
Introduction

Article 244 deals with the administration of Scheduled Areas and Tribal areas. The provisions of the Fifth Schedule of the Constitution apply to the administration and control of the Scheduled Areas and scheduled tribes in any State other than the States of Assam, Meghalaya, Tripura and Mizoram.

Administration of Schedule Areas

The features of the Fifth Schedule are mentioned below:

- ❑ **Declaration of Scheduled Areas:** The Constitution empowers the President to declare any areas as scheduled area. The President can increase or decrease its area or alter its boundaries. He can cancel such designation after consultation with the Governor or can make fresh orders redefining the Schedule Areas.
- ❑ **Executive Power of State and Centre:** Subject to the provisions of this schedule, the executive power of State extends to the Scheduled Areas therein. The Governor of each State having Scheduled Areas annually, or whenever required by the President, make a report to the President regarding the administration of the Scheduled Areas in that State. The executive power of the union extends to the giving of directions to the State as to the administration of such areas.
- ❑ **Tribes Advisory Council:** Each State having Scheduled Areas needs to establish Tribes' Advisory Council consisting of not more than twenty members of whom about three-fourth members should be the representatives of the scheduled tribes in the Legislative Assembly of the State.
- ❑ **Law Applicable to Scheduled Areas:** The Governor is empowered to direct that any particular act of Parliament or of the Legislature of the State does not apply to a scheduled area subject to such exceptions and modifications as he may specify in the notification.
 - Prohibit or restrict the transfer of land by or

among members of the scheduled tribes in such area;

- Regulate the allotment of land to members of the scheduled tribes in such area;
- Regulate the carrying on of business as money-lender by persons who lend money to members of the scheduled tribes in such area.
- ❑ In doing so, Governor may repeal or amend any act of Parliament or the State Legislature or any existing law which is for the time being applicable to such area. All the above regulation requires the assent of the President.

Concern associated to Fifth Schedule Area

The Fifth Schedule promotes Scheduled Tribes' welfare and advancement, as well as the administration of Scheduled Areas. It gives the Governor of a State with Scheduled Areas extraordinary powers of governance. In practice, however, despite the recommendations of several groups, the extraordinary legislative and executive administrative powers have been rarely used.

- ❑ **Conflict of Interest:** State cabinet (highest decision-making body in the State) and the Tribal Advisory Council are headed by the same person, it would then be impossible for the Tribal Advisory Council to overturn a decision taken by the cabinet, even if it were not in the interest of tribal communities in Scheduled Areas.
- ❑ **Environmental & Livelihood Concern:** Loss of land remains the single biggest cause of deprivation of the livelihoods, lives and homelands of tribals across India. Scheduled Areas have the highest forest coverage and are rich in minerals.
- ❑ It has been observed that the corporate sector uses scheduled regions' business potential to press the State government for favourable choices and big earnings. It has an impact on tribal populations' environment and livelihood. The tribal populations have been disproportionately targeted, displacing them from their lands and livelihoods.

- ❑ Issue related to PESA: Panchayats (Extension to Scheduled Areas) Act, 1996 was seen as the logical next step in ensuring tribal welfare and accountability in the Fifth Schedule areas. However, it has not been implemented properly. Tribal communities have been gradually denied self-government and rights to their communities' natural resources, which were supposed to be provided under the law.

Tribal Areas

The Sixth Schedule deals with the administration and control of the tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram.

Administration of Tribal Areas

The Sixth Schedule of the Constitution provides special provisions for the administration of the tribal areas in Assam, Meghalaya, Tripura and Mizoram. The provisions of the schedule are as follows:

- ❑ It provides for autonomous districts and autonomous regions.
- ❑ The Governor can increase, decrease, re-organise or alter the boundary of these districts.
- ❑ If there are different scheduled tribes in an autonomous district, the Governor may divide the area or areas inhabited by them into autonomous regions.
- ❑ Each autonomous district has a district council consisting of not more than thirty members, of whom not more than four persons shall be nominated by the Governor and the rest shall be elected on the basis of adult suffrage. The elected members of the district council hold office for a term of five years and nominated member hold office at the pleasure of the Governor.
- ❑ The district and the regional councils can make laws on matters such as land, forests, canal water, Jhum cultivation, local administration, inheritance of property etc.
- ❑ The district and the regional councils may constitute village councils or courts for the trial of suits and cases between the parties all of whom belong to Scheduled Tribes within such areas.

- ❑ The district council can establish, construct, or manage primary schools, dispensaries, markets, ferries, fisheries, roads, road transport and waterways in the district.
- ❑ A district fund for each autonomous district, and a regional fund for each autonomous region is constituted to which money received respectively by the district council
- ❑ The district and the regional councils have powers to assess and collect land revenue and to impose certain taxes.
- ❑ The District Council is empowered to make regulations for the control of money-lending and trading by non-tribals.
- ❑ Estimated receipts and expenditure pertaining to autonomous districts has to be shown separately in the annual financial Statement of the State.
- ❑ An act of Parliament or of the Legislature of the State does not apply to an autonomous districts and autonomous regions or apply with specified exceptions and modifications.
- ❑ If at any time the Governor is satisfied that an act or resolution of a district or a regional council is likely to endanger the safety of India, he may suspend such an act or resolution and take such steps.
- ❑ The Governor can appoint a commission to look into and report on the matters related to administration of the autonomous districts or regions.

States	Tribal Areas
Assam	1. The North Cachar Hills District 2. The Karbi Anglong District 3. The Bodoland Territorial Areas District
Meghalaya	1. Khasi Hills District 2. Jaintia Hills District 3. The Garo Hills District
Tripura	1. Tripura Tribal Areas District
Mizoram	1. The Chakma District 2. The Mara District 3. The Lai District