

REPORT NO.

70



PARLIAMENT OF INDIA
RAJYA SABHA

**DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE
ON PERSONNEL, PUBLIC GRIEVANCES, LAW AND JUSTICE**

SEVENTIETH REPORT

THE ASSAM LEGISLATIVE COUNCIL BILL, 2013

(Presented to the Rajya Sabha on 17th February, 2014)

(Laid on the Table of Lok Sabha on 17th February, 2014)



Rajya Sabha Secretariat, New Delhi
February 2014/Magha, 1935 (Saka)



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* To be appended at printing stage

COMPOSITION OF THE COMMITTEE
(Constituted on 31st August, 2013)

1. Shri Shantaram Naik — *Chairman*

RAJYA SABHA

2. Ms. Anu Aga
3. Shri Ram Jethmalani
4. Shri Sanjiv Kumar
5. Shri Parimal Nathwani
6. Shri Ram Vilas Paswan
7. Shri Sukhendu Sekhar Roy
8. Shri Ramchandra Prasad Singh
9. Dr. Abhishek Manu Singhvi
10. Shri Bhupender Yadav

LOK SABHA

11. Maulana Badruddin Ajmal
12. Shri T. R. Baalu
13. Shri E.T. Mohammed Basheer
14. Shri N.S.V. Chitthan
15. Shri P.C. Gaddigoudar
16. Shri D.B. Chandre Gowda
17. Shri Shailendra Kumar
18. Shri Jitender Singh Malik
19. Shri Arjun Meghwal
20. Shri Pinaki Misra
21. Shri Abhijit Mukherjee
22. Shri S.S. Ramasubbu
23. Shri S. Semmalai
24. Shri S.D. "Shariq"
25. Smt. Meena Singh
26. Shri Vijay Bahadur Singh
27. Dr. Prabha Kishore Taviad
28. Shri Suresh Kashinath Taware
29. Shri Madhusudan Yadav
30. Vacant
31. Vacant

SECRETARIAT

Shri Alok Kumar Chaterjee, Joint Secretary
Shri K.P. Singh, Director
Shri Ashok K. Sahoo, Joint Director
Smt. Niangkhanem Guite, Assistant Director

INTRODUCTION

I, the Chairman of the Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, having been authorised by the Committee on its behalf, do hereby present the Seventieth Report of the Committee on the Assam Legislative Council Bill, 2013. (**Annexure-I**)

2. In pursuance of the Rules relating to the Department-related Parliamentary Standing Committee, the Hon'ble Chairman, Rajya Sabha referred the Bill, as introduced in the Rajya Sabha on the 10th December, 2013 to this Committee on the 11th December, 2013 for examination and report.

3. The Committee issued a press communiqué to solicit views/suggestions from desirous individuals/organisations on various provisions of the Bill. In response thereto the Committee received memoranda containing suggestions from various organizations/individuals / experts. Comments of the Legislative Department on the views/suggestions thereon were sought for consideration of the Committee.

4. The Committee heard the presentation of the Secretary, Legislative Department, Ministry of Law and Justice on various provisions of the Bill in its meeting held on 16th January, 2014. During its Study visit to Guwahati from 23rd to 24th January, 2014, the Committee interacted with the representatives of the Government of Assam, representatives of Autonomous District Councils, Political Parties, and representatives of Non-governmental Organisations and members of Civil Society (**Appendix-A**).

5. While considering the Bill, the Committee took note of the following documents/information placed before it:-

- (i) Background note on the Bill submitted by the Legislative Department, Ministry of Law and Justice and State Government of Assam;
- (ii) Views/suggestions contained in the memoranda received from various organisations/institutions/individuals/experts on various provisions of the Bill and the comments of the Legislative Department thereon;
- (iii) Views expressed during the oral evidence tendered before the Committee by State Government of Assam, Members of Autonomous District Councils, Political Parties and Members of Civil Society; and
- (iv) Replies of State Government of Assam to Questionnaire prepared by the Secretariat on the issues dealt with by the Bill.

