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The Sixth Schedule of the Indian Constitution with Special Reference to Bodoland Territorial Council of Assam (BTC)

Dipankar Choudhury

Lecturer, Department of Mathematics, Bhawanipur Anchalik College, Bhawanipur, India

Abstract

The Constitution of India is the supreme law of India. It is a living document, the permanent instrument which makes the government system work. It lays down the framework defining fundamental political principles, establishes the structure, procedures, powers and duties of government institutions and sets out fundamental rights, directive principles and the duties of citizens. It is the longest written constitution of any sovereign country in the world. The nation is governed on the basis of this Constitution. The most prominent and important structural change in the administration is the grant of political autonomy and statehood in North East India. This process goes back to the British Era when the Interim Government of India had appointed a sub-committee to the Constituent Assembly, viz. North- East Frontier (Assam) Tribal and Excluded Areas Committee under the Chairmanship of first Assam Chief Minister, Gopinath Bardoloi. The committee recommended setting up of autonomous district councils to provide due representative structures at the local level to the tribal population. The recommendation was later incorporated into Sixth Schedule (article 244 (2) & Article 275(1)) of the Indian Constitution. As per the Sixth Schedule, the four states viz. Assam, Meghalaya, Tripura and Mizoram contain the Tribal Areas which are technically different from the Scheduled Areas. Though these areas fall within the executive authority of the state, provision has been made for the creation of the District Councils and regional councils for the exercise of the certain legislative and judicial powers.

Introduction: The North-Eastern region inhabits 12 percent of the country's 8.4 crore tribal population and has borders with Bhutan, China, Myanmar and Bangladesh. It has seen much unrest and violence over the past few decades. These include insurgencies in Nagaland, Mizoram, Manipur, Tripura and Mizoram and growth of militant groups in Meghalaya. In addition there are conflicts and confrontations over land use and control as well as issues of language, identity, demographic change and minoritymajority relations. The problems are further compounded by mis-governance, corruption, economic backwardness and geographical isolation from rest of India. The Sixth Schedule provides for administration of certain tribal areas as autonomous entities. The administration of an autonomous district is to be vested in a District Council and of an autonomous region, in a Regional Council. These Councils are endowed with legislative, judicial, executive and

financial powers. Most Council consists of up to 30 members including few nominated members. The newest Bodoland Territorial Council is an exception; it can have up to 46 members. Bodoland Territorial Council (BTC) covers a geographical area of 8790 sq. km, spread over 4 districts. The BTC was set up as a self-governing body for Bodo Areas in 2003 after an agreement with the Bodo Liberation Tigers (BLT). The aim of the BTC is to –

- (a) Fulfill the economic, educational & linguistic aspirations & preservation of land rights, socio-cultural & ethnic identity of Bodos.
- (b) Speed-up Infrastructure development in BTC area.

The Bodoland Territorial Council shall consist of not more than 46 members of whom 40 shall be 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-tribes are also given representation on the EC. The entire area covered under the BTC has been recognized with Kokrajhar as an original district and forming other new districts thus totaling four districts in the BTC Area. The area under those four districts has been estimated as follows:

Sl. No.	Name of District	Area in Sq. KM	Population (Census 2011)
1	Kokrajhar	3,169.20	887,142
2	Chirang	1,069.96	482,162
3	Baksa	3,056.89	950,075
4	Udalguri	1,673.93	831,668
Total		8,969.98	3,151,047

Constitutional Safeguards for the Tribal Population: With the dawn of independence and adoption of the Constitution of free India, the British policy of isolation and non-interference was replaced by the policies of integration and development. The Constitution of India provided several types of safeguards to the tribal communities. There are the Protective Provisions to protect them from all forms of social injustice and exploitation, the Developmental Provisions promote education and developmental activities, the Reservation Provisions ensure their representation in legislative bodies and government jobs, and the Administrative Provisions under the Fifth and Sixth Schedules provide for special administrative setup to provide autonomy of self-governance according to their customary traditions. The tribal people live in contiguous areas unlike other communities. So, an area approach was adopted for administrative and developmental purposes. Under the Constitution “Scheduled Areas” are declared by the President after consultation with the State Governors. These Areas have been designated to protect the interests of Scheduled Tribes regarding their land and other social issues and are governed through provisions of either Fifth or Sixth Schedule. The Scheduled Areas of the North East are covered under the

Sixth Schedule provisions; all other Scheduled Areas are covered by the Fifth Schedule laws.

