
UNIT 5 SPECIAL PROVISIONS FOR THE NORTHEAST*

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5.0 OBJECTIVES

After going through this unit, you will be able to:

- Explain special provisions in the Indian Constitution for Northeast India ;
- Elaborate upon the reasons for the introduction of the special provisions; and
- Compare the special provisions for Northeast India with other regions of India.

5.1 INTRODUCTION

India consists of several regions which have different levels of development. They consist of diverse groups who speak different languages and have different cultures, customs, etc. Northeast India, which consists of eight states - Assam, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya and Sikkim, is one of the regions in India. These states need special provisions for the protection of their cultural identities – traditional social and political institutions and natural and economic resources. Such provisions ensure the protection of cultural identities, customs and economic and political interests of the inhabitants of these areas. The British sought to make administrative changes after

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occupying Assam in the 19th century by introducing Regulations and Acts - Inner Line Regulation of 1873, the Scheduled District Act, 1874, the Government of India Acts of 1919 and 1935. These were reflected in the Special Provisions enacted for Northeast India after Independence. In this unit, you will read about special provisions about Northeast India.

5.2 “EXCLUDED” AND “PARTIALLY EXCLUDED” AREAS

Origin of the special provisions for Northeast India can be linked to the British policy of identifying some areas of Assam, which later became hill districts of Assam, and four states – Meghalaya, Mizoram, Nagaland and Arunachal Pradesh (Manipur and Tripura were princely states; and, Sikkim was an independent country) in the post-Independence period. Assam, during the colonial period, had broadly two types of areas – hill and plains. Finding the cost of administration not being compensated by the revenue returns, the British found it more expedient not to spend on running the administration of this region. Rather the hills were left to be governed by their traditional rule, which did not cost them anything. Besides, the people in this area had been averse to the notion of an outsider ruling over them. Any intrusion or its apprehension into their affairs was met with opposition and hostility. The hill regions of Assam were ruled by the British indirectly. The British did not interfere with their traditional system of authority. The issues relating to land, inheritance, forest, dispute resolutions, etc., were dealt with according to the customary laws and through the arbitration of clan and tribal chiefs. They were declared “backward areas” according to the Government of India Act, 1919. The Government of India Act, 1935 turned them into “excluded” and “partially excluded” areas. There was some difference between the “excluded” and “partially excluded” areas. The former were not represented in the legislature of Assam, though they were located in the province of Assam. The “excluded areas” were administered by the Governor-in-Council as his “reserved” jurisdiction. In the “partially excluded” areas, there was some authority of the provincial legislature. Jurisdiction of the courts of British India was limited in such areas. The British followed the policy of minimum interference in the “excluded” and “partially excluded” areas. Indeed, there were such three areas in Assam: apart from the two “excluded” and “partially excluded” areas, the third excluded area in which the British did not interfere was the tribal area of Assam. The British divided people of Northeast India belonging to two exclusive areas – plains or hills. The hills were included excluded areas.

5.3 “CROWN COLONY.”

Although the British did not interfere in the affairs of the “excluded” and “partially excluded” areas, they had their political preference about these areas to be followed after the departure of the British from India. The British argued that after the withdrawal of the British from India, tribes in the “excluded” and “partially excluded” areas needed “protection”. The British mooted a plan to bring all areas of the North-East along with the tribal areas of Burma under a

“Crown Colony”. The Governor of Assam R.N. Reid suggested that tribes of Assam hills and Burma should be united to form something called “Crown Colony”. The British wanted to keep the areas covering “Crown Colony” under their control after departing from India. The plan to create a “Crown colony” was a secret plan and was known as the “Coupland Plan” named after –Reginald Coupland. The Indian National Congress rejected this suggestion. The idea of a crown colony was also rejected by the tribes of Assam and Andrew Clow, the successor of Reid as Governor of Assam. However, the proposal to protect the tribes of “excluded” and “partially excluded” areas was taken up in the Constituent Assembly Debates. And nomenclature of “excluded” and “partially excluded” areas was replaced as “Tribal Areas”. Consequently, the Constituent Assembly created VI Schedule in the Indian Constitutions providing special provisions about the “tribal areas” of Assam – from which four states emerged later. The provisions of the VI Schedule were included in the Constitution on the basis of the recommendations of the North-East Frontier (Assam): Tribal and Excluded Area Sub- Committee of the Advisory Committee of the Constituent Assembly of India. The sub-committee was known as the Bordoloi sub-committee, named after its chairman Gopinath Bordoloi, a member of the Constituent Assembly and the then Prime Minister of Assam. You have read about the sub-committees in Unit 4.

Check Your Progress Exercise 1

- Note:**
- i) Use the Space given below for your answer.
 - ii) Check your answers with the model answers given at the end of the unit.

1) What were the “excluded and “partially excluded” areas?

2) Explain the notion of “crown colony”?

5.4 SPECIAL PROVISIONS

Special provisions for Northeast India are enshrined in the VI Schedule of Indian Constitutions (Article 244), and Inner Line Permit rules, Articles 371 A-Article 371C, and Article 371F- Article 371 H. These special provisions are related to land, inheritance, forest, dispute resolutions, customary laws, etc.