6. The Committee adopted the Report in its meeting held on the 13th February, 2014.

7. For the facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

New Delhi;
February 13, 2013

SHANTARAM NAIK
Chairman,
Department-related Parliamentary Standing
Committee on Personnel, Public Grievances,
Law and Justice

(ii)

REPORT

The Assam Legislative Council Bill, 2013 enables the State Government of Assam to set up Legislative Council (Vidhan Parishad) with forty-two Members for that State paving the way for giving better opportunity for people's participation in governance and decision making.

2. The proposed legislation seeks to amend Article 168 of Constitution of India and the Representation of People Act, 1950 and the Representation of People Act, 1951 for the aforesaid purpose.

3. The legislation has been introduced in Rajya Sabha upon the request of State Government of Assam which has forwarded the unanimous Resolution of Legislative Assembly of Assam passed in that House on 14th July, 2011 (by 119 Members) duly certified by Speaker of that Assembly.

4. The composition of the proposed Council has been fixed at forty two which is exactly one third of the total strength of Legislative Assembly of that State, in accordance with Article 171 (1) of the Constitution of India. The Bill under Clause-3 provides following break-up of composition of the proposed Council which is given below:-

a)	Members elected by the State Legislative Assembly	:	14 (1/3 of total strength)
b)	Members elected by the Local Bodies	:	14 (1/3 of total strength)
c)	Members elected from the Teachers' Constituency	:	04(1/12 of total strength)
d)	Members elected from the Graduates' Constituency	:	04 (12 of total strength)
e)	Members nominated by the Governor of the State	:	06 (1/6 of total strength)

Total: 42

The afore-mentioned first four categories of Members of the proposed Committee would be elected in accordance with system of proportional

representation by means of single transferable vote. Fourteen Members shall be elected from amongst the persons who are not Members of Legislative Assembly of Assam by the MLAs of that House.

5. Under Clause 4 of the Bill, 27,832 members of following local Bodies of Assam would constitute an electorate to elect fourteen Members from amongst them to the proposed Legislative Council:-

S. No.	Name of the local body	No. of Members
1.	Municipal Corporation	31
2.	Municipal Boards & Town Committees	721
3.	Zilla Parishads	420
4.	Anchalik Panchayats	2200
5.	Gaon Panchayats	24200
6.	Sixth Schedule Autonomous Council	94
7.	Autonomous Councils constituted under State Acts for non-Sixth Schedule Area	166
	Total =	27832

Four Members shall be elected by teachers consisting of persons who have been for at least three years engaged in teaching in education institution within the territory of Assam not lower in standard than that of a secondary school. Another four Members to be elected by electorate comprising of persons residing in Assam who have been for last three years graduates of any university in the territory of India or having qualification equivalent to that of graduate of any such university for last three years. The remaining six members of the proposed Legislative Council shall be nominated by Hon'ble Governor of Assam from amongst persons having special knowledge or practical experience in the field of Literature, Science, Art, Cooperative Movement and Social Services.

6. During Study visit of the Committee to Guwahati from 23rd to 24th January, 2014, the Committee interacted with State Government of Assam, representatives of political parties viz., Indian National Congress(INC), Bharatiya Janata Party (BJP), Asom Gana Parishad(AGP), Nationalist

Congress Party (NCP), Communist Party of India(CPI), All India United Democratic Front(AIUDF) and Communist Party of India (Marxist), CPI(M) and Autonomous District Councils viz., Bodo Land Territorial Council, Mising Autonomous Council, Thegal Kachari Autonomous Council, Tiwa Autonomous Council, Sonowal Kachari Autonomous Council, Deori Autonomous Council, Rabha Hasong Autonomous Council, Karbi Anglong Autonomous Council and members of Civil Society including Non-Governmental Organizations (NGOs) on the Bill.

