



REPORT NO.

223

**PARLIAMENT OF INDIA  
RAJYA SABHA**

DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE  
ON HOME AFFAIRS

**TWO HUNDRED TWENTY THIRD REPORT  
ON  
THE CONSTITUTION (ONE HUNDRED AND TWENTY-FIFTH  
AMENDMENT) BILL, 2019**

(PRESENTED TO RAJYA SABHA ON 5<sup>TH</sup> MARCH, 2020)

(LAID ON THE TABLE OF LOK SABHA ON 5<sup>TH</sup> MARCH, 2020)



Rajya Sabha Secretariat, New Delhi  
March, 2020/Phalguna, 1941 (Saka)



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\*to be appended at the printing stage

**DEPARTMENT-RELATED PARLIAMENTARY STANDING  
COMMITTEE ON HOME AFFAIRS  
(re-constituted w.e.f. 13<sup>th</sup> September, 2019)**

1. **Shri Anand Sharma** - **Chairman**

**RAJYA SABHA**

2. Shri S. R. Balasubramoniyam  
3. Shri P. Bhattacharya  
4. Shri Manish Gupta  
5. Dr. Anil Jain  
6. \*Shri Neeraj Shekhar  
7. Shri Satish Chandra Misra  
8. Shri Ram Chandra Prasad Singh  
9. Shri Rakesh Sinha  
10. Shri Bhupender Yadav

**LOK SABHA**

11. Shri Sanjay Bhatia  
12. Shri Adhir Ranjan Chowdhury  
13. Dr. (Shrimati) Kakoli Ghosh Dastidar  
14. Shri Dilip Ghosh  
15. Shri Dulal Chandra Goswami  
16. Shrimati Kirron Kher  
17. Shri Gajanan Chandrakant Kirtikar  
18. Shri Dayanidhi Maran  
19. Shri Raja Amareshwara Naik  
20. Shri Jamyang Tsering Namgyal  
21. Shri Ranjeetsinha Hindurao Naik Nimbalkar  
22. Shri Lalubhai Babubhai Patel  
23. Shri R.K. Singh Patel  
24. Shri Gajendra Singh Patel  
25. Shri Vishnu Dayal Ram  
26. Shri Pothuganti Ramulu  
27. Shrimati Sarmistha Sethi  
28. Shri Rajveer Singh (Raju Bhaiya)  
29. Shri Ravneet Singh  
30. Dr. Satya Pal Singh  
31. Shrimati Geetha Viswanath Vanga

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\* Shri Neeraj Shekhar, MP, Rajya Sabha nominated w.e.f. 4<sup>th</sup> February, 2020 to fill the vacancy caused by resignation of Shri Shamsher Singh Manhas, MP, Rajya Sabha from Committee w.e.f. 31<sup>st</sup> January, 2020.

## **SECRETARIAT**

Dr. P.P.K. Ramacharyulu, Secretary  
Shri Rohtas, Additional Secretary  
Shri Vimal Kumar, Joint Secretary  
Dr. (Smt.) Subhashree Panigrahi, Director  
Shri Ashwani Kumar, Additional Director  
Shri Pritam Kumar, Under Secretary  
Ms. Naina Gupta, Assistant Research Officer

## ACRONYMS

ANVC	Achik National Volunteers' Council
ADCs	Autonomous District Councils
ARC	Administrative Reforms Commission
ATCs	Autonomous Territorial Councils
AICTE	All India Council for Technical Education
DHAATC	Dima Hasao Autonomous Territorial Council
BTC	Bodoland Territorial Council
CADC	Chakma Autonomous District Council
CCPA	Cabinet Committee on Political Affairs
DHATC	Dima Hasao Autonomous Territorial Council
DRDA	District Rural Development Agency
DHD	Dima Haram Daogah
ECI	Election Commission of India
GHADC	Garo Hills Autonomous District Council
IPF	Indigenous People's Forum
ICDS	Integrated Child Development Services
ICDP	International Child Development Programme
JHADC	Jaintia Hills Autonomous District Council
JHATC	Jaintia Hills Autonomous Territorial Council
KAAC	Karbi Anglong Autonomous Council
KAATC	Karbi Anglong Autonomous Territorial Council
KHADC	Khasi Hills Autonomous District Council
KHATC	Khasi Hills Autonomous Territorial Council
LADC	Lai Autonomous District Council
MADC	Mara Autonomous District Council
MDC	Member of the District Council
MHA	Ministry of Home Affairs
MoSs	Memorandum of Settlements
NCHAC	North Cachar Hills Autonomous Council
NCRWC	National Commission to Review the Working of Constitution
PRIs	Panchayati Raj Institutions
SDO (C)	Sub Divisional Officer (Civil)
TTAADC	Tripura Tribal Areas Autonomous District Council
TTAATC	Tripura Tribal Areas Autonomous Territorial Council
TTC	Territorial Council
TASC	Tripura Autonomous State Council
UPDS	United People's Democratic Solidarity
UGC	University Grants Commission

## PREFACE

I, the Chairman of the Department-related Parliamentary Standing Committee on Home Affairs, having been authorized by the Committee to present the Report on its behalf, present this Two Hundred Twenty Third Report of the Committee on '**The Constitution (One Hundred and Twenty-Fifth Amendment) Bill, 2019**'.

2. In pursuance of Rule 270 of the Rules of Procedure and Conduct of Business in the Council of States relating to the Department-related Parliamentary Standing Committees, the Hon'ble Chairman, Rajya Sabha, referred\* the Constitution (One Hundred and Twenty-Fifth Amendment) Bill, 2019, as introduced in the Rajya Sabha on the 6<sup>th</sup> February, 2019, (Annexure-I) to the Committee on the 19<sup>th</sup> February, 2019 for examination and report within two months *i.e.* by 18<sup>th</sup> April, 2019. However, the Committee could not consider the Bill and present its Report within the prescribed time limit due to General Election to the 17<sup>th</sup> Lok Sabha. Hon'ble Chairman, Rajya Sabha granted extension of time for presentation of Report on the Bill till three months onwards from the date of reconstitution of the DRSC on Home Affairs after constitution of 17<sup>th</sup> Lok Sabha which came upto 12<sup>th</sup> December, 2019. Further, extensions upto 12<sup>th</sup> January, 2020, last day of part one of Budget Session, 2020, and last day of the first week of second part of Budget Session, 2020 were also granted. The Committee heard the views of the Chief Secretaries, Autonomous District Councils and other tribal organisations of Assam, Meghalaya, Mizoram and Tripura.

3. The Committee undertook study visit to the Shillong and Guwahati from 18<sup>th</sup> to 21<sup>st</sup> January, 2020. In the meeting held at Shillong on 18<sup>th</sup> January, 2020, the Committee heard the views of tribal organizations and other stakeholders alongwith Chief Secretary/representatives of the State Government of Meghalaya and on 20<sup>th</sup> January, 2020 at Guwahati the Committee heard the views of tribal organizations and other stakeholders alongwith Chief Secretaries/representatives of the State Governments of Mizoram, Assam and Tripura on Bill.

4. In order to give wider publicity and obtain the views of affected people/stakeholders, a Press Communiqué in print and electronic media of the four states was also issued on 8<sup>th</sup> November, 2019. It was requested therein to furnish written Memoranda within 15 days of its publication *i.e.* by 22<sup>nd</sup> November, 2019. In response thereto around 10 memoranda were received. In total 73 memoranda were received which include representations received during the study visit of the Committee.

5. The Committee held 4 sittings during the course of examination of the Bill, *i.e.*, on 30<sup>th</sup> September, 10<sup>th</sup> October, 30<sup>th</sup> October, 2019 and 04<sup>th</sup> March, 2020. In its sitting held on 30<sup>th</sup> September, 2019 the Home Secretary made a presentation on the Bill. Thereafter, in the meeting held on 10<sup>th</sup> October, the Committee heard the views of Chief Secretaries of Assam, Meghalaya, Mizoram and Tripura and in the meeting held on 30<sup>th</sup> October, 2019, the Committee heard the views of the representatives of

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\* Rajya Sabha Parliamentary Bulletin Part II, No. 58708, dated 20<sup>th</sup> February, 2019.

Autonomous Territorial/District Councils along with representatives of Governments of Assam, Meghalaya, Mizoram and Tripura and other stakeholders.

6. The Committee in its sitting held on 4<sup>th</sup> March, 2020, considered the draft 223<sup>rd</sup> Report on the Bill and adopted the same.

7. The Committee relied on the following documents in finalizing its Report:-

(i) The Constitution (One Hundred and Twenty-Fifth Amendment) Bill, 2019;

(ii) Background Note on the Bill received from the Ministry of Home Affairs;

(iii) The Constitution of India;

(iv) Presentation, clarifications and Oral evidence of Home Secretary and senior officials of Ministry of Home Affairs;

(v) Memoranda received on the Bill from various bodies/associations/organizations/experts and replies of the Ministry on the memoranda selected by the Committee for examination;

(vi) Recommendation of National Commission to Review the Working of Constitution (NCRWC);

(vii) Oral evidence and written submissions by various stakeholders/experts on the Bill; and

(viii) Replies received from the Ministry of Home Affairs to the questions/queries raised by Members during the meetings on the Bill.

8. On behalf of the Committee, I would like to acknowledge with thanks the contributions made by those who deposed before the Committee and also those who gave their valuable suggestions to the Committee through their written submissions.

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

4<sup>th</sup> March, 2020  
New Delhi  
Phalgun 14, 1941 (Saka)

**Anand Sharma**  
**Chairman**  
Department-related Parliamentary  
Standing Committee on Home Affairs



# REPORT

## CHAPTER-1

### 1.1 Introduction

1.1.1 The Constitution (One Hundred and Twenty Fifth Amendment) Bill, 2019 *inter-alia* seeks to amend the Article 280 of the Constitution of India to enable the Finance Commission to recommend measures needed to augment the Consolidated Fund of States of Assam, Meghalaya, Mizoram and Tripura. This will supplement resources of Sixth Schedule Autonomous Councils, Village Councils and Municipal Councils.

### 1.2 Background

1.2.1 The Ministry of Home Affairs through its background note informed the Committee that though Part X of the Constitution of India relates to the Scheduled and Tribal Areas but in terms of Article 244(2) the administration of the tribal areas in four states *viz.* Assam, Meghalaya, Mizoram and Tripura is as per the provisions of the Sixth Schedule. The Autonomous Councils constituted for the administration of tribal areas under the Sixth Schedule comprises of elected and nominated members and these Councils exercise legislative, executive as well as judicial powers. The following Autonomous Councils/District Councils in the four states are functioning under the Sixth Schedule to the Constitution of India:

#### Assam

- i) Karbi Anglong Autonomous Council (KAAC)
- ii) North Cachar Hills Autonomous Council (NCHAC)
- iii) Bodoland Territorial Council (BTC)

#### Meghalaya

- i) Khasi Hills Autonomous District Council (KHADC)
- ii) Jaintia Hills Autonomous District Council (JHADC)
- iii) Garo Hills Autonomous District Council (GHADC)

#### Mizoram

- i) Lai Autonomous District Council (LADC)
- ii) Mara Autonomous District Council (MADC)
- iii) Chakma Autonomous District Council (CADC)

#### Tripura

Tripura Tribal Areas Autonomous District Council (TTAADC)

1.2.3 The Ministry of Home Affairs further informed the Committee that some recent developments require that the existing provisions pertaining to the Sixth Schedule needs to be amended to suit contemporary requirements to strengthen the Councils under Sixth Schedule. The reasons and basis that proposed the amendments are as under:-

(i) The Cabinet Committee on Political Affairs (CCPA) had approved signing of Memorandum of Settlements (MoSs) with United People's Democratic Solidarity (UPDS) and the factions of Dima Haram Daogah (DHD) on 25<sup>th</sup> November, 2011 and 8<sup>th</sup> October, 2012 respectively. It was aimed at enhancing autonomy of the existing Autonomous Councils set up under the Sixth Schedule to the Constitution of India and to provide special package for the speedier socio-economic development of the Council areas. The Government of India has initiated action for the implementation of various clauses of the MoSs signed with UPDS and factions of DHD. The two MoSs, *inter alia*, provided as under:-

- a) renaming of existing Karbi Anglong Autonomous Council (KAAC) as the Karbi Anglong Autonomous Territorial Council (KAATC). Similarly, renaming of North Cachar Hills Autonomous Council (NCHAC) as the Dima Hasao Autonomous Territorial Council (DHATC);
- b) the KAATC shall have 50 members (44 to be elected and 6 nominated by the Governor of Assam) against existing 30 members in the Council;
- c) Increasing the members of the DHATC is agreed in principle;
- d) effect of the increase of members in the Council will be given prospectively, and will have no effect on the term of existing District Councils;
- e) conducting elections to the Autonomous Councils by State Election Commission and setting up of State Finance Commission;
- f) transfer of additional 30 subjects from State Government of Assam to the Autonomous Councils under paragraph 3A of the Sixth Schedule to the Constitution as agreed in the MoS devolving legislative and executive powers;

(ii) Article 280 will provide for augmenting the Consolidated Fund of respective States to supplement resources of the Sixth Schedule Autonomous Councils.

(iii) Further, the Cabinet Committee on Political Affairs (CCPA) on 28<sup>th</sup> February, 2014 had approved signing of Memorandum of Settlement (hereinafter referred to as MoS-3) with Achik National Volunteers' Council (ANVC) in Meghalaya for enhancing autonomy of the Garo Hills Autonomous District Council (GHADC). The increase in number of members of the Council was agreed in principle. Further, after consultation with the Government of Meghalaya, it was decided to increase the number of members of the Garo Hills Autonomous District Council from 30 to 42, Khasi Hills Autonomous District Council from 30 to 40 and that of Jaintia Hills Autonomous District Council from 30 to 34.

(iv) Representations were also received requesting enhanced autonomy, Central Funding to Autonomous District Councils (ADCs), etc.

(v) The 73<sup>rd</sup> and 74<sup>th</sup> Amendments to the Constitution, which do not apply to the Sixth Schedule Areas, brought in considerable devolution of powers to local bodies (Panchayats and Municipalities) in the rest of the country.

(vi) A review of the provisions of the Sixth Schedule to the Constitution in the backdrop of provisions of the 73<sup>rd</sup> and 74<sup>th</sup> Constitution Amendments indicates certain deficiencies in provisions of the Sixth Schedule. These are as follows:-

- a) At present, the establishment of elected Village Councils is based on universal adult suffrage and reservation for women are not mandatory in the Sixth Schedule areas;
- b) there is no provision for the recommendations of the Finance Commission set up under Article 280 of the Constitution to provide separate funds for the ADCs in Sixth Schedule areas on the pattern of Panchayati Raj Institutions resulting in inadequate socio-economic infrastructure in the ADCs areas;
- c) Setting up of the State Finance Commission for States having Sixth Schedule areas. In some cases, States which are smaller in terms of area and population in comparison to the area of some of the Autonomous Councils are getting much higher resource allocation per capita;

(vii) Besides, ADCs are not getting adequate funds for meeting their non-plan requirements. The Councils have been demanding direct funding from Central Government to ADCs for a plan and a non-plan projects and also for centrally sponsored schemes. A separate budget for ADCs needs to be provided in the State Plan.

(viii) Besides, the National Commission to Review the Working of Constitution (NCRWC) made certain recommendations *vide* its recommendation No. 9.23 (i) to (iii), to devolve political powers with precautions to maintain traditional institutions in the Sixth Schedule areas. It also recommended entrustment of subjects enumerated in Eleventh Schedule, already given to Panchayati Raj Institutions, to the Councils set up under the Sixth Schedule to the Constitution for their administration, evolving a process of central funding for Plan expenditure to the Council directly, instead of routing all funds through the State Governments, safeguards for minority and micro minority, protection of traditions, bringing in gender representation and adult franchise, etc. Implementation of centrally funded projects from various Departments of the Union Government should be entrusted to the Autonomous District Councils (ADCs) and revived Village Councils with a strict audit by the Comptroller and Auditor General of India. These recommendations have been accepted by the Government for implementation.

(ix) The Second Administrative Reforms Commission (ARC) in its Seventh Report (February, 2008) entitled 'Capacity building for Conflict Resolution' has dealt with 'Conflicts in the North East (NE)'. The Commission has, *inter alia*, focused on Autonomous District Councils. The recommendations made by the ARC include setting up of a State Finance Commission for distribution of funds between the State and the Council and also setting up of State Election Commission as provided in the Panchayati Raj System for conducting the election to the Councils.

(x) To implement Memoranda of Settlement signed with United People Democratic Solidarity (UPDS) and Dima Halam Daogah (DHD) in Assam and with Achik National Volunteer Council (ANVC) in Meghalaya as approved by Cabinet Committee on Political Affairs (CCPA) and keeping in view the recommendations made by the NCRWC and ARC, it has been proposed to amend Article 280 and the Sixth Schedule to the Constitution of India for strengthening of democratic institutions at the grassroots level in the Sixth Schedule areas. These amendments are based on Inter-Ministerial discussions and consultations with the State Governments. The amendments were further discussed in a meeting taken by Union Home Minister on 20<sup>th</sup> September, 2018 with Chief Ministers of Assam, Meghalaya, Tripura, and Mizoram.

### **1.3 OBJECTIVES OF THE BILL**

1.3.1 The Constitution (One Hundred and Twenty-Fifth Amendment) Bill, 2019 *inter-alia* seeks to achieve the following objectives:–

- (a) to amend article 280 of the Constitution enabling the Finance Commission to recommend measures needed to augment the Consolidated Fund of the States, to supplement resources of the Sixth Schedule Autonomous Councils, Village Councils and Municipal Councils;
- (b) to rename the existing autonomous District Councils;
- (c) to increase the number of seats in the District Councils;
- (d) to provide for reservation of at least two seats for women in the District Councils;
- (e) to transfer additional subjects to Karbi Anglong and Dima Hasao Autonomous Territorial Councils;
- (f) to constitute the State Finance Commissions in the States having the Sixth Schedule areas;
- (g) to conduct elections to all Autonomous Councils by the State Election Commission;
- (h) for providing disqualification of elected members on account of defection.

### **1.4 Impact of the Proposed Amendment on ADCs**

1.4.1 The Ministry also apprised the Committee of the Impact of the proposed amendment on the existing Autonomous District Councils (ADCs) which are as follows:

(i) The most significant impact of the proposed amendment will be in the form of augmentation of financial resources and administrative powers of the Autonomous District Councils of Assam, Meghalaya, Mizoram, and Tripura, fulfilling long-standing aspirations of the tribal population in these North Eastern States. This is in line with the recommendations of the National Commission to Review the Working of Constitution (NCRWC) and Second Administrative Reforms Commission (ARC).

(ii) The Finance Commission constituted by the Union of India, under Article 280 of the Constitution of India, will now be specifically mandated to recommend the measures needed to augment the consolidated fund of State to supplement the resources of the ten Autonomous District Councils as well as the Village Councils and Municipal Councils in Sixth Schedule areas. It will substantially enhance the funds available to these local government institutions for undertaking development works in these tribal areas. The amendment also provides for the constitution of the State Finance Commission in these States.

(iii) The transfer of additional 30 subjects including Public Works Department, Forests, Public Health Engineering, Health & Family Welfare, Urban Development, and Food & Civil Supply to Karbi Anglong Autonomous Territorial Council (KAATC) and Dima Hasao Autonomous Territorial Council (DHAATC) in Assam greatly strengthens the Autonomous Councils and give them a major role in the day to day governance and developmental activities.

(iv) The village and municipal councils will be empowered for preparation of plans for economic development and social justice including those relating to agriculture, land improvement, implementation of land reforms, minor irrigation, water management, animal husbandry, rural electrification, small scale industries and social forestry.

(v) There will be State Election Commissions for holding elections to the Autonomous Councils, village and municipal councils in the areas of Assam, Mizoram, and Tripura which will ensure gras-root level democracy. There will also be reservations of at least one-third of seats for women in the village and municipal councils in the Sixth Schedule areas of Assam, Mizoram, and Tripura and at least two of the nominated members in all autonomous councils in the North East Sixth Schedule areas. This will ensure election based on adult suffrage and gender justice in the form of participation of women in all District Councils.

(vi) Meghalaya has for the time being kept out of the purview of the provision for the elected village and municipal councils and one-third reservations for women.

(vii) The amendments will fulfill the commitments made under tripartite Memorandum of Settlements signed by the Government of India, State Governments of Assam & Meghalaya, United People's Democratic Solidarity (UPDS), Dima Haram Daogah (DHD) and Achik National Volunteer's Council (ANVC).

(viii) The amendments propose to rename the existing autonomous councils as Karbi Anglong Autonomous Territorial Council (KAATC), Dima Hasao Autonomous Territorial Council (DHATC), Garo Hills Autonomous Territorial Council (GHATC), Khasi Hills Autonomous Territorial Council (KHATC), Jaintia Hills Autonomous Territorial Council (JHATC) and Tripura Tribal Areas Autonomous Territorial Council (TTAATC) as the present jurisdiction of these Councils extend to more than one district.

(ix) There will also be an increase in seats in KAATC, DHATC, GHATC, KHATC, and JHATC.

