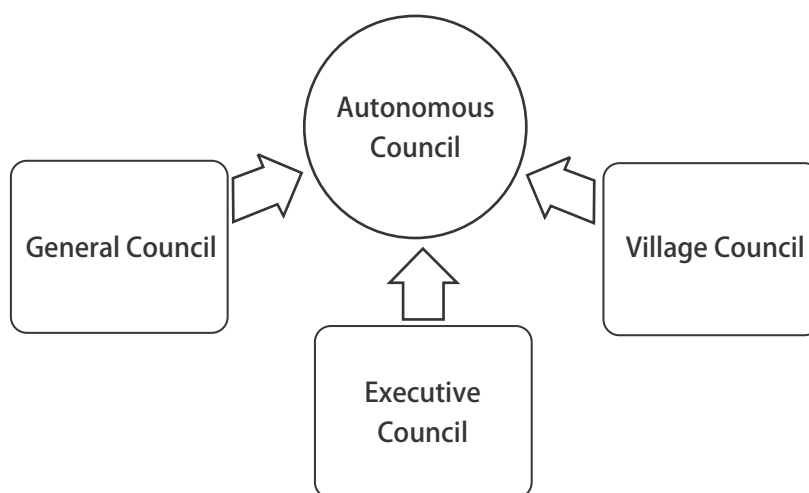
Statutory Autonomous Councils are those Councils that are established by the States through Acts passed by the State Legislative Assembly. The state of Assam and Manipur has Statutory Autonomous District Councils. The Statutory Autonomous District Councils of Assam are governed equally under three authorities which are the Council, the State Departments and the Panchayati Raj Institution . The communities under these Statutory Autonomous Councils are listed below:

State	Statutory Autonomous Councils
Assam	<ul style="list-style-type: none">• Rabha Hasong Autonomous Council(RHAC)• Lalung (TIWA) Autonomous Council(LAC)



	<ul style="list-style-type: none"> ● Missing Autonomus Council (MAC) ● Thengal Kachori Hill Autonomous Council(TKHAC) ● Sonowal Kachari Autonomous Council(SKAC) ● Deori Autonomous Council (DAC)
Manipur	<ul style="list-style-type: none"> ● Chandel Autonomous District Council ● Churachandpur Autonomous District Council ● Sadar Hills Autonomous District Council, Kangpokpi ● Manipur North Autonomous district council, Senapati ● Tamenglong Autonomous District Council ● Ukhrul Autonomous District Council

2.3 Structure of Autonomous Council



The Autonomous Councils are constituted with a General Council, an Executive Council and the Village Councils at the grassroots level. The term of the General council is for a period of 5 years and consists of 40 members out of which 36 shall be directly elected by the people residing within the council area and the remaining 4 are nominated by the Government. The General Council has Executive Powers in the council area on various subjects.

The Executive Council is that body of the Autonomous Council which is responsible for the Execution or carrying out the functions of the General Council. The Executive body consists of Chief Executive Councilor and the Executive Councilors who are elected by the members of the General Council.

Finally, the third level is the Village Councils established at the grassroots level, which consist of 10 members who are directly elected by the people within the Autonomous Council (Dewri. D & Ahmed, A, 2015).

CHAPTER - III

HISTORICAL DEVELOPMENT OF THE AUTONOMOUS COUNCILS

A. Meghalaya

The present state of Meghalaya was a part of the tribal area defined under the Sixth Schedule of the larger state of Assam. The British Cabinet Mission visited India prior to independence, which encouraged the formation of Advisory Committee for effective and appropriate management of the Tribal Areas. Thus the recommendations made by the Advisory Committee was appreciated and taken forward to form the Sub Committee. The report submitted by the Committee and proposals made were carried by the Constituent Assembly, which gave rise to debate and arguments. Considerable opposition came from prominent people like ShriKuladharChaliha where he said that this step of giving autonomous councils to different tribes within the state would only divide the people. However, the discussion came to an end with the formation of Autonomous District Councils in the district of Garo Hills, Khasi and Jaintia Hills, Mikir Hills, North Cachar Hills and Lushai Hills of the larger state of the then Assam (Meghalaya State Development Report).

In spite of the formation of the Autonomous District Councils, the people of the hills after two years felt that the provisions under the Sixth Schedule was not sufficient enough to meet the aspirations and safeguard the identity and affairs of the people. Thus in the year 1954 the leaders of all the Autonomous District Councils came up together in Shillong and raised the demand of a separate hill state under the banner of Eastern Indian Tribal Union, which was also the major issue in the 1957 General Elections.¹

The Meghalaya Autonomous State Bill was passed by both Houses of the Parliament on 24th December 1969. This gave rise to the Autonomous State of Meghalaya within the state of Assam inaugurated by the then Prime Minister Shrimati Indira Gandhi on 2nd April 1970. Here again it was found that the Autonomous State within Assam could not function efficiently, hence the Meghalaya Legislative Assembly finally raised the demand for full statehood. On 10th November 1970 Indira Gandhi announced full statehood to the Autonomous State of Meghalaya, and the Parliament passed the North Eastern Areas (Re-organisation) Act, awarding full statehood to Meghalaya on 30th December 1971.

Meghalaya is the only State in North East India where the Autonomous District Councils cover the entire population of the state, thus critics are skeptical about “the relevance of Autonomous District Councils in Meghalaya”.

Historically, the major tribes of Meghalaya are the Khasis, the Jaintias and the Garos. These tribes have their tradition system of governance and set of rules and norms which guides the actions of the people of their tribes respectively.

3.2 Traditional Structure of the tribes

3.2.1 The Jaintias

The Jaintias had a comparatively developed structure of political governance where the Raja (locally called syiem) controlled the large tracts of land, which was divided into Elakas or Raids under a “Doloi”, each “elaka” consisting of a number of villages under a “Village Headmen”. Hence it is a three tier system of Councils or Dorbar, the first being the Raj dorbaror HimaDorbarof the Raja (or Syiem), the DorbarElakaof the Doloiland the DorbarChnongat the Wahehchnong level (of which all adult males of the village were members).²

3.2.2 The Garos

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

http://megplanning.gov.in/MSDR/historical_perspective.pdf

<https://socialissuesindia.files.wordpress.com/2012/10/sixthschedule.pdf>



3.2.3 The Khasis

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

S. No.	District Council Name	Revenue District	Structure of Elected Body
1.	Khasi Hills Autonomous District Council	East Khasi Hills Dist.	30 (29 Elected + 1 nominated) CEM + 5 EM
		West Khasi Hills Dist.	
		Ri-Bhoi Dist.	
2.	Garo Hills Autonomous District Council	West Garo Hills Dist.	30 (26 Elected + 4 nominated) CEM + 5 EM
		East Garo Hills Dist.	
		South Garo Hills Dist.	
3.	Jaintia Hills ADC	Jaintia Hills Dist.	19 (16 elected + 3 nominated) CEM + 5 EM

3.3 ADCs in Meghalaya - Development indexes in ADCs of Meghalaya :

Autonomous Council	Districts	Total Population		Sex Ratio		Average literacy	
		2011	2001	2011	2001	2011	2001
Khasi Council	West khasi hill	383,461	296,049	980	968	77.87	65.10
	East Khasi hill	825,922	660,923	1011	981	84.15	76.07
	Ri-bhoi	258,840	192,790	953	941	75.67	65.73
Jaintia Hills Council	Jaintia hills	395,124	299,108	1013	996	61.64	51.87
Garo Council	West Garo Hills	643,291	518,390	984	968	67.58	50.69
	East Garo Hills	317,917	250,582	972	966	73.95	60.59
	South Garo Hills	142,334	100,980	945	942	71.72	54.45

Source: <http://tribal.nic.in/WriteReadData/userfiles/file/Statistics/StatisticalProfileofSTs2013.pdf>

The state has recorded an impressive growth in Average literacy rate and Sex ratio in the past decade.

The ADCs in Meghalaya have been successful to quite an extent, as compared to ADCs in the other regions in protecting tribal rights, right to occupation, and right to ownership of property and land tenure system. The right to ownership of land under the jurisdiction of ADCs to any non-tribal cannot be granted.

However, the ADCs face challenges in terms of the treatment meted out to them by the State government, in dealing with matters for the provision of grants, approval of the legislative proposals which in a way reflects the suppression of ADCs by the State government functioning mechanism. There has been a tug of war between the Meghalaya government and the three ADCs over Paragraph 12A of the Sixth Schedule. The members of the ADCs in Meghalaya showed disapproval and discontentment, with the insertion of Para 12A, which states that all legislations passed by the State government shall take precedence over those passed by the councils.

In terms of Human Development Index Meghalaya has been ranked 7th among the eight North Eastern states. Meghalaya's first HDI report was published in the year 2009 which was the only report which indicated the status of the state, however it was considered as an incomplete report.³

³<http://meghalayatimes.info/index.php/front-page/11154-meghalaya-ranks-all-india-26th-and-7th-in-ne-in-hdi>



The “Meghalaya Human Development Report 2008” reflects clearly the sluggish rate of development of the state. The Report specifically points out the poor health sector of the state. There is a major dearth of reliable source of data which keeps a record of the development status across various sectors. A report gives a better scope of understanding the rate of development and helps one to make a comparison across sectors, districts and states.

In the context of protecting and safeguarding the rights of the tribal people and working for their development, the State government and the ADCs have been playing the blame game. The State government is of the view that the ADCs have been misusing the Government funds in the name of development activities; hence the government has cut down on the release of fund. Lack of planning, mismanagement of funds, further deterioration of the subjects under the ambit of the ADCs points out that functioning of the ADCs has gone wrong (Gassah, L.S, 1997).

The trend of BENAMI⁴ system is on the rise in Meghalaya, in this system the ownership of land remains under a tribal, but the property is rented mostly to non-tribals and profits are earned through rents. In this context, it has been observed that the non tribals have advanced to a significant extent in some of the major businesses of the region, for instance petrol pumps, shops, malls, etc. This trend has been increasing over the past years, and it is a sign of grave concern as there is a threat of conflict among the tribals and non tribals in the region, as in this process the non tribals has progressed more, compared to their tribal counterparts.

The ADCs in such a situation has the power and authority to keep a check on the growing BENAMI system for the protection of tribal rights. However, complaints and allegations have come to light where the members of the District Councils are accused of accepting attractive bribes, thus pointing towards the malfunctioning of the ADCs.⁵

In the process of demanding for more power, autonomy and financial independence it has been found that its relationship with the institution of traditional governance has deteriorated over time. The Traditional

System of governance such as 'syiemship' or 'dorbar' is losing its essence as the ADCs have gained prior attention. The traditional socio-political institutions are treated as mere subordinates as the ADCs are empowered under paragraph 3(i) (g) of the Sixth Schedule which states that the ADCs can regulate the appointment of chiefs and headmen in the region .