Objectives of the paper:

The main objectives of the study are as follows:

1. To study the provisions of decentralization for the BTC of Assam provided under the 6th Schedule of the Indian constitution.
2. To study the background and necessity of the 6th Schedule of the Indian constitution.
3. To assess actual performance of the BTC in terms of development.

Methodology: While preparing this paper, both the primary and secondary data were used. The primary sources of data included the official records and data collected from the Bodoland territorial Council (BTC). The Secondary data collected from internet and various books, journal related with the topic of the study.

Decentralization vis-à-vis Bodoland Territorial Council (BTC): On February 10, 2003, the Assam government, the Union government and the Bodo Liberation Tigers signed the Memorandum of Settlement on Bodoland Territorial Council (BTC), in New Delhi. The jurisdiction of the BTC shall extend over 3082 villages and the BTC has been given legislative powers over 40 subjects. The accord provides for an Executive Council comprising of a maximum of 12 Executive Members, including a Chief and a Deputy Chief, with adequate representation to the non-tribal population. The Government of India and the Government of Assam have been making concerted efforts to fulfill the aspirations of the Bodo people relating to their cultural identity, language, education and economic development. Towards this end, a series of talks were held between Government of India, Government of Assam and Bodo Liberation Tigers (BLT) since March, 2000. As a result, it is agreed to create a self-governing body for the Bodo Areas in the State of Assam. 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.

Status of Bodoland Territorial Council: The provision of the Sixth schedule and other relevant Articles of the Constitution of India will apply to BTC, mutatis mutandis in terms of this agreement. The safeguards/modifications for the non-tribal in BTC area, inter-alia, will include the following:

1. Provision of para 1 (2) of Sixth Schedule regarding Autonomous Regions will not be applicable to BTC.
2. 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. Election from the 40 constituencies of BTC shall be on the basis of adult franchise. The term of the elected members of BTC shall be for 5 years.

3. Safeguards for the settlement rights, transfer and inheritance of property etc. of non-tribal will be suitably incorporated in Para 3 of the Sixth Schedule. Any such law as may be made by the BTC in this regard will not, in particular:
 - (a) Extinguish the rights and privileges enjoyed by an citizen of India in respect of their land at the commencement of BTC, and
 - (b) Bar any citizen from acquiring land either by way of inheritance, allotment, settlement or by way of transfer if such citizens were eligible for such bonfire acquisition of land within the BTC area.
4. Provision will be added in Para 6 of Sixth Schedule that in BTC area, language and medium of instruction in educational institutions will not be changed without approval of the State Government.
5. Provision of Para 8 of Sixth Schedule regarding power to assess and collect land revenue and impose taxes shall be applicable to BTC.
6. Para 10 of the Sixth Schedule will not be applicable to BTC area.
7. Provision of Article 332(6) of the Constitution will be so modified that the existing status of representation of BTC area in the State Assembly is kept intact. After the creation of BTC, the Parliamentary & Assembly Constituencies shall be delimited by the Delimitation Commission in accordance with the provisions of the Constitution.
8. In the event, Panchayati Raj system ceases to be in force in the council area, the powers of the Panchayati Raj Institutions in such matters shall be vested with the Council.

The Amendments to the Sixth Schedule shall include provisions in such a manner that non-tribal are not disadvantaged in relation to the rights enjoyed by them at the commencement of BTC and their rights and privileges including land rights are fully protected.

Powers of the District Council:

- a) The Council shall have legislative powers in respect to subjects transferred to it as enumerated below. All laws made under this paragraph shall be submitted forthwith to the Governor and until assented to by him, shall have no effect. The BTC shall have executive, administrative and financial powers in respect of subjects transferred to it.