## CHAPTER-2

### 2.1 Committee Meetings on ‘The Constitution (One Hundred And Twenty-Fifth Amendment) Bill, 2019’

2.1.1 The Committee in its sitting held on 30<sup>th</sup> September, 2019 was briefed by the Home Secretary on some major provisions of the Bill regarding Autonomous District Councils in the States of Assam, Meghalaya, Tripura and Mizoram and that the Bill intends to augment the powers and functions of ADCs by increasing their membership and transferring more subjects. He stated that this was being done after a long period of settlements and MoUs that were signed to transfer some of the grants to a further lower level i.e., at the level of Village Councils, to be established under the District Councils.

2.1.2 In the next meeting held on 10<sup>th</sup> October, 2019 the Committee heard the representatives of State Government of Assam, Meghalaya, Tripura, and Mizoram and one of the Members of Parliament, Lok Sabha from Meghalaya along with representatives of the Ministry of Home Affairs. While being apprised about the reasons and basis for the proposed amendments, the Committee was informed by the Ministry of Home Affairs that before finalizing the Constitution Amendment Bill, the matter had been discussed with the States of Assam, Meghalaya, Mizoram and Tripura and also that the Bill was discussed by the previous Home Minister with the Chief Ministers of these States. Accordingly, based on these discussions the Constitution Amendment Bill had been drawn.

2.1.3 In the meeting held on 30<sup>th</sup> October, 2019, the Committee heard the representatives of the Ministry of Home Affairs; Ministry of Law and Justice, State Governments of Assam, Meghalaya, Mizoram and Tripura, Member of Meghalaya Legislative Assembly and Autonomous District Councils.

2.1.4 The Committee undertook study visit to the Shillong and Guwahati from 18<sup>th</sup> to 21<sup>st</sup> January, 2020. In the meeting held at Shillong on 18<sup>th</sup> January, 2020, the Committee heard the views of tribal organizations and other stakeholders alongwith Chief Secretary/representatives of the State Government of Meghalaya and on 20<sup>th</sup> January, 2020 at Guwahati the Committee heard the views of tribal organizations and other stakeholders alongwith Chief Secretaries/representatives of the State Governments of Mizoram, Assam and Tripura on the Bill.

2.1.5 The Committee also issued advertisements in local newspapers and electronic media of concerned states inviting suggestions/memoranda on the Bill. The Committee received 73 memoranda in response to its Press Communique and in its meeting at Delhi, Shillong and Guwahati.

## CHAPTER-3

### Clause by clause Consideration

The Committee in its meeting held on 4<sup>th</sup> March, 2020 took up consideration of the draft 223<sup>rd</sup> Report on the Bill. The Committee after deliberations have suggested various amendments on clauses of the Bill which are discussed in the succeeding paragraphs.

#### 3.1 Clause 2 of the Bill

3.1.1 **Clause 2** proposes to amend Article 280 of the Constitution by inserting the following sub-clause after sub-Clause (c) in Clause 3:-

*"(ca) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the District Councils including Village Councils and Municipal Councils in the tribal areas within the States referred to in clause (2) of Article 244 based on the recommendations made by the Finance Commissions of the said States;"*

#### Purpose of the Amendment

3.1.2 The Ministry of Home Affairs stated that the proposed amendment will remove the existing deficiency in the Constitution by bringing in uniformity and consistency in dealing with Municipal/Panchayat bodies and the Councils of the Sixth Scheduled areas. This will also enhance the resources of the ADCs, Village Councils and Municipal Councils.

3.1.3 It will strengthen the District Councils as a lot of powers are being delegated through this Amendment to the District Councils, including their better finances through the Finance Commission and transfer of subjects.

#### Views of the State Governments:

3.1.4 The State Governments of Assam, Meghalaya, Mizoram and Tripura are in broad agreement with the proposed amendment to Clause 2 of the Bill.

#### Suggestions from Stakeholders

##### 3.1.5 Assam

- The Committee was suggested that another clause as (cb) may be inserted after proposed clause (ca) in Clause 3 in Article 280 of the Constitution for direct funding by the Union to the Council–

*"(cb) the measures needed to augment the 'District & Regional Funds' under paragraph 7 to supplement the resource of the Autonomous Council constituted under Sixth Schedule of the Constitution of India by the Union"*

- Since Traditional Village Councils of the Scheduled Tribes, such as, Ser Van Kep of Karbis, Dorbar Shnong of Khasis, Salaiyaro of Dimasas, Tulsong Vaisa of Hmars-Kukis and so on, are equal to the Panchayats under the Sixth Schedule and also under Article 243(d) of the Constitution, the phrase "and Traditional Village Councils of the

Scheduled Tribes ‘by whatever name called’ can be inserted between “Panchayat” and “in the State” in sub clause (bb) of clause (3) of Article 280.

### **3.1.6 Meghalaya**

- Amendment of Article 280 envisages to supplement the resources of the future Autonomous Territorial Councils (ATCs) as part of the expanded terms of reference of the Finance Commission at the Centre and, therefore, Committee was requested to include the following proviso in Article 280 to make the recommendation of Finance Commission all-encompassing for the State of Meghalaya given the unique traditional institutions:

*“Provided that for the State of Meghalaya, the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Autonomous Territorial Councils will also include Village Councils and Traditional Institutions of Self Governance and Town Committees duly constituted by the Autonomous Territorial Councils (ATCs) in the Tribal Areas within the State referred to in Clause (2) of Article 244 and Para 20 of the Sixth Schedule based on the recommendations made by the Finance Commission of the said State.”*

### **3.1.7 Mizoram**

- The Committee was suggested that in Article 280 of the Constitution, in sub-clause (ca) of clause (3), the following proviso shall be added-

*"Provided that at least one representative of each Autonomous District Councils/Autonomous Territorial Councils shall be appointed as a member of State Finance Commission by the Governor of a state."*

- The Committee was suggested to insert the following proviso under Article 280-

*“Provided that separate allocation of fund for the District Councils shall be earmarked by the Government of India on the recommendation of the Finance Commission of the Union.”*

### **3.1.8 Tripura**

- It was suggested to the Committee that for undertaking all-round developmental activities, the Tripura Tribal Areas Autonomous District Council (TTAADC) should be given share of funds under the Article 280 & 275 of the Constitution of India and Article 280 of the Constitution of India should be amended to ensure that the Government of India makes separate allocation of funds for the Autonomous Territorial/ State Councils while releasing grants-in-aid to the State and such funds are released either by the Central Government or the State Government to the Autonomous Territorial Councils in time and without any delay.
- The Committee was also suggested that in addition to the insertion of sub-Clause (ca), after sub-Clause (c), under Clause (3) of Article 280 of the Constitution, a provision of direct funding to the Autonomous Council may also be incorporated in this amendment Bill for “Tripura Autonomous Territorial Council” to strengthen economy and autonomy.



## Comments of the Ministry

3.1.9 The Ministry of Home Affairs commented that presently Finance Commission is not making recommendations for augmenting the resources of District, Village, and Municipal Councils under Sixth Schedule areas as is being done for these institutions in rest of the country after 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendments which introduced democratic functioning of grass root institutions. To make the Finance Commission make recommendations for these institutions in Sixth Schedule areas, the amendment to Article 280 is being introduced. It will also considerably increase the resources of ADCs including the Village and Municipal Councils for undertaking developmental activities.

3.1.10 This amendment was agreed upon by the Government of Meghalaya in response to the draft circulated and in a meeting under Dy. CM at Shillong on 25<sup>th</sup> May, 2018. The Ministry of Home Affairs further stated that the proposed suggestion from Meghalaya is not tenable as by introducing these provisions, they will be agreeing to continuation of the traditional institutions of Meghalaya without introducing democratic elements in it.

## Recommendation/Observation

**3.1.11 The Committee feels that direct funding of ADCs by the centre will not only be against the existing Constitutional scheme but also would unnecessarily affect the relations of ADCs vis-à-vis state governments adversely. The very purpose of amending article 280 of Constitution is to make an institutional provision for augmenting the resources of ADCs through State Finance Commission. The said provision is on the lines of article 243-I and 243Y meant for Panchayats and Municipalities and 73<sup>rd</sup> and 74<sup>th</sup> Constitution Amendment Acts.**

**3.1.12 The Committee therefore agrees to the proposed amendment to article 280 and does not suggest any amendment.**

### Clause 3

3.2 **Clause 3(a)(i):** In paragraph 2 (i) in sub paragraph (1) after the proviso, proposes to insert the following proviso in the Sixth Schedule to the Constitution:

*"Provided further that the Karbi Anglong Autonomous Territorial Council shall consist of not more than fifty members, of whom six members including at least two women members shall be nominated by the Governor and the rest of the members shall be elected based on adult suffrage:*

*Provided also that the Dima Hasao Autonomous Territorial Council shall consist of not more than forty members, of whom four members including at least two women members shall be nominated by the Governor and rest of the members shall be elected based on adult suffrage:*

*Provided also that Garo Hills Autonomous Territorial Council shall consist of not more than forty-two members, of whom thirty-six members shall be elected based on adult suffrage. The Governor will nominate six members of whom at least two members shall be women and at least four members shall be from the unrepresented tribes:*

*Provided also that Khasi Hills Autonomous Territorial Council shall consist of not more than forty members, of whom thirty-six members shall be elected based on adult*

*suffrage. The Governor will nominate four members of whom at least two members shall be women and at least two members shall be from the unrepresented tribes:*

*Provided also that Jaintia Hills Autonomous Territorial Council shall consist of not more than thirty-four members, of whom four members including at least two women members shall be nominated by the Governor and rest of the members shall be elected based on adult suffrage:*

*Provided also that the Lai, Chakma, and Mara Autonomous District Councils and the Tripura Tribal Areas Autonomous Territorial Council each of which shall consist of not more than thirty members, of whom four members including at least two women members shall be nominated by the Governor and rest of the members shall be elected based on adult suffrage:*

*Provided also that the increase in the number of members of the said Autonomous Territorial Councils under the second, third, fourth, fifth, sixth and seventh provisos shall have no effect on the term of the Councils existing on or before the commencement of the Constitution (One Hundred Twenty-Fifth Amendment) Act, 2019, but shall apply to the elections to be held in those Councils after the expiry of their respective terms on or after such commencement."*

## **Purpose of the Amendment**

3.2.1 The Ministry of Home Affairs stated that the increase in the number of seats in respect of the Councils of Assam and Meghalaya has been done to implement the Memorandum of Settlement (MoSs) signed with UPDS, DHD, and ANVC and in consultation with the State Governments of Assam and Meghalaya. As regard the representation of women members and unrepresented tribes in the nominated seats, this has been done in order to bring the provisions of women reservations as applicable in Panchayati Raj Institutions (PRIs) in the Sixth Schedule areas and to ensure that the Councils are representative of all sections of the tribal areas.

3.2.2 While clarifying the term "unrepresented tribes" for the state of Meghalaya, the MHA informed that there are several minor tribes who will never get elected to the Councils on the basis of their numerical strength they have. To give representation to such tribes this provision has been introduced. In Bodoland Territorial Autonomous Council, there is already a provision of the nomination of people from unrepresented communities/tribes.

## **Views of the State Governments**

### **Assam**

3.2.3 The State Government of Assam stated that the number of seats in the Councils should be determined on the basis of population in the villages and Municipal Councils.

### **Meghalaya**

3.2.4 Government of Meghalaya proposed some changes to Clause 3 of the Bill. It was proposed that for Garo and Khasi Hill Autonomous Territorial Councils the proviso may be amended as follows: -

- (i) 'Provided also that Garo Hills Autonomous Territorial Council shall consist of not more than forty members, of whom thirty-six shall be elected on the basis of adult suffrage. The Governor will nominate four members of whom at least two shall be women.' Therefore, the word

‘unrepresented tribes’ should be excluded’.

(ii) ‘Provided also that Khasi Hills Autonomous Territorial Council shall consist of not more than forty members, of whom thirty-six shall be elected on the basis of adult suffrage. The Governor will nominate four members of whom at least two shall be women.’

3.2.5 The State Government of Meghalaya further stated as under:

*“Sir, as far as the Jaintia Hills are concerned, the present Act does not provide for unrepresented tribes. It provides for unrepresented tribes only in Garo Hills and Khasi Hills. Sir, in Jaintia Hills, there is an MDC from the Vaity community. The unrepresented tribe has not been defined yet. But, if we take unrepresented tribes as the tribes which are less in number, then, also the Vaity community which is very small in number is represented. Sir, that is why the State Government is of the view that we need not have unrepresented tribes in this Act because they are already getting elected in any case.”*

## **Mizoram**

3.2.6 The State Government of Mizoram is in broad agreement with the proposed amendment to Clause 3 of the Bill.

## **Tripura**

3.2.7 The State Government of Tripura stated that presently there are 30 (thirty) members in the District Council out of which 28 members are directly elected & 2 Members are nominated by the Governor from the un-represented Tribes. The management of resources after increasing the number of seats would be managed out of the resources of State funds as well as the Finance Commission as and when needed. The constituency of each MDC (Member of the District Council) is spread over two-third sub-divisions only. The population of the Tripura Tribal Area Autonomous District Council is 12,65,838 in numbers with an area of 7132.56 sq. km. There are 587 Village Committees, 5 Zonal Development Offices & 33 Sub-Zonal Offices. Considering all the above circumstances it is necessary to increase the seats of MDCs in the Council area. Further, the numbers of the elected members in the Councils shall consist of not more than fifty members instead of proposed thirty members, of whom six members including at least three women members shall be nominated by the Governor.

3.2.8 The Ministry of Home Affairs in the meeting held on 20<sup>th</sup> January, 2020 at Guwahati has agreed to their suggestion and stated that an increase in seats as proposed by the Government of Tripura could be considered.

## **Suggestions from Stakeholders**

### **3.2.9 Assam**

- The Committee was suggested:

In the proposed first proviso of paragraph 2(i), after the words “nominated by the Governor”, the words “from the indigenous tribes and Karbi sub-tribes” may be inserted.

- The number of seats in the Karbi Anglong Autonomous Council must be increased but increased seats must not be reserved for any particular community and there must be reservation of seats for women in Karbi Anglong Autonomous Council for their development.
- In Paragraph 2, in sub-paragraph (1), after the proviso, the following provisos shall be inserted, namely:-  
*Provided also that the Dima Hasao Autonomous Council shall consist of not more than forty members, of whom four members including at least two members shall be nominated by the Governor and the rest of the members shall be elected on the basis of adult suffrage.*
- North Cachar Hills Autonomous Council (NCHAC) is a Political Administrative Set-up primarily for the Hill Tribes of Dima Hasao District guaranteed by the Sixth Schedule to the Constitution of India, but without the provision of reservation of all the seats for the Hill Tribes. Therefore taking the above points into consideration all the seats be reserved only for the Hill tribes and Nomination of the Member in the proposed Dima Hasao Autonomous Territorial Council be made only to Hill Tribes. Hence, the provision of reservation of all the seats only for the Schedule Tribe (Hills) should be incorporated in this Bill.

3.2.10 The Ministry of Home Affairs commented that there is no proposal to restrict nomination in the manner as suggested and the said suggestions regarding the increase in seats and reservation for women, has already been incorporated in the Bill.

### **3.2.11 Meghalaya**

- After the words "Governor will", the words "immediately after expiry of fourteen days after the formation of the Executive Committee of the Council" may be inserted.
- After the words "adult suffrage", the words "of whom six shall be reserved for the less populated indigenous Scheduled Tribes of the Garo Hills Autonomous Territorial Council" may be inserted.
- For the words "unrepresented tribes", the words "unrepresented indigenous tribes of the Garo Hills Autonomous Territorial Council having the same rights and privileges as other members, including voting rights" may be substituted.
- After the words "unrepresented tribes", the words "having the same rights and privileges as other members, including voting rights" may be inserted.
- Reduce the number of seats from 40 to 31 in the Khasi Hills Autonomous District Council.
- In the Jaintia Hills Autonomous District Council, the filling up of four seats by nomination is without a basis as nominated members do not necessarily reflect the wishes and aspirations of the people. Therefore only two seats in the Council by the nomination of Members, including one woman, is sufficient to meet the intention of the proposed amendment.

- Remove the words “Un-represented Tribes” from the proposed amendment as the term is anomalous and its inclusion will open a Pandora's box of contradictions and misunderstanding. Inclusion of this term will open the door for defeated candidates from indigenous tribes eligible to stand for election in the three future ATCs to claim "un-represented status" and thus, nomination.
- For Garo Hills Autonomous Territorial Council, the Governor will nominate six members of whom at least two shall be women on the advice and recommendation of the Garo Hills Autonomous Territorial Council.
- Khasi Hills Autonomous Territorial Council shall consist of not more than thirty-one members, of whom twenty-nine shall be elected based on adult suffrage. The Governor will nominate two members of whom at least one shall be a woman on the advice and recommendation of the Khasi Hills Autonomous Territorial Council.
- Jaintia Hills Autonomous Territorial Council shall consist of not more than thirty-Four members, of whom thirty shall be elected based on adult suffrage. The Governor will nominate two members of whom at least one shall be a woman on the advice and recommendation of the Jaintia Hills Autonomous Territorial Council.
- Include the provision of the nomination of the Unrepresented Tribes in the Jaintia Hills Autonomous District Council (JHADC).
- *Provided also that Khasi Hills Autonomous Territorial Council shall consist of not more than thirty seven members, of whom thirty-five shall be elected on the basis of adult suffrage. The Governor will nominate two members of whom at least one shall be women on the advice and recommendation of the Khasi Hills Autonomous Territorial Council.*
- *Provided also that Jaintia Hills Autonomous Territorial Council shall consist of not more than thirty member, of whom twenty nine shall be elected on the basis of adult suffrage. The Governor will nominate one member on the advice and recommendation of the Jaintia Hills Autonomous Territorial Council.*
- The Hajongs are recognized as the scheduled tribe of Meghalaya right from the creation of the state along with the Khasi, Jaintia and Garo. But because of the nature of settlement in a scattered manner throughout the state, during the election to State Assembly and the Autonomous District Council, they are unable to elect their representatives. They are recognized scheduled tribe but are economically, educationally and socially still very backward compared to the other scheduled tribes of the state. Make the provision in the amendment bill to nominate members in the Autonomous District Council from their Hajong (Scheduled Tribe) community.
- Unrepresented Tribe in paragraph 3 and 4 of Clause 3 which provided that only the unrepresented Tribes of the State shall be nominated as member of KHADC and GHADC need to be deleted.
- *Provided also that the Jaintia Hills Autonomous Territorial Council shall consist of not more than thirty two members of whom two members including at least one woman member shall be nominated by the Governor on the advice and*

*recommendations of the Jaintia Hills Autonomous Territorial Council and rest of the members shall be elected on the basis of adult suffrage.*

*Provided further that the Karbi Anglong Autonomous Territorial Council shall consist of not more than fifty members, of whom six members including at least two women members shall be nominated by the Governor and rest of the members shall be elected on the basis of tribal adult suffrage subject to reservation of not less than one-third seats for women.*

*Provided also that the Dima Hasao Autonomous Territorial Council shall consist of not more than forty members, of whom four members including at least two women members shall be nominated by the Governor and rest of the members shall be elected on the basis of tribal adult suffrage subject to reservation of not less than one-third seats for women.*

*Provided also that Garo Hills Autonomous Territorial Council shall consist of not more than forty-two members, of whom thirty-six shall be elected on the basis of tribal adult suffrage subject to reservation of not less than one-third seats for women. The Governor will nominate six members of whom at least two shall be women and at least four shall be from the indigenous unrepresented tribes.*

*Provided also that Khasi Hills Autonomous Territorial Council shall consist of not more than forty members, of whom thirty-six shall be on the basis of tribal adult suffrage subject to reservation of not less than one-third seats for women. The Governor will nominate four members of whom at least two shall be women and at least two shall be from the unrepresented indigenous tribes.*

*Provided also that Jaintia Hills Autonomous Territorial Council shall consist of not more than thirty-four members of whom four members including at least two women members shall be nominated by the Governor and rest of the members shall be elected on the basis of tribal adult suffrage subject to reservation of not less than one-third seats for women.*

*Provided also that the Lai, Chakma and Mara Autonomous District Council and the Tripura Tribal Areas Autonomous Territorial Council each of which shall consist of not more than thirty members, of whom four members including at least two women members shall be nominated by the Governor and rest of the members shall be elected on the basis of tribal adult suffrage subject to reservation of not less than one-third seats for women.*

*Provided also that the increase in the number of members of the said Autonomous Territorial Councils under the second, third, fourth and fifth provisos shall have no effect on the term of the Councils existing on or before the commencement of the Constitution (One Hundred and Twenty-fifth Amendment) Bill, 2019, but shall apply to the elections to be held in those Councils after the expiry of their respective terms on or after such commencement.*

- There is an anomaly in the provision for the nomination of the members to the ADCs from ‘unrepresented tribes’ as there are seventeen unrepresented tribes in the State of Meghalaya under the 1950 Presidential Order. As Khasi Hills Autonomous District Council has Khasi as its official language, if other tribes are nominated to the Council then it may dilute the value of Khasi language which is not even included in the Eighth Schedule.

- A resolution has been passed in the House of the District Council that they want only 37 seats – 35 elected and 2 nominated and this resolution has been discussed with the Minister in-charge and subsequently submitted to the State Government.
- Seats should be increased to 40 in GHADC- 36 elected and 2 nominated to women and 2 nominated by the District Council on advice of the Governor.