The traditional institution of local governance once enjoyed enormous powers in terms of decision making over various matters under their jurisdiction or “elakas”. But after the adoption of the new administrative system where ADCs were empowered, the traditional institutions have lost their essence. It has been argued that the state has not been able to benefit from ADCs unlike the Panchayati Raj system in other parts of rural India, which empowers the people by promoting local self governance.

Such situation gives rise to the question as to “whether the District Councils have been successful in preserving the identity of the tribal people or is it in reality destroying the traditional tribal polity?”

The question, regarding the relevance of the institution of ADCs in Meghalaya highlights the issue of duplicity of laws within the state, which is the consequence of having ADCs in a state with majority tribal population. Thus, there is a contest for power and overlapping jurisdiction over the subjects assigned under the state government and ADCs which have created immense confusion.

The existence of ADCs made more sense in understanding its relevance when Meghalaya was under the State of Assam, where major populations were the Assamese who differed from the tribal people of Meghalaya. Hence due to lack of coordination and cooperation among these institutions, development and progress rate in the state has been slow.

⁴BENAMI purchase: it refers to purchases in the false name of another person, who does not pay the consideration but merely lends his name, though in reality the actual title vests in another person who actually purchased the property and is earning profits from the property.

⁵http://shodhganga.inflibnet.ac.in/bitstream/10603/33089/8/08_chapter%20iii.pdf



3.4 Recommendation

The empowerment of the ADCs has lowered the importance of the traditional governance structure. In this situation instead of wrestling for power, autonomy and status in the region, the ADCs and the local institutions of governance should join hands and work together as both institutions share the common goals of safeguarding the identity, rights and welfare of their community people. In this process the position of the ADCs and the traditional systems get strengthened and allows them to hold a stronger position and bargain against the State govt in situations of dispute. Hence cooperation rather than competition among institutions can be a solution for the smooth functioning of the ADCs and traditional institutions.

Another major flaw, in terms of the traditional laws under the traditional institutions is that the already existing customary laws are not codified. There is a need to codify the customary laws to be functional in the present context, and come at par with the state legislations. In this state of affairs, the ADCs and the local institutions can coordinate and generate immense power and authority over certain subjects. For instance, the Village Court set up by the District Councils has no means to compel the attendance of an accused before it. This is the result of the ADCs relying more on legislations rather than its customary laws. When the customary laws are codified and interpreted uniformly it would be much more easy and convenient for the institutions to serve justice and function smoothly.

ADCs have also been granted several developmental functions by the Sixth Schedule. However, the two prime reasons which makes such power of performing developmental functions irrelevant are, firstly, lack of financial autonomy and secondly a Clause under the Sixth Schedule where the State government has the power to entrust development activities to the ADCs. Thus, lack of strong statutory support to the ADCs destroys the significance of conferring such powers to the ADCs. Consequently, for the ADCs to utilize its power of carrying out developmental activities would mean that it will have to maintain good relation and work hand in hand with the state government. In case it disapproves with the State mechanism, the ruling political party has sufficient power to create obstacles or hurdles in the smooth functioning of the ADCs. For instance, in Meghalaya as the ADCs has failed to manage the area of primary education due to lack of funds, as a result the State government has taken over the subject of primary schools and brought it under its control which is otherwise a subject under the ADCs.

This position of the Government of not granting the ADCs with the power to carry out developmental activities is justified by the government as they say that the government has been implementing welfare and developmental schemes through its specific departments and Block Development Officers to avoid duplication, wastage and misutilisation of funds by the ADCs.

Hence, one can say that the debate around the necessity of the provisions of Sixth Schedule for the State of Meghalaya requires prior attention. The state gained the provisions of Sixth Schedule when it was a part of Assam, when the Khasis, Jaintias and Garos were considered as the minority group in the non tribals dominated state of Assam. However after the attainment of statehood the need for the provision of provisions of Sixth Schedule is a debatable issue as the entire population of the state is covered under the three Autonomous District Councils.

B. Tripura

3.5. Tripura Tribal Areas Autonomous District Council

Tripura was a princely state ruled by Maharajas of the Manikya Dynasty, before it merged with the Indian Union. The Maharani of Tripura signed an agreement of merger and thus became a Union Territory without Legislature, the Legislature was installed in 1963 and on January 21, 1972 Tripura attained complete statehood. A question that arises in this context is that why the provisions of the Sixth Schedule were not implemented in the state of Tripura right after India gained Independence? It was post Independence and following the wars with Pakistan which led to large scale displacement and migration of population into the state, gave rise to the necessity for the Indian state to implement the provisions of the Sixth Schedule in order to protect the local tribal population from the growing non-tribal displaced population.



According to 1941 census, the tribal population in the state was 53.16%, however within the next ten years there was a drastic demographic change as the tribal population came down to 37.23%⁶ This revelation was a shock to the indigenous people of the land, thus giving rise to conflict among the tribal population and the Bengali migrants.

The first Tribal organisation known as the Jana Shiksha Samiti was formed in December 1945, when a group of educated young tribals took the initiative to launch a mass literacy campaign. However, the emergence of the Tripura Upajati Juba Samiti (TUJS) was observed as a major milestone in the political history of Tripura. It was when the people of the land lost faith on the Congress and Communist parties; they decided to form their own separate political party (Tripura, B, 2013).

The TUJS laid highest emphasis on four major points, which are:

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

Post independence, large tracts of lands were required to accommodate the displaced population thus the traditional spaces of the tribals was duly utilized. Furthermore the Tripura Land Revenue and Land Reforms Act of 1960 abolished the tribal land reserves that were created by The Royal Government of Tripura under Bir Bikram Kishore Manikya.

As tribal movements and militant movements gained momentum in this region demanding protection of tribal rights, the issue caught the attention of the Union Government. Thus the Tripura Tribal Areas Autonomous District Council (TTAADC) was initially set up in 1979 under the TTAADC Act 1979, which came in effect from 1st April 1985 under the purview of the Sixth Schedule of the Constitution of India. However by the time the TTAADC Act came to effect large areas of tribal land had already been alienated.

3.5.1 Structure of the TTAADC

TTAADC areas are divided into four zones with the zonal areas further divide into 32 Sub-zones, where the boundaries of the Zones are coterminous with Sixth Schedule area of Revenue Districts. In each Zone there is a Zonal Development Committee comprising of a Chairman of the elected Village Committees, the Member of District Council (MDCs), MLAs and the Executive Members of the District Council. There are 35 Rural Development Blocks in the State, out of which 19 blocks are within the Sixth Schedule area and 18 blocks of a mixed nature are within the jurisdiction of both the Sixth Schedule and Panchayati Raj Areas (State and District Administration, GOI, 2009). Administrative Structure of TTAADC⁷:

Administrative Structure of the TTAADC	
Autonomous District Councils	The District Council has 30 members:28 elected+ 2 nominated; 26 of the elected members seats are reserved from the Schedule Tribes
Executive Committee	9 members including the Chief Executive Member
Village Committee	527 elected village committees

3.5.2 Village Committee

The District Council has constituted 527 ADC Villages in the Sixth Schedule Area, co-terminus with Revenue villages. There are 4165 elected members in all for 587 of Village Committees, of which one third are women members. With effect from 2016 there is fifty percent reservation for women for the post of Chairperson of Village Committee. Reservations are made for Schedule Tribe and Schedule Castes in proportion to the percentage of their population. Chairpersons and Vice Chairpersons are elected by the Members of Village Committee.

⁶Census, 1941

⁷<http://arc.gov.in/15threport.pdf>



3.5.3 Achievement in Decentralised Planning

Tripura has been successful in putting in place a planning initiative named Gramodaya in rural areas and Nagarodaya⁸ in Urban. It is under this initiative that the State's development plan is prepared by merging it with the local plans which are prepared after taking in to account the propositions from the grassroots (Report of the Expert Committee, 2006).

The high spot about this particular initiative is the fact that development plans are prepared at the lowest level (village level) taking into accounts the aspirations and opinions of the community people and also keeping into account the available local resources. These village level plans from the Sixth Schedule and PRI areas are then scrutinized and integrated at the Block level as Block plans after consultation with the Panchayat Samitis for PRI areas and ADC Block Advisory Committee for Sixth Schedule Areas. Total Population, Sex Ratio and Average literacy rate across the districts under the TTAADC:

Districts	Total population		Sex Ratio		Average Literacy rate	
	2011	2001	2011	2001	2011	2001
West Tripura district	1,725,739	1,532,982	962	951	88.69	77.26
North Tripura district	693,947	590,913	967	951	86.82	72.99
South Tripura district	876,001	767,440	957	945	84.66	69.90
Dhalai district	378,230	307,868	944	935	85.72	60.93

Source:<http://www.census2011.co.in/district.php>

The table above reflects the increase in the population within a decade across different districts of Tripura, where West Tripura has recorded highest increase in population, while North Tripura has shown an improvement in the Sex Ratio. West Tripura also records highest in terms of average literacy rate which is even higher than the national average rate. Human Development Index from 1991-2001 of districts under the TTAADC:

Districts	Education Index		Health Index		Income Index		HDI	
	1991	2001	1991	2001	1991	2001	1991	2001
West Tripura	0.66	0.77	0.73	0.82	0.08	0.26	0.49	0.62
South Tripura	0.53	0.70	0.67	0.76	0.08	0.24	0.43	0.57
Dhalai	0.50	0.61	0.66	0.74	0.05	0.19	0.40	0.51
North Tripura	0.63	0.73	0.72	0.80	0.07	0.25	0.47	0.59

Source: Human Development Report, 2007

The above table makes a comparison between the districts under the TTAADC in terms of the human development index from 1991 to 2001. The table depicts West Tripura performing comparatively higher in education, health, income and overall human development index.

3.5.4 Drawbacks and Recommendation to the TTAADC

The process of decentralized planning is coordinated by the Planning and Coordination Department of the state, however since the Revenue District of the state comprises of Areas which comes under both the PRI and Sixth Schedule Areas there has been delay in the constitution of the District Planning Committee. This remains a major gap in the Decentralised planning system.

Another downside of the Decentralised planning system is the unclear role of the TTAADC. The Village committees, Block Advisory Committees and the Zonal Development Committees have a definite role in the preparation of the plans under the Gramodaya initiative, however the role and responsibility assigned to the ADCs is unclear.