5.4.1 The VI Schedule

As you have read in unit 4, the Constituent Assembly of India realized the need to create a distinct administrative device for the protection of the rights and identities of the tribal people of Assam, from which emerged four states later on. The Constituent Assembly created such a device in the VI Schedule of the Constitution. The VI Schedule is dealt with in Article 244 (2) of the Indian Constitution. It makes special arrangements for the administration of Tribal Areas in the States of Assam, Meghalaya, Mizoram and Tripura. There are ten such areas. Each of these states has three such areas. Assam has (1) The North-Cachar Hills District (Dimal Haolang), (2) The Karbi-Anglong Districts, and (3) The Bodoland Territorial Area District. Meghalaya has (1) The Khasi Hills District, (2) The Jaintia Hills, and (3) The Garo Hills District. Mizoram has (1) The Chakma District, (2) The Mara District, and (3) The Lai District. And Tripura has one district: The Tripura Tribal Areas Districts. One of the most important provisions of the Sixth Schedule is that the tribal areas are to be administered as Autonomous Districts and Autonomous Regions. Under the provision of the Sixth Schedule, the Governor of the State is empowered to determine areas to be identified as administrative units of the Autonomous Districts and Autonomous Regions. The Governor has the power to create a new Autonomous District/Region or alter the territorial jurisdiction or the name of any Autonomous District or Autonomous Regions. The Sixth Schedule confers certain Executive, Legislative and Judicial powers that provide them autonomy to make laws regarding land, managing their forests (other than the reserved forest), the appointment of traditional chiefs and headman, and inheritance of property, marriage, social customs, taxation etc. You will read about Autonomous District Councils and Autonomous Regions in unit 6.

Apart from Northeast India, there are other regions in India that have a tribal population in different numbers. And while areas with a substantial population in Northeast India are known as “tribal areas”, those inhabited by tribals in other areas are known as scheduled areas. Like the tribes in the “tribal areas” protected by the VI Schedule, those in the “Scheduled areas” are protected under the V Schedule. Parliament has powers to change these by ordinary legislation without amending the constitution. The provisions under the Fifth Schedule envisage the creation of Tribes Advisory Councils, the Sixth Schedule provides for Autonomous District Councils or Regional Councils as institutional mechanisms for the administration of their respective areas. Tribal Advisory Councils under the Fifth Schedule are the creation of the State Legislature, whereas District Councils or Regional Councils under the Sixth Schedule are the product of the

Constitution, drawing all their powers and functions from the Constitution itself. “The Scheduled Area” areas are located in the states of Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Himachal Pradesh, Madhya Pradesh, Jharkhand, Maharashtra, Odisha and Rajasthan.

5.4.2 Inner Line Permit

The provision of Inner Line Regulation prohibits the travel of outsiders beyond a point known as Inner Line into certain areas without the permission of the state government covering the jurisdiction of such areas. Its purpose is to protect the land, natural resources, and identity of these areas from exploiting the non-residents of these areas. The system of Inner Line was drawn up under the Bengal Eastern Frontier Regulation, 1873. During the colonial period, the Regulation preserved the British control there and hindered the integration of the people of the hills and plains. The Inner Lines Regulation exists for four states, i.e., Arunachal Pradesh, Mizoram and Nagaland, Manipur, and the North Cachar district of Assam. In Manipur, it was introduced in 2019. The demand for its extension is made in other states such as Meghalaya. Outside the Northeast, Inner Line Permission is needed to travel into Lakshadweep; demand for its introduction is also made in Andaman and Nicobar Islands.

5.4.3 Articles 371 A to 371 C and Articles 371 F to 371 H

All tribal areas were not covered under the provisions of the VI Schedule. Such areas were covered later on by adding Article to the already existing Article 371: Articles 371 A about Nagaland, 371 B about Assam and Article C about Manipur; Article 371 F about Sikkim, Article 371 G about Mizoram, and Article 371 H about Arunachal Pradesh.

According to Article 371 A no Act passed by the Parliament will be applicable to Nagaland without the approval of the Nagaland legislative assembly regarding religious or social practices of Nagas, Naga customary law and procedure, administration of civil or criminal justice involving procedure to Naga customary law, and ownership and transfer of land and its resources. It gives special responsibility to the Governor regarding law and order in the state.

Article 371 B has special provisions about the protection of rights of tribes in hill areas of Assam. According to it the President may provide for the constitution and function of a committee of the legislative assembly of Assam, which will consist of the members elected from the tribal areas of Assam.

According to Article 371 C, the President may appoint a committee of the legislative assembly consisting of the members elected from the tribal areas of Manipur. The Governor must annually submit a report to the President regarding the administration of hill areas as well.

Article 371 F is about Sikkim. It was inserted into the Constitution after Sikkim became a state of the Indian Union in 1975. It seeks to provide seats in the state assembly to different sections of society in order to protect their interest. It suggests that the Legislative Assembly of Sikkim will not have less than 30 seats.