Subjects to be entrusted to BTC by Assam Government:

1) Small, Cottage and Rural Industry; 2. Animal Husbandry & Veterinary; 3. Forest; 4. Agriculture; 5. PWD; 6. Sericulture; 7. Education (Primary Education, Higher Secondary Including vocational training, Adult Education, College Education (General); 8. Cultural Affairs; 9. Soil Conservation; 10. Co-operation; 11. Fisheries; 12. Panchayati and Rural Development; 13. Handloom and Textile; 14. Health & Family Welfare; 15. Public Health Engineering; 16. Irrigation; 17. Social Welfare; 18. Flood Control; 19. Sports & Youth Welfare; 20. Weights and Measures; 21. Library Services; 22. Museum & Archaeology; 23. Urban Development – Town and Country Planning; 24. Tribal Research Institute; 25. Land & Revenue; 26. Publicity/Public Relations; 27. Printing & Stationery; 28. Tourism; 29. Transport; 30. Planning and Development; 31. Municipal Corporation, Improvement Trust, District Boards and other local authorities; 32. Welfare of Plan Tribes and Backward Classes; 33. Markets and fairs; 34. Lotteries, Theatres, Dramatic performance and cinema; 35. Statistics; 36. Food and Civil supply; 37. Intoxicating liquors, opium and derivatives etc.; 38. Labor and employment; 39. Relief and Rehabilitation; 40. Registration of Births and Deaths.

- b) There shall be an Executive Council comprising of not more than 12 Executive Members, one of whom shall be the Chief and another one the Deputy Chief of the said Executive Council. There shall be adequate representation for the non-tribal members in the Executive Council. The Chief and the Deputy Chief of the Council shall have the status equivalent to the Cabinet Minister and the other Executive Members equivalent to the Minister of the State of Assam for protocol purposes in BTC area.
- c) The BTC shall have the full control over the officers and staff connected with the delegated subjects working in the BTC area and shall be competent to transfer officers and staff within the BTC area. ACRs of these officers shall also be written by the appropriated BTC authority.
- d) BTC shall also be competent to make appointments for all posts under its control in accordance with the rules of appointment followed by the Government of Assam. However, the posts, where recruitment is made on the recommendation of APSC, shall not be covered under this provision. The Council may constitute a Selection Board for appointments to be made by it and may also make rules, with the approval of the Governor of Assam to regulate appointments and to ensure adequate representation for all communities living in the Council area.
- e) No posts shall be created by BTC without concurrence of the Government of Assam and it shall also abide by the decision of the Government of Assam in respect of abolition of/temporarily keeping vacant any post.

- f) Development functions and bodies within the competence of BTC shall be transferred to BTC. In respect of DRDA, concurrence of Government of India will be obtained.
- g) The offices of the Dy. Commissioner and Superintendent of Police will be outside the superintendence and control of BTC.
- h) The State Government would provide an amount, to be decided every year on population ratio basis, as grants-in-aid in two equal installments to the BTC for executing development works. The proportionate share for the BTC shall be calculated on the basis of the plan funds available after setting aside the funds required for earmarked sectors and the salary. This amount may be reduced proportionately if the state plan allocation is reduced or there is plan cut due to resource problem. In addition, the Council will be paid a suitable amount of plan funds and non-plan funds to cover the office expenses and the salaries of the staff working under their control. The BTC shall disburse the salaries of the staff under their control and would ensure strict economy in the matter.
- i) BTC authority shall prepare a plan with the amounts likely to be available for development works, both under State share and Central share, covering any or all the activities of the departments under their control. The Council shall have full discretion in selecting the activities and choosing the amount for the investment under the same in any year covering all groups of people in a fair and equitable manner. This plan will be a sub set of the State plan and would be treated as its integral part. Once the plan of the State, including BTC plan, gets the approval of the Planning Commission the BTC authority will start execution of their plan in the BTC area. Modifications, if any, made by the Planning Commission in the BTC proposal, shall be binding on the BTC authority. The State Government shall not divert the funds allocated to the BTC to other heads and also ensure its timely release. BTC may have Planning Department to prepare the plans for BTC area to be submitted to Planning Commission through the Government of Assam.
- j) The executive functions of the BTC shall be exercised through its Principal Secretary who shall be an officer of the rank not below of Commissioner/Secretary to Government of Assam. The sanctioning powers of the Government of Assam shall be vested with the Principal Secretary of BTC and sanctioning powers of head(s) of the Department(s) including for technical sanction shall be conferred on the senior most officer of that Department preferably not below the rank of Additional Director, who may be designated as Director of BTC for that department. The Principal Secretary and other officers shall exercise their powers under the overall guidance and supervision of BTC.