⁸<http://www.nird.org.in/brgf/doc/expertreportsixthschedule.pdf>



3.5.5 Financial autonomy

The Ministry of Panchayati Raj 2006 report states that there exist a huge gap between the approved budget and the funds received from the State Government which has a direct impact on the execution of the functions and plans of the TTAADC thus creating economic blockade. Financial autonomy and the power to raise the returns from various resources in a way will help the council to carry out development functions smoothly.

3.5.6 Recommendations

Effective functioning of ADCs can be brought about when the Panchayati Raj model is replicated in certain spheres of the Autonomous District Council model. In terms of the fiscal affairs clarity of role of the ADCs requires immediate attention. There is a need to have a clear mapping of the activities undertaken at various levels of the TTAADC as followed in the PR system, like the Village Council and the Block Advisory Committees (Report of the Expert Committee, 2006).

As majority of the area in Tripura are under both the ADCs of the Sixth Schedule and the Part IX of the constitution, funds pertaining to programmes in these areas goes to both the administrative structures. Hence, it has been recommended that having a district link book which breaks down of the allocation of under various departmental heads in each body would ensure transparency for decentralized planning.⁹

The Expert Committee report suggests that when the TTAADC is divided into Zones and Sub zones it overlaps with Blocks, Tehsils and Block Advisory Committees, thus giving rise to conflicts among the head of departments of each bodies as there is lack of clarity of roles and functions to be performed by each bodies .

3.5.7 Alienation of tribal land

A major objective behind the creation of TTAADC under the Sixth schedule of the Indian constitution is to focus on the issue of land alienation of the tribals of Tripura. The influx of immigrants into the tribal belts of Tripura has brought about disturbing changes in the demographic structure of the state. However, the State Government has not granted adequate legal authority to the TTAADC to monitor and purview cases associated to land under its jurisdiction.

The aim behind Tripura Land Revenue and Land Reforms Act, 1960 was management of land affairs which would also include bringing in Land reforms. Section 187 of the Act assigns power to the Collector of the District for the restoration of tribal land which has been alienated to the non-tribals in order to protect tribal identity, as their identity, means of livelihood and customary practices are largely associated with land rights. Accordingly clause (b) of Sub-section 1 of Section 187 of the Act, it is the duty of the Collector to make an enquiry before granting permission to a member of Scheduled Tribes for the transfer of any land belonging.

In this case it has been observed that the Constitution has ensured strong Legislations in order to prevent alienation of tribal land. However such legislations can be made far more effective if the TTAADC had the same legal powers. Thus amendment to the Tripura Land Revenue and Reforms Act, 1960, in terms of vesting powers to the TTAADC instead of the District Collector in allotment of Government Khas land and permission to transfer land from tribals to non tribals has the scope yielding positive outcomes and can act as strong monitoring mechanism.

3.5.8 Lack of defined judicial powers

While the TTAADC has well spelt out legislative and executive and functions, it does not have any legislation regarding setting up of village courts for cases dealing exclusively in tribal affairs such as marriage, land, inheritance, etc. Para 4 of the Sixth Schedule, clearly states that the councils should constitute Village and District Council Courts in the Autonomous Areas to deal with cases pertaining to customary laws. This itself is a major failure on the part of the TTAADC, as they have failed to set out an efficient judiciary system which codifies the customary laws. Hence, the TTAADC should take up necessary steps to establish Village Courts and District Council Court and grant them judicial powers to serve justice in the society.

⁹<http://www.nird.org.in/brgf/doc/expertreportsixthschedule.pdf>



3.5.9 Representation of smaller tribes

The case of Tripura in the context of Sixth Schedule areas is a unique case as the Tripura Tribal Areas Autonomous District Council, as the entire state of Tripura has only one Autonomous Council which represents heterogeneous ethnic composition of numerous tribes in Tripura. There are 19 major tribes and various other smaller tribal groups existing in Tripura. It has been observed that due to the presence of large number of tribes codification of customary laws is a major challenge, as different tribes has different set of traditional laws in reviewing the social aspects such as marriage, divorce, succession, etc.

The setback in this situation is that in a state where large number of tribes co exist the smaller tribes do not find adequate representation under one Autonomous council, thus it becomes necessary to have an alternative set of mechanism of consultation to ensure that the smaller tribes find better representation in the council. An alternative to deal with this crisis is the Governor can nominate members of smaller tribes in rotation so as to ensure proportional representation for all the tribes.

C. Assam

The tribal population is 38, 84,371, which is 12.4% of the total population of the state. The tribal population of Assam constitutes 3.72% of total tribal population of the country. The State has registered 17.4% decadal growth of tribal population in 2001-2011 which is slightly higher than the overall decadal growth for the state. The overall sex ratio among tribal people is 984, which is marginally less than the national average of 990. The tribal population in Assam is predominantly rural with 94.4% residing in rural areas.

Assam is an ethnically diverse state with different languages, traditions and cultural practices; it is the melting pot of a large number of ethnic tribes and races, which have infused richness in the cultural tapestry of Assam. Major tribes of Assam are: Bodo (35.1%), Mishing (17.52%), Karbi (11.1%), Rabha (7.6%), Sonowal Kachari (6.5%), Lalung (5.2%), Garo (4.2%), and Dimasa tribes (3.2%). They constitute ninety per cent ST population of the state. The other tribal people in Assam are Deori, Hajong, Thengal Kachari, Khasi, Jaintia, Mech, Chakma, Mizo, Hmar, Kuki tribes, Naga tribes, Barmans (in Cachar), Man (Tai speaking), Khampti and Singhpho tribes. The spatial distribution of tribal population in Assam could be broadly classified under two groups: Hill tribes and Plain tribes. Districts under the ADCs with ST population of more than 25%:

District	Total Population	ST Population	Percentage of ST
DimaHasao	214,102	151,843	70.9
KarbiAnglong	956,313	538,738	56.3
Baksa	950,075	331,007	34.8
Chirang	482,162	178,688	37.1
Udalguri	831,668	267,372	32.1
Kokrajhar	887,142	278,665	31.4

3.6. BTADC

The Bodo movement evolved under various socio-cultural and political organizations. Boro Chatra Sanmiloni (BCS), Bodo Sahitya Sabha (BSS) All Bodo Students' Union (ABSU), Bodo Peoples Action Committee (BPAC), Plains Tribal Council of Assam (PTCA), Bodo Liberation Tiger Force¹⁰ (BLTF), and National Democratic Front of Boroland (NDFB) are the main organization under the aegis of which the movement evolved¹¹.

¹⁰BLTF- Bodo Liberation Tiger Force is a militant group, fighting for a separate state for the Bodo community

¹¹http://shodhganga.inflibnet.ac.in/bitstream/10603/28412/9/09_chapter%204.pdf



Prior to 1967, the nature of the Bodo movement was non-political, which implies the movement focused more on social-cultural and economic upliftment of the Bodo community and activities were limited to petitions and memorandums. The demand of the tribals living in the plains of Assam was minimal, that was representation in the law making bodies.

When Mrs. Indira Gandhi announced the reorganization of the State of Assam to meet the demand of the All Party Hill Leaders Conference for separate hill state, the tribal communities of Assam appreciated the decision. It was after this declaration on January 1967 the All Bodo Students' Union and the Plains Tribal Council of Assam was formed. Thereafter, a five member delegation submits a Memorandum to the then President of India Dr. Zakir Hussain explaining him the plight of the tribals in the plains of Assam, demanding full autonomy of the tribal inhabited areas.

In the year 1973 the demand for autonomous council was upgraded to the demand of "Union Territory", but the launch of a movement that demanded the adoption of Roman script for writing Bodo language around 1975 during Emergency slowed down the demand for a Union territory. The outcome of this movement was that rounds of discussions between Bodo leaders and Govt of India, Devnagri script were imposed on the Bodo against their will.

The PTAC and the Janata Party participated in the Assembly Election in 1978 and formed coalition government with the Janata Party. The PTAC made a shocking announcement that it wanted to renounce the demand for union territory and go ahead with the demand for Autonomous Council, this however led to split within the PTCA.

In 1986 the ethnic movement of the Bodos came under the leadership of All Bodo Students' Union. Under the President Upendra Kumar Nath, ABSU submitted a Charter with 92 point Charter of demands to the Chief Minister of Assam. There were three prime demands made in the Charter:

1. Creation of a separate state for the Bodos "Bodoland"
2. Setting up of district councils on the south bank of Brahmaputra
3. The inclusion of the Bodo Kacharis of Karbi Anglong under the Sixth Schedule of the constitution (Nath, M.K, 2003).

The demand for a separate state began in 1987 in a democratic way under the slogan "Divide Assam 50-50", however the movement turned violent by attacking PTCA members and non-bodo government officials. According to Sanjib Baruah, there were three prime barriers in creation of separate state¹²:

1. "Firstly the population that could be identified as Bodos were only 1.1 million or 11.5% of the total population on the Northern bank of Brahmaputra River, where the Bodos want a separate homeland."¹³
2. Although there are Bodo majority villages together there are no contiguous areas which could be declared as Bodo territory or Bodoland.
3. Moreover, further splitting Assam without the consent of the State Assembly as it was possible in 1960s and 1970s is not possible in the recent times".

In the year 1993, February the All Bodo Students' Union (ABSU) and the Bodo People's Action Committee (BPAC) signed the Bodo Accord with the Central and State Government to bring an end to the violent movement and disturbance in the region. Commitment for the formation of Bodo Autonomous Council was made in the Accord that highlighted that "BAC would comprise contiguous geographical areas between river Sankosh and Mazbat/ river Pasnoi". On the other hand specific territorial demarcation regarding jurisdiction was left open and suggested that "the government will scrutinize the list of villages submitted by the Bodo activists with 50% or more Bodo population which will be included in the Bodo Autonomous Council. In fact, for the purpose of providing a contiguous area even village with less than 50 per cent tribal population shall also be included" (Memorandum of Settlement, Bodo Accord, February 20, 1993).

¹²Nath, M. K. (2003). Bodo insurgency in Assam : New accord and new Problems, Strategic Analysis.

¹³Baruah, Sanjib, India Against Itself : Assam and the Politics of Nationally. 1999, Oxford University Press; New York.



The State Assembly passed this Act the same year, which laid a framework for the General Council. The General Council was supposed to be constituted by 40 elected members, out of which 30 seats would be reserved for Scheduled Tribes and granted powers to the BAC with functional autonomy over 37 subjects.