### **3.2.12 Mizoram**

- Insert the following proviso after the proviso in subparagraph (1) of paragraph 2 -

*Provided also that the Chakma, Mara, and Lai Autonomous Territorial Council and the Tripura tribal Areas Autonomous Territorial Council each of which shall consist of not more than thirty-four members, of whom four members including at least two women members shall be nominated by the Governor and rest of the members shall be elected based on adult suffrage.*

*Provided also that the Lai, Mara and Chakma Autonomous Territorial Council and the Tripura Tribal Areas Autonomous Territorial Council each of which shall consist of not more than thirty members, of whom four members including at least two women members shall be nominated by the Governor and rest of the members shall be elected on the basis of adult suffrage.*

### **3.2.13 Tripura**

- Reservation for women should not be less than one-third of the total seats in the District Council.
- The existing strength of 28 (Twenty-eight) elected members and 2 (Two) nominated members to be doubled i.e. 56 elected members and 4 (Four) nominated members.
- The following proviso may be included in paragraph 2 of sub-paragraph (1)-

*Provided further that Tipraland Autonomous Territorial Council shall consist of not more than 50 (fifty) members, of whom 5 (five) including at least 2 (two) women members from unrepresented tribe/ communities shall be nominated by the Governor and rest of members shall be elected from Schedule Tribe only based on adult Suffrage.*

*Provided further that 'Tripura Autonomous Territorial Council' shall consist of not more than 50 (fifty) members for ST category of whom six members including at least three women members shall be nominated by the Governor and the rest shall be elected based on adult suffrage.*

*Provided further that 'Tripura Autonomous Territorial Council' shall consist of not more than 50 (fifty) members of whom six members including at least 4 (four) women members shall be nominated by the Governor and the rest shall be elected based on adult suffrage.*

*Provided further that Tipraland Autonomous Territorial Council shall consist of not more than 50 (fifty) members, of whom 5 (five) including at least 2 (two) women members from unrepresented tribe/ communities shall be nominated by the*

*Governor and rest of members shall be elected from Scheduled Tribe only based on adult suffrage.*

*Provided further that 'Tripura Autonomous Territorial Council' shall consist of not more than 50 (fifty) members of whom six members including at least 3 (three) women members shall be nominated by the Governor and the rest shall be elected based on adult suffrage.*

*Tripura Tribal Areas Autonomous District Council shall consist of not more than thirty-two (32) members of whom four members including two women members shall be nominated by the Governor and rest of the members shall be elected based on adult franchise.*

- The number of members may be increased from the present 30 to 44 out of which 40 members will be selected based on adult suffrage and 4 members will be nominated by the Governor from amongst the unrepresented communities in the case of ADC of Tripura.
- One-third of total seats in the Tipraland Autonomous Territorial Council should be reserved for tribal women.
- The TTAADC members should be increased to 56. Out of 56 members, 3 should be nominated from unrepresented minority tribal communities and 3 members should be nominated from tribal women and 50 members should be elected by adult voters.
- Increase the number of seats to not more than 'forty' members of whom four members including at least two women members shall be nominated by the Governor and the rest of the members shall be elected on the basis of adult suffrage.

### **Comments of the Ministry**

3.2.14 The Ministry of Home Affairs in its comments stated that the powers and the functioning of the office of the Governor have been laid down by the Constitution of India. There is no proposal to amend paragraph 2(1) to provide for reservation of seats. Reservation is in respect of the nomination by the Governor. For the rest of the seats to be elected based on adult suffrage, there is no provision for reservation. The 'Unrepresented Tribes' will be nominated by the Governor and their rights and privileges will be in accordance with the existing scheme prevalent in the ADCs.

3.2.15 In Para 2.5 of the Settlement signed by the Government of India, Government of Meghalaya and Achik National Volunteer Council (ANVC), it was agreed to increase the number of members of the Council in principle. Further, the National Commission on review of working of the Constitution (NCRWC) in its report dated 31<sup>st</sup> March, 2002, in Para 209 (2), as regards Meghalaya, has mentioned that 'the number of seats in each Autonomous District Councils in Meghalaya should be increased by 10 seats i.e. to a total number of 40 seats. Of the 10 additional seats, having regard to the non-representation of women and non-tribals, the Governor may nominate up to five members from these categories to each of the ADCs'.



3.2.16 The proposed amendment was also discussed in a meeting of the State Government under Dy. CM and elected office-bearers of these Councils at Shillong on 25<sup>th</sup> May, 2018 and in a meeting under Union Home Minister with the Chief Ministers of the States.

3.2.17 As regards reducing nominated members in Jaintia Territorial Council, the MHA clarified that the Constitution scheme has been for 4 nominated members out of 30 members. The proposed amendment while considering the democratic element, has restricted nominated members at 4 out of 34 proposed strength of the Council.

3.2.18 With respect to unrepresented Tribes in Garo Hills Autonomous District Council (GHADC) and Khasi Hills Autonomous District Council (KHADC), the the population composition of these two ADCs is relevant. The numeric dominance of the two tribes makes the possibility of less numeric tribes getting elected extremely difficult and to give them representation in ADCs, seats are proposed to be reserved for unrepresented tribes. The same principle of the nomination of unrepresented communities already exists in Bodoland Territorial Council (BTC) where seats are reserved for unrepresented communities as nominated members. This provision will ensure equity and justice in GHADC and KHADC.

3.2.19 The MHA also clarified that for nomination of Members from unrepresented communities there were representations to the Ministry that in view of over-whelming numbers of Khasi, Garo and Jaintia tribes in the State, the tribes with lesser number did not have the possibility of getting elected in the District Council.

3.2.20 Based on these representations and the precedence of the Bodoland Territorial Council which has provisions of Six Council Members being nominated by the Governor from amongst the unrepresented communities of the District was incorporated in the Bill after approval of the Union Cabinet.

3.2.21 The proposed representation from the unrepresented communities is to ensure the fair possibility of non-numeric tribal communities other than Khasi and Garo in KHADC & GHADC being represented in their justification for the nomination of unrepresented communities in these Councils as is being done in respect of Bodoland Territorial Council.

3.2.22 It has also been proposed that in Autonomous Territorial/District Councils, at least two women are nominated to ensure that there is gender equity in these Councils as per the recommendations of the National Commission to Review the Working of Constitution.

## **Recommendations/Observations**

### **Assam**

**3.2.23 Paragraph 2 of the Sixth Schedule to the Constitution provides for not less than thirty members for each of the autonomous District Councils with four members to be nominated by Governor of concerned State. There are 10 ADCs 3 each in Assam, Meghalaya and Mizoram and one in Tripura. In the present Amendment Bill, membership of 9 Councils has been changed. Membership of Bodoland Territorial Council has already been changed previously. The Committee thus feels that the existing para 2(1) of the Schedule has become redundant. The Committee feels that since membership of all the 10 ADCs has been changed, therefore, instead of providing proviso to paragraph 2(1) of the Sixth Schedule provisions of membership made for each ADC, may be incorporated in paragraph 2(1) of the Sixth Schedule.**

**3.2.24 In para 20 of the Schedule in the Table, the 10 Autonomous District Councils have been listed in the following order:-**

- 1. North Cachar Hills District Council**
- 2. The Karbi and Anglong District Council**
- 3. The Bodoland territorial Area District Council**

**3.2.25 Similarly, in para 2 of the Table in respect of Meghalaya, the order of Autonomous District Councils is as under:-**

- 1. Khasi Hills District**
- 2. Jaintia Hills District**
- 3. Garo Hills District**

**3.2.26 The Committee finds that the said order has been changed in the proposed Amendment Bill as Karbi Anglong Autonomous Territorial Councils has been placed first in the proviso followed by Dima Hasao Autonomous Councils. Whereas the Dima Hasao is first in the Table. Similarly, Garo Hills Autonomous Council has been cited first followed by Khasi and Jaintia while in the Table they are ordered Khasi Hills followed by Jaintia Hills and Garo Hills. The Committee finds that no reason has been stated for changing the said order. Therefore, Committee feels that the order of these Autonomous Councils in the proviso after, sub para 1 and para 2 may be in the same order as in the Table of the Sixth Schedule.**

**3.2.27 The Ministry has stated that increase in the membership of different Councils has been as per the discussion held with various State Governments. Therefore, there is no logic or rationale like the population, area etc. *vis-a-vis* the number of membership of these Councils. The Committee finds it rather arbitrary. Since there is no logic followed in determining the membership of these Autonomous Councils as a result there are so many suggestions for changing the membership of these Councils. In the absence of rational criteria there will always be some disputes or demand for changing the membership of these councils. Therefore, the Committee recommends that membership of these Councils should be based on some rational criteria instead of deciding on the basis of an agreement/demand to obviate any subsequent demand to change the same.**

## **Meghalaya**

**3.2.28 In the Bill it is proposed to change the membership of Garo Hills ADC to 42, Khasi Hill ADC to 40 and Jaintia Hills ADC to 34 with nomination of 6,4 and 4 respectively by Governor with at least 2 women each. The Committee presumes that these number of membership have been proposed in the Bill on the basis of agreement with the State Government of Meghalaya. But now, Government of Meghalaya through it interaction with the Committee informed that they want to change these numbers. It has been suggested that for Garo Hills strength of ADC should be at 40 instead of 42 and for Khasi Hill at 40 same as proposed in the Bill but without any nomination of unrepresented tribes. The State Government of Meghalaya has suggested that there should not be any nomination of unrepresented tribes. The Committee in this regard feels that inclusive participation of all the tribes is not only desirable but is a sine quo non in a democratic setup. Therefore, Committee recommends that there should be representation of unrepresented tribes in the ADCs. It may be with a rider that only those tribes will be nominated in the nomination**

category which could not get elected in the election. Moreover, these nominations may be on the basis of some reasonable criteria and on rational basis, to obviate any arbitrariness. Regarding replacing the word of ‘unrepresented tribes’ with ‘unrepresented indigenous tribes’, the Committee feels once a rationale criterion is fixed for nominating unrepresented tribes, the said suggestion will be taken care of.

## Mizoram

**3.2.29** Suggestion for increasing the strength of Lai, Chakma and Mara ADCs has been received by the Committee. The Committee feels that in case of Mizoram too if a rationale criterion is formulated for fixing the strength of ADCs, then strength of there ADCs could also be fixed accordingly.

## Tripura

**3.2.30** Besides increasing the strength of Tripura ADC, suggestion has also been received for changing its name as Tipraland. The Committee feels that changing the name of Tripura ADC to Tipraland may be considered by the MHA. As regards, increasing the strength of membership of Tripura ADC from 30 as proposed in the Bill to 50 to which even the Ministry seems to be agreeable, the Committee is of the view that some criteria should be fixed failing which the demand for increasing or decreasing the Membership will continue to arise. Once the criterion is fixed, it can be explained to those demanding the change in membership.

**3.3** Clause 3 (a) (ii): In paragraph 2 in sub-paragraph (3) after the proviso, proposes to substitute the following proviso in the Sixth Schedule to the Constitution

*“Provided that-*

- (a) the District Council constituted for the Karbi Anglong District shall be called the Karbi Anglong Autonomous Territorial Council;*
- (b) the District Council constituted for the Dima Hasao District shall be called the Dima Hasao Autonomous Territorial Council;*
- (c) the District Council constituted for the Garo Hills District shall be called the Garo Hills Autonomous Territorial Council;*
- (d) the District Council constituted for the Khasi Hills District shall be called the Khasi Hills Autonomous Territorial Council;*
- (e) the District Council constituted for the Jaintia Hills district shall be called the Jaintia Hills Autonomous Territorial Council; and*
- (f) the District Council constituted for the Tripura Tribal Areas shall be called the Tripura Tribal Areas Autonomous Territorial Council.”;*

## Purpose of the Amendment

**3.3.1** The Ministry of Home Affairs stated that the renaming of the Councils in respect of Assam was being done to implement the Memorandum of Settlement signed with United People Democratic Solidarity (UPDS) and Dima Halam Daogah (DHD). As regards other ADCs, the renaming is being done

to bring in uniformity in Autonomous Councils jurisdiction which extends to more than one revenue district. This has been discussed with the State Governments concerned.

### **Views of the State Governments**

3.3.2 The State Governments of Assam, Meghalaya and Mizoram are in broad agreement with the proposed amendment to Clause 3(a)(ii) of the Bill.

### **Tripura**

3.3.3 The State Government of Tripura has informed that there are 8 (eight) administrative revenue districts. The Territorial Jurisdiction of Tripura Tribal Areas Autonomous District Council (TTAADC) extends over to all the 8 (eight) districts. As such the name of Tripura Autonomous District should be changed. In conformity with the peoples demand and since its jurisdiction covers all the districts of the State, the State Government of Tripura is of the opinion that Tripura Tribal Area Autonomous District Council may be re-named as “Tipra Territorial Council”.

### **Suggestions from Stakeholders**

#### **3.3.4 Mizoram**

- The Committee was suggested that the Chakma, Mara and Lai District Councils may be called the Chakma, Mara and Lai Autonomous Territorial Councils respectively.

3.3.5 The Ministry of Home Affairs commented that as the jurisdiction of Lai, Mara and Chakma Autonomous Councils are within one Revenue District of the State of Mizoram; it is not desirable to call them Autonomous Territorial Councils.

#### **3.3.6 Tripura**

- It was suggested to change the nomenclature of “Tripura Tribal Areas Autonomous District Council (TTAADC) to Tripura Territorial Council (TTC) or Tripura Autonomous State Council (TASC)”
- *“Tripura Tribal Areas Autonomous Territorial Council” be renamed as “Tripura Autonomous Territorial Council” or “Tipraland Autonomous Territorial Council.”*
- ‘Tripura Tribal Areas Autonomous Territorial Council’ shall be substituted as ‘Tipraland Autonomous Territorial Council’.
- Tripura Tribal Areas Autonomous District Council should be renamed as the Tipraland Autonomous Territorial Council.
- Tripura Tribal Areas Autonomous District Council may be changed to “Tripura Autonomous Territorial Council (TATC)”.
- TTAADC covers all the 8 Districts of the State of Tripura & 19 tribes and it is a unique institution unlike other District Council of States of Assam, Meghalaya and

Mizoram, which are basically a particular tribal community based. Therefore, nomenclature be changed from "Tripura Tribal Area Autonomous District Council (TTAADC)" to "Tipra Autonomous State Council (TASC)".

- TTAADC though denotes to District but it covers the entire state. It should be renamed Tripura Tribal Area Autonomous Territory Council.

### **Recommendation/observation**

**3.3.7 The Committee takes notes of the suggestion of the State Government of Tripura for renaming the Tripura Tribal Areas Autonomous District Council (TTAADC) as "Tipra Territorial Council" for the reason that the territorial jurisdiction of TTAADC extends over to all the 8(eight) administrative/revenue Districts. The Ministry of Home Affairs seems to be agreeable to the suggestion but needs to discuss with State Government. The Committee, as observed rather, recommends that renaming of TTAADC as "Tipra Territorial Council" may be considered by the Ministry in consultation with State Government of Tripura.**

**3.4 Clause 3 (a) (iii):** proposes insertion of new clause (da) after clause (d) in sub-paragraph (6), in paragraph 2 in the Sixth Schedule to the Constitution providing for the disqualification of members of such Councils on the ground of defection as under:

*"(da) the disqualification of members of such Councils on the ground of defection;"*

### **Purpose of the Amendment**

3.4.1 The Ministry of Home Affairs stated that this disqualification clause was not there in the Sixth Schedule to the Constitution. To incorporate this provision, the amendment in the Sixth Schedule has been discussed and agreed upon by the State Governments.

### **Views of the State Governments**

3.4.2 The State Governments of Assam, Meghalaya, Mizoram and Tripura are in broad agreement with the proposed amendment.

### **Suggestions from Stakeholders**

#### **3.4.3 Mizoram**

- The Committee was suggested that in clause (d) of sub-paragraph (6), between the word "qualifications" and the words "for being elected" the words "and disqualifications" shall be inserted:

3.4.4 The Ministry of Home Affairs commented that the suggestion is not tenable.

#### **3.4.5 Tripura**

- Disqualification on defection may be made applicable to the member of the Council as per the provisions of the Tenth Schedule to the Constitution of India.

3.4.6 The Ministry of Home Affairs commented that disqualification on defection as suggested is as per the provisions of the Tenth Schedule to the Constitution of India.

### **Recommendation/Observation**

**3.4.7 The Committee notes that the provision of disqualification was not there in the Sixth schedule and insertion of this provision will bring ADCs at par with the Panchayati Raj Institutions. The State governments are in agreement to the amendment. As regards, the suggestion for insertion of the word “qualifications” in sub para (d) of para 6 of the Sixth Schedule, the Committee recommends that it may be considered by the MHA because there might be some qualification for the Territorial Members.**

**3.5 Clause 3 (a) (iv):** proposes insertion of the following proviso after the second proviso in subparagraph (6A), in paragraph 2 in the Sixth Schedule to the Constitution:

*“Provided also that where an elected member of the District Council is chosen as a Member in either House of Parliament or in the House of the Legislature of a State, his seat in the District Council shall become vacant after the expiration of a period of fourteen days from the date of publication of the declaration in the Gazette of India or in the Official Gazette of the State, that he has been so chosen.”;*

### **Purpose of the Amendment**

3.5.1 The Ministry of Home Affairs stated that this proviso is being inserted to ensure that an elected member of the ADC does not simultaneously become Member of Parliament or a State Legislature. The Prohibition of Simultaneous Membership Rules, 1950 (M/o Law Notification No. 46/50-C dated 26.09.1950) formulated under Article 101 and 190 of Constitution of India provides that “The period at the expiration of which the seat in Parliament of a person who is chosen a member both of Parliament and of a House of Legislature of a State specified in the First Schedule to the Constitution of India (hereinafter referred to as "the Constitution") shall become vacant, unless he has previously resigned his seat in the Legislature of such State, shall be fourteen days from the date of publication in the Gazette of India or in the Official Gazette of the State, whichever is later, of the declaration that he has been so chosen.” In view of this, the amendment was proposed and agreed upon by the concerned State Governments.

### **Views of the State Governments**

3.5.2 The State Governments of Assam, Mizoram and Tripura are in broad agreement with the proposed amendment.

3.5.3 The State Government of Meghalaya stated that the wordings be made tighter so that the vice-versa is also not allowed and the objective is to allow a member to be a member of only one of the either house.

## Suggestions from Stakeholders

### 3.5.4 Assam

- The Committee was suggested that the proviso of sub-paragraph 6A may be amended by inserting the words “on the advice and recommendation of the District Council” after the words “be extended by the Governor”.

3.5.5 The Ministry of Home Affairs commented that the suggested change is not possible. As per the Constitutional provisions, the Governor is to act on the aid and advice of the State Government or in his discretion any capacity, if provided specifically in the Constitution.

### 3.5.6 Meghalaya

- *Provided also that where a elected member of the District Council is chosen as a Member in either House of Parliament or in the House of the Legislature of a State, his seat in the District Council shall become vacant after the expiration of a period of Sixty day from the date of publication of the declaration in the Gazette of India or in the Official Gazette of the State, that he has been so chosen.*
- Provided further, that this proviso shall have no effect on the term of the Councils existing on or before the commencement of the Constitution (One Hundred and Twenty-fifth Amendment) Act, 2019.

3.5.7 The Ministry of Home Affairs commented that the proposed amendment is in line with “The Prohibition of Simultaneous Membership Rules, 1950” formulated under Article 101 and 190 of Constitution of India and the suggestion is, therefore, not tenable.

## Observation

**3.5.8 The Committee notes that this provision is being inserted to ensure that an elected member of the ADC does not simultaneously become Member of Parliament or a State Legislature and is in consonance with the Prohibition of Simultaneous Membership Rules, 1950 (M/o Law Notification No. 46/50-C dated 26.09.1950) formulated under Article 101 and 190 of Constitution of India. The Committee observes that this proviso shall have no effect on the term of the Councils existing on or before the commencement of the Constitution (One Hundred and Twenty-fifth Amendment) Act, 2019, The Committee is thus in agreement to the proposed amendment.**

**3.6 Clause 3 (a) (v):** proposes insertion of the following sub-paragraph after sub-paragraph (7) in paragraph 2 in the Sixth Schedule to the Constitution:

*“(8) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the District Council, Regional Council, Village Council and Municipal Council shall be vested in the State Election Commission appointed by the Governor for that State:*

*Provided that nothing in this sub-paragraph shall apply to a Village Council and Municipal Council in the State of Meghalaya until approved by the Governor of that State.”*

## **Purpose of the Amendment**

3.6.1 The Ministry of Home Affairs stated that the proposed amendment was introduced to bring the Sixth Scheduled areas at par with the Panchayati Raj Institutions and to bring in uniformity as regard to the electoral machinery. The concerned State Governments except Meghalaya have accepted the proposal.

## **Views of the State Governments**

3.6.2 The State Governments of Assam, Mizoram and Tripura are in broad agreement with the proposed amendment.

## **Meghalaya**

**3.6.3** The State Government of Meghalaya stated that since elections to the ADCs in Meghalaya are conducted on the basis of adult suffrage through the Deputy Commissioners and SDO © as returning officers under the provision of the Assam and Meghalaya Autonomous Districts (Constitution of District Council) Rules, 1951. In view of the Standing objections and reservations expressed by the District Councils from time to time in respect of the conduct of elections on the basis of adult suffrage to the institutions at the lower tiers of governance like the village Dorbar/Councils etc, the extant arrangements may continue.