Development of Bodo Language:

1. The Government of India agrees to consider favorably the inclusion of Bodo Language in Devnagri Script in the Eighth Schedule of the Constitution.

2. Bodo language shall be the official language of BTC subject to the condition that Assamese and English shall also continue to be used for official purpose.

Additional Development Package for BTC:

- a) The State Government, within the limitation of financial and other constraints, may offer or allow the Council to offer, possible and sustainable additional incentives for attracting private investment in the Council area and would also support projects for external funding.
- b) In order to accelerate the development of the region and to meet the aspirations of the people, the Government of India will provide financial assistance of Rs 100 crores per annum for 5 years for projects to develop the socio-economic infrastructure in BTC areas over and above the normal plan assistance to the State of Assam. The size of the Corpus will be reviewed after a period of 5 years. Suitable mechanism will be built in the system to ensure that the funds are transferred to BTC in time and at regular intervals. An illustrative list of projects which may be considered to be taken up in BTC given below:

1. To establish a center for development and research of Bodo language; 2. Upgradation of existing educational infrastructure by way of renovation/addition of buildings, providing modern facilities for teaching such as computers, science laboratories etc. from primary level to college level in BTC area; 3. A cultural complex to be established at Kokrajhar to promote and develop Bodo tradition and cultural heritage; 4. To establish a super-specialty hospital with all modern facilities at Kokrajhar Government Hospitals shall be established in all district, sub-divisional and block headquarter; 5. To establish sports complexes in all the district headquarters; 6. Food processing plants and cold storage facilities at Kokrajhar, Kajolgaon, Udalguri and Tamulpur; 7. Construction of a bridge over river Aai to connect Koilamoila, Amguri etc. with the rest of the district; 8. To build a Bodoland Bhawan in Delhi; 9. To set up integrated agro-processing park and textile-cum-apparel park; 10. Revitalization of Kokilabari Agricultural Farm; 11. To develop adequate infrastructure to promote Manas sanctuary as an international tourist spot; 12. To complete Champa, Suklai and Dhansiri irrigation projects; 13. To construct a highway on the Indo-Bhutan border from Jamduar to Bhairabkunda to connect remote places located adjacent to the border; 14. To set up model dairy, fishery, horticulture and poultry farms/training centers at different places in all the 4 districts to encourage youth for self-employment; 15. To enhance the existing facilities in veterinary hospitals in BTC area.

- c) Government of India will provide necessary one time financial assistance required for development of administrative infrastructure in the newly created district headquarters, sub-divisional headquarters and block headquarters, besides the BTC Secretariat Complex at Kokrajhar.

Socio-Economic Development in BTC: The main purpose of decentralization of powers under the provisions of the Sixth Schedule of the Constitution was to ensure rapid socio-economic development of the tribal areas of the North Eastern region having any entirely

rural background. It has been more than thirteen years that BTC has been entrusted with the territorial Council. The time is not more sufficient to evaluate the achievement or failure of the experiment of decentralization in terms of the development of the region. No doubt some concerted efforts were made by the local government to expedite the process of development in the district, the success of these efforts are often doubted, debated, propagated and many a time repudiated. Despite frequent allegations of wastage, mismanagement, corruption, nepotism and favoritism in the Council the achievement of the BTC in some of the fields of development cannot be overlooked. It is a matter of common knowledge that the roads in Bodoland are far better than the roads of the other districts of Assam. The NH-31 passing through the district is glaring examples of the better roads condition of the district, though the some roads are still in dilapidated condition. Apart from roads, Health and Educations are two of the important indicator to assess the development of any region.