7. The Committee was informed that the erstwhile province of Assam was granted Legislative Council under Government of India Act, 1909 which became functional in 1913 at Shillong (which was the then capital of Assam). The Legislative Assembly was added by the British Government under Government of India Act, 1935. The Legislative Council which was created in 1913 was abolished after independence of India, in 1947. The Committee gathered a broad consensus amongst the stake holders for creation of Legislative Council for the State of Assam except opposition from a few during its study visit to Guwahati.

8. The Committee had also received many memoranda on the Bill in response to its Press Communiqué. Members of civil society have also equally supported creation of upper chamber in their written memoranda except a few other individuals/organizations who have opposed its creation. The opposition was mainly on two accounts, namely, financial burden on the State exchequer and setting up a place for accommodating defeated candidates of ruling party, etc. Since the upper chamber of the State Legislature is a weak chamber it was felt by them that there is no need to revive the redundant colonial relic. The comments of Legislative Department, Ministry of Law and Justice on the suggestions of stake holders on the Bill are at **Annexure-II**.

9. Those who have supported creation of Legislative Council were of the view that the indigenous ethnic communities of the State would find a place in the second chamber of the legislature. In that context rotation of seats amongst indigenous tribal communities was suggested. Even non-tribal living in tribal areas have demanded their representations in the Council since it is not possible for them to get elected to the Legislative Assembly.

10. The State Government in their deposition to the Committee mentioned that the tribal population of the State is about twelve percent and major tribal communities viz., Bodo, Mising (Miri), Karbi, Rabha, Sonowal, Kachari, Dimasa Kachari Deori, Tiwa (Lalung) and Thengal Kachari are already represented in Autonomous District Councils created specifically for development of tribal areas in the State. However, those tribal communities are of substantial number can be accommodated in the Legislative Council on rotation basis. The Legislative Department, Government of India added that Article 171 of Constitution always gives flexibility to the State Government to give representation to unrepresented categories of people and methodology can be evolved by that Government for that purpose.

11. The State Government of Assam in their reply to the questionnaire of Committee submitted that formation of Legislative Council for that State would necessitate one time expenditure of ₹68.88 Crore and annual recurring expenditure of ₹19.28 Crore, which the State Government is capable of bearing.

12. The State Government of Assam informed the Committee to its query about composition and function of Autonomous District Councils which are peculiar to some of the North Eastern States. Panchayat Raj Institutions (PRIs) are not established under Autonomous District Councils established under the Sixth Schedule of Constitution, whereas those institutions (PRIs) are functional in Autonomous Councils constituted under State Acts.

However, there are provisions for Village Councils under three Sixth Schedule Autonomous District Councils, which are yet to be constituted.

13. During its study visit to Guwahati, it was pointed out to the Committee that the intermediate level of urban local bodies is known as Municipal Board in that State while the term 'Municipal Council' has been used in the Bill under Clause 4. It was clarified by the State Government of Assam, that the Assam Municipal Act, 1956 uses the terminology 'Municipal Board' for inter-mediate level of urban local bodies and Municipal Board and Municipal Council is one and same body. The Committee notes that different terminology for urban local bodies as used in the different States have been mentioned in the Representation of People Act, 1950 under Fourth Schedule. The Committee, accordingly, recommends that the terms Municipal Board may be used in the Act for the State of Assam in the place of 'Municipal Council' under Clause 4 of the Bill.

14. The Committee endorses the legislative proposal of Union Government for creation of second chamber for the State of Assam in the larger public interest. At the same time while reiterating its earlier recommendations in its Sixty-third Report on the Rajasthan Legislative Council Bill, 2013 it suggests to the Union Government that the latter should evolve a National Policy for second or upper chamber of State Legislature so that once created it should not be abolished by incumbent Government. It also suggests that comprehensive review of Teachers' and Graduates' Constituencies may be done in the present day scenario.

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