## **Suggestions from Stakeholders**

### **3.6.4 Assam**

- The State Election Commission should supervise every conduct of the election process.
- The power of the Autonomous Councils to make laws for conduct and preparation of voters lists for elections of the members of the Autonomous Councils and for conduct of elections of all Municipal Boards, Town Committees, Village Councils, Regional Councils, Boards and Co-operative Societies, is fundamental power of the Autonomous Councils under the Sixth Schedule and basic structure of the constitution of India. It cannot be amended to take it away from the Autonomous Councils. The insertion of “(with the approval of the Governor)” by an amendment at Paragraph 2, Sub-paragraph 7 in 1970, is unconstitutional, because it violates the basic structure of the constitution. This amendment must be repealed.
- It was further stated that the Hon’ble Gauhati High Court in PIL No.9/2017 in their judgement dated 18<sup>th</sup> May, 2018 has directed the Karbi Anglong Autonomous council to make a law for conduct of elections and preparation of voters lists of the Autonomous Council within six months and the time for which was extended to 13<sup>th</sup> January, 2020 on petition from the Autonomous Council. The draft law is with the Assam government. The Judgement of the Hon’ble Gauhati High Court applies to all Autonomous Councils under the Sixth Schedule. Therefore, the proposed amendment of Paragraph 2, Sub Paragraph 7, marked point 20, “(8) The



Superintendence, direction and ..... State of Meghalaya until approved by the Governor of that State” must be cancelled.

### 3.6.5 Meghalaya

- Omit the proviso -

*Provided that nothing in this sub-paragraph shall apply to a Village Council and Municipal Council in the State of Meghalaya until approved by the Governor of that State.*

- Change the following-

*Provided that nothing in this sub-paragraph shall apply to a Village Council and Municipal Council in the State of Meghalaya and the prevailing customary practices relating to traditional institutions at grassroot level of local self governance shall continue to function.*

*Provided also that in the state of Meghalaya the term Village Councils shall mean the traditional Village Dorbars and Gitim Nokmas within the Autonomous District Council. The term Elaka councils shall mean the Dorbar Hima of the particular Elaka whether a Hima, Dalloiship or Nokmaship. The Raiij Councils shall mean the Dorbar Raid. Any other reference shall be interpreted as per the prevailing customary practices or relevant Acts and Rules of the respective Autonomous Territorial Councils in Meghalaya. The term Municipal Council shall mean Town Council or Town Committee.*

- No exemption should be provided to Meghalaya and the following change to be included:

*The superintendence, direction and control of the preparation of electoral rolls for and the conduct of, all elections to the District Council, Regional Council, Village Council and Municipal Council otherwise known as Dorbar Shnongs or any other local names shall be vested in a State Election Commission appointed by the Governor for that State.*

3.6.6 The Ministry of Home Affairs commented that the proposed Bill gives relaxation to the Sixth Scheduled Councils in Meghalaya for not having elected Village and Municipal Councils till the Governor approves the same and this has been done in consultation with the State Government of Meghalaya.

### 3.6.7 Mizoram

- The following sub-paragraphs may be inserted after sub-paragraph (7) -

*The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the District Council and Regional Council shall be vested in a State Election Commission or Regional Commissioner appointed under Article 324 (4) of the Constitution of India.*

*Provided that nothing in this sub-paragraph shall apply to a Village Council and Municipal Council in the State of Meghalaya until approved by the Governor of that state.*

*The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Village Council, Municipal Council and the Town Committee shall be vested in the Autonomous Territorial Councils' concerned.*

*Provided that nothing in this sub-paragraph shall apply to a Village Council and Municipal Council in the State of Meghalaya until approved by the Governor of that state.*

- The Autonomous District Council may be empowered to make laws with respect to all matters relating to, or in connection with, elections to the District Council, Municipal council, Town Committee or Council and village Councils as it will ensure free and fair elections of the District Councils.

3.6.8 The Ministry of Home Affairs commented that the proposed amendment is in line with Article 243K relating to elections to the Panchayats. Hence, the suggestion is not tenable.

### **3.6.9 Tripura**

- Insert the following-

The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of elections to the Territorial Council should be vested to the Election Commission of India.

However, Elections to the Regional Councils, Zonal Council, Sub-Zonal Council, Village Council & Municipal Council shall be vested in a State Election Commission appointed by the Governor for that State.

The superintendence, direction and control of the preparation of electoral roll for, and the conduct of, elections to District Council shall be vested in the Election Commission of India and Regional Council, Village Council and Municipal Council shall be vested in the State Election Commission appointed by the Governor for that State.

3.6.10 The Ministry of Home Affairs commented that the proposed amendments are as per discussion with the State Governments and accordingly Village and Municipal Councils are exempted.

### **Recommendation/observation**

**3.6.11 An exemption through a proviso has been provided to the State of Meghalaya for application of this provision. The relaxation has been granted in consultation with the State Government of Meghalaya. The State Government of Meghalaya has suggested that existing practice of Village Dorbar/Councils which recurs are not elected by adult suffrage. The Committee feels that this goes against the very basic norms of democratic principles. Customs/practices however, sacrosanct they may be, should not override the democratic principles. The Committee, therefore, recommends that Ministry prescribe a time limit for lifting this relaxation/operation of this exemption to Meghalaya. Since it is a constitutional amendment Bill, providing exemption to a state without any reasonable cause or any time limit may not be tenable.**

**3.7** Clause 3 (b): proposes insertion of the following paragraph after paragraph 2 in the Sixth Schedule to the Constitution:

*“2A. (1) Within a period of one year from the date of commencement of the Constitution (One Hundred and Twenty-fifth Amendment) Act, 2019, each District Council shall establish Village Councils for a village or a group of villages in the rural areas and Municipal Councils for an urban area or an agglomeration of such urban areas of the District.*

*(2) The District Council may, by law, provide for -*

*(a) the number of Village Councils and Municipal Councils to be formed, their composition, the number of seats in each such Council in such manner that their numbers remain the same throughout the district;*

*(b) the manner of allocation of seats in such Councils subject to reservation of not less than one-third seats for women;*

*(c) the delimitation of territorial constituencies for the purpose of election to the Village Council and the Municipal Councils on the basis of adult suffrage;*

*(d) the qualification for voting at election to such Councils;*

*(e) the qualifications for being elected as members of such Councils;*

*(f) the term of office of members which shall not be less than five years;*

*(g) the grounds for disqualification of members;*

*(h) the powers to be exercised and functions to be performed by such Councils; and*

*(i) any other matter relating thereto.*

*Provided that nothing in sub-paragraphs (1) and (2) shall apply to the State of Meghalaya until approved by the Governor of that State.”;*

*(3) Each District Council shall also constitute a District Planning Committee for the district consisting of such number of elected members from the District Council or Regional Council and from each of the Village Councils and the Municipal Councils, as it deems necessary, for the purpose of consolidating plans prepared by each such Council and to prepare a development plan for the district as a whole and such other matters relating thereto.*

*(4) All laws made under this paragraph shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect.”*

### **Purpose of the Amendment**

3.7.1 The Ministry of Home Affairs stated that the proposed amendments were made to incorporate the elements of Panchayati Raj Institutions in the Sixth Schedule areas. This will ensure the democracy at grass root level. The concerned State Governments except Meghalaya have accepted this amendment.

### **Views of the State Governments**

3.7.2 The State Governments of Assam and Mizoram are in broad agreement with the proposed amendment.

## **Meghalaya**

3.7.3 The State Government of Meghalaya expressed its reservation to the proposal for establishment of Village Councils and Municipal Councils by insertion of the new paragraph 2A and the constitution of a District Planning Committee under paragraph 2A (3) read with the proposed substitution of sub-paragraph (2) in paragraph 6 which outlines the various subjects proposed to be entrusted to the District Councils, the Village Councils and the Municipal Councils. In this connection, it was mentioned that the State Government and the Autonomous District Councils share the same geographical jurisdiction and only a small portion of the State capital of Shillong is outside the Sixth Schedule areas. Unlike the other States, the District Councils in Meghalaya do not merely cover the minority tribal groups but they represent almost the entire population of the State barring those living in a small area in the State capital which is outside the area under the jurisdiction of the District Council. As the State of Meghalaya was created from erstwhile undivided State of Assam coinciding/covering the whole jurisdiction of both the United Khasi Jaintia Hills ADC and Garo Hills ADC, almost the whole area of the State is Sixth Schedule areas and thus 55 out of total of 60 Legislative Assembly constituencies are reserved only for the Scheduled tribes to protect the interest of tribals. Therefore, the protection of tribal rights here has a different picture. Accordingly, the proposed amendment is bound to result in some conflict between the State Government and the ADCs. Further, the majority of the people in Meghalaya still have a special attachment to the existing traditional institutions of the Village administration. The idea of Village Council and holding of elections to such bodies by adult suffrage still not readily acceptable to the people of the State.

3.7.4 Two modifications were proposed in respect of Para 2, sub-para 3, of the proposed Bill, “the proviso that nothing in the sub-paragraph shall apply to the State of Meghalaya until approved by the Governor of that State, to be inserted at the end of the above cited paragraph.

## **Tripura**

3.7.5 The State Government of Tripura proposed that a Territorial Planning Committee should be constituted for the entire territorial council area consisting of members of the Territorial Council, Chairmen of the Municipal Councils and the Block Councils as members. Officials should also be included as members of the said Territorial Planning Committee as having District Planning Committees at the level of Revenue Districts is not feasible in the case of Tripura.

## **Suggestions from Stakeholders**

### **3.7.6 Assam**

- Include the following change under Para-2A-

*Provided further that nothing in sub-paragraph (1) & (2) shall apply to the state of Meghalaya and the North Cachar Hills Autonomous Council, Haflong (Dima Hasao District) in the State of Assam, until approved by the Governor of that State.*

*Provided that nothing in Sub-paragraph (1) an (2) of the proposed New paragraph 2A after paragraph 2 should be applied in Dima Hasao District until approved by the proposed Dima Hasao Autonomous Territorial Council.*

- Tribal people's traditional Village Council system is an intrinsic and instrumental part of our Tribal society and has been in existence since time immemorial. The establishment of the Village Council by adopting a participatory Democratic system

on the basis of adult franchise will erode the bedrock of the traditional practice and Cultural system. It was on the recognition of the Uniqueness in Structure and form of inherent Cultural, Tradition, Custom and Village Administrative System of the Tribal people, the Sixth Schedule to the Constitution of India was added in the Constitution of India, to protect, preserve and promote its uniqueness. Therefore, the proposed Bill is an infringement on Cultural Rights which is the Fundamental Rights enshrined in the Constitution of India.

### 3.7.7 Meghalaya

- The Committee was suggested to maintain the autonomy of the new Autonomous Territorial Councils in the State of Meghalaya and to insert the following proviso to Paragraph 2A-

*Provided that nothing in this paragraph shall apply to the State of Meghalaya except with the consent of the Autonomous Territorial Councils in that State.*

3.7.8 The Ministry of Home Affairs commented that the suggestion to the Committee as regards to Paragraph 2A of the Bill being applicable to State of Meghalaya except with the consent of Autonomous Territorial Council (ATC) in the State is not tenable because the executive powers of the State and under Sixth Schedule vest with the Governor and not with ATC.

- *Provided in Meghalaya each Territorial Council shall also constitute a Territorial Planning Committee for the district consisting of not more than fifty members of such members from the Territorial Council or Regional Council and such members as deems necessary, for the purpose of consolidating plans prepared by each such Council and to prepare a development plan for the district as a whole and such other matters relating thereto.*
- In the first line of Paragraph 3(1)(a) the word “transfer” to be followed by a comma “(,)” shall be inserted before the word “allotment” and after the words “of the land” to be followed by the words “including land records and codification, of land holding system” be inserted.
- After sub-paragraph (3) of Paragraph 3 a proviso be inserted namely”-  
*Provided that when a Bill has been passed by the Autonomous Council in Session, it shall be submitted to the Governor and the Governor shall within a period of sixty days declare either that he assents to the Bill or that he withholds assent therefore or that he reserves the Bill for reconsideration.*
- Provided further that the Governor may, as soon as possible after the submission to him of the Bill for assent, return the Bill together with a message requesting that the Council will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such Bill or amendments as he may recommend in his message and, when a Bill is so returned, the Council shall reconsider the Bill accordingly, and if the Bill is passed again by the Council with or without amendment and on resubmission to the governor for assent, the Governor shall not withhold assent therefrom.

3.7.9 The Ministry of Home Affairs commented that the suggestions of Khasi Hills Autonomous District Council (KHADC), Jaintia Hills Autonomous District Council (JHADC), Garo Hills Autonomous District Council (GHADC) regarding time limit of the Governor regarding the Bill passed by Autonomous Councils are not tenable.

- Insertion of sub-paragraphs of (1) and (2) of 2A, after paragraph 2,  
The proviso “Providing that nothing in sub-paragraphs (1) and (2) shall apply to the State of Meghalaya until approved by the Governor of that State.” be omitted.

3.7.10 The Ministry of Home Affairs commented that the proposed Bill gives relaxation to the Sixth Scheduled Councils in Meghalaya for not having elected Village and Municipal Councils till the Governor approves the same and this has been done in consultation with the State Government of Meghalaya.

- Formation of Village Councils is important as it will help the different tribes and localities who reside in Khasi Hills and Jaintia Hills district to voice their grievances through the Village Councils.
- When the Village Council is formed they will become the member or be the part of the Committee in government delivering system or in allocation of Government Scheme and accordingly the member who represent the Village Council can raise their grievances or place their demand in the committee and accordingly the scheme or project can be equally distributed or allotted to each and every village localities equally without bias.
- Non-consideration of forming the Village Council will lead to unequal distribution of public schemes.
- If this is not fulfilled, then many genuine citizens or communities will be deprived of equal allocation of the government scheme and government projects and many unrepresented tribes or communities will suffer and only a few communities and influential people or villages or localities and communities will be benefitted through the government project.

3.7.11 The Ministry of Home Affairs commented that the views are welcome and respect the democratic functioning of grass root institutions. However, the State Government and the Councils are not agreeable to the formation of Village Councils at present.

### **3.7.12 Mizoram**

- Add the following proviso after the proviso “All laws made under this paragraph shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect.”:  
*“Provided that the power to make laws, as permitted by this paragraph, should be respected in its true spirit and draft legislation should not be stalled at the State level for year, while ensuring that they are not inconsistent with the provisions of the Constitution and relevant Union and State Laws.”*

3.7.13 The Ministry of Home Affairs commented that the suggestion is not tenable.

- To insert the following proviso in paragraph 2A(1)-

*Provided that Establishment of Municipal councils for an urban area shall not apply to the Autonomous District/Territorial Council of Mizoram until approved by the Governor of that state.*

### **3.7.14 Tripura**

- Constitution of Zonal Councils and Sub-Zonal Councils of Tipraland Autonomous Territorial Council may be inserted.
- In 2A(2)2(c), In respect of Tipraland Autonomous Territorial Council, Zonal Council and Sub Zonal Council to be added.

3.7.15 The Ministry of Home Affairs commented that there is no proposal to insert Zonal/Sub-Zonal Councils in the proposed amendment.

- At present, the District Planning Committee (DPC) is constituted with the District Magistrate and Collectors and the concerned members of the Zilla Parishad (District Panchayat). There is no representative from the existing Tripura Tribal Areas Autonomous District Council (TTAADC) in the District Planning Committee. In other words, the TTAADC has no role in formulation of plans and programs for the development of the District. It is therefore proposed to the Committee that District Planning Committee should be constituted for each District with the District Magistrate & Collector as well as the Chairman of the Zonal Council, Sub Zonal Council and Municipal Council of the Territorial Council should be included as members of the DPC.

3.7.16 The Ministry of Home Affairs commented that the proposed District Planning Committee would consist of the elected members from the District Council or Regional Council and from each of the Village Councils and the Municipal Councils.

- In Tripura, 587 elected Village Committees (Council) covering all revenue Districts are presently functioning and elected in every five years interval since the year 2006. In addition to that there are 33 Sub-Zonal Level Committees (nominated) and above these there are four Zonal Development Committees (nominated) are also functioning to supervise and implement the Council's programs as well as transferred schemes of the State Government. It was demanded to include in the amendment proposal, the 'sub-zonal council' in the intermediate level above Village Committees (Councils) and 4(four) "Zonal Councils" above Sub-Zonal Councils i.e. as good as, District level Councils within the District Council areas. There are 591 Gram panchayats (almost similar 587 Village Committees), 35 Intermediate panchayats and 8 District panchayats in the rural areas of the State.

These Zonal Councils Sub-Zonal Councils and Village Committees (Councils) would be under District Council since TTAADC is not confined to one or two districts and it cuts across all 8(eight) revenue District of the State. As such it is justified to constitute Zonal councils and Sub-Zonal Councils under the District or as proposed Territorial Council. Alternatively, these provisions may also be inserted after paragraph 3(1)(e) for Tripura.

Therefore, suitably insert in the proposed amendment in Sl. No. (b)"2A(1) ad (2)(a),(b),(c) before the word "village Councils" as at page No. 3 and then the District Council can discharge similar functions as in the Panchayats in the State.

### **Recommendation/Observation**

**3.7.17 The Ministry of Home Affairs has stated that the proposed amendments have been made to bring in elements of Panchayati Raj Institution in the Sixth Schedule areas. This will strengthen the democracy at the grass root level, i.e. village level. The Committee feels that providing any exception to the said provisions as has been done in the case of Meghalaya goes against the ethos of democracy particularly at the grass root level. Demand for this exception may also arise from other States too. Therefore, the very purpose of bringing this amendment may get defeated if relaxation is given to any State. The Committee is, therefore, of the view that for strengthening democracy at the grass root level, this provision should be applicable to all States without any exception. Though, it is good to make laws on the basis of consultation with the concerned State Governments. But providing democratic rights without exception to people particularly at village level is in the spirit of our Constitution and democratic values. The exception to Meghalaya may be for a transitional/specified period till the state is ready for the said provision, but providing it for an indefinite time, needs to be reconsidered.**

**3.8 Clause 3 (c): proposes amendment in sub-paragraph (1) in paragraph 3A in the Sixth Schedule to the Constitution:**

*(i) in clause (c), for the word "preservation", the word "animal husbandry and veterinary, that is to say, preservation" shall be substituted;*

*(ii) for clause (d), the following clause shall be substituted, namely:-*

*"(d) education, that is to say, primary and secondary education, higher secondary education including vocational training, adult education, college education(general);";*

*(iii) in clause (n), -*

*(a) after the words "libraries, museums", the word "archaeology" shall be inserted;*

*(b) the word "and", occurring at the end shall be omitted;*

*(iv) after clause (o), the following clauses shall be inserted, namely:-*

*(p) forests (other than reserved forest);*

*(q) public works relating to the Public Works Department;*

*(r) sericulture;*

*(s) cultural affairs;*

*(t) soil conservation;*

*(u) co-operation;*

*(v) handloom and textile;*

*(w) health and family welfare;*

*(x) public health engineering;*

*(y) social welfare;*

*(z) sports and youth welfare;*

*(za) weight & measures subject to the provisions of entry 50 of List 1 of the Seventh Schedule;*

*(zb) food and civil supplies;*



- (zc) *publicity and public relation;*
- (zd) *printing and stationery;*
- (ze) *tourism;*
- (zf) *urban development including town and country planning;*
- (zg) *tribal research institute controlled and financed by the State Government;*
- (zh) *land and revenue, land reforms;*
- (zi) *planning & development;*
- (zj) *Municipal Corporation or Boards, improvement trust, district boards and other local authorities;*
- (zk) *welfare of tribes living in hilly areas;*
- (zl) *markets and fairs;*
- (zm) *lotteries subject to provisions of entry 40 of List I of the Seventh Schedule;*
- (zn) *statistics;*
- (zo) *intoxicating liquors, opium and derivatives subject to the provisions of entry 84 of List I of the Seventh Schedule;*
- (zp) *labour and employment;*
- (zq) *registration of births and deaths;*
- (zr) *small, cottage & rural Industry;*
- (zs) *rural development including District Rural Development Agency.* ”,

## **Purpose of the Amendment**

3.8.1 The Ministry of Home Affairs stated that the proposed amendment is meant for the Karbi Anglong Hills Autonomous Council (KAAC) and North Cachar Hills Autonomous District Council (NCHAC) in Assam to implement the Memorandum of Settlements (MoSs) signed with United Peoples’ Democratic Solidarity (UPDS) and Dima Halam Daogah (DHD), respectively.

## **Views of the State Governments**

### **Assam**

3.8.2 The State Government of Assam has commented only on the issue pertaining to the transfer of land. The State Government justified that land is a transferred subject and suggested one proviso to be inserted in para 3 of sub-para 1(a) of the Sixth Schedule of the Constitution which is as under:

"Provided that land once entrusted, nothing in this law will prevent the State Government from taking over land for projects of a State Government and the Central Government from the Councils."

3.8.3 Many projects like hydroelectric projects, national highways, railways, etc., are location specific. There could be a situation where these things have to be done in the North Eastern Region for strategic or other reasons expeditiously. So, the State Government should have overriding powers over the Council and be authorized to take land only for projects meant for the State Government and the Central Government which are area specific.

