



POLITY

Scheduled and Tribal Areas

Introduction

India is home to diverse tribal communities, commonly referred to as Scheduled Tribes (STs) or Adivasis, each with distinct cultures, languages, and traditions. The government has identified regions with significant tribal populations as **Scheduled and Tribal Areas**, classified as **Fifth and Sixth Schedule areas**, governed by special provisions under **Article 244 of the Constitution**.

Fifth and Sixth Schedule Areas

Fifth Schedule	Sixth Schedule
Article 244(1) applies to Scheduled Areas and Scheduled Tribes in states other than Assam, Meghalaya, Tripura, and Mizoram.	Article 244(2) applies to tribal areas in Assam, Meghalaya, Tripura, and Mizoram.

Management of Scheduled Areas

Scheduled Areas in India are unique due to the presence of socially and economically disadvantaged tribal communities. These regions require special attention, leading to deviations from standard administrative procedures. The **Union Government** plays a pivotal role in improving conditions in Scheduled Areas.

Key Facts

- Scheduled Areas constitute **11.3%** of India's total land area.
- Scheduled Tribes represent approximately **8.6%** of India's population (2011 Census).

Criteria for Declaring Scheduled Areas

a. Dhebar Commission Criteria

1. Majority tribal population in the region.
2. Compact and reasonably sized area.
3. Administrative viability (district, block, or taluk).
4. Economic backwardness compared to neighboring regions.

b. Bhuria Commission (2002) Recommendation

- Areas with **40% or more tribal population** (based on the 1951 Census) should qualify as Scheduled Areas.

Constitutional Oversight

Under **Article 339** of the Indian Constitution, the Union Government is entrusted with the management of Scheduled Areas and the welfare of Scheduled Tribes.

Key Features of Administration in Scheduled Areas (Fifth Schedule)

1. Declaration of Scheduled Areas

- The **President** has the authority to:
 - Declare an area as a Scheduled Area.
 - Modify its boundaries or revoke the designation.
 - Create new Scheduled Areas.
- This is usually done after consulting the **State Governor**.

2. Executive Powers

- State executive powers extend to Scheduled Areas, but the **Governor** has special responsibilities, including:
 - Submitting an **annual report** to the President on the administration of Scheduled Areas.
 - Acting under the guidance of **Central Government directives** concerning these areas.

3. Tribes Advisory Council (TAC)

- **Mandatory** for states with Scheduled Areas to establish a **Tribes Advisory Council (TAC)**.
- **Composition:**
 - Headed by the Chief Minister.
 - Comprises 20 members, with **three-fourths representing Scheduled Tribes** in the legislative assembly.
- States without Scheduled Areas but with Scheduled Tribes may also establish a TAC if directed by the President.

4. Applicability of Laws

- The **Governor** has discretionary powers to:
 - **Exempt or modify laws** from applying to Scheduled Areas.
 - Make **regulations** regarding:
 - **Land transfers** and allocations.
 - **Money-lending** businesses.
- These regulations must be made in consultation with the **Tribes Advisory Council** and require the **President's approval**.

Tribal Commission Appointment by President

Constitutional Provision

- **Article 339** of the Indian Constitution mandates the **President** to appoint a commission to:
 - Assess the administration of Scheduled Areas.
 - Evaluate the welfare of Scheduled Tribes in the States.
- This appointment is required **every ten years**.

Tribal Commissions

1. **First Commission (1960-1961)**
 - **Chairperson: U.N. Dhebar**
 - **Report Submitted: 1961**
2. **Second Commission (2002-2004)**
 - **Chairperson: Dilip Singh Bhuria**
 - **Report Submitted: 2004**

States with Scheduled Areas:

1. Andhra Pradesh
2. Chhattisgarh
3. Gujarat
4. Himachal Pradesh
5. Jharkhand
6. Madhya Pradesh
7. Maharashtra
8. Odisha
9. Rajasthan
10. Telangana

Origin:

Fifth Schedule areas were included based on the AV Thakkar Sub-Committee's recommendations

The democratisation of Tribal Rights Through Legislation - PESA and FRA

Aspect	Forest Rights Act, 2006 (FRA)	Panchayat Extension to Scheduled Areas Act, 1996 (PESA)
Objective	Grants individual and community rights to forest dwellers.	Extends Panchayat system to Scheduled Areas, ensuring self-governance for tribals.
Focus	Forest rights and conservation of forest resources.	Tribal governance and village-level democracy through Gram Sabhas.
Empowerment	Empowers Gram Sabhas to manage forest resources and Minor Forest Produce (MFP).	Empowers Gram Sabhas in decision-making, ensuring local customs are preserved.
Key Role	Gram Sabha plays a role in forest rights management.	Gram Sabha plays a key role in approving development plans and safeguarding traditions.
Successes	- Improved forest management and quality.	- Promoted grassroots democracy.
	- Legal recourse provided for forest dwellers (e.g., resistance to eviction).	- Empowered communities to safeguard local traditions.
	- Prevented forest encroachment for commercial purposes.	- Reduced commercial exploitation of Scheduled Areas.
Shortcomings	- Illegal evictions and large-scale rejections of claims without due process.	- Land acquisition continues in violation of PESA.
	- Conflicts between tribal communities and forest officials.	- Poor accountability of bureaucrats toward Panchayats.