3.6.1 Outcome of the Bodo Accord 1993

Lack of appropriate structure in providing well-defined guidelines in the functioning and implementation of the BAC led to confusion and chaos in the region among the people. Due to insufficient funds and domination of the State government the BAC faced difficulty and in fact could not really exercise autonomy over the given subjects and the members of the Council felt betrayed. The outcome of the non implementation of the Accord resulted in massive violence and massacre and gave rise to two major militant organizations. These are the Bodo Liberation Tigers (BLT) and the National Democratic Front of Bodoland (NDFB). These militant organizations killed thousands of people and began mass ethnic cleansing campaign. As a result the new government in Assam in 2003 agreed upon and signed the Bodo Accord which led to the creation of Bodoland Territorial Council under the Sixth Schedule of the Indian Constitution.

3.6.2 Objectives of the Agreement:

The objectives of the agreement are: to create an Autonomous self governing body to be known as Bodoland Territorial Council (BTC) within the State of Assam and to provide constitutional protection under Sixth Schedule to the said Autonomous Body; to fulfill economic, educational and linguistic aspirations and the preservation of land-rights, socio-cultural and ethnic identity of the Bodos; and speed up the infrastructure development in BTC area (Memorandum of Settlement, Bodo Accord, 10 February, 2003). However, the case of Bodo Territorial Autonomous Council is unique in nature; in this case certain modifications had to be made to the provisions of the Sixth Schedule keeping in mind the non-tribals living in the BTC area.

3.6.3 Structure of the BTC

The Bodoland Territorial Council consist of 46 members of whom 40 are elected on the basis of adult suffrage, of whom 30 shall be reserved for the Scheduled Tribes, 5 for non-tribal communities, 5 open for all communities and the remaining 6 shall be nominated (including at least two women) by the Governor having same rights and privileges as other members. The Executive Council (EC) consists of 12 Executive Members including the Chief Executive Member (CEM) and the Deputy Chief Executive Member. Non-tribals are also given representation on the EC (Memorandum of Settlement, Bodo Accord, 10 February, 2003).

3.6.4 Provisions keeping in mind the Non Bodo population in the BTC area:

The new Bodo Accord signed between the Central government, State Government and the BLT includes provisions for the both Bodo and Non Bodo. Some of these provisions are as follows:

- A provision will be made in para 2(1) of the Sixth Schedule for increasing the number of members for BTC up to 46 out of which 30 will be reserved for Scheduled Tribes, 5 for non-tribal communities, 5 open for all communities and 6 to be nominated by Governor of Assam from the unrepresented communities for BTC area of which at least two should be women. Nominated members will have the same rights and privileges as other members, including voting rights (Memorandum of Settlement, Bodo Accord, 10 February, 2003).
- The rights and privileges enjoyed by a citizen of India in respect of their land at the commencement of BTC shall not be modified or extinguished .
- As per Clause 4.4 of the MoS, the language and medium of instruction in educational institutions will not be changed without the approval of the state government. It further stated that Bodo language would be the official language of the BTC subject to the condition that Assamese and English would also continue to be used for official purposes.
- Moreover, the BTC would be the only tribal council in the country to have reservations of seats for non-tribals.



In this context, the amendment in the Sixth Schedule of the Indian Constitution regarding increasing the representation of members in the BTC is not well defined, not in terms of number of members but in terms of defining “non tribal” or “open for all communities” and “unrepresented communities”. Paragraph 2, Sub para 1 states “Provided that the Bodol and Territorial Council shall consist of not more than forty-six members of whom forty shall be elected on the basis of adult suffrage, of whom thirty shall be reserved for the Scheduled Tribes, five for non-tribal communities, five open for all communities and the remaining six shall be nominated by the Governor having same rights and privileges as other members, including voting rights, from amongst the un-represented communities of the Bodoland Territorial Areas District, of which at least two shall be women”. Here further clarification is required in terms of concept like “non tribals”, what is the difference between “five seats for non tribals” and “five open for all communities”, who are the “non tribals” and “open for all communities” and “unrepresented communities” of BTC? The Sixth Schedule fails to define these above mentioned concepts which create confusion in understanding conceptual differences and the importance of the special provision of greater representation of the BTC members.

3.6.5 Challenges faced by the BTC:

A major achievement after the creation of BTC is that insurgent groups have laid down weapons and violent means of protesting against the Government. The process of formation of Bodo territorial Council involved the Bodo Liberation Tigers (militant outfit), it was a step forward in terms of cooperation among the militant group and the government. The cooperation and coming forward of insurgent group has helped in reducing insurgency related violent struggles in the region¹⁴ (Chandran. S, 2013). However, the creation of BTC gave an unsolicited reaction on the part of the Non Bodo population living within the BTC area.

However, the state has a long way ahead in dealing with challenges of corruption, rise of fresh insurgent groups, etc. Recently, several charges have been filed against the BTC administration against misutilisation of funds. In 2012 a case was filed against BTC for misusing public funds coming from the centre and failure in improving development activities and enhancing law and order in the four districts under BTC. In fact a Former BTC Executive member said that only a small group of people in the Bodo People's Front led BTC are enjoying the funds, depriving the entire Bodo population from the fruits of development in the region¹⁵.

“In 2015, Deputy Chief Executive Member of the BTC, Khampa Borgoyari alleged that every year the Assam Government releases funds at the end of the financial year, which makes it impossible for the Council to utilise the money on time. He said that as per the agreement for the constitution of the BTC, funds should have been earmarked as per population pattern. Though the population of the BTC area is around 12.19 per cent of the total population of the State, the Plan allocation is only around three to four per cent of the State's Plan outlay, he added”.¹⁶

“The BTC Deputy Chief complained instead of releasing the first installment of money on the first day of the financial year, the Assam Government does so only in September, while the second installment is released either in January or February, leaving very little time to execute the schemes. This year too, the first installment was released in September and no one knew when the second installment would be released”

Borgoyariis also states that “earlier the State Government used to release funds as grants-in-aid and the BTC had the power to decide in which department the money would be spent. But the rules have also been changed by the State Government and now it is specified where the money would have to be spent. Moreover, as per the new rule, the unspent money of a financial year cannot be carried over to the next year. If that is the case, the State Government should have released the money on time to give the Council enough time to spend the money and submit the utilisation certificates”.¹⁷

¹⁴https://books.google.co.in/books?id=pL9cCgAAQBAJ&pg=PA200&lpg=PA200&dq=Bodo+Territorial+Council+achievements+and+failures&source=bl&ots=twH0vd7urN&sig=yUF6JvluX2PHrPHrpw0gPm7HNS8&hl=en&sa=X&ved=0ahUKEwjKvrTZ4u_LAhUCKpQKHQ2fDXcQ6AEIKzAD#v=onepage&q=Bodo%20Territorial%20Council%20achievements%20and%20failures&f=false

¹⁵http://www.telegraphindia.com/1120528/jsp/northeast/story_15539387.jsp#.VxumW_I97IU

¹⁶<http://www.assamtribune.com/scripts/detailsnew.asp?id=nov0415/at055>

¹⁷<http://www.assamtribune.com/scripts/detailsnew.asp?id=nov0415/at055>



The key challenge faced by the BTC is the issue of the non Bodos living in the Bodo territory who are the majority in the area. Hence the main debate around the BTC is that the Bodo constitute only 25% of the population in the BTC and it is unfair to give special rights and status to a quarter of the population to rule over the rest (Nath, M.K, 2003).

If one observes the history of Accords it has been found that there are two prime outcomes of signing an accord and/or creating an Autonomous Council, these are creation of separate state like Meghalaya and Mizoram and guaranteeing cultural rights where the militant outfits surrender arms and violent movements. One also has to emphasize, on the importance of involving all stakeholders in the process of discussion and creating an autonomous council or signing an Accord.

For instance in the case of Bodo Accord while BLT surrendered arms and took responsibility of the BTC and its functioning, other militant outfit which is the NDFB continued with armed struggle as they were left out of negotiations unlike the BLT¹⁸ (Rajagopalan, S. 2008).

It can be said that in certain situations where Autonomous Council Status is granted it brings peace among the people as their demand for preserving their community and tribe is met, on the other hand such status to a particular group may mark the beginning of a new phase of ethnic conflict among others who in this process are left neglected.

3.7 KAAC

The Sixth Schedule of the Government of India Act 1935 classified tribal areas of the then Assam into three parts, which were the Excluded, Partially Excluded and Frontier Areas. Karbi Anglong was a part of the Partially Excluded area and was known as the Mikir Hills along with Garo Hills and parts of Khasi and Jaintia Hills. On the recommendations made by the Bordoloi Sub-committee the Mikir hills portion of the then Nagaon and Sibsagar districts was given Autonomous Council status. The district council in the Karbi hills was known as the Karbi Anglong District Council (KADC) and it was given the task of leading the people in the region towards the path a development with the autonomous powers provided under the Schedule VI of the Indian constitution.

More autonomy was granted to Karbi Anglong and vested the status of fully fledged Autonomous Council in April 1995. Initially the total membership of the District council at the beginning was 16 out of which 12 members were elected and 4 members were nominated. In the year 1970, the total membership of the District Council was increased to 20 with 16 elected and 4 nominated members. Again, in the year 1978, the total membership of the KADC was increased to 30 with 26 elected and 4 nominated members.

The district has three sub-divisions, Diphu, Bokajan and Hamren and 11 development blocks. There is an Executive Council for the KAAC, consisting of a Chief Executive Member and 10 Executive Members. There is a Speaker & a Deputy Speaker for the Council. Each village has a hereditary headman, who can be removed only through impeachment. While the council does not provide for intermediate level bodies in rural areas, it has constituted six Town committees.¹⁹

3.7.1 Latest Development

The Union Government and the Government of Assam signed a tripartite accord with the UPDS (United People's Democratic Solidarity), an insurgent organization operating since 1999 in the Karbi Anglong district of Assam. It may be recalled that since 1986, the people of Karbi Anglong have been calling upon the Union Government to implement Article 244A, the unique provision inserted in the Constitution of India through the Twenty-second Amendment Act, 1969. Article 244A provides for the formation of an autonomous State "within the State of Assam...comprising all or any of the tribal areas".²⁰

In 1986 Karbi Anglong had witnessed the beginning of the Autonomous State movement led by the CPI (ML)-backed Autonomous State Demand Committee. In 1995 the Union Government signed an interim agreement with the ASDC

¹⁸http://scholarspace.manoa.hawaii.edu/bitstream/handle/10125/3522/ps046.pdf?sequence=1&origin=publication_detail

¹⁹<http://mdoner.gov.in/node/752>

²⁰<http://timesofindia.indiatimes.com/city/guwahati/MoS-signed-to-upgrade-Karbi-council/articleshow/10874703.cms>



transferring some more departments to the District Council. The UPDS emerged in 1999 blaming the ASDC for its failure to achieve better autonomy of the State through and advocated armed struggle for the creation of a separate state under Article 3 of the Indian Constitution. In the name of this armed struggle, it unleashed a reign of violence, terror and extortion in the region, killing and intimidating activists and supporters of other political organizations and members of various linguistic and ethnic minority communities in the region.