3.8.4 In the Eleventh Schedule and the Twelfth Schedule of the Constitution the powers were delegated to the Panchayati Raj System through the 73<sup>rd</sup> and 74<sup>th</sup> Amendments and Entry 2 in the Eleventh Schedule

mentions land improvement, implementation of land reforms. Therefore, the provision is exactly what has already been given as this has been done all over India minus the Sixth Schedule Areas through the 73<sup>rd</sup> Amendment and thus will bring the Sixth Schedule Areas at par with the rest of India.

### **Meghalaya**

3.8.5 The State Governments of Meghalaya is in broad agreement with the proposed amendment.

### **Mizoram**

3.8.6 The State Government of Mizoram proposed to transfer technical education along with secondary education to the ADCs.

### **Tripura**

3.8.7 The State Government of Tripura stated that the same power should be devolved to Tripura as there is in Karbi Anglong and North Cachar Hills.

## **Suggestions from Stakeholders**

### **3.8.8 Assam**

- Another clause after the proposed clause (zs) in sub-paragraph 1 of paragraph 3 - “(zt) Mines & Minerals Development (subject to the provision of list 1 with respect of regulation and development under the control of the Union)” may be included.
- The subject “Technical & Higher Education” instead of “College Education (General)” in clause (d) of Paragraph 3A may be incorporated.
- The proposed clause (p) of paragraph 3A “Forest (other than reserved forest)” may be replaced with “(p) forest, ecology, wildlife and environment.”

3.8.9 The Ministry of Home Affairs commented that the subject of Mines & Minerals development is in the Union List and there is no proposal to change this. The Ministry further stated that with regard to inclusion of technical and higher education in Para 3A of the Sixth Schedule, the suggestion is not tenable as this subject is enumerated at entry 66 of List I and entry 25 of List III of the Seventh Schedule and with regard to inclusion of ecology, wildlife and environment, the suggestion is not possible as this was not in the Memorandum of Settlement with United People's Democratic Solidarity (UPDS).

- The Committee was requested to transfer more powers for the benefit of people and to include additional subjects under Paragraph 3A as under-  
As the subject of land alienation is already contained in Paragraph 3A Sub-paragraph (o) the proviso of Paragraph 3 Sub-paragraph 1(a) may be deleted.
- As the State Government has failed to make financial rules for Karbi Anglong the power of which was delegated to the Governor by the Sixth Schedule amendment effected by the Assam Reorganisation Act, 1969, the power to make financial rules must be restored to the Council in Paragraph 7.

- As the subject of revenue is already included in the proposed additions to Paragraph 3A, the provision of Paragraph 8 Sub-paragraph 1 may be rationalized in respect of Karbi Anglong by replacing the words "the principles for the time being followed by the Government of the State in assessing lands" with the words "the principles for the time being adopted by the Karbi Anglong Autonomous Council".
- A proviso may be inserted in Paragraph 13 with the words "Provided that the Autonomous Council shall prepare the annual budget of all departments under its administrative control taking into account the special needs, physical resources and priorities required for the Council area as per the intended allocation set earlier by the State and the Union government for that year".
- To end constant administrative conflict in the Higher Education Sector between the Council and the State Education Department, since college education is included in Paragraph 3A Sub-paragraph ii(d) the words "higher education" may be added.
- The main revenue base of the Council has been revenue collected from minor minerals (scheduled 'x' and 'y' items) which has been taken over by the State Government through the enactment of Assam Minor Mineral Concession Rules 2013. This must be restored to the Council by adding the item "Mines and Minerals" to the list in Paragraph 3A as Clause (zt).
- Reject the State Government proposal on land acquisition in the instant Bill to preserve and protect the tribal indigenous rights over their land as Sixth Schedule Councils must continue to retain guardianship of the tribal land to avoid the imminent danger of trifling and trampling with the tribal rights over their land.

3.8.10 The Ministry of Home Affairs commented that the proposed amendments incorporate the Memorandum of Settlement with UPDS and enhances powers of the Councils.

### 3.8.11 Meghalaya

- On page 5 in sub section (d) a further sub section (iii) should be added and it should read:

*Mandatory social audit to be implemented by Village Council/ dorbar shmong*

- On page 6 sub section (b) a further sub section (iii) should be added and it should read :

*Mandatory social audit to be implemented by Municipal Council*

*That nothing dealing with cases regarding Crimes against women shall be taken up by District council/Village Council/Tradition Chief's court.*

- Transfer more subjects to the Councils and add additional provision in Para 3(1) to promote global ethnic language and to protect the ethnic identity of indigenous people, the basis of which sixth schedule was formed.

### 3.8.12 Mizoram

- Following paragraph may be inserted after Clause 3B in the proposed amendment in its application to the State of Mizoram:

3C. Additional powers of the Chakma Autonomous District Council, Lai Autonomous District Council and Mara Autonomous District Council to make laws.

3.8.13 The Ministry of Home Affairs commented that at this stage, it is not possible to agree to the suggestion regarding additional powers to Chakma, Lai and Mara Autonomous District Councils as additional powers to District Councils have to be done in consultation with the concerned State Government. The proposed amendment to increase the powers of Karbi Anglong and Dima Hasao Autonomous Districts are as agreed in Memorandum of Settlements with UPDS and DHD and has been agreed by the State Government of Assam.

### 3.8.14 Tripura

- Constitution of Zonal Councils and Sub-Zonal Councils of Tipraland Autonomous Territorial Council” and “Establishment of:-  
Tipraland Universities (Both General & Technical) under UGC, AICTE  
Referral Hospitals
- Introduction of Anglo Roman script in the education sectors from primary to University level.

3.8.15 The Ministry of Home Affairs commented that the provision of the proposed amendment is not applicable to Tripura. The proposed amendment to increase the powers of Karbi Anglong and Dima Hasao Autonomous Districts are as agreed in Memorandum of Settlements with UPDS and DHD and has been agreed to by the State Government of Assam.

- In paragraph 3A in sub-paragraph (1), (iv) after clause (o), the following shall be inserted, namely in clause (p) of the said Amendment Bill, the words “forests (other than reserved forests)” should be substituted by the words “ forests including reserved forest” and in clause (zh); the Entry 18 and 45 of List-II of 7<sup>th</sup> Schedule should be inserted with a view to provide land protection rights to the tribal people particularly who are residing within the territory of TTAADC.
- In paragraph 3, in sub-paragraph, (1) after entry (j), the following entry shall be inserted, namely:-  
“(k) traditional occupations of the tribals including occupations relating to mines and minerals.”

### Recommendation/Observation

**3.8.16 The Ministry of Home Affairs has averred that this Amendment has been incorporated to implement the Memorandum of Settlements (MOSS) with United People’s Democratic Solidarity (UPDS) and Dima Halam Daogah (DHD). The Committee presumes that MOSs have the concurrence of State Governments of Assam. But now the State Government of Assam has**

expressed some reservations about inter-alia ‘land’ transferred to Autonomous Councils of Dima Hasao and Karbi Anglong Districts Autonomous Councils, before the Committee. Moreover, some other stake holders like Autonomous Councils and Members of Parliament from the State also have a contrarian view than the State Government on the subject.

**3.8.17** The Committee, therefore, recommends that Ministry of Home Affairs in consultation with State Government of Assam, elected representatives like MPs and concerned MLAs and Autonomous Councils find a way to build a broad consensus on the provision to obviate any problem that may arise between the stake holders and State Government while implementing this provision.

**3.8.18** Secondly, the Committee observes that subjects on which Dima Hasao District and Karbi Anglong District Autonomous Councils have power to make laws have been arranged in alphabetical orders, i.e. A-Z. This arrangement gives indication that subjects arranged after Z i.e. Za are part of the subject cited at Z. But the fact is that subjects cited after Z are separate and independent subjects without any relation with the subject at serial at Z. Moreover, the subjects have not been arranged in alphabetical order for easy identification. The Ministry of Law and Justice was of the view that this is as par the existing practice of number in different sub-clauses.

**3.8.19** The Committee, however, feels that since list of subjects is more than 26 i.e. total alphabets, therefore, these subjects, if possible, may be serialized in numerals i.e. 1, 2, 3-----N. The subjects also need to be arranged in alphabetical orders for easy identification/location.

**3.8.20** The Committee observes that though State Governments of Meghalaya and Mizoram are in agreement to this amendment and State Government of Tripura and some stake holders have also desired that subjects transferred to Dima Hasao District Autonomous Councils and Karbi Anglong District Autonomous Councils may be transferred to Tripura District Autonomous Council too. The Committee feels that Ministry of Home Affairs should discuss this with State Government of Tripura to find the desirability and viability of transferring these subjects to Autonomous Councils of Tripura too.

**3.8.21** The Committee further recommends that the Ministry of Home Affairs must hold discussion with the concerned State Governments for devolution of additional powers to the Chakma, Mara and Lai District Councils to empower them to make laws.

**3.9** Clause 3 (d): proposes insertion of the following sub-paragraph after sub-paragraph (2) in paragraph 6 in the Sixth Schedule to the Constitution:

*“(3) The Governor may, by rules, entrust the District Council or as the case may be, the Regional Council, with such powers and authority as may be necessary to enable them to function as institutions of self-governance and such rules may contain provisions for further devolution of such powers and responsibilities upon –*

*(a) the Village Council, subject to such conditions as may be specified therein, with respect to-*

*(i) The preparation of plans for economic development and social justice;*

*(ii) The implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to agriculture and agricultural extension, land improvement, implementation of land reforms, land consolidation and soil conservation, minor irrigation, water management and watershed development, animal husbandry, dairying and poultry, fisheries, social forestry and farm forestry, minor forest produce, small*

*scale industries including food processing industries, khadi, village and cottage industries, rural housing, drinking water, fuel and fodder, roads, culverts, bridges, ferries, waterways and other means of communication, rural electrification including distribution of electricity, non-conventional energy sources, poverty alleviation programme, education including primary and secondary schools, technical training and vocational education, adult and non-formal education, libraries, cultural activities, markets and fairs, health and sanitation including hospitals, primary health centres and dispensaries, family welfare, women and child development, social welfare including welfare of the persons with disability (Divyangjan), welfare of the weaker sections, in particular, of the Scheduled Castes and the Scheduled Tribes, public distribution system and maintenance of community assets; and*

(b) *the Municipal Council subject to such conditions as may be specified therein, with respect to—*

(i) *the preparation of plans for economic development and social justice;*

(ii) *the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to urban planning and town planning, regulation of land-use and construction of buildings, planning for economic and social development, roads and bridges, water supply for domestic, industrial and commercial purposes, public health, sanitation conservancy and solid waste management, fire services, urban forestry, protection of the environment and promotion of ecological aspects, safeguarding the interests of weaker sections of society including the handicapped and mentally retarded, slum improvement and upgradation, urban poverty alleviation, provision of urban amenities and facilities such as parks, gardens, play grounds, promotion of cultural, educational and aesthetic aspects, burials and burial grounds, cremations, cremation grounds and electric crematoriums, cattle pounds, prevention of cruelty to animals, vital statistics including registration of births and deaths, public amenities including street lighting, parking lots, bus stops and public conveniences and regulation of slaughter houses and tanneries.”*

### **Purpose of the Amendment**

3.9.1 The Ministry of Home Affairs stated that the proposed Amendment is to empower the democracy at the grass root level and will bring parity with the Panchayati Raj Institutions and Municipalities provided in Schedule XI and XII of the Constitution existing across the country barring Sixth Schedule areas and few other regions.

### **Views of the State Governments**

3.9.2 The State Governments of Assam, Mizoram and Tripura are in broad agreement with the proposed amendment.

### **Meghalaya**

3.9.3 Clause 3(d)(3) of the Bill which says, ‘*The Governor may, by rules, entrust the District Council or as the case may be, the Regional Council, with such powers and authority as may be necessary to enable them to function as institutions of self-governance and such rules may contain provisions for further devolution of such powers and responsibilities upon—*

*(a) the Village Council, subject to such conditions as may be specified therein...’ It goes on to mention, ‘the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to agriculture and agricultural extension.... This Clause is applicable to Dima Hasao Autonomous Territorial Council, Bodoland Territorial Council and Karbi Anglong Autonomous Territorial Council, because these areas are territorially confined. But, in the case of Meghalaya, the jurisdiction of Khasi Hills Autonomous Territorial Council, Garo Hills Autonomous Territorial Council and Jaintia Hills Autonomous Territorial Council spreads throughout the State, except in Municipal area. So, now, if all these major subjects are given to District Councils, then, practically, the State Government has no role to play.*

### **Suggestions from Stakeholders**

#### **3.9.4 Meghalaya**

- Include the following proviso in the amendment, to create Para 6 (3) –  
*“Provided that nothing in sub-paragraph (3) of this paragraph shall apply to the State of Meghalaya except with the consent of the Autonomous Territorial Councils of that State.”*

#### **3.9.5 Mizoram**

- The following sub-paragraph for sub-paragraph (2) may be substituted in paragraph 6-

The Governor may on recommendation or on application of the District Council or as the case may be, the regional council shall cause for further devolution of such powers and responsibilities under paragraph 3C upon (a) the Village Council, subject to such condition as may be specified therein, (b) the municipal council subject to such condition as may be specified therein for preparation of plans for economic development and social justice.

- The following paragraph may be added:

With the consent of the Autonomous Territorial Council, the Governor, may, by rules, have the power to allocate all or any of the functions specified under Eleventh and Twelfth Schedules of the Constitution to their respective Municipal Councils or Village Councils as may be necessary to enable them function as an institution of self-governance”

#### **3.9.6 Tripura**

- The following may be added after sub-paragraph (2) of paragraph 6 of the Sixth Schedule:

With the consent of the Autonomous Territorial Council, the Governor may, by the rules, have the power to allocate all or any of the functions specified under Eleventh and Twelfth Schedules of the Constitution to their respective Traditional Municipal Councils or Traditional Village Councils as may be necessary to enable them to function as institution of self-governance.”

3.9.7 The Ministry of Home Affairs commented that the proposed changes in paragraph 6 (3) is enabling clause where Governor may, by rules, entrust District Councils with such powers and authority, as may be necessary, to enable them to function as institutions of self governance and such rules may contain the provisions for further devolution of such powers and responsibilities upon the Village Councils and Municipal Councils as per 11<sup>th</sup> and 12<sup>th</sup> Schedule of the Constitution. The suggestions have already been incorporated. The procedure for delegation of more powers is for the State Government and Autonomous District Councils in a particular State. If the State Government and Councils are in agreement, additional powers, as per 11<sup>th</sup> and 12<sup>th</sup> Schedule may be delegated to the Councils.

### **Recommendations/Observations**

**3.9.8 The Committee notes that the proposed changes in paragraph 6(3) is enabling provision/clause where Governor may, by rules, entrust District Councils with such powers and authority, as may be necessary, to enable them to function as institutions of self governance and such rules may contain the provisions for further devolution of such powers and responsibilities upon the Village Councils and Municipal Councils as per Eleventh and Twelfth Schedules of the Constitution.**

**3.9.9 The Committee notes that though it is an enabling provision to transfer subjects to Village and Municipal Councils but feels that once the provision is made in the Constitution there will always be pressure on State Governments to transfer these subjects.**

**3.9.10 The issue of Meghalaya is quite unique as except Municipal limit of Meghalaya all other parts of the State are under Sixth Schedule. But the Committee finds it dichotomous that other States after having transferred subjects to Village and Municipal Councils under Eleventh and Twelfth Schedules respectively still have subjects under their jurisdiction but if the same subjects are transferred to Village and Municipal Councils of Meghalaya the State Government is left with very few subjects under its jurisdiction. The Committee recommends that Ministry of Home Affairs needs to hold discussion with the State Government of Meghalaya to impress upon it that when non Sixth Schedule State Governments are having subjects under their jurisdiction after transferring subjects under Eleventh and Twelfth Schedules to Village and Municipal Councils, how the Meghalaya Government stands on a different footing. For transfer of more subjects to Autonomous Councils, the Ministry may discuss with the concerned State Governments and arrive at a consensus to ensure smooth implementation of the proposed amendment.**

**3.9.11 The Committee observes that subjects enumerated in Eleventh & Twelfth Schedule to the Constitution have been reproduced in clause 6(3)(a)(ii) of the Sixth Schedule. These subjects have been stated in a paragraph in the proposed amendment instead of in a serial order as has been done in Eleventh and Twelfth Schedules of the Constitution.**

**3.9.12 The Committee, therefore, recommends that instead of reproducing the subjects enumerated in the Eleventh and Twelfth Schedules, they may be linked to those Schedules in the proposed amendment. Whenever any amendment in those Schedules i.e. Eleventh and Twelfth, takes place, it will automatically get updated for these subjects of Sixth Schedule that will obviate the exercise of amending this Schedule again.**

**3.9.13 The Committee further recommends that subjects under clause 6(3)(A) (ii) may be entrusted to Village Councils for implementation of scheme for economic development and social justice of**



**India. Similarly, subjects under clause 6(3) (b) (ii) may be entrusted to Municipal Councils for the performance of functions in the implementation of schemes.**

**3.10 Clause 3 (e)** proposes insertion of the following paragraph after paragraph 8 in the Sixth Schedule to the Constitution:

*“8A. (1) The Finance Commission appointed by the Governor for a State shall review the financial position of the District Councils including the Village Council and the Municipal Council and make recommendations to the Governor as to-*

*(a) the principles which should govern-*

*(i) the distribution between the State and the District Councils of the net proceeds of the taxes, duties, tolls and fees leviable by the State, and the allocation of such proceeds between the District Councils and the Village Councils and Municipal Councils under its authority;*

*(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the District Councils including the Village Councils and the Municipal Councils under its authority;*

*(iii) the grants-in-aid to the District Councils and the Village Councils and the Municipal Councils under its authority from the Consolidated Fund of the State;*

*(b) the measures needed to improve the financial position of the District Councils and the Village Councils and the Municipal Councils under its authority; and*

*(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance.*

*(2) The Governor shall cause every recommendation made by the Commission under subparagraph (1) together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.”*

### **Purpose of the Amendment**

3.10.1 The Ministry of Home Affairs stated that the proposed amendment is to ensure greater financial autonomy to the Sixth Schedule areas for its smooth and effective functioning. The proposed amendment was agreed upon by the concerned State Governments.

### **Views of the State Governments**

#### **Assam, Mizoram**

3.10.2 The State Governments of Assam and Mizoram are in broad agreement with the proposed amendment.

#### **Meghalaya**

3.10.3 The State Government has already notified the “Meghalaya State Finance Commission Act, 2012” with similar provisions envisaged under the proposed amendment. While the issues relating to the distribution and determination of resources leviable by the State and their allocation and appropriation to the District Councils are well appreciated and have already found a place in the State Act, this may not require further determination by the Central Finance Commission. Therefore, in the context of Meghalaya, the mandate of the Central Finance Commission should be restricted and limited to the determination of special grants-in-aid to assist the ADCs.

## **Tripura**

3.10.4 In the absence of provision of allocation of funds from the Finance Commission in ADC areas, there was a disparity being created between funding in Panchayat Areas *vis a vis* ADC areas. Therefore, they welcomed the proposed amendment as the provision has now been brought for allocation of funds to ADC areas under the Finance Commission.

## **Suggestions from Stakeholders**

### **3.10.5 Assam**

- On the one hand, the matter specified in the proposed New Paragraph 8 of this schedule should be applied in Dima Hasao until agreed upon by the Executive Committee of the Proposed District Council. On the other hand, forceful imposition of the above principles will be violation of the Executive and Legislative Power of District Council guaranteed in the Sixth Schedule to the constitution of India.

### **3.10.6 Meghalaya**

- The Finance Commission appointed by the Governor for a State wherein one-third of the total members are from the ATC(s) shall review the financial position of the District Councils including the Village Council and Municipal Council and make recommendations to the Governor as to –

*"Provided in the State of Meghalaya the term Village Council shall mean the Traditional Institution of Local Self Governance and the term Municipal Council shall mean the Town Committee constituted and established by the Autonomous Territorial Council."*

3.10.7 The Ministry of Home Affairs commented that the suggestions are not tenable as Finance Commission for the State is to be recommended by the Governor of the State. It is not desirable to have one-third of the total Members of the Finance Commission from the Territorial/District Councils.

- After the words "District Councils", the words "or as the case may be, the Regional Councils" shall be inserted, with regard to the insertion of paragraph 8A, in subparagraph (1) of this paragraph.

3.10.8 The Ministry of Home Affairs commented that Paragraph 1(2) of the Sixth Schedule provides that "If there are different Scheduled Tribes in an autonomous district, the Governor may, by public notification, divide the area or areas inhabited by them into autonomous regions". Presently, there is no Regional Council in any of the Sixth Schedule ADCs.

### **3.10.9 Mizoram**

- After paragraph 8A (1) the following be inserted as-

*"8A(2) the Governor shall also appoint at least one member each from Autonomous District/Territorial Council in the State Finance Commission."*

## **Recommendation/Observation**

**3.10.10**The Committee feels that very purpose of bringing the proposed amendment is to bring Sixth Schedule States ADCs at par with local bodies of the rest of the country. There may be some

discrepancies in the Sixth Schedule areas like existing provisions in Meghalaya which has its own State Finance Commission *vis-à-vis* rest of the Sixth Schedule States who do not have such State Finance Commissions. But, the Committee finds nothing objectionable in the provision of the proposed Bill which provides for appointment of a State Finance Commission to recommend devolution of resources between State and local bodies. It would strengthen the democracy at grassroot level.