	- Contradictions with other laws like the Wildlife Protection Act.	- Limited political will to transfer power to Panchayats.
	- Limited awareness about the Act and its provisions.	- Many states haven't formulated necessary rules for PESA.

Concerns Regarding Scheduled Areas

1. Exclusion of Scheduled Tribe (ST) Population

- Approximately **59% of India's ST population** is not covered under Article 244, leaving them without the legal protections and benefits available to Scheduled Areas.
- Example:** Tribes in urbanized or non-Scheduled Area regions often miss out on special schemes, land rights, and educational initiatives.

2. Lack of Viable ST-Majority Administrative Units

- Efforts to create ST-majority units often lead to the denotification of certain areas, marginalizing vulnerable groups.
- As a result, these groups lose rights under essential laws like:
 - Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act (2013).**
 - Biological Diversity Act (2002).**
- Example:** Denotification in mining-prone areas like Chhattisgarh has led to displacement and environmental degradation affecting tribal livelihoods.

3. Ineffectiveness of Tribal Advisory Councils (TACs)

- The **XAXA Committee** highlighted:
 - TACs are dominated by ruling party MLAs, limiting diverse representation.
 - Many states fail to submit TAC reports annually.
 - Example:** Himachal Pradesh submitted reports only until 2015. Other states have incomplete or no submissions.

4. Limited Powers of Tribal Advisory Councils

- TACs lack the authority to take up issues **suo moto**.
- They do not have **taxing powers**, reducing their independence and limiting their role to an advisory body under state control.
- Example:** Despite recommendations, TACs in Jharkhand and Odisha struggle to influence land-related laws in Scheduled Areas.

Way Forward

1. Notification of Habitations

- Based on the **Idate Committee** recommendation:
 - Habitations or clusters outside Scheduled Areas, where STs are the largest social group, should be notified as Scheduled Areas.
 - **Example:** Tribal villages in Maharashtra's Nashik district lack Scheduled Area benefits despite their high tribal population.

2. Extension of Geographical Limits

- Scheduled Area boundaries should include:
 - **Community forest resource areas** as per the **Forest Rights Act (FRA), 2006.**
 - Customary boundaries on revenue lands.
- This requires amendments to relevant state laws.
- **Example:** Extending protections in tribal forest regions of Andhra Pradesh to prevent illegal logging and displacement.

3. Redrawing of Boundaries

- Boundaries of revenue villages, panchayats, talukas, and districts should be revised to ensure inclusion under Scheduled Areas.
- This would guarantee rights and protections for ST communities.
- **Example:** States like Madhya Pradesh can redraw tribal-majority districts such as Mandla to fully integrate tribal zones into Scheduled Areas.

Administration of Tribal Areas (Sixth Schedule)

Introduction

The Sixth Schedule of the Constitution provides special provisions for the administration of tribal areas in the four northeastern states of **Assam, Meghalaya, Tripura, and Mizoram.**

Rationale for Special Provisions

- Unlike tribes in other parts of India, the tribes in these states:
 - Have maintained their **unique culture, customs, and civilization.**
 - Are less assimilated into the mainstream life and culture of other communities.

- Have been anthropological specimens with deep roots in their own traditions.
- Hence, the Constitution grants significant autonomy to these regions to enable **self-governance**.

Tribal Areas in the Four States

State	Tribal Areas
Assam	North Cachar Hills District, Karbi Anglong District, Bodoland Territorial Areas District
Meghalaya	Khasi Hills District, Jaintia Hills District, Garo Hills District
Tripura	Tripura Tribal Areas District
Mizoram	Chakma District, Mara District, Lai District

Key Features of Administration Under Sixth Schedule

- 1. Autonomous Districts**
 - Tribal areas in the four states are designated as **autonomous districts**.
 - These districts remain under the **executive authority of the respective state governments**.
- 2. Governor's Powers**
 - The **Governor** can:
 - **Organize and reorganize districts**, including:
 - Increasing or decreasing their areas.
 - Changing their names.
 - Redefining their boundaries.
 - Divide an autonomous district into multiple **autonomous regions** if there are different tribes in the area.
- 3. District and Regional Councils**
 - Each autonomous district has a **District Council** comprising:
 - **30 members**:
 - **26 elected** members based on adult franchise.
 - **4 nominated** by the Governor.