It was when Congress came back to power in 2002, negotiations started between the UPDS and the Union government. Instead of separate state, the whole focus gradually shifted to a 'peace agreement', with the UPDS eventually promoting a new platform called PAPA (People's Alliance for Peace Agreement). Peace was the central theme of the latest tripartite accord of the Karbis, and it has been clearly stated that the UPDS will not only quit resorting to any forms of violence but also dissolve itself as an organisation within a particular time frame decided in the MoS after signing the MoS.

The Memorandum of Settlement provides for enhanced autonomy for the Karbi Anglong Autonomous Council in Assam and also special package for faster Socio-economic and educational development of the area for which the council has been set up. The major highlights of the MoS are:²¹

- Number of seats in the council to raised to 50 from exiting 30, of which six will be nominated by Governor
- Renaming of existing Council as Karbi Anglong Autonomous Territorial Council (KAATC)
- Village councils will be set up to make the democratic process at the grassroots level strong
- Assam will transfer 39 additional subjects to the council along with legislative and executive powers
- State Finance Commission (SFC) to be set up
- Measures for socio-economic, education, health and cultural development
- Improvement of road connectivity, water supply and supply of power
- One-time grant for capacity building in KAATC for preparation of detailed project report
- Rehabilitation of UPDS cadres
- Withdrawal of cases relating to heinous crimes shall be reviewed case by case

3.7.2 Achievements under the Karbi Council

KarbiAnglong is a district in Assam state of India. As par 2012 stats, there are total 2517 schools in Karbi Anglong district. This includes 2310 rural schools and 207 urban schools. When it comes to total no. of school by type, Karbi Anglong has about 2495 co-educational schools, no boy schools and 22 girls schools.²²

The District Primary Education Department is an inherent subject of the Karbi Anglong Autonomous Council. The main responsibility of the Department is to look after the Lower Primary Schools under the administrative control of the Autonomous Council.²³

1. Lower Primary schools: 1413, Mediums: 5 (English, Assamese, Hindi, Bengali, Boro)
2. Upgraded EGS Schools: 367
3. Karbi Medium Schools: 29.

3.7.3 Gaps in the administrative structure of the KAATC

A study conducted in the year 2007 on KAAC titled "Functioning of the Karbi Anglong Autonomous Council- Issues in the field of Governance", brings into people's attention certain gaps in the functioning of the KAAC. Some of the defects are as follows:

- Absence of coordination between the various mechanisms (State, Central and the Council headquarters) which are responsible for the smooth functioning of the KAAC.

²¹<http://pib.nic.in/newsite/PrintRelease.aspx?relid=77623>

²²<http://allindiafacts.com/school/assam/karbi-anglong.html>

²³http://education.karbianglong.in/index.php?option=com_content&view=article&id=99&Itemid=531



- The security scenario of Karbi Anglong was deemed volatile with the presence of several rebel outfits and their competing territorial contestations.
- Lack of effective governance system and corruption among the officials has resulted in deteriorating condition of the Council.
- The main goal behind the Sixth Schedule was protection and preservation of the cultural identity of the communities, however with time it has been observed that there is a shift from the focal point and there is competing force among different councils for higher autonomy, power, financial assistance, etc which excludes the major section and benefits a small group of elites.

3.7.4 Implications of such development

The UPDS/PAPA had begun with the key demand for a separate state, however later they celebrated the MoS as “a step closer to the Autonomous State.” When the tripartite accord, the Karbi Students' Association had convened a Karbi National Convention at Diphu on 3 November to discuss the question of Autonomous State and peace in Karbi Anglong, certain resolutions were adopted at the convention which highlighted the following five key parameters to determine the degree of autonomy for Karbi Anglong:

- the power of the elected representative body of Karbi Anglong to frame its own constitution (as opposed to the current practice of the Governor framing rules as advised by the Assam Cabinet),
- the power of the elected body to advise the Governor on subjects administered by it, equivalent to the power enjoyed by state governments under Article 163 of the Constitution of India,
- the power to make and pass its own budget and draw contingency fund and overdraft
- formation of a separate election commission to conduct elections.
- The formation of a separate Karbi Anglong public service commission to ensure that departments transferred to the council and administered by officers of Karbi Anglong cadre and not Assam cadre. The MoS does not fulfill any of these five parameters.²⁴

3.7.5 Political strategy

Instead of solving the pending core issues of Karbi Anglong and Dima Hasao districts and focusing on enhancing and strengthening the local governance mechanism which is the aim of the provisions of the Sixth Schedule of the Constitution, the political parties has chosen to play its characteristic game of 'divide, dither, deceive and rule'.²⁵

It has been observed, that the political system has created a tactic to tackle the demands of these ethnic communities from time to time without making an effort to find a permanent solution to these problems. The Government has every now and then initiated peace talks and negotiations with selective groups and organizations on selective issues without addressing the core agenda and inclusive participation of all sections of the people. Hence it can be said that unless the Centre, State and the Karbi people do not cooperate and coordinate, even the provisions of the Sixth Schedule can never bring guarantee peace and development. These ethnic communities of North-East has been a collective victim of the political party politics which has led to armed outfits and ethnic conflicts from time to time and empty peace deals.

When the separate state of Meghalaya was formed the newly educated Karbi elite realised the rudimentary nature of powers conferred for self-government and started agitating for a separate state, which received extensive support among the Karbis. But, the ruling political party, with its own Karbi leaders and their followers, succeeded in keeping things within control for their own selfish interests. Over the years, however, more and more powers were delegated to the Karbi Anglong Autonomous Council in order to mollify the rising agitations and demands.

After the implementation of the KAATC peace deal the questions which comes to one's mind are 'what would be the implication of such peace deal? Is it a temporary solution to deal with the growing demands and aspirations of the

²⁴<http://ijellh.com/karbi-anglong-journey-from-district-council-territorial-council>

²⁵<http://ijellh.com/karbi-anglong-journey-from-district-council-territorial-council>



karbis? Is it helping them to achieve development for their community members? The MoS has renamed the existing KarbiAnglong Autonomous Council to KarbiAnglong Autonomous Territorial Council.

However, experts have been facing obscurity in identifying how the “Territorial” tag has helped these communities in meeting their popular aspiration for greater autonomy without even having any kind of significant autonomy or power.

3.8 DHDAC

Like several movements by various ethnic groups for greater territorial autonomy, the Dimasa an ethnic group of Assam also started a movement for separate state for the Dimasas called the “Dimaraji”. Hence the Dimaraji would be the Dimasa inhabited region in the North East of India.

On the 17th November 1951, the district of United Mikir and North Cachar Hills was formed under the provisions of the Sixth Schedule to fulfill the aspirations of the Hill tribes by providing them with adequate opportunities for their socio-economic and cultural development. For administrative conveniences, the United Mikir and North Cachar Hills District was bifurcated and in 1970, two districts came into being, namely North Cachar Hills (now Dima Hasao) and Mikir Hills. DimaHasao was a Sub-Division of the District of Cachar and was administered as an Excluded Area till India attained Independence. The district headquarters of the Autonomous Council is situated in a small town named Haflong.

The Dimasas are the dominant tribe in the DimaHasao district among a heterogeneous population. However, over the years the dimasas have felt that state has ignored them and has failed to represent the interests of the people of dimahasao. As a result of such feeling of discontentment and step motherly treatment from the State Government, certain sections of the dimasas and more specifically the young members of the society began armed movement demanding separate state and autonomous administrative set up.

In 2012 the two factions of the Dima Halom Daogah- DHD (major insurgent faction demanding autonomy of the Dimasa headed by Dilip Nunisa) and the other headed by Jewel Garlosa signed a tripartite agreement with the Central Government and State Government to bring an end to violent movements. According to the MoS the North Cachar Hills Autonomous Council would be reorganized to Dima Hasao Autonomous Territorial Council granting more financial and administrative powers to the council.

3.8.1 Structure of Dima Hasao Council

- No. of Members – 27
 - a. Elected - 23
 - b. Nominated – 4
- Executive Committee – Chief Executive Member + 9 Council Members²⁶

3.8.2 Failures

A study undertaken by Triveni Goswami Vernal titled “Autonomous District Council a tool for diversity management: A boon or bane?” to understand the presence of an Autonomous Council have actually pointed out to certain evidences which brings into light the level of corruption and mismanagement of resources in the Dima Hasao Council are listed below.

Corruption

The Dima Hasao region is rich in natural resources and also huge sums of money from the central Government, however due to extensive corruption among various Government Departments development in the region can be said to be a non existing phenomena. Lack of coordination between the Government of Assam, Department of Planning and Development, Hill Areas Department and the ADC is reflected in the lackadaisical implementation of the development work.

²⁶<http://mdoner.gov.in/node/752>



Secondly, absence of a Committee for the purpose of evaluation and monitoring of the transfer of funds and the functioning of the council is another key reason which has resulted to rampant corruption. Some major instances of corruption have been shown below:

"In July 1992, the Council was given Autonomy; but soon it had to be superseded on the charges of gross financial irregularities. The Comptroller and the Auditor General's (CAG) Report (1985-1990) strengthen the belief that most of these demands for autonomy or separate states were meant not so much for decentralization of powers as to the distribution of Central funds amongst leaders who spearheaded these movements".

"In 2011, the National Investigation Agency (NIA) and the Central Bureau of Investigation (CBI) carried out an investigation on the Dima Hasao Autonomous District Council for the alleged misappropriation of over Rs.1000 Crore of Government funds. The Report stated that the amount was reportedly siphoned off to the coffer of the Dima Halam Daogah's Jewel Garlosa faction (DHD - J) for procurement of arms. NIA sleuths have arrested top DHD (J) leaders, a former chief administrator of the council and some government officials in connection with the incident."

Concentration of powers among a small group of people

The study conducted by Independent Researcher Triveni Goswami Vernal titled "Autonomous District Council a tool for diversity management: A boon or bane?", states that the members of the Autonomous Council very rarely contact or interact with the common people of the region, this implies that there is less or no scope for the interests, opinions and aspirations of the public to be considered in the process of planning development plans for the region. Moreover the people of the region felt that after all the Departments have been brought under the jurisdiction of the Council; the Council has become comparatively more autocratic in nature, which might further result to absolutism.