**3.10.11** The Committee is aware of the shortage of funds in ADCs which is hampering the process of development in the region. The Committee strongly feels that State Finance Commission should earmark funds for ADCs while distributing financial resources between the State and the District Councils. Besides, States should also provide budgetary allocation and timely release of funds to the ADCs for the implementation of socio-economic developmental plans.

**3.10.12** The Committee recommends that the term District Councils may be replaced with 'District/Territorial Councils' in lines 25 and 29 of Page 6 of this amendment Bill.

**3.11 Clause 3(f):** proposes substitution of the serial number '1' and the entry 'The Dima Hasao District' in paragraph 20, in the Table, in Part I, for serial number 1 and entries relating thereto in the Sixth Schedule to the Constitution.

*"1. The Dima Hasao District."*

### **Purpose of the Amendment**

3.11.1 The Ministry of Home Affairs stated that the proposed amendment is being made to implement the Memorandum of Settlement signed with Dima Halam Daogah (DHD). The Government of Assam has agreed for the proposed change.

### **Views of the State Governments**

3.11.2 The State Government of Assam is in broad agreement with the proposed amendment.

### **Suggestions from Stakeholders**

#### **3.11.3 Mizoram**

- In paragraph 20, in the Table, in Part II, for serial number 1, 2 and 3, and the entries relating thereto, the following serial number and entries shall be substituted, namely:-

*"1. The Khasi Hills Autonomous Territorial Council";  
2. The Jaintia Hills Autonomous Territorial Council";  
3. The Garo Hills Autonomous Territorial Council"*

- In the Table, in Part IIA, the name "Tripura Tribal Areas District" shall be substituted, namely:- "Tripura Tribal Areas Autonomous Territorial Council" and in the Table, in Part III, for serial number 1,2 and 3, and the entries relating thereto, the following serial number and entries shall be substituted, namely:-

- “1. *The Chakma Autonomous Territorial Council*”;
2. *The Mara Autonomous Territorial Council*”;
3. *The Lai Autonomous Territorial Council*”;

### 3.11.4 Tripura

- In paragraph 20 of the Sixth Schedule, the following new paragraphs be substituted as under:-

Part II-A

*“Tripura Tribal Autonomous State Council.”*

3.11.5 The Ministry of Home Affairs commented that the suggestions are not tenable as explained above and the term Territorial Council is used when the jurisdiction of the District Council extends to more than one Revenue District in the State.

- In paragraph 20 of the Sixth Schedule in the Table in Part IIA and the entries shall be substituted, namely -

*“Tipraland Autonomous Territorial Councils.”*

3.11.6 The Ministry of Home Affairs commented that the issue needs to be discussed with the State Government.

### Recommendation/Observation

**3.11.7 The Committee notes assessment of the Ministry of Home Affairs that the term Territorial Council is used when the jurisdiction of the District Council extends to more than one Revenue District in the State. The Committee agrees to the views of the Ministry. However, change in the name of Tripura Autonomous Council as Tipraland Territorial Council may be considered.**

**3.12 Clause 3(g):** proposes substitution of the words “the Dima Hasao Autonomous Territorial Council or the Karbi Anglong Autonomous Territorial Council” in paragraph 20BA, for the words “the North Cachar Hills Autonomous Council or the Karbi Anglong Autonomous Council” in the Sixth Schedule to the Constitution.

### Purpose of the Amendment

3.12.1 The Ministry of Home Affairs stated that the renaming of the Councils is being done to implement the Memorandum of Settlement signed with Dima Haram Daogah (DHD) and United Peoples’ Democratic Solidarity (UPDS). The Government of Assam has agreed for the proposed change.

### Views of the State Governments

3.12.2 The State Governments of Assam is in broad agreement with the proposed amendment.

## **Recommendation/Observation**

**3.12.3 The Committee agrees to the proposed amendment.**

## **General Recommendation**

**3.12.4 The Committee sincerely feels that while finalizing this legislation, there had been intensive discussion with concerned State governments. Agreements signed with the Autonomous District/Territorial Councils of the State of Assam and Meghalaya needs to be honored. Reviewing them may cause erosion of confidence between centre and these states.**

**3.12.5 The Committee also recommends that provision for adequate representation of women in Autonomous District/Territorial Councils needs to be made/continued. The Committee considers that the amendment proposed through the Bill with regard to issues like name of the Autonomous District/Territorial Councils; number of representatives therein; and powers devolved to them are very sensitive and therefore the Government should keep the sentiment of the citizens of the affected States in mind while taking any decision.**

## CHAPTER-4

### General

#### 4.1 Issues Other Than Provisions in the Bill

##### 4.1.1 Assam

- The Committee was suggested that after proviso (b) of Article 275 (1), another proviso (c) be added as under –

*“(c) the costs of such schemes of development as may be undertaken by the Autonomous Council created under the Sixth Schedule with the approval of the Government of India for the purpose of raising the level of administration of the said areas to that of the administration of the rest of the areas of the State.”*

4.1.2 The Ministry of Home Affairs commented that there is no proposal to amend Article 275 of the Constitution which is administered by the Ministry of Tribal Affairs.

- If the areas governed by Sixth Schedule are to get direct funding from the Finance Commission of India, the phrase “and Tribal Areas of Paragraph 20 of the Sixth Schedule” be inserted between “the States” and “of the net proceeds” in clause (3) (a) of Article 280. Or, the sub-clause, “the tribal areas specified in [Part 1] of the table appended to Paragraph 20 of the Sixth Schedule and referred to Article 275 (1) (a)” be inserted for channelizing fund to Article 275 or for sending funds directly to ADCs.
- Set up a separate Autonomous District council for the Indigenous non-Dimasa Populace under the provision of 2(1) of articles 244(2)& 275(1) of the Sixth Schedule to the constitution of India based on the Report of the Task force headed by Sri. P.P. Varma, IAS, Chief Secretary (Retd.), Assam and the then Addl. Chief Secretary of Assam. Include the areas inhabited by the non-Dimasa Tribes within the Dima Hasao Territorial Council or any political setup whose name is in Dimasa's dialect, to demarcate boundaries of the new District being created as per the proposed Map of the Indigenous People's Forum (IPF) and to name "North Cachar Hills" as the name of the new district.
- The existing provision enshrined in paragraph 3 and Sub-paragraph 2 of Paragraph 6 of the Sixth Schedule to the Constitution of India should be left in Original Form and not be diluted nor distorted through the Bill.
- Add the words “as soon as possible” at the end of paragraph 20BA of the Sixth Schedule and to amend the paragraph 20BA by deleting the words “the Council of Ministers” after the words “after consulting”.
- The Governor's Role in Bodoland Territorial Council should be discretionary, Panchayati Raj Institutions should be immediately implemented in BTC and there should be a clear policy on the funding to the ADCs.
- The Constitution (Schedule Tribes) Order (Amendment) Bill, 2019 for the inclusion of 41 communities as Scheduled Tribe including (i) Moran, (ii) Matak, (iii) Chutia, (iv) Koch Rajbongshi and (v) Tai Ahoms in Assam.

- The Constitutional land rights and Socio-Political Rights of the economically weaker and underdeveloped Gorkha Community of Karbi Anglong and Dima Hasao must be protected while amending and implementing the provisions of the proposed Constitution (One Hundred and Twenty-Fifth Amendment) Bill, 2019.
- The Gorkhas of Six scheduled areas should be recognized as "Special Protected Class" by the proposed Constitution (One Hundred and Twenty-Fifth Amendment) Bill, 2019.
- Ensure the right to vote and to be elected in Autonomous Territorial Council, Municipal Council and Village Council.
- Proposed Constituency Delimitation should be on the basis of Geographical and Natural boundary, so that representation of Gorkha by election can be ensured.
- The Bill is for removal of Autonomy from the Autonomous District Council. The word "autonomous" is not mentioned anywhere. The government seems to propose replacement of Autonomous Council by ordinary District Council under Panchayati Raj System and should not impose Panchayati Raj on the Hills Tribes people. They have their own Traditional Village Councils which are good and equivalent to panchayats and already accepted by the Constitution of India and the Sixth Schedule. On the whole, the constitution (One Hundred Twenty-fifth Amendment) Bill, 2019 is not acceptable.

#### 4.1.3 Meghalaya

- It must be ensured that Councils receive necessary financial empowerment so that they can directly intervene and ignite the slow growth of tribal communities without disturbing their in-built and unique practices.
- In paragraph 1 a new proviso shall be added namely:- "provided also that the Governor shall exercise his powers under this paragraph after due consultation and consent of the Autonomous District Council/Autonomous Territorial Councils"
- After sub paragraph (2) of paragraph 6 a proviso shall be inserted namely:-  
*provided that when a Bill has been passed by the Autonomous Territorial Council in Session, it shall be submitted to the Governor and the Governor shall within a period of sixty days declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for reconsideration.*
- *Provided further that the Governor may, as soon as possible after the submission to him of the Bill for assent, return the Bill together with a message requesting that the Council will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such Bill or amendments as he may recommend in his message and, when a Bill is so returned, the Territorial Council shall reconsider the Bill accordingly, and if the Bill is passed again by the Territorial Council with or without amendment and on resubmission to the Governor for assent, the Governor shall not withhold assent therefrom.*

- After sub-paragraph (4) of paragraph 8 a proviso shall be inserted namely:- “Provided that when a Bill has been passed by the Autonomous Council in Session, it shall be submitted to the Governor and the Governor shall within a period of sixty days declare either that he assents to the Bill or that he withhold assents therefrom or that he reserves the Bill for reconsideration.
- Provided further that the Governor may, as soon as possible after the submission to him of the Bill for assent, return the Bill together with a message requesting that the Council will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such Bill or amendments as he may recommend in his message and, when a Bill is so returned, the Council shall reconsider the Bill accordingly, and if the Bill is passed again by the Council with or without amendment and on resubmission to the Governor for assent, the Governor shall not withhold assent therefrom:”
- After sub paragraph(1) of paragraph 9 a proviso shall be added namely:- “Provided that such share(s) shall be paid to the Territorial Council regularly on or before the end of the financial year along with details of the total share collected”
- A new Paragraph 9A be inserted Paragraph 9 namely:-  
*Paragraph 9A – Share of the profit accruing by power companies corporation. boards: Shares out of the profit accruing by power companies, corporations and boards whether hydro, thermal, nuclear or non-conventional shall be paid to the Autonomous and Territorial councils as the Governor may determine subject that it shall not be less than 5% of the gross profit of such companies, corporations and boards.*
- After sub-paragraph (3) of paragraph 10 a proviso be inserted namely:  
*Provided that when a Bill has been passed by the Autonomous Territorial Council in Session, it shall be submitted to the Governor and the Governor shall within a period of sixty days declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for reconsideration.*
- *Provided further that the governor may, as soon as possible after the submission to him of the Bill for assent, return the Bill together with a message requesting that the Council will reconsider the Bill or any specified provisions thereof and in particular, will consider the desirability of introducing any such Bill or amendments as he may recommend in his message and when a Bill is so returned the Territorial Council shall reconsider the Bill accordingly, and if the Bill is passed again by the Territorial Council with or without amendment and on resubmission to the Governor for assent, the Governor shall not withhold assent therefrom.*
- Insert Sub-paragraph 2(2)(ii) regarding Constitution of Municipal Council:-  

In Meghalaya the areas that would immediately qualify for constitution of the Municipal Councils will be the District and Sub-Divisional Head quarters; and those areas with large concentration of people where trade and commerce flourish with mixed population. The State Government has already taken initiatives in Urban and



Municipal Administration in such areas. On the other hand, the District Councils are lacking in many aspects in the field of Municipal Administration and Urban Affairs.

- Matters relating to Municipal councils may be left to the domain of the State Government in Meghalaya. It will also be necessary to specify the position of the existing traditional Village Durbars/institutions within the territorial jurisdiction of the Municipal Council prior to its constitution and also to spell out their functions and powers vis-à-vis the Municipal Council.
- Substitute Sub-paragraph (a) of Paragraph 12A as, in Meghalaya the situation is different from that in Assam, Mizoram and Tripura. The 3 Autonomous District Councils in the State represent generally the three major tribes namely, the Khasis, Jaintias and Garos which are also represented proportionately in the State Legislature to the extent of 92%. It is not perhaps out of place to mention that some MLAs are also Members of the Khasi Hills Autonomous District Council. Almost the whole State of Meghalaya except a small portion of Shillong is under the Sixth Schedule areas. Therefore, the State government and the Autonomous District Councils share the same geographical jurisdiction and the same interest with respect to the progress, rights and privileges of the Tribal Communities of Meghalaya.
- Paragraph 3 of the Sixth Schedule contains subjects like Management of Forest, Establishment of Town Committee and matters relating to Town Administration which are very critical in the present days context; on which the State Government with its resources has a very important and crucial role to play.
- In sub-paragraph (b) of paragraph 12(A), the word President shall be substituted by the word Governor to empower the Governor of the state of Meghalaya to constitutionally notify and direct that any act of the Parliament shall not apply to an Autonomous District or an Autonomous Region in the state of Meghalaya or shall apply to such region in the state or shall apply to such district or region or any part thereof subject to such exception or modification as he may specify in the notification and direction may be given so as to have retrospective effect and to append the words " To protect the language and ethnic identity of the indigenous tribe" in Para 3 of the Sixth Schedule. It was further suggested that Para 20 of the Sixth Schedule clause (2) Sub-clause (2) should be deleted.
- NCRWC in its report submitted in 2002 recommended that 'Five Syiem, Dolloi and Nokma to be elected from amongst themselves to be nominated as members of the Khasi, Jaintia and Garo Hills Autonomous District Councils'.
- The unique tribal features in Meghalaya should be retained, safeguard primarily, of the customary laws and practices of the indigenous communities of the state, amongst others. It is necessary to protect the uniqueness of vulnerable tribal practices.
- It has further been requested that the Sixth Schedule should contain some provisions to compensate promises made in the Instrument of Accession and that the Bill to amend Mines and Minerals (Development and Regulation) Act, 1957 should get assent.

- More focus is necessary to ensure that all parts of the ADCs have codified laws that can stand the test of legal scrutiny and, therefore, the proposed amendment should spell out substantial guidelines to overcome lacuna to avert pending threat of the erosion or probable disappearance of unique tribal law and practice.
- The entire State of Meghalaya should be declared as Tribal Area. As of now certain area of Shillong are not tribal areas thus, they are not within the jurisdiction of KHADC. Hence, in order to bring uniformity, it is important to declare entire Meghalaya as Tribal Area falling within the purview of the Sixth Schedule to the Constitution of India.
- The Governor should be empowered to exempt and modify any Act of Parliament in the State of Meghalaya. The indigenous people of the State of Meghalaya are the microscopic and in most of the time are irrelevant in the national politics. Hence, in order to give the indigenous community meaningful rights to protect and preserve its own unique identity, has the right to get itself exempted from any law passed by the Parliament which may affect their identity. Hence, this special provisions should be inserted in the Proposed Amendment and the provision and the spirit of the Article 200 to the Constitution of India relating to the Assent of Bills passed by the ADCs be incorporated in the Sixth Schedule so as to ensure true autonomy to the legislative power of the ADCs in the State of Meghalaya.
- Representative of Meghalaya Legislative Assembly proposed to add the words 'traditional institutions of self-governance' in the Bill. As there is very unique grassroots traditional institution in the Khasi and Jaintia region amongst the tribes. These institutions have been functioning for a very long time. The District Council in the Khasi hills region has put in substantial efforts to codify the systemic functioning of the traditional institutions. There is a system in Meghalaya where a *durbar* is formed not by the procedure of voting but by raising of hands, which is a very traditional identity of the people of the State. The Sixth Schedule was constituted to protect such systems. Now, diluting it and bringing in a new nomenclature into the system may not be a very good idea. So, for the State of Meghalaya, it becomes very pertinent to preserve their identities.
- That the National Commission for Schedule Tribes (NCST) under Article 338A, after a detailed hearing issued a directive on 26<sup>th</sup> April 2012, and subsequent letters from Chairperson NCST to Union Minister of Home Affairs, on 6<sup>th</sup> Jan 2014, and 27<sup>th</sup> August 2014 on the need to incorporate the Agreement of the Khasi States within the constitution of India.
- That letters from Joint Secretary (NE), MHA to the Chief Secretary, Meghalaya issued on 25<sup>th</sup> September, 2014, 14<sup>th</sup> October, 2014 and 27<sup>th</sup> November, 2014 is yet to be compiled with by the State Government.
- That the observation of the National Commission for Human Rights (NCHR) (Law Division) on 16<sup>th</sup> June, 2012 was that the matter of the Khasi States was 'within legislative competence of Parliament' and that the Federation of Khasi States was advised to approach the government of India for redressal of their grievance.

- That the Khasi Hills autonomous district council passed three similar BILLS (2006, 2016 and 2018) to provide space for the Traditional Institutions for which the State government regretted the Bills stating that the KHADC under the provision of the Sixth Schedule did not have the "legislative competence" to legislate such Bills. This observation by the State Government is indicative that it is Parliament which has the power to legislate for the Khasi States given that the Agreement of the Khasi States with the Dominion of India was yet to be concluded between the respective signatories.
- That while Part IX The Panchayats - Article 243 of the Constitution of India defines (a) District, (b) Gram Sabha (c) Intermediate Level (d) Panchayat (e) Panchayat area (f) population and (g) village including Article 243G which defines powers, authority and responsibility of Panchayats; Part IXA The Municipalities Article 243P defines Municipalities 243Q Constitution of Municipalities Article 243W defines powers, authority and responsibility of Municipalities until Article 243ZG. In the Constitution of India there is an exhaustive explanation of the institutions in the rest of India and the above was rightly exempted from Meghalaya as Traditional Institutions of self government by virtue of Article 243ZC already exist. Part not to apply to certain areas referred to in clause (1) and the tribal areas referred to in clause (2) of article 244.
- There is a need to empower the Rabhas, who are a marginalized tribe in the State of Meghalaya and there is also a need to provide opportunity to this marginalised tribe in order to help uplift their economic, social and political status in the society.
- Changing the nomenclature of ‘Dorbar Shnong’ to ‘Village Council’ was unacceptable as it is customary and have been used since time immemorial and thus should be retained.

#### 4.1.4 Mizoram

- It was proposed that -  
 In Article 275 (1) of the Constitution after sub-clause (6) the following sub-clause be inserted:  
 Provided further that they shall be paid out of the consolidated fund of India as Grant-in Aid of the State of Mizoram the sums, capital and recurring equivalent to –  
 the average excess of expenditure over the revenues during the two years immediately preceding of the commencement of this constitution in respects of the administration of the scheduled areas specified in (Part-III) of the table appended to paragraph 20 of the Sixth Schedule; and  
 the cost of such schemes of development as may be undertaken by that state with the approval of the Government of India for the purpose of raising level of administration of the rest of the areas of that State.
- Amend Article 275 of the Constitution -  
 In sub-paragraph (1) -

In first proviso after the words “Schedule areas” the words “and tribal areas” and after the words “areas of that State”, the sentence “However, allocation of consolidated fund of India, for the Territorial Councils under Sixth Schedule shall be made by the Government of India separately” shall be inserted.

In the second proviso for the words “the State of Assam” the words “the State of Assam and Mizoram” shall be substituted.

In sub-clause (a), of the second proviso after the words “[Part II A]” the words “and Part III” shall be inserted.

In clause (b), (1A) sub-clause (i), for the words “the State of Assam” the words “the State of Assam and Mizoram” shall be inserted.

In 1(A) sub-clause (ii), for the words “the State of Assam” the words “the State of Assam and Mizoram” shall be substituted.

- Under article 275(1) there should have a separate allocation of funds under the tribal sub plan.
- An amendment of Article 275 of the constitution and for speedy enforcement of proviso to Article 275(1) as per recommendation of the 14<sup>th</sup> Finance commission so as to enable the areas covered under the Sixth Schedule to receive assistance or grants for the purpose of promoting the welfare of the people residing in the Autonomous Districts of Mizoram or raising the level of administration of such areas on par with other areas.
- In Article 275 of the Constitution-

In sub-paragraph (1), in the second proviso for the words "the State of Assam" the words "the States of Assam and Mizoram" shall be inserted;

In sub-paragraph (1), in sub-clause (a), of the second proviso after the words "[Part I]" the words "[Part I and Part III]" shall be inserted;

In sub-paragraph (1), in clause (b), [(1A) sub-clause

For the words "the State of Assam" the words "the States of Assam and Mizoram" shall be substituted;

In sub-paragraph (1), in [(1A) sub-clause (ii), for the words "the State of Assam" the words "the States of Assam and Mizoram" shall be substituted."

- In Article 282 of the Constitution, after the words ‘for any public purpose’ the words ‘including for specific problems of Autonomous District Council area as referred to in clause (2) of Article 244’ be inserted.
- In sub-paragraph (3) of paragraph 1 of the Sixth Schedule, for the words “The Governor may, by the public notification”, the words “The Parliament may, by law” shall be substituted.
- The first and second provisions to sub-paragraph (3) of paragraph 1 of the Sixth Schedule shall be omitted.