Article 371 G suggests that in Mizoram, no Act of Parliament will be applicable in respect of certain issues unless the Legislative Assembly passes a resolution in support of its application. These issues are: (i) religious or social practices of the Mizos, (ii) Mizo customary laws and procedures, (iii) Administration of civil and criminal justice involving decisions according to Mizo customary law, (iv) Ownership and Transfer of land.

Article 371 H assigns special responsibility to the Governor with respect to law and order in Arunachal Pradesh. It also suggests the state will not have less than 30 seats in the Legislative Assembly.

5.4.4 States in Northeast India as Special Category States (SCS)

All eight states of Northeast India also enjoy the status of Special Category Status. The fifth Finance Commission created the Special Category of States in 1969 with the purpose of providing central assistance and tax breaks to them. For the identification of a state as a Special Category State, a state should have the following characteristics: 1) hilly and difficult terrain, 2) low population density or sizable area of tribal population, 3) strategic location along borders with neighbouring countries, 4) and, non-viable nature of finances. The states in Northeast India that became Special Category State are as follows: Assam and Nagaland in 1969; Meghalaya, Manipur and Tripura in 1972; Sikkim in 1975; and Mizoram and Arunachal Pradesh in 1987. Outside Northeast India, Himachal Pradesh in 1971, Uttarakhand in 2001 also became the Special Category States. The Jammu and Kashmir state (which was converted on August 5, 2019, from a state into two Union Territories – Jammu and Kashmir and Ladakh) also was included in the Special Category State in 1969. Several other states in India are also demanding the status of Special Category States.

Check Your Progress Exercise 2

- Note:**
- i) Use the space given below for your answers.
 - ii) Check your answer with the model answers given at the end of the unit.

1) Discuss the features of the VI Schedule of the Indian Constitution.

2) What is Inner Line Permit?

5.5 LET US SUM UP

The Constitution of India has special provisions for the protection of cultural identities, customary laws and economic interests of the communities living in backward areas of the country. According to these provisions, outsiders cannot sell or purchase the property of their residents, violate their traditions, customary laws, etc. Such areas in Northeast India are known as “tribal areas”, and in the regions other than Northeast India, they are known as “scheduled areas”. The VI Schedule of the Constitution has provisions about the tribes in the “tribal areas”, and the V Schedule is about the tribes in the regions other than the Northeast India. In this unit you have read that the provisions of the VI Schedule are applicable to the tribal areas in the states of Assam, Meghalaya, Mizoram and Tripura. The VI Schedule confers executive, legislative and judiciary and power to the Autonomous District Councils. The tribal areas were known as “excluded” and “partially excluded” areas before they were renamed as “tribal areas” by the Constituent Assembly. Apart from the VI Schedule, the Inner Line Permit is required for people outside in some states – Arunachal Pradesh, Nagaland, Mizoram and Manipur, and North Cachar district of Assam to enter their territory beyond a point. The purpose of ILP is to prevent outsiders from taking over their land, etc. Some tribal areas which could not be covered under the VI Schedule were given protection adding Articles to Article 371: Articles 371 A about Nagaland, 371 B about Assam and Article C about Manipur; Article 371 F about Sikkim, Article 371 G about Mizoram, and Article 371 H about Arunachal Pradesh.

5.6 REFERENCES

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5.7 ANSWERS TO CHECK YOUR PROGRESS EXERCISE

Check Your Progress 1

- 1) The Government of India Act, 1935 had designated the hill areas of Assam, from which four states emerged in the post-Independence period, as “excluded” and “partially excluded” areas. These areas were first identified as “backward tracts” by the Government of India Act, 1919. British followed the policy of minimum interference in these areas. They were ruled by the British indirectly and were administered by the Governor of Assam.
- 2) The “Crown Colony” was supposed to be an area to be formed by uniting “excluded” and “partially excluded” areas that were inhabited by the hill tribes of Assam (as it existed at that time) and hill areas of Burma. The British argued that the “Crown Colony” was needed to protect these areas after they would have departed from India. The plan to create the “Crown Colony” failed because of the opposition of the Congress, tribes of these areas and the decision to drop it by the British themselves.

Check Your Progress 2

- 1) The Sixth Schedule of the Indian Constitution provides for special provisions for the protection of cultural identity, traditional justice system and economic interests of the tribal areas in Northeast India. Among its most important features is included provision for the creation of Autonomous Districts and Autonomous Regions to administer the tribal areas. The VI Schedule confers executive, legislative and judicial powers on the Autonomous Districts. They have the autonomy to make rules about land, management of forest, customs about marriage, inheritance, the appointment of traditional chiefs, taxation, etc., to covers tribal areas state of Assam, Meghalaya, Mizoram and Tripura.
- 2) Inner Line Permit is needed to visit the states of Arunachal Nagaland, Mizoram, Manipur, and North Cachar district of Assam by a person who is not a resident of these states. It is issued by these states. Its purpose is to protect these areas’ land and natural resources from a person who is not a resident of these states.