Low economic growth

The above-mentioned study as well highlights a key reason behind the stagnant economic growth and poor infrastructural development in the region. It suggests that huge chunk of the finances is invested in the Administrative set up, that is paying the government employees. According to an economist Dr. Gulshan Sachdev "since the States do not have to raise internal sources to meet their non-development expenditure, there has been a tendency to multiply administrative units and employees beyond reasonable requirements. Their main task seems to be simply to find ways to utilize Central funds in a routine manner. This sort of financial situation is neither desirable nor sustainable."²⁷ Although Sachdev makes this comment in the context of the State government, same argument can be put forward while observing the functioning of the Autonomous Council. Development Indexes of the ADCs in Assam :

Autonomous Councils		Total Population	Literacy	Sex Ratio
DimaHasao		213,529	78.99%	931
Karbi angling		965,280	72.53%	956
BTAD	Baksa	953,773	70.53%	967
	Kokrajhar	886,999	66.63%	958
	Udalguri	832,769	66.60%	966
	Chirang	481,818	64.71%	969

Source: <http://online.assam.gov.in/web/population-census/districts?webContentId=72111>

²⁷Sachdev, G. (2000). India's Northeast: Rejuvenating a Conflict-riven Economy in Gill, K.P.S & Ajai Sahni (Eds) Faultlines: Writings on Conflict and Resolution, New Delhi

3.8.3 Achievements under the ADCs

The literacy rate among tribal in Assam is 72.1%, which broadly mirrors the overall literacy rate of the state, and is well above the national average. However the gap between the male and female literacy rate (79% & 65% respectively) highlights that tribal women are still lagging behind on educational attainment (Census, 2011).

The overall economic condition of an average tribal household appears to be similar (or slightly better) than that of an ordinary household. In Census 2011, only 18.6% tribal household had reported absence of any durable household assets, which is 5 percentages lower than that of all social groups. However access to banking services and grid electricity are considerably lower. Human Development Index of Kamrup (M) district (Highest) compared with the Central ADCs of Assam:

	Health Index	Education Index	Standard of Living Index	Development Index
Kamrup (M) (Highest in Assam)	0.43	0.83	0.74	0.69
Districts under ADCs	0.26	0.74	0.36	0.45
Karbi Anglong				
Dima Hasao	0.29	0.79	0.36	0.48
Kokrajhar	0.05	0.67	0.42	0.38
Udalguri	0.05	0.67	0.40	0.373
Chirang	0.05	0.65	0.41	0.37
Baksa	0.05	0.71	0.39	0.387

Source: Compiled from the Economic Survey, 2012-2013 and Assam Statistical Handbook, 2012

The table above makes a comparison of the districts under the three Autonomous Councils of Assam with the Kamrup (M) district which has recorded the highest development rate in Assam.

3.8.4 Comparison of BTC, KAAC and NHDC

- The State Government provides funds to the BTC on the basis of its population. This is in addition to the Government of India's grant of Rs 500 crores. The allocation is released by the State Government in two equal half yearly installments; first in April / May and the second in September / October of the year. This fund is totally untied. Thereafter the BTC makes district wise allocations.²⁸ Compared to other two Sixth Schedule Councils of Assam, the size of fund at the disposal of the BTC is much larger.
- BTC is the only Council which has a few seats exclusively reserved for non-tribals, while the KAAC and NHDC has no representation of non tribals in the council and also the total number of seats in the BTC is more (50) while the KAAC and NHDC has 30 and 27 respectively.
- Again, with its jurisdiction extending over four districts, the "Divisional Cadres" of line departments have also been transferred to the Council.

It is clear that the BTC has been given greater administrative and financial powers and is treated on a different footing as compared to the Karbi Anglong Autonomous Council (KAAC) and the North Cachar Hills Autonomous Council (NHAC). The implication of granting greater powers to BTC has resulted in growing disparity and resentment among the people of the latter two Councils. There is a growing demand that there should be equality among the three Councils in terms of legislative and executive powers and functions.²⁹

²⁸<http://arc.gov.in/15threport.pdf>

²⁹<http://arc.gov.in/15threport.pdf>



D. Mizoram

As a result of British policy of annexation, an expedition in the Lushai Hills brought this area under one administration in 1898, which was subsequently divided into two parts: the North Lushai Hills and the South Lushai Hills. While the North Lushai Hills were placed under government of Assam; the South Lushai Hills district headed by a superintendent, was placed under the Chittagong division of Bengal Province. In 1898, both parts were amalgamated into one district and brought under Assam administration. For further administrative convenience along with other hill districts of Assam and empowered provincial legislature to make laws for them with overriding powers vested in the Governor (Shastri, Suri and Yadav, 2009) More restrictions followed under the Government of India Act 1935, which declared Lushai Hills along with other hill districts of Assam as the 'excluded area'. It gave Assam Governor the ultimate authority to administer with a Superintendent to carry on routine business. As India came close to independence, young educated class of Mizo youth emerged and began asserting their identity and challenged the authority of the chiefs. It took the form of Mizo Union in April, 1946, a political organization with proclaimed goal to counter the influence of the chiefs and autonomy or independence for people of the region (Bhaumik and Jayanta Bhattacharya, 2005).

From the 1940s Mizos began to resent the identity as backward people, and feared domination of the people from the plains and expressed a desire that they be attached to the Hills of Burma. After independence, an act of Parliament declared Mizoram a district of Assam and granted them a special status known as Lushai Hills Districts.

However the people of the Lushai Hills were not contented about the status granted to them and desired an independent and separate identity for its people. Different factors led to the political organization of Mizos, the key factor being the severe famine called 'Mautamin 1959, where administration failed to take necessary action. Thus resulting in the formation of the Mizo National Famine Front (MNFF), this acted as a substitute to the government, in terms of playing an active role during the period of famine. Consequently Mizo Union and United Mizo's Freedom Organization (UMFO) joined All People Hill Leaders Conference (APHLC) in 1960, while the Mizo National Famine Front transformed itself into a full-fledged political party called the Mizo National Front (MNF) in 1961, with Laldenga as its president.

In March 1966, the MNF declared 'Independence for Mizoram' and launched an attack on Indian security forces. As a result, the Mizos Hills were declared a 'disturbed area' in 1966 under the Armed Forces Special Powers Act of 1958. The central government dealt with it through political concession and developmental benefits. In 1972, after 20 years of struggle, Mizoram which was an autonomous district was declared as a Union Territory. On the other hand Laldenga continued his extremist activities (Shastri, Suri, Yadav 2009). Consistent negotiation on the part of Indian government resulted in MNF decision to give up arms and decided to work out a solution within the framework of Indian constitution. In the meantime, civil society initiatives and government officials opened another round of negotiations with MNF leader Laldenga resulting in an Accord in 1986 and known as the 'Mizoram Accord' which led to introduction of Mizoram Statehood Bill in Parliament and in 1987 granting statehood to Mizoram with Laldenga as its first Chief Minister in 1988 (Ghosh, 2014).

Following this, the Pawi-Lakher Regional Council constituted for the Pawis, the Lakhers and the Chakmas – was also dissolved and trifurcated into three regional Councils in 1972. The Lakher Regional Council and the Pawi Regional Council were re-named as the Mara Autonomous District Council and Lai autonomous District Council, respectively, with effect from May 1, 1989.

3.9.1 Administrative Structure

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



Mizo Autonomous Councils	Structure of Elected Body
Lai District Council	27 (23 elected and 4 nominated); CEM + 7 EM
Mara District Council	23 (19 elected and 4 nominated); CEM + 7 EM
Chakma District Council	17 (13 elected and 4 nominated); CEM + 5 EM

Total Population, Sex Ratio and Average Literacy Rate							
	Districts	Total Population		Sex Ratio		Average Rate	Literacy
		2011	2001	2011	2001	2011	2001
Chakma, Mara and	Lawngtlai	117,894	73,620	945	899	65.88	67.16
Lai Council	Saiha	56,574	61,056	979	954	90.01	82.90

Source: <http://www.census2011.co.in/census/district/393-saiha.html>
<http://www.census2011.co.in/census/district/392-lawngtlai.html>

The table above depicts a comparison between the three factors Total population, Sex Ratio and Average Literacy Rate from 2001 to 2011 across the two districts under the jurisdiction of the Autonomous Councils of Mizoram.

Human Development Index, 2013				
Districts	Education Index	Health Index	Income Index	HDI
Lawngtlai	0.717	0.550	0.386	0.551
Saiha	0.828	0.643	0.446	0.639

Source: <http://www.ihdindia.org/Mizo-report-IHD.pdf>

The education department in Mizoram has given outstanding performance over the years; it is ranked first among the North Eastern States. However, the challenges faced by the District Councils of Mizoram are similar to most of the problems mentioned above in terms of insufficient funds released by the State Government and shortage of financial support. The Autonomous Councils of Mizoram has been thus demanding direct funds from the Central Government. Another major issue faced by the ADCs of Mizoram is as we know that the regions under the Councils have a small population thus the funds received from the central Government is also insufficient as population is the basis of the amount that the Councils receive for their developmental works. In this context BTC gets the highest amount of funds from the Centre. Thus the members of the Councils are of the opinion that the basis for deciding the amount of funds to be given out should not be population but should be based on backwardness of the region.

The members of the councils also recommend that the funds should be directly transferred to the Village Councils rather than the District Councils and build stronger grass root level institutions.

In addition there is a growing demand for the creation of Regional Councils which will enhance the representation and tackle the diversity of tribes in the region. 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 Council which can be decided only through a process of political consensus.³⁰ Besides representation of other minor tribes, women's representation as Council members and reservation of seats for women members has also gained momentum over the time.

³⁰<http://lawmin.nic.in/ncrwc/finalreport/v2b2-9.htm>



CHAPTER - IV

MAJOR ISSUES & KEY CHALLENGES

As mention in the previous chapters granting special provisions to certain minority tribal groups have led to further demand by other groups for such provisions under the Sixth Schedule. This has created disparity among the people residing in those zones where a particular group has been granted the status of Autonomous Councils while others have been deprived of it. This has resulted in the rise of conflict between different groups, for instance, among tribal vs. tribal and tribal vs. non tribal.

Instances of such conflicts among diverse communities that have been the result of exclusion from the special legal provisions are listed below:

The key challenge faced by the BTC is the issue of the non Bodos living in the Bodo territory who are also, the majority in the area. Hence the main debate around the BTC is that the Bodo constitute only 25% of the total population in the BTC and it is unfair to give special rights and status to a quarter of the entire population to rule over the rest (Nath, M.K, 2003).