- After proposed sub paragraph 8 of paragraph 2, a new sub-paragraph be inserted, namely; "(9) a department of North East Autonomous Council Affairs shall be created under the Ministry of Home Affairs, Government of India to look after the smooth and proper functioning of the Autonomous District Council and Autonomous Territorial Council Constituted under Sixth Schedule to the Constitution of India.
- Provided further that a wing shall also be created in the Governor's Secretariat of the state concerned to look after Autonomous Territorial Council and Autonomous District Council in their respective states.
- After sub paragraph 4 of paragraph 2A, a new proviso shall be inserted: *"Provided that any law passed by the Autonomous District Council/Territorial Council submitted to the Governor for approval shall be approved or returned to the Council for reconsideration within three months. Otherwise, the law shall be deemed to have been given assent by the Governor of a state, and it shall come into force.*
- Additional powers be provided to the Councils in Mizoram to make laws. Provided that nothing in such laws shall-
  - (a) Extinguish or modify the existing rights and privileges of any citizen in respect of his land from the date of commencement of this Act: and
  - (b) Disallow any citizen from acquiring land either by way of inheritance, allotment, settlement or by any other way of transfer if such citizen is otherwise eligible for such acquisition of land within the Lai ADC.
- All laws made under paragraph 3 or under this paragraph shall in so far as they relate to matters specified in List III of the Seventh Schedule, be submitted forthwith to the Governor who shall reserve the same for the consideration of the President. When a law is reserved for the consideration of the President, the President shall declare either that he assents to the said law or that he withholds assent therefrom:
 

*"Provided that the President may direct the Governor to return the law to the Lai Autonomous District Council, together with the message requesting that the said Council will reconsider the law or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when the law is so returned, the said Council shall consider the law accordingly within a period of six months from the date of receipt of such message and, if the law is again passed by the said council with or without amendment it shall be presented again to the President for his consideration."*
- Amend Paragraph 3 of the Sixth Schedule as per the following-
  - (i) in clause (a) of sub-paragraph (1), between the words "occupation or use" and the words "or the setting apart" the words "transfer and acquisition of land and property shall be inserted
  - (ii) the proviso in clause (a) of sub-paragraph (1), for the words "Government of the State", the words "Autonomous Territorial Council" shall be substituted

(iii) after sub-paragraph (1) of paragraph 3, the following proviso shall be added, namely:-

*“Provided that the power to make laws, as permitted by this paragraph, should be respected in its true spirit and draft legislation should not be stalled at the State level for year, while ensuring that they are not inconsistent with the provisions of the Constitution and relevant Union and the State Laws.”*

- After paragraph 4, the following paragraph be inserted, namely:-

4A. Powers and Accountabilities of the Home Ministry over the Autonomous Territorial Councils in North-East India:

- A separate Department in the Ministry of Home Affairs, Government of India to look after the smooth and proper functioning of the Autonomous Territorial Council in the North-East India
- An amendment of paragraph 5 of the Sixth Schedule so as to ensure that District council Courts are conferred powers under the Criminal Procedure Code and Code of Civil Procedure by the provisions of the said paragraph itself and without requiring the Governor to confer such powers on them.
- In sub-Paragraph (1) of Paragraph 6, few new subjects be inserted and in sub-paragraph (2) of paragraph 6, the following proviso be added-

*"Provided that while the Council is entrusted with such powers conditionally or unconditionally the state government shall allocate enough fund for proper functioning of the Autonomous District Council/Autonomous Territorial Council."*

- The following sub-paragraph be inserted after sub-paragraph (2) in paragraph 7, namely, -

“(2A) The Autonomous Territorial Councils shall receive salary and non-salary funds in a specified time by way or evolving criteria on the basis of population, need, backwardness, fixed Council share and area for the developmental activities to run the administration”.

- After paragraph 7, the following paragraph be inserted, namely:-

“7A. The Autonomous Territorial Councils shall have powers to approve their own budget subject to the ceiling of the funds sanctioned by the Government of India and State Government to the Autonomous Territorial Councils.”

4.1.5 The Ministry of Home Affairs commented that there is no proposal to amend Paragraph 7 as suggested.

- Amend paragraph 8 of the Sixth Schedule as per the following–

(i) In sub-paragraph (4) between the words “this paragraph” and the words “and every such” the words “including clause (zz) of sub-paragraph (1) of paragraph 3C” shall be inserted.

(ii) after sub-paragraph (4), the following proviso be added, namely-

“Provided that the power of the Autonomous Territorial Councils to make laws, as permitted by this paragraph, should be respected in its true spirit and draft legislation should not be stalled at the State level for year, while ensuring that they are not consistent with the provisions of the Constitution and relevant Union and State Laws”

- Amend paragraph 10 of the Sixth Schedule as per the following–

After sub-paragraph (1), the following proviso be inserted, namely:-

*“Provided that for the purposes of this Schedule and any Act, Regulations and Rules made thereunder, the expression “resident” shall mean a person who has born in such autonomous district or either of whose parents was born in the said district”*

- In paragraph 10 of the Sixth Schedule to the Constitution of India, the word ‘resident’ is not clearly and precisely defined. Since safeguards are necessary to be provided in the Constitution for the native people of the Autonomous Districts, it becomes necessary to define who is a resident under paragraph 10 of the said Schedule. If a person who is ordinarily resident of the Autonomous District as defined under the Representation of the People Act, 1950 is allowed to carry on wholesale or retail business in any commodity except under a licence issued on that behalf by the District Council or to carry on the business of money-lending or to have a voting right in the election to the District Council, it would entirely defeat and destroy the spirit of the Sixth Schedule to the Constitution of India. Therefore, it was requested that a clear and precise definition of ‘resident of the three Autonomous District in Mizoram’ may be included in the Bill and be based on 29<sup>th</sup> April, 1972, the day when the three (3) Autonomous District Councils in Mizoram were constituted.
- Re-insert paragraph 10 of Sixth Schedule as below-

"10. 'Power of District Council to make regulations for control of Money-lending and trading by Non-Tribals'-

- (1) The District Council of an Autonomous Council may make regulations for the regulation and control of Money-lending or trading within the District by persons other than Scheduled Tribes resident in the District.
  - (2)(d) Prescribed that no person who is not a member of Scheduled Tribes resident in the District shall carry on wholesale or retail business in any commodity except under a license issued in that behalf by the District Council.
- After paragraph 10, the following paragraph shall be inserted;

*"10A Powers of Autonomous District/Territorial Council in North East India for the execution of Centrally Sponsored Schemes”*

- (i) The Autonomous District/Territorial Council shall have the powers to execute all Centrally Sponsored Schemes, Central Sector Schemes, etc. within their respective Councils such as Development Agencies, DRDA, etc. and programmes-ICDS, ICDP.

- (ii) They shall have the powers to submit Projects/Schemes proposals directly to the Central Government of India and shall also have the powers to implement such schemes as grant-in-aid.
- (iii) Every Ministry of the Government of India may, assign the Autonomous District/Territorial Council as implementing agencies for implementation of various developmental schemes within their respective jurisdiction.
- Insert the following paragraph after paragraph 10 of the Sixth Schedule–
 

“10A. Powers of Autonomous Territorial Councils in North-East India for the execution of Centrally Sponsored Schemes”:
- The Autonomous Territorial Councils shall have the powers to execute all centrally sponsored Schemes, Central Sector Schemes, etc., within their respective Councils such as Development Agencies-DRDA, etc., and Programmes-ICDS, ICDP, etc.
- They shall have the powers to submit projects/schemes proposals directly to the Government of India and shall also have the powers to implement such schemes either on the basis of matching share or complete cent percent sponsored.
- Every Ministry of the Government of India may assign the Territorial Councils as implementing agencies for the implementation of various developmental schemes within their respective jurisdictions.
- In Para 11, the following words may be inserted: “Provided that all laws, rules and regulations made under this schedule by a district council or regional council if the Governor has no objection to, shall be assented within six months from the date of submission.”
- Paragraph 13 of the Sixth Schedule be substituted by the following paragraph, namely.-
 

“The Government of India shall make separate allocation of salary and non-salary funds for the autonomous territorial councils while releasing grants-in-aid to the State Government and the estimated receipts and expenditure pertaining to such autonomous district which are to be credited to, or is to be made from, the Consolidated Fund of the State shall be first placed before the Autonomous Territorial Council for discussion and then after such discussion be shown separately in the annual financial statement of the State to be laid before the Legislature of the State under Article 202”.
- Amend paragraph 14 as per the following-
 

In sub-paragraph (1), after the word “state” the words “including matters specified in clause (c), (d), (e) and (f) of sub-paragraph (3) of paragraph 1 of this schedule,” shall be omitted.
- In paragraph 20BB, after the words “functions under” the words “sub-paragraph (2) and (3) of paragraph 1,” and after the words “Council of Ministers, and the words “if he thinks necessary,” be omitted.



- It has been stated in the representation that injustice was done to the Chakmas of Mizoram for not including the majority of the Chakma inhabited areas of Mizoram within the Chakma Autonomous District Council when it was granted in 1972 and this has divided a community despite living in a contiguous belt with different privileges and opportunities. Therefore, the majority of the Chakmas of Mizoram have been deprived of the fruits of autonomy under the Sixth Schedule to the Constitution of India and therefore, it was requested to include all the Chakma villages (which are contiguous) within the Chakma Autonomous District Council by expanding its area.
- The Scheduled Tribe list of the state of Mizoram under the Constitution (Scheduled Tribes) Order 1950 under Article 342(2);

It is seen that in;

S/No.2. Dimasa (Kachari),

S/No.3. Garo,

S/No.4. Hajong,

S/No.6. Khasi and Jaintia (including Khasi, Synteng or Pnar, War Bhoi or Lyngngam),

S/No.11. Mikir,

S/No.12. Any Naga Tribes and

S/No.14. Synteng

under Part XVII-Mizoram Scheduled Tribe list, who are not indigenous tribes to the state of Mizoram, has to be removed and deleted from the Scheduled Tribe list of Mizoram as they have their own Land in the state of Assam and Meghalaya.

Moreover, S/No.8. Lakher and S/No.13. Pawi has to be substituted as Lakher into Mara and Pawi into Lai.

#### 4.1.6 Tripura

- The Committee was suggested that-  
Article 275 (1) of the Constitution be amended so as to provide the Autonomous Territorial/State Councils to prepare schemes of development on their own in order to promote the welfare of the Scheduled Tribes in the Tribal Areas (Sixth Schedule areas) specified in the Part I, II-A of the table appended to paragraph- 20 of the Sixth Schedule or to raise the level of administration of the said schedule areas to that of the administration of that State.
- Implement Article 275 and 280 of the Constitution of India for economic upliftment of the indigenous People of Tripura.
- Direct funding is a must for empowerment of the inhabitant of Tripura Tribal Areas Autonomous District Council (TTAADC) and accordingly the constitution of India be amended.

- Amend Paragraph 1 as per the following –  
 In sub-paragraph (3) of paragraph 1 of the Sixth Schedule, for the words “The Governor may, by the public notification”, the words “The Parliament may, by law” be substituted.
- The first and second provisions to sub-paragraph (3) of paragraph 1 of the Sixth Schedule be omitted.
- After proviso to sub-paragraph (1) of paragraph 2 of the Sixth Schedule, the following proviso be inserted, namely:-  
 “1A. There shall be a Legislative Assembly for Tripura Tribal Autonomous State Council.
- Provided further that in respect of Autonomous District Council in Tripura –  
 The members of the elected members in the Council shall consist of not more than fifty members, of whom six members including at least three tribal women members shall be nominated by the Chief Executive Member and three non-tribal members shall be nominated by the Governor.  
 The existing elected three non-tribal seats shall be converted to elected tribal seats.
- After paragraph (2) of the Sixth Schedule, the following paragraph be inserted to the State of Tripura, namely:-  
 No acts in respect of a “reserve forest” means any area which is reserved forest under the Assam Forest Regulation, 1891 or under any other law for the time being in force in the area in question shall not be applicable in any area of Tripura Tribal Autonomous State Council.
- After proviso to sub-paragraph (1) of paragraph 2 of the Sixth Schedule, the following proviso be inserted, namely:-  
 “1A. There shall be a Legislative Assembly for Tiplalnd Autonomous Territorial Council.
- Provided further that in respect of the Tiplalnd Autonomous Territorial Council –  
 The numbers of the elected member in the Council shall consist of not more than fifty members of whom at least two women members shall be nominated by the Chief Executive members of whom at least two members shall be nominated by the Governor from the non-representative from the non-representative tribe.  
 The existing elected three non-tribal members shall be converted to elected tribal seats.
- Additional Powers may be provided to the Autonomous Councils and thus the following requests are made to the Committee-  
 The Tripura Tribal Areas Autonomous District Council (TTAADC) should be brought under the purview of Paragraph 3A to the Sixth Schedule of the Constitution

of India to avail additional powers like Karbi Anglong Autonomous Council (KAAC) and North Cachar Hills Autonomous Council (NCHAC).

- After paragraph 3B of the Sixth Schedule, the following may be inserted, namely-  
“Provided additional powers of the Tipraland Autonomous Territorial Council to make laws;  
(1) As vested additional powers of Bodoland Territorial Council in Paragraph 3B :-  
(i) to (xl)  
(2) All laws made under paragraph 3 or under this paragraph shall in so far they relate to matter specific in list III of the Seventh Schedule, be submitted forthwith to the Governor who shall reserve for the consideration of the President.”
- The existing additional powers of the North Cachar Hills Autonomous Council and Karbi Anglong Autonomous Council under paragraph 3A of the Sixth Schedule of the Constitution of India as provided in sub-paragraph 3A (1) (a) to (o) to makes laws and the proposed amendment in paragraph 3A of sub-paragraph (1) (i) (ii) (iii) and (p) to (zs) should be provided to the “Tripura Autonomous Territorial Council”.
- The existing additional power of the Bodoland Territorial Council under paragraph 3B of the Sixth Schedule of the Constitution of India as provided in sub-paragraph 3A (1), (2) & (3) should also be provided to the “Tripura Autonomous Territorial Council” by necessary amendment.
- Additional powers of the present North Cachar Hills Autonomous Territorial Council and Karbi Anglong Autonomous Territorial Council under para 3A of the Sixth Schedule to the Constitution to make laws should be extended to our Tipraland Autonomous Territorial Council including education up to College Level.
- In line with the North Cachar Hills Autonomous Council and Karbi Anglong Autonomous Council, the Tipraland Autonomous Territorial Council should have the power to make laws as inserted in the paragraph 3A of the Sixth Schedule to the Constitution.
- Amend Paragraph 3 as per the following:-  
In clause (a) of sub-paragraph (1) of paragraph 3 of the Sixth Schedule, between the words “occupation or use” and the words “or the setting apart”, the words “transfer and acquisition of land and property” shall be inserted.
- In proviso to clause (a) of sub-paragraph 3 of the Sixth Schedule, for the words “the Government of the State”, the words “Autonomous State Council” shall be substituted.
- After sub-paragraph (3) of paragraph 3 of the Sixth Schedule, the following proviso shall be added, namely:  
*“provided that the power to make laws, as permitted by this paragraph, should be respected in its true spirit and draft legislation should not be stalled at the State level*

*for year, while ensuring that they are not inconsistent with the provisions of the Constitution and relevant Union and State laws.”*

- After paragraph 3B of the Sixth Schedule, the following be inserted in its application to the Autonomous Council of Tripura, namely:-

“Provided additional powers of the Tripura Tribal Autonomous State Council to make laws:

As vested additional powers of North Cachar Hills Autonomous Council and Karbi Anglong Autonomous Council in paragraph 3A in sub-paragraph 1 clause : (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n) and (o) and additional powers of Bodoland Territorial Council in paragraph 1 clause:- (i) to (xl).

- All laws made under paragraph 3 or under this paragraph shall in so far they relate to matters specified in List III of the Seventh Schedule, be submitted forthwith to the Governor who shall reserve it for the consideration of the President.
- When a law is reserved for the consideration of the President, the President declare either that he assents to the said law or that he withholds assents therefrom:

Provided that the President may direct the Governor to return the law to the Tripura Tribal Autonomous State Council with the message requesting that the said Council will reconsider the law or any specified provisions thereof and, will consider the desirability of introducing any such amendments as he may recommend in his message and, when the law is so returned, the said Council shall consider the law accordingly within a period of six months from the date of receipts of such message and, if the law is again passed by the said council with or without amendment it shall be presented again to the President for his consideration.”

- The following may be inserted –

In Clause (a) of sub-paragraph (1) of paragraph (3) of the Sixth Schedule, between the words, “occupation or use” and the words “or the setting apart”, the words “transfer and acquisition of land and property” shall be inserted.

- There are no judicial courts under the existing Tripura Tribal Areas Autonomous District Council (TTAADC) for the trial of cases and therefore, proposed that judicial courts should be constituted for trial of suits and petty cases as per the customary laws.

- Amend Paragraph 5 as per the following –

“5. The Autonomous Territorial Council or courts constituted by such Autonomous Territorial Council or any officer of such council appointed in that behalf by the Governor shall be conferred powers to try the suits or cases arising out of any law in force in any autonomous district being a law specified in that behalf by the Governor, or to try offences punishable with death, transportation for life, or imprisonment for a term of not less than five years under the Indian Penal Code or under any other law for the time being applicable to such district in accordance with the provisions of the Code of Civil Procedure or the Code of Criminal Procedure, 1898, as the case may be.”

- After sub-paragraph (1) of paragraph 7 of the Sixth Schedule, the following sub-paragraph be inserted, namely:-

1A. Consolidated Fund of the Tripura Tribal Autonomous Council:

As the Central Government, may, by notification in the Official Gazette, appoint in this behalf, all revenues received in the Councils by the Government of India or Administrator of the Council in relation to any matter with respect to which the Legislative Assembly of the Council has the power to make laws, and all grants made and loan advances to the Council from the Consolidated Fund of India and all money received by the Council in repayment of loans shall form one Consolidated Fund to be entitled “the Consolidated Fund of the Council.

No money out of the Consolidated Fund of the Council shall be appropriated except in accordance with, and for the purposes and in the matter provided, in this Act.

The custody of the Consolidated Fund of the Council, the payment of money into such fund, the withdrawal of money therefrom and all other matters connected with or ancillary to those matters shall be regulated by rules made by the Administrator with the approval of the President.”

- After sub-paragraph (2) of paragraph 7 of the Sixth Schedule, the following sub-paragraph be inserted, namely:-

“2A. The Autonomous Territorial Councils shall receive salary and non-salary funds in a specified time by way of evolving a criteria on the basis of population and area for the developmental activities and to run the administration. Single window system for the release of funds to the Councils shall be established.”

- After paragraph 7 of the Sixth Schedule, the following paragraph be inserted, namely:-

“7A. The Autonomous Territorial Councils shall have powers to approve their own budget subject to the ceiling of the funds sanctioned by the Government of India and State Government to the Autonomous Territorial Councils.”

- After sub-paragraph (1) of paragraph 7 of the Sixth Schedule, the following sub-paragraph shall be inserted, namely :

“1A Consolidated fund of the Tipra land Autonomous Territorial Council:

As the Central Government may, by notification in the Official Gazette, appoint in this behalf, all revenues received in the Territorial Councils by the Government of India and Tripura in relation to any matter with respect to which the Legislative Assembly to the Council has power to make laws, and all grants made and all loans advance to the Council from the Consolidated funds of India and all money received by the Council in repayment of loans shall form one Consolidated Fund to be entitled “the Consolidated Fund of the Council”.

No money out of the Consolidated Fund of the Council shall be appropriated except in accordance with, and for the purpose and in the matter provided, in the Act.

The custody of the Consolidated Fund of the Council, the payment of the money there from and all other matters shall be regulated by the rules made by Council with the approval of Governor.

- After sub-paragraph (2) of paragraph 7 of the Sixth Schedule, the following sub-paragraph be inserted, namely;

(2A) “The council shall received salary and non-salary funds in a specific time by way of evolving criteria on the basis of population and area of land for the development and opening single window system for realizing funds.

(3e) At the end of the provisos of paragraph 7 a new paragraph shall be inserted, namely;

“The Territorial Council shall have powers to approve their own budget subject to the ceiling of the funds sanctioned by the Govt. of India and State to the Autonomous Territorial Councils”

- Insert the following paragraph after paragraph 7:

7A. The Autonomous Territorial Council shall approve powers to approve their own budget subject to the ceiling of the funds sanctioned by the Government of India and the State Government to the Autonomous Territorial Councils.”

- After sub-paragraph (4) of paragraph 8 of the Sixth Schedule, the following proviso be added, namely:-

“Provided that the power to make laws, as permitted by this paragraph, should be respected in its true spirit and draft legislation should not be stalled at the State level for year, while ensuring that they are not inconsistent with the provisions of the Constitution and relevant Union and State laws.”

- After sub-paragraph (2) of paragraph 10 of the Sixth Schedule, the following proviso shall be added, namely:-

2A. For the purpose of this schedule and any acts, regulations and rules made thereunder, the expression “resident” shall mean a person who was born in such an autonomous district or either of whose parents was born in the said district. It shall not include a person who is ordinarily residing in such an autonomous district.

- Any bill(s), resolution(s) or decision(s)/rule(s)/regulation(s) which is/are brought, taken and /or passed by the legislative assembly of TTAADDC shall be bound to give assent by the Governor within reasonable time of 6 months whichever may be placed before him for making it into effect and in paragraph 11, for the words, "published forthwith in the official gazette of the State and shall on such publication have the force of Law", the word, "published forthwith in the official gazette of the Union and shall on such publication have the force of law" be substituted.