The medical and health department in BTC are not so bad. In BTC there are many civil hospital, Community hospital, primary health center, state Dispensary, Subsidiary Health center, Leprosy control unit and Medical Sub center. Though all civil, community and primary hospital are working well, the other type of hospital are not in so good condition because of insufficient Doctor, nurse and other medical related staff.

The Department of Education in the four districts of BTC is under the control of BTC Authority. BTC is entrusted to work in the overall developmental activities for the School Education, General College Education, Vocational Education except Technical Education and University Education. The control of Education Department lies on the Executive Member of BTC who is given the charge of Education through the Director of Education. As far as literacy filed is concerned, as per the census record of 2011, the literary rate of the districts of BTC is as follows –

1) Kokrajhar = 65.22% 2) Chirang = 63.55 % 3) Udalguri = 65.41 % 4) Baksa = 69.25% A large number of educational institution have been established even in the remotest corners of the district. Some remarkable educational institutes in BTC are Bodoland University (BU) Kokrajhar, Central Institute of Technology (CIT) Kokrajhar, Bineswar Brahma Engineering College Kokrajhar, teacher training educational institute, ITI and various science, arts and Commerce College were established before and after the BTC agreement were signed. In the sphere of economic life of BTC area, agriculture still holds a dominant position, but in the recent times occupation like service, trade and commerce, etc. are adopted in a small scale but increasing in nature with the present growing needs of such sectors for the overall growth of the economy. Agriculture has been dominant occupation of any rural society. It is also the main occupation of the economic life of the BTC area. The Bodos who constitute the major population generally cultivates for mustard seeds, tobacco, jute, vegetables like potato, cabbage, cauliflower, cucumber, gourd, green leaves, spices, chilly, onion, ginger, etc. for their daily use and economic gain purpose. Castor plants are cultivated for producing End cocoon, which is a part of home industries in spinning and weaving especially for women folk. For cultivation of paddy, there are three kinds of

cultivation of the land in the society. They are Self-cultivation, Adhi system, Sukhani system.

(i) Self system- The owner cultivates his land with the help of his family or male labour (Dahwna) and female labour (Ruwati) for a season by giving them certain amount of paddy or wages.

(ii) Adhi system-In this system the land owner gives away his land to a cultivator for cultivation for a temporary phase and the total product of the land is distributed equally between his owner and the cultivator.

(iii) Sukhani system- here the land owner fixes a contract with the cultivator, and the cultivator has to give a fixed quantity of product for each bigha of land he cultivated (Goswami, 2014).

Conclusion: The above description is a brief profile of the newly created Bodoland Territorial Council (BTC) under the state of Assam. As a territorial council, BTC has four administrative districts, where the provision of Sixth Schedule of the Indian Constitution and the other relevant has been applied. The council enjoys all the legislative powers in respect of subjects transferred to it. The area is also under the control of an Inspector General of Police (IGP) for four districts to maintain law and order situation in the area. Regarding library services, the three types of libraries are in existence under the council- Public, Academic and Special libraries. The area has its distinct demographic feature. In the sphere of economic life, BTC is still dominated by the agriculture. Manas National Park, Chakrasila Wildlife Sanctuary, Bornadi Wildlife Sanctuary are the pride of the tourist destination in the BTC area. The area still needs to go a long way for its all-round development in many points.

Reference:

1. Constituent Assembly Debates, Vol. VII, IX, XI, Lok Sabha Secretariate, Parliament House, New Delhi, 1949
2. Gassah. L.S. (ed); 1997, The Autonomous District Councils, Omsons Publications New Delhi.
3. Statistical Hand book of Assam 2007; 2007, Directorate of Economics & Statistics Govt. of Assam, Guwahati.
4. Verghese, B.G; 2004, India's Northeast Resurgent; Kurnak Publishing Pvt. Ltd, New Delhi.
5. Census 2011
6. **The Memorandum of Settlement (2003)** signed by three parties–Government of India, Government of Assam and Bodo Liberation Tigers explores various aspectson the formation of BTC within the state of Assam.
7. Wikipedia, BTC government website and websites related to this topic.