This gave rise to conflicts among the Bodo tribals and the Non tribals residing within the BTC, ethnic movements and violence have left the region scared. Various Non Bodo organisations have joined hands against the Bodo Accord and have shown disapproval in the form of violent agitation and threatened the government to cancel the Accord.

Evidences have shown, that from time to time Non Bodo communities and tribes have been preparing to form separate outfit to protect their own communities within the region, the Bodo Accord have thus left them feeling insecure. Hence the government and other agencies need to win the confidence of the Non Bodo tribes within the region and bring a sense of security and belongingness among them to deal with this sensitive issue.

Thousands of people who have been victims of ethnic conflict are living in the relief camps since 1990s, especially after 1994 and after the recent clashes in the 2012. The restoration of harmony in the lives of these people, with suitable means of livelihoods would bring back peace and stability in the region. In addition to this, the youth of the BTAD region should be assisted and introduced to self employment schemes and given skill development trainings and absorbed in various developmental activities of the region. This will keep them involved and give them a sense of responsibility in building the area.

Assam has several tribal communities like Rabhas, Misings, Tiwas, Adivasis, Raj Bongshis, etc, who have been demanding special status, giving a particular community special recognition over the others leaves an intense scope for more ethnic conflicts and struggles. Thus studies have shown that the councils which are formed on the basis of territorial arrangements are difficult when it comes to implementation of the Accord, because no single community or tribe lives in a single concentrated area. Hence strong policy measures needs to be taken while dealing with situations like the BTC, where territorial councils for particular tribe is created in areas where diverse groups reside together.

Similarly, in the case of Karbi Anglong, the non karbi population in the region have felt that granting Autonomous Council status to the Karbi Community was an act of injustice towards the non karbi population residing within the region.

In the year 2013 a terrifying incident took place at Diphu which is the headquarters of Karbi Anglong which clearly reflects the feeling of resentment among the Karbi and the Non karbi community. "An Assamese resident of Diphu had hired an auto-rickshaw driven by a Karbi youth, perhaps representing a more impatient and intolerant Karbi generation, to take him and his young son to the market. Upon arrival at the destination an altercation ensued over the fare, a minor everyday occurrence. Suddenly, the driver shouted in rage: Are you Karbi or Assamese? At this, several other young men among the bystanders drew near and started beating up the Assamese youth who was just 20 years old. The father, who had been in Diphu for a long 23 years, tried desperately to save him, but found no one to help. He



called the nearby police station and a police jeep arrived soon after. By that time, passions had been inflamed, and the police also lost their nerve in the presence of a huge gathering on the spot, and left the place in a hurry. The father's wails had no effect. His young son, Jhankar Saikia, was beaten to death before his eyes, and nobody intervened to save him. Yet, he was a familiar figure in the market and called every shopkeeper by his name. Condemnation by the press and public in Assam reached such a pitch that the chief minister of Assam was forced to order stricter management of law and order. But the culprits were not brought to book.³¹

In the context of Dima Hasao as well, similar phenomena has been observed where the Non Dima Hasao like the Hmar tribe living within the territory of the Dima Hasao Autonomous Council has raised their demand for the formation of a separate council for the non dimahasao community members. The General Secretary of the Indigenous People Forum, a non-Dimasa platform raised the concerned that the non Dimasa have been deprived of their rights in various ways like getting jobs or in the process of development. Moreover it was decided at the creation of the NC Hills Autonomous Council in the year 1952 that there will be equal number of representatives in the council from both Dimasa community and non Dimasa community. However there have always been more representatives from the Dimasa Council and currently the council has 17 Dimasa and 11 non Dimasa members. The electoral polls published by the Deputy Commissioner's office 2008 illustrates that the Dimasas constitute only 35% of the population, hence conceding them with special provisions have left the non dimasas feeling insecure and the urgent need of safeguard their rights in their own place.³²

In the year 2003, the NC Hills and Cachar districts have witnessed one of the worst and longest spell of ethnic violence among the Hmars and the Dimasas resulting in major loss for both the communities and the growth of Assam. The conflict had resulted in burning of as many as 1146 houses also the displacement of about 6619 persons in both the N C Hills and Cachar districts.³³

Such sensitive situations, when not dealt with utmost care by the administration of the State, can led to this sort of disastrous outcome not only in terms of loss of life, but it also brought about a halt in the process of production, agricultural activities, infrastructural projects, investment projects and tourism sector as well leading to the backwardness of the region.

From the above study it has been observed that there is interesting and distinctive variation in terms of historical background, the struggle of the people for separate identity and statehood, the complexity in the structure and representation of the aspirations of the tribes in order to safeguard their identity, rights and culture and the drawbacks of the ADCs across the states.

As mentioned above the entire North Eastern India and more specifically Assam is the melting point of a large number of tribes which has enriched the culture of the region to a great extent, however in terms of administration and protection of the identity of these tribes and communities, from the changes that has been taking place in the demographic structure due to various socio-political and economic factors of development is a major challenge for the law makers.

To begin with, we take the case of Meghalaya which is the only State in North East India where the Autonomous District Councils cover the entire population of the state, thus critics are skeptical about "the relevance of Autonomous District Councils in Meghalaya". The three Autonomous Councils of Meghalaya that is the Khasi, Jaintia and the Garo Councils encompasses the entire population under its jurisdiction unlike any other Autonomous Councils. Compared to any other state, Meghalaya has been able to sustain its local traditional institutions of governance such as the Syiems, Nokmas and Dorbars or the tradition of village headmen and its customary laws. However, people of the region are of the opinion that with the introduction and empowerment of the Autonomous Council arrangement of governance under the Sixth Schedule these traditional structures have been eroded. On the other hand, in the context

³¹<http://communalism.blogspot.in/2014/03/a-note-on-recent-ethnic-violence-in.html>

³²<http://e-pao.net/GP.asp?src=12..311012.oct12>

³³The Sentinel, dated 7th May, 2003



of granting power to the Autonomous District Councils under the purview of the Sixth Schedule, people have criticized and showed discontentment with the insertion of Para 12A, which states that all legislations passed by the State government shall take precedence over those passed by the councils.

4.1 Financial autonomy

Hence, due to the insertion of Para 12A in the Sixth Schedule of the Constitution, power given to the Autonomous Councils by the Indian Constitution stands meaningless for all the Autonomous Councils. The members across all the ADCs in the North Eastern states share the same view that the ADCs are at the mercy of the State Government in terms of Financial Autonomy and decisions regarding undertaking of developmental activities in the region. Similar is the case with the Karbi Anglong Autonomous Territorial Council, Bodo Territorial Council, Dima Hasao Autonomous Territorial Council, Tripura Tribal Areas Autonomous District Council and the Chakma, Lai and Mara Autonomous Councils of Mizoram. In the case of TTAADC, Ministry of Panchayati Raj 2006 report states that there exist a huge gap between the approved budget and the funds received from the State Government which has had a direct impact on the development of these tribal communities. On the subject of the ADCs in Assam also, huge sums of funds are received by the State Government from the Central Government for the purpose of Development, however due to extensive corruption among various Government Departments development in the region can be said to be a non existing phenomena. Lack of coordination between the Government of Assam, Department of Planning and Development, Hill Areas Department and the Autonomous is reflected in the lackadaisical implementation of the development work. Here BTC receives the highest amount of funds from the Central Government followed by Karbi Anglong and the rest, nevertheless absence of an efficient Committee for the purpose of monitoring, evaluation and keeping a record of the funds received and utilized has led to extensive corruption and underdevelopment of these regions under the Autonomous Councils.

While members of the Chakma, Lai and Mara Councils of Mizoram are of the view that funds coming from the Central Government is not sufficient enough, and believes that funds should be granted to different councils on the basis of backwardness of the councils and not on the basis of population.

In this context the State Government has immense potential in hindering the functioning of the ADCs. The State government justifies this position by stating that the ADCs have been holding on to their traditional roles of protecting the tribal's identity in the region which abstain the state from various developmental activities. The ADCs have small amount of funds which they receive as taxes and land revenues, however they have to depend on the Central government for more funds. As the funds are transferred to the ADCs via the State Government, the State government has the power to release funds from the Centre to the ADCs. Hence it can be said that the powers given to the Autonomous Councils in terms of legislation under the Sixth Schedule do not correlate with the degree of Financial Autonomy it has, for the execution of various developmental plans.

4.2 Representation

In terms of representation of members in the Autonomous Council body BTC is the only council which has 46 members, which is the highest representation and also the only council which has members from the Non tribal community represented in the Council, while the KAAC has 30, DHADC has 27, KHADC has 30, JHADC has 19, GHADC has 30, TTADC has 30, Lai ADC has 27, Chakma ADC has 17 and Mara ADC has 23 members. It has been observed that from time to time different ADCs have demanded increase in the number of members in the ADCs. For instance, the entire state of Tripura has only one Autonomous Council which represents heterogeneous ethnic composition of numerous tribes in Tripura. There are 19 major tribes and various other smaller tribal groups existing in Tripura, however the number of members in the council is 30, which is an indication that there is inappropriate and absence of representation of the aspiration many small groups in the Councils.

On the other hand, unlike the Panchayati Raj System where the Seventy Third Amendment allows reservation of one third of all the Panchayat seats for women at different levels, both Fifth and Sixth Schedule has no mention of Women



representation and gender equality. Also enhancing representation of the minority tribal communities in the Indian Parliament (MPs, MLAs) would draw attention on the issues of the region. The collective strength of the North Eastern states in the Lok Sabha is 24 of the total 543 member house, which has resulted in neglect of the issues the region.

4.3 Protection of tribal land

It is believed that relationship to land is the basis of tribal or indigenous identity and that the culture and identity of indigenous people cannot be preserved without maintaining control over land and natural resources, as these factors to a large extent determines the lifestyle and culture of the indigenous people.

Generally tribals or indigenous culture practices community land ownership, while some other tribes practice individual with clan ownership, however modern land relations and formal law recognizes only individual ownership of land.³⁴ It was under the colonial rule that the process of turning land into commodity began for their own interest, thus through the Permanent Settlement Act of 1793 and Land Acquisition Act of 1894 the process began. The then Assam Land and Revenue Regulations 1886 (AL&RR) that was an extension of the Settlement Rules of 1870 and 1883 made tribal land alienation an easy process. Hence in the name of development post independence large tracts of lands were given away to the immigrants and other settlers. By the late 1960's this resulted in loss of over 60 percent of tribal land to Hindu Bengali migrants from Bangladesh who encroached on Community owned resources and land. As a consequence of this the tribal proportion in Tripura has declined from 58 percent in 1951 to 31 percent in 2001. Similar is the case in Assam, where the Bodo territorial region has paid heavily as the consequence of such phenomena. It is because of the attacks on tribal land in most States there has been growing insecurity among the people of the region who now view the rising number of immigrants as a threat to their socio-economic and cultural identity. This is also the prime reason which gives rise to ethnic conflicts and political instability in these regions (Fernandes & Bharali, G. 2007).