- Elected members serve a **five-year term**, while nominated members hold office at the **Governor's pleasure**.
 - Autonomous regions have **Regional Councils** with similar powers.
- 4. **Legislative Powers of Councils**
 - District and Regional Councils can legislate on specified matters, including:
 - **Land, forests, canal water, shifting cultivation, inheritance of property, marriage and divorce, and social customs.**
 - Laws enacted require the **Governor's assent**.
- 5. **Judicial Powers**
 - Councils can establish **village councils or courts** to try cases involving tribes.
 - They hear appeals from these courts.
 - The **Governor specifies the jurisdiction of High Courts** over these cases.
- 6. **Administrative Powers**
 - Councils can establish, construct, and manage:
 - **Primary schools, dispensaries, markets, fisheries, roads, and more.**
 - They can regulate:
 - **Money lending and trade** by non-tribals (subject to the Governor's assent).
- 7. **Taxation Powers**
 - Councils can:
 - **Assess and collect land revenue.**
 - **Impose specific taxes within their jurisdiction.**
- 8. **Applicability of Laws**
 - Acts of **Parliament or State Legislatures**:
 - Do not apply to autonomous districts and regions unless explicitly specified.
 - May apply with **modifications and exceptions**.
- 9. **Governor's Oversight**
 - The **Governor** can:
 - Appoint a commission to investigate matters related to the administration of autonomous districts or regions.
 - Dissolve a District or Regional Council based on the commission's recommendations.

Applicability of Acts of Parliament in Sixth Schedule Areas

- **Acts of Parliament or State Legislatures do not automatically apply** to autonomous districts and regions under the Sixth Schedule.

1. President's Powers (Assam)

- The **President** has the authority to:
 - Decide whether an **Act of Parliament** applies to autonomous districts or regions in **Assam**.
 - Apply laws **with modifications or exceptions** as needed.

2. Governor's Powers (Meghalaya, Tripura, Mizoram)

- The **Governor** has the power to:
 - Decide whether **Acts of the Parliament or State Legislature** apply to autonomous districts or regions.
 - Modify or exempt the application of laws enacted by **District or Regional Councils**.
 - Oversee the judiciary by specifying the jurisdiction of High Courts over tribal courts.
 - Reorganize districts, including changing their boundaries, names, or areas.

Key Concerns Related to Autonomous District Councils (ADCs)

1. Spiraling Demands

- Other groups, like the **people of Ladakh UT**, demand similar benefits under the Sixth Schedule, creating administrative challenges.

2. Lack of Financial Autonomy

- ADCs are heavily dependent on **State Governments** for funds.
- There is often a significant gap between **approved budgets** and **actual disbursed funds**, adversely affecting tribal development.

3. State's Discretion

- Development projects in ADC areas rely on the **State Government's discretion**, often leading to delays in implementation.

4. Corruption

- **Corruption** in the administration of ADCs undermines developmental efforts and the effective use of resources.

5. Coordination Issues

- Poor **coordination between State Governments and ADCs** delays developmental initiatives and creates inefficiencies.

Mungekar Committee Recommendations

1. **Empower Tribal Communities:**
 - Strengthen **self-governance** mechanisms in tribal areas.
2. **Improved Delivery Mechanisms:**
 - Ensure better delivery of **government programs** to benefit tribal populations.
3. **Infrastructure Investment:**
 - Increase investment in **roads, schools, healthcare**, and other essential infrastructure.
4. **Effective Forest Rights Act Implementation:**
 - Enforce the provisions of the **Forest Rights Act** to secure land and resource rights for tribal communities.
5. **Utilize Governor's Reports:**
 - Use **Governor's Reports** on Sixth Schedule areas to guide state and central policies.

Differences Between Fifth Schedule and Sixth Schedule Administration

Aspect	Fifth Schedule	Sixth Schedule
Purpose	Supervises and administers Scheduled Areas .	Focuses on the powers, constitution, and functions of District and Regional Councils in autonomous districts.
Coverage	Protects tribal interests in all Scheduled Areas except Assam, Meghalaya, Tripura, and Mizoram .	Administers tribal areas specifically in Assam, Meghalaya, Tripura, and Mizoram .
Special Areas	Safeguards tribal interests across various regions, excluding the northeastern states .	Focuses on tribal welfare in the northeastern states of Assam, Meghalaya, Tripura, and Mizoram.
Advisory Council	Tribal Advisory Council is mandated to advise on tribal welfare and development.	Provides for District and Regional Councils with legislative, judicial, and administrative powers.

Governor's Role	The Governor has the authority to modify or adapt laws for Scheduled Areas.	The Governor can reorganize districts, define boundaries, and oversee the application of laws.
------------------------	--	---