While, in the Khasi Hills in 1986-87, 1,452 non-tribal traders were carrying on trade without valid trading licenses from the KHADC. In the Jaintia Hills, the JHADC had issued more than 400 numbers of trading licenses to non-tribal traders; but from the available information there appears to be quite a number of non-tribal traders (both local and from outside the district) carrying on business in Benami.³⁵

Regulation of immigrants is an important step which has immense potential of reducing ethnic conflicts, for instance, the conflicts occurring in Bodoland and Tripura are between the local tribes and the growing illegal Bengali Muslim population. Over the years several initiatives in terms of identity cards, work permits, NRC has been made however when there is absence of political will such measures cannot be implemented with full commitment. The pressure of creating electoral vote banks by the political elites is higher compared to the need to bring about welfare measures among the tribal communities.

Thus, in terms land alienation, restoration of alienated lands to the tribal population will act as a measure in prohibiting ethnic violence³⁶ and well as preserve the cultural identity of the indigenous people. Strict measures which prohibit transfer of tribal land to outsiders should be taken. Lack of efficient monitoring system and dynamics of power politics has given way to such phenomena of alienation of lands. Strong measures of evaluation and monitoring by the ADCs under the purview of the Sixth Schedule is much necessary at this moment in order to prevent further damage of the regions and its indigenous people thereby promoting harmony and development in the region.

4.4 Codification of customary laws

³⁴<https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwiO2cOexqfMAhUCm5QKHfmwByMQFggbMAA&url=http%3A%2F%2Fwww.nesrc.org%2FStudies%2FCULTURE-SHILLONG.doc&usg=AFQjCNGCcQ4GgMN61a2ZwWWFq2shEUtbGA&sig2=49tveN9sEwEteXNWiCaoGg&bvm=bv.119745492,d.dGo>

³⁵http://shodhganga.inflibnet.ac.in/bitstream/10603/33089/8/08_chapter%20iii.pdf

³⁶<http://www.satp.org/satporgtp/publication/faultlines/volume12/Article3.htm>



Documentation and codification of traditional laws is an essential step, there is a need to codify the customary laws to be functional in the present context. If under the ADCs the customary laws can be codified and brought into practical use, the actual aim of the Sixth Schedule that is protection of tribal cultural identity will be fulfilled.

The Law Research Institute, Gauhati High Court has compiled several such customary laws and practices, which are of immense value from the point of view of historical ethnography.³⁷ Some of these compilation and reports are:-

- i. The customary laws and Practices of the Dimasa of Assam
- ii. The Customary Laws and Practices of the Garos of Meghalaya
- iii. The customary laws and Practices of the Wancho of Arunchal Pradesh
- iv. The Customary Laws and Practices of the Mizo
- v. The customary laws and Practices of the Thankhul of Manipur
- vi. The Customary Laws and Practices of the Ao of Nagaland
- vii. The customary laws and Practices of the Riang of Tripura
- viii. The Customary Laws and Practices of the PatiRabha of Assam
- ix. The customary laws and Practices of the AngamiNagas of Nagaland
- x. The Customary Laws and Practices of the Apatani of Arunachal Pradesh
- xi. The customary laws and Practices of the Tripuri of Tripura
- xii. The Customary Laws and Practices of the ThadouKukis of Manipur
- xiii. The customary laws and Practices of the Chakma of Mizoram

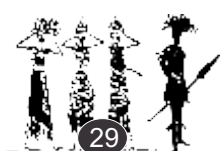
These customary laws prevailing in these tribal societies govern acquisition, disposition and inheritance of property . Nevertheless, with the growth of population and changing economic, political and sociological environment, these customary laws have undergone changes from time to time, some of which have received larger acceptance in the society as well as judicial approval. These laws have been modified under judicial intervention particularly by the Gauhati High Court adjudications. The Sixth Schedule of the Indian Constitution grants the ADCs the legal authority for the implementation and application of these traditional laws for the purpose of preserving and safeguarding the unique cultural identities of the tribes.

However, in the case in the context of Meghalaya where the state government, the ADCs and the traditional institutions are having conflicting relations one competing with the other for the imposition of power.

Even in the case of Tripura the opposition parties that is the Indigenous Peoples Front of Tripura (IPFT) and the Indigenous Nationalist Party of Tripura (INPT) has demanded for legislation in the ADC to make the customary laws applicable for the 19 tribes under the TTAADC in 2010. However, "the ruling CPM had opposed to application of customary laws as these laws will directly infringe upon the democratic process and long-accustomed way of life of the tribal communities. Senior CPM tribal leader and executive member of ADC, Radhacharan Debbarma, was of the opinion that the laws were in vogue in the distant past when the tribal communities of Tripura were in a state were lagging behind. But over the past six decades, the scenario has changed and these laws have long ago been superseded by the laws of the land." ³⁸ Thus recognition, documentation, codification and implementation of customary laws are an important function of ADCs in the protection of tribal identity.

³⁷http://www.worldwidejournals.com/ijar/file.php?val=December_2012_1357020524_becca_26.pdf

³⁸http://www.telegraphindia.com/1100125/jsp/northeast/story_12025300.jsp



4.5 Concentration of powers

It has been observed that the autonomy and power of the District Councils lie in the hands of a small group of elites who govern the functioning of the Autonomous District Councils. There is clear lack of interest and pursuit on the part of the District Council members in taking initiative and planning and monitoring developmental activities at the micro level. The absence of involvement of local stakeholders in the process of development and in the decision making process has deprived the common masses from their democratic rights. Thus, the tribes for whose welfare these Autonomous Councils have been created have not been able to benefit from such administrative arrangement.

The Sixth Schedule also vests enormous powers to the Governor. The legislations passed by the Parliament and State Legislature are consequentially applied to the ADCs. Nevertheless the Governor has the command over the legislations, whether the legislations would apply to the ADCs or the laws need modifications. The Governor, however, acts on the advice of the State Cabinet while giving power to the District Councils to make laws on certain subjects under its jurisdiction. Members of the various ADCs, in this context are of the opinion that the Governors are mere puppets in the hand of the Ministers.



CHAPTER - V

RECOMMENDATIONS & CONCLUSION

The Sixth Schedule in the past decades has been successful to a certain extent in preserving the tribal identity and attained statehood for some of the tribes who had been struggling for separate state in the North Eastern part of India. However, in the present context where the states have been witnessing various changes in terms of development, up-gradation of administrative set ups, welfare programmes and policies and also changes in the demographic structure it is time that the provisions under the Sixth Schedule needs to be enhanced in order to cope up with the changing mechanisms and demands of the local communities.

5.1 Clarity of roles in the Legislation process

Measures should be taken in order to ensure that the Autonomous Councils have well defined legislations which clearly identify the powers of the village level bodies, release of funds by the government, transparency in the allocation and utilization of funds. Stringent laws regarding frequent reviewing of financial position of the ADCs like the Panchayati Raj System will enhance the status of the ADCs.

5.2 Inclusive development and Capacity Building

Introduce ideas from the PRI setup to promote inclusive development and local self-governance. Strengthening and empowering the local self-governance, which would also include Village and Tribal Councils. In this case empowering civil society bodies would contribute immensely in the monitoring of the developmental activities and progress rate across diverse sectors undertaken by the councils. Traditional forms of governance must be promoted with self-governance since it has been observed that there is clear political failure of local governing elites. In addition, inclusion of democratic elements like gender justice and adult franchise should be built into these institutions to get a positive outcome, which will also make this platform of governance broader and capable of dealing with a changing world at both the national and international levels.³⁹

The members of the ADCs should be trained, as capacity building of the ADCS members is vital for healthy governance and helps one to be more alert about the responsibilities assigned and the overall functioning of the ADCs.

A major gap in the functioning of the ADCs is the lack of interaction at the village and field level. There is an absence of efficient village councils or regional councils. This is the crucial tier of the Panchayati Raj system that needs to be implemented at the village level. The functioning of the ADCs should be amended to make them 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 goanburas, without giving the latter any primacy. The village councils, as in the case of the DCs, should be elected every five years. Local communities should be promoted to take charge of their lives, which would make the Autonomous Councils a much more effective tool of administration and governance

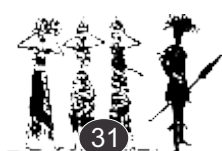
5.3 Creation of effective monitoring mechanism

Creation of effective watchdog with the powers of Lokayukt in monitoring and keeping a track of the activities undertaken by the ADCs should be given priority as this will help in maintaining transparency in matters of finance and other developmental plans and activities.

National Immigration Commission should 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 as illegal immigrants has been a major threat to the stability in the region and more importantly lack of regulation in terms of immigration is even worst.⁴⁰ Local communities can be involved in the monitoring of our borders, in association with the local police and Border Security Force, this cab act as a solution to the above-mentioned problem.

³⁹<http://lawmin.nic.in/ncrwc/finalreport/v2b2-9.htm>

⁴⁰<http://lawmin.nic.in/ncrwc/finalreport/v2b2-9.htm>



The provision of Autonomous council under the Sixth Schedule of the Indian Constitution is an effective tool of governance, which also has immense potential for protecting and safeguarding the cultural identity of the diverse tribal groups in the North East India combined with social and economic development. Hence the provisions made under the Sixth Schedule should be implemented and utilized to the maximum to meet these aims.

Awareness among the common people living in the Autonomous District and Regional Councils, regarding their rights over the region and the purpose behind the Sixth Schedule, will yield positive outcome in the long run and shall help in avoiding the instability and ethnic disturbances created or inflicted upon by political forces.

Regular and assured financial assistance from governments and efficient monitoring system are two major factors which will determine the success of such provisions, along with awareness and active participation of the other stakeholders.

The introduction of o Autonomous Council Models in tribal regions of other parts of the country is worth exploring and debating. After all, autonomous councils, notwithstanding their pitfalls have given tribal communities space to govern themselves beyond their villages. They have been thus able move forward in social and economic development and at the same time able to preserve their language, culture and tradition. In short there has been development without the loss of identity. The tribes in other parts of India are faced with problems of development as well identity. Hence it is worth exploring extension of such systems in other parts of tribal India.



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