- For paragraph 13 of the Sixth Schedule, the following paragraph be substituted, namely:-

“13. The Government of India shall make separate allocation of salary and non-salary funds for the Autonomous Territorial Councils and the estimate receipts and

expenditure pertaining to such autonomous district which are to be credited to, or is to be made from, the Consolidated Fund of India shall be first placed before the Autonomous Territorial Council for discussion and then after such discussion be shown separately in the annual financial statement of India to be laid before the Parliament under Article 202”

“14A. The Governor shall make quarterly, or whenever so required by the President, a report to the President regarding the administration of the Tribal areas by the District Councils in the State and the executive power of the Union shall extend to the giving of directions to the State as to the administration of such areas”.

- The provision mentioned in paragraph 20BB, caption as Exercise of discretionary power by the Governor in the discharge of his functions relating to the sub-paragraph (3) of paragraph 3 in the beginning of the line 3 contradicts with the provisions so envisaged in paragraph 3, sub-paragraph (3) caption as Powers of the District Councils and Regional Councils to make laws.

Therefore, a separate proviso in the amendment for not applying it to Tripura so proposed as Tipraland Territorial Council the particular provision as mentioned in Paragraph 20BB relating to Paragraph 3(3) as this provision supersedes the powers so provided in paragraph 3(3) in caption Powers of the District councils and Regional Councils to make laws.

- Three-tier elected bodies- Village Council in the grass root level, Block Council in the Block level and District Council in the District level were demanded.
- Elections to Tripura Tribal Areas Autonomous District Council (TTAADC) should be conducted by the Election Commission of India (ECI).
- All the government establishment /institution falling within the TTAADC should be brought under the administrative control of TTAADC.
- To strengthen the council and for better administrative management, a 3 tier system in 3 levels- Village Level, Sub-zonal Level and Zonal Level was proposed.
- All powers should be entrusted amongst the Village Committee, Sub-Zonal Committee and Zonal Committee, in the line of Panchayati Raj Institution.
- Zonal Development Officer should be renamed Zonal Magistrate, the powers of Zonal Magistrate under TTAADC/Territorial Council should be the same as that of the District Magistrate of the state.
- TTAADC should be empowered to have its own police force recruited by the council.
- Non-Tribal infiltration must be stopped by State/Central Govt. The area should not be used for settlement of the non-tribal people.
- TTAADC should be empowered to have its own recruitment policy.
- TTAADC should be allowed to establish its own service Selection board.
- TTAADC should be empowered to establish a Public Service Commission.

- 100% of employment should be reserved for the tribals.
- A separate budget is required to establish for unemployed youths for jobs as well as self-sustainable trade, small industries, farming etc.
- Since the majority of the population in the area is STs, for industrial and economic development, a consultation of a specialized body of the country must be held and they must be associated as a partner with TTAADC. They recommended the Dalit Indian Chamber of Commerce and Industry (DICCI) who have a proven track record in economic development for the ST population in the country.
- Land transfer record, allotment, transfer, the settlement should be brought under the purview of TTAADC.
- Areas where tribal population is in majority in non ADC area should be brought under the TTAADC and all such areas should be included within the council jurisdiction.
- No further exclusion of TTAADC land should be allowed for any reason and must be stopped forth with.
- Reserve Forest land, proposed forest land and other forest area which are falling under TTAADC
- TTAADC should be empowered to de-reserved the reserve forest land under ADC to carry out the developmental works under ADC as and wherever required in the interest of tribal people and the general public at large.
- Under the Forest Right Act 2006, TTAADC should be empowered to allot forest land to tribals residing in the forest area.
- The TTAADC should be empowered to establish separate Secondary Education Boards, colleges and universities in ADC areas.
- The TTAADC should be empowered to establish and run school education upto higher secondary level and college level.
- The TTAADC should be empowered to establish technical institutes, medical colleges nursing institutes etc under its jurisdiction.
- TTAADC should be empowered with to establish full-fledged separate health directorate. All health institutions under TTAADC should be brought under the control of the health directorate of the council.
- TTAADC be empowered to establish tertiary level care hospitals and its recurring costs to be borne by Central Government.
- Historical, cultural, religious, archaeological monuments and other cultural religious pilgrims places should be brought under the control of TTAADC.



- A separate budget for the Tipra State territorial council should be earmarked by Central Government, like that of the state.
- While preparing the Budget, it should be prepared proportionate to the area of TTAADC to state and not in terms of population.
- 50% of the SGST collected must be shared with the Territorial Council.
- Taxes and revenue collected from natural resources which are located in TTAADC areas should be included in TTAADC.
- For better development and prosperity of the area under TTAADC, a Planning Commission should be formed as per the structure laid by Niti Ayog.
- Recommendation of the tax relaxation and addition on forest based natural products like bamboo etc must be given utmost importance to develop and promote farming of such products.
- Multiple taxation on forest produces should be stopped; single taxation system should be implemented in all forest produces.
- TTAADC should be funded by the Central Government to establish new township at head quarter and in all five zonal head offices.
- Re-demarcate the area of T.T.A.A.D.C., to empower for Land & Revenue purpose with full power to the said Territorial council and Assam forest regulation 1891 and to empower Judiciary and Home affairs.
- Article 244A (1) and (2) may be amended to include Tripura State within its purview and the existing TTAADC may be upgraded to Autonomous State to provide adequate safeguard to the indigenous Tripuri peoples who are already reduced to minority (only 31%) in their own ancestral State.
- Article 275(1) and (2) may be accordingly amended to ensure the enhanced flow of funds for the development of the Autonomous Council/State areas in Tripura also.
- Law and order and Land Revenue/land transfer power may be transferred to TTAADC.
- All forest areas management power including forest areas under Central and State reservation may be transferred to TTAADC.
- Presently, around 2.5 lakhs non-tribal peoples are living within TTAADC areas and their number is increasing fast. There is apprehension and concern among the indigenous Tripuri peoples that if this trend continues, then Tripuri people will be reduced to a minority even within TTAADC areas in the near future. Therefore, further settlement of non-tribal peoples and khasaland/forest land transfer to non-tribal peoples should be prohibited by law that may be included in the Constitution (One Hundred and twenty-fifth Amendment) Bill, 2019.

- Plan funds may be determined for TTAADC by Govt. of India (Niti Ayug) following the twin norms of population and area criteria to ensure adequate flow of plan funds for TTAADC areas at the level of rest of the State.
- At present, the legislative power of TTAADC is subject to the approval of the Governor of the concerned State (Cabinet approval) as per the Sixth Schedule provision. Many legislative proposals are still pending for a long time without approval of the State Cabinet. Therefore, approval of any legislative proposals (Bill) passed by the Autonomous Council be vested with the Governor exclusively without involving the Cabinet of the concerned State as the special power of the Governor in respect of TTAADC.
- A separate judicial system based on the customary law of the Tripuri people may be introduced in TTAADC to settle all disputes occurring among the indigenous Tripuri peoples.
- It was submitted that the parliament may by law provide the consolidated fund of India in each year as grant-in-aid of revenues of TTAADC. The fund as needs by the ADC is to be determined and fixed by the parliament in its financial statement of each year. This is for speedy Development of the ADC areas the backwardness of the backward area of the country so as to raise the level of administration of the scheduled areas therein to that of the administration of the ADC.
- It was proposed to include that the TTAADC shall have the power to approve their own annual budget subject to the ceilings of funds sanctioned by the Government of India and State Government to the TTAADC.
- It is apparent that the Acts, Regulation, and Rule made in the TTAADC have remained without assent of the Governor of Tripura and thereby no any Gazette notification could publish years after years in respect of the subject specified in paragraph 3(1) (a) (b) (c) (d) (e) establishment of Town Committee (F) (g)(h)(i)(j) of the constitution.
- All Central government flagship programmes should also be given to TTAADC directly under a clear formula.
- All Govt. Establishments/institution falling within the TTAADC area should be brought under the Administrative control of the TTAADC.
- The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of all elections to the District Councils shall be vested either in the Election Commission or the Regional Commissioner appointed under Article 324(4) of the Constitution of India.
- The Autonomous Territorial/State Councils may, by law, make provision with respect to all matters relating to, or in connection with elections to the Autonomous Territorial Councils, Traditional Municipal Councils, Traditional Town Committee or Councils, Traditional Village Councils.

- All Centrally sponsored schemes, Central Sector Schemes, NEC Schemes, External Aided Schemes shall be implemented by the Autonomous Territorial/State Councils in their respective areas and the development agencies such as DRDA etc. shall be merged with the Councils and programmes such as ICDS, ICDP etc. shall be handed over to such councils.
- A separate wing exclusively to look after the welfare of Autonomous Territorial Councils shall be created in the North-East Division of the Ministry of Home Affairs and such newly created wing shall be under the charge of Additional or Special Secretary to handle the affairs of Autonomous Territorial Councils in the North-East and a separate Development Commissioner may be designated to act as an intermediary between the Government of India and the Councils.
- It has further been requested in the representation to include KOKBOROK in Roman Scripts in the Eighth Schedule of the Constitution of India.
- The Bill be amended in order to provide an ample scope and quality educations in total areas of education including medical & technical, research, etc., upto the University level in the best interest of the students community of the indigenous populations of the scheduled areas as a whole and there should not be 100 point roster in recruitment policy in the scheduled areas. Further, Land & Revenue control should be given to the ADC-authority under its areas.

### **Comments of the Ministry**

4.1.7 The Ministry on all the suggestions has commented that they are outside the scope of the Bill and there is no proposal for effecting said suggestions or amendments.

### **Recommendation/Observation**

**4.1.8 The suggestions/ proposed amendments in the representations received by the Committee though, outside the scope of “The Constitution (One Hundred and Twenty-Fifth Amendment) Bill, 2019” but concern the Sixth Schedule of the Constitution of India and Tribes under that Schedule. The Committee recommends that the Ministry of Home Affairs may in consultation with concerned State Governments consider those suggestions and may act appropriately upon them.**

## RECOMMENDATIONS/OBSERVATIONS — AT A GLANCE

### Clause 2

The Committee feels that direct funding of ADCs by the centre will not only be against the existing Constitutional scheme but also would unnecessarily affect the relations of ADCs *vis-à-vis* state governments adversely. The very purpose of amending article 280 of Constitution is to make an institutional provision for augmenting the resources of ADCs through State Finance Commission. The said provision is on the lines of article 243-I and 243Y meant for Panchayats and Municipalities and 73<sup>rd</sup> and 74<sup>th</sup> Constitution Amendment Acts.

(Para 3.1.11)

The Committee therefore agrees to the proposed amendment to article 280 and does not suggest any amendment.

(Para 3.1.12)

### Clause 3(a)(i)

#### Assam

Paragraph 2 of the Sixth Schedule to the Constitution provides for not less than thirty members for each of the autonomous District Councils with four members to be nominated by Governor of concerned State. There are 10 ADCs 3 each in Assam, Meghalaya and Mizoram and one in Tripura. In the present Amendment Bill, membership of 9 Councils has been changed. Membership of Bodoland Territorial Council has already been changed previously. The Committee thus feels that the existing para 2(1) of the Schedule has become redundant. The Committee feels that since membership of all the 10 ADCs has been changed, therefore, instead of providing proviso to paragraph 2(1) of the Sixth Schedule provisions of membership made for each ADC, may be incorporated in paragraph 2(1) of the Sixth Schedule.

(Para 3.2.23)

In para 20 of the Schedule in the Table, the 10 Autonomous District Councils have been listed in the following order:-

4. North Cachar Hills District Council
5. The Karbi and Anglong District Council
6. The Bodoland territorial Area District Council

(Para 3.2.24)

Similarly, in para 2 of the Table in respect of Meghalaya, the order of Autonomous District Councils is as under:-

4. Khasi Hills District
5. Jaintia Hills District
6. Garo Hills District

(Para 3.2.25)

The Committee finds that the said order has been changed in the proposed Amendment Bill as Karbi Anglong Autonomous Territorial Councils has been placed first in the proviso followed by Dima Hasao Autonomous Councils. Whereas the Dima Hasao is first in the Table. Similarly, Garo Hills Autonomous Council has been cited first followed by Khasi and Jaintia while in the Table they are ordered Khasi Hills followed by Jaintia Hills and Garo Hills. The Committee finds that no reason has been stated for changing the said order. Therefore, Committee feels that the order of these Autonomous Councils in the proviso after, sub para 1 and para 2 may be in the same order as in the Table of the Sixth Schedule.

(Para 3.2.26)

The Ministry has stated that increase in the membership of different Councils has been as per the discussion held with various State Governments. Therefore, there is no logic or rationale like the population, area etc. *vis-a-vis* the number of membership of these Councils. The Committee finds it rather arbitrary. Since there is no logic followed in determining the membership of these Autonomous Councils as a result there are so many suggestions for changing the membership of these Councils. In the absence of rational criteria there will always be some disputes or demand for changing the membership of these councils. Therefore, the Committee recommends that membership of these Councils should be based on some rational criteria instead of deciding on the basis of an agreement/demand to obviate any subsequent demand to change the same.

(Para 3.2.27)

## Meghalaya

In the Bill it is proposed to change the membership of Garo Hills ADC to 42, Khasi Hill ADC to 40 and Jaintia Hills ADC to 34 with nomination of 6,4 and 4 respectively by Governor with at least 2 women each. The Committee presumes that these number of membership have been proposed in the Bill on the basis of agreement with the State Government of Meghalaya. But now, Government of Meghalaya through its interaction with the Committee informed that they want to change these numbers. It has been suggested that for Garo Hills strength of ADC should be at 40 instead of 42 and for Khasi Hill at 40 same as proposed in the Bill but without any nomination of unrepresented tribes. The State Government of Meghalaya has suggested that there should not be any nomination of unrepresented tribes. The Committee in this regard feels that inclusive participation of all the tribes is not only desirable but is a sine quo non in a democratic setup. Therefore, Committee recommends that there should be representation of unrepresented tribes in the ADCs. It may be with a rider that only those tribes will be nominated in the nomination category which could not get elected in the election. Moreover, these nominations may be on the basis of some reasonable criteria and on rational basis, to obviate any arbitrariness. Regarding replacing the word of 'unrepresented tribes' with 'unrepresented indigenous tribes', the Committee feels once a rationale criterion is fixed for nominating unrepresented tribes, the said suggestion will be taken care of.

(Para 3.2.28)

## **Mizoram**

**Suggestion for increasing the strength of Lai, Chakma and Mara ADCs has been received by the Committee. The Committee feels that in case of Mizoram too if a rationale criterion is formulated for fixing the strength of ADCs, then strength of there ADCs could also be fixed accordingly.**

**(Para 3.2.29)**

## **Tripura**

**Besides increasing the strength of Tripura ADC, suggestion has also been received for changing its name as Tipraland. The Committee feels that changing the name of Tripura ADC to Tipraland may be considered by the MHA. As regards, increasing the strength of membership of Tripura ADC from 30 as proposed in the Bill to 50 to which even the Ministry seems to be agreeable, the Committee is of the view that some criteria should be fixed failing which the demand for increasing or decreasing the Membership will continue to arise. Once the criterion is fixed, it can be explained to those demanding the change in membership.**

**(Para 3.2.30)**

### **Clause 3 (a) (ii)**

**The Committee takes notes of the suggestion of the State Government of Tripura for renaming the Tripura Tribal Areas Autonomous District Council (TTAADC) as "Tipra Territorial Council" for the reason that the territorial jurisdiction of TTAADC extends over to all the 8(eight) administrative/revenue Districts. The Ministry of Home Affairs seems to be agreeable to the suggestion but needs to discuss with State Government. The Committee, as observed rather, recommends that renaming of TTAADC as "Tipra Territorial Council" may be considered by the Ministry in consultation with State Government of Tripura.**

**(Para 3.3.7)**

### **Clause 3 (a) (iii)**

**The Committee notes that the provision of disqualification was not there in the Sixth schedule and insertion of this provision will bring ADCs at par with the Panchayati Raj Institutions. The State governments are in agreement to the amendment. As regards, the suggestion for insertion of the word "qualifications" in sub para (d) of para 6 of the Sixth Schedule, the Committee recommends that it may be considered by the MHA because there might be some qualification for the Territorial Members.**

**(Para 3.4.7)**

### **Clause 3 (a) (iv)**

**The Committee notes that this provision is being inserted to ensure that an elected member of the ADC does not simultaneously become Member of Parliament or a State Legislature and is in consonance with the Prohibition of Simultaneous Membership Rules, 1950 (M/o Law Notification**

No. 46/50-C dated 26.09.1950) formulated under Article 101 and 190 of Constitution of India. The Committee observes that this proviso shall have no effect on the term of the Councils existing on or before the commencement of the Constitution (One Hundred and Twenty-fifth Amendment) Act, 2019, The Committee is thus in agreement to the proposed amendment.

(Para 3.5.8)

#### Clause 3 (a) (v)

An exemption through a proviso has been provided to the State of Meghalaya for application of this provision. The relaxation has been granted in consultation with the State Government of Meghalaya. The State Government of Meghalaya has suggested that existing practice of Village Dorbar/Councils which recurs are not elected by adult suffrage. The Committee feels that this goes against the very basic norms of democratic principles. Customs/practices however, sacrosanct they may be, should not override the democratic principles. The Committee, therefore, recommends that Ministry prescribe a time limit for lifting this relaxation/operation of this exemption to Meghalaya. Since it is a constitutional amendment Bill, providing exemption to a state without any reasonable cause or any time limit may not be tenable.

(Para 3.6.11)

#### Clause 3 (b)

The Ministry of Home Affairs has stated that the proposed amendments have been made to bring in elements of Panchayati Raj Institution in the Sixth Schedule areas. This will strengthen the democracy at the grass root level, i.e. village level. The Committee feels that providing any exception to the said provisions as has been done in the case of Meghalaya goes against the ethos of democracy particularly at the grass root level. Demand for this exception may also arise from other States too. Therefore, the very purpose of bringing this amendment may get defeated if relaxation is given to any State. The Committee is, therefore, of the view that for strengthening democracy at the grass root level, this provision should be applicable to all States without any exception. Though, it is good to make laws on the basis of consultation with the concerned State Governments. But providing democratic rights without exception to people particularly at village level is in the spirit of our Constitution and democratic values. The exception to Meghalaya may be for a transitional/specified period till the state is ready for the said provision, but providing it for an indefinite time, needs to be reconsidered.

(Para 3.7.17)

#### Clause 3 (c)

The Ministry of Home Affairs has averred that this Amendment has been incorporated to implement the Memorandum of Settlements (MOSS) with United People's Democratic Solidarity (UPDS) and Dima Haram Daogah (DHD). The Committee presumes that MOSS have the concurrence of State Governments of Assam. But now the State Government of Assam has expressed some reservations about inter-alia 'land' transferred to Autonomous Councils of Dima Hasao and Karbi Anglong Districts Autonomous Councils, before the Committee. Moreover, some other stake holders like Autonomous Councils and Members of Parliament from the State also have a contrarian view than the State Government on the subject.

(Para 3.8.16)

**The Committee, therefore, recommends that Ministry of Home Affairs in consultation with State Government of Assam, elected representatives like MPs and concerned MLAs and Autonomous Councils find a way to build a broad consensus on the provision to obviate any problem that may arise between the stake holders and State Government while implementing this provision.**

**(Para 3.8.17)**

**Secondly, the Committee observes that subjects on which Dima Hasao District and Karbi Anglong District Autonomous Councils have power to make laws have been arranged in alphabetical orders, i.e. A-Z. This arrangement gives indication that subjects arranged after Z i.e. Za are part of the subject cited at Z. But the fact is that subjects cited after Z are separate and independent subjects without any relation with the subject at serial at Z. Moreover, the subjects have not been arranged in alphabetical order for easy identification. The Ministry of Law and Justice was of the view that this is as par the existing practice of number in different sub-clauses.**

**(Para 3.8.18)**

**The Committee, however, feels that since list of subjects is more than 26 i.e. total alphabets, therefore, these subjects, if possible, may be serialized in numerals i.e. 1, 2, 3-----N. The subjects also need to be arranged in alphabetical orders for easy identification/location.**

**(Para 3.8.19)**

**The Committee observes that though State Governments of Meghalaya and Mizoram are in agreement to this amendment and State Government of Tripura and some stake holders have also desired that subjects transferred to Dima Hasao District Autonomous Councils and Karbi Anglong District Autonomous Councils may be transferred to Tripura District Autonomous Council too. The Committee feels that Ministry of Home Affairs should discuss this with State Government of Tripura to find the desirability and viability of transferring these subjects to Autonomous Councils of Tripura too.**

**(Para 3.8.20)**

**The Committee further recommends that the Ministry of Home Affairs must hold discussion with the concerned State Governments for devolution of additional powers to the Chakma, Mara and Lai District Councils to empower them to make laws.**

**(Para 3.8.21)**

#### **Clause 3 (d)**

**The Committee notes that the proposed changes in paragraph 6(3) is enabling provision/clause where Governor may, by rules, entrust District Councils with such powers and authority, as may be necessary, to enable them to function as institutions of self governance and such rules may contain the provisions for further devolution of such powers and responsibilities**



upon the Village Councils and Municipal Councils as per Eleventh and Twelfth Schedules of the Constitution.

(Para 3.9.8)

The Committee notes that though it is an enabling provision to transfer subjects to Village and Municipal Councils but feels that once the provision is made in the Constitution there will always be pressure on State Governments to transfer these subjects.

(Para 3.9.9)

The issue of Meghalaya is quite unique as except Municipal limit of Meghalaya all other parts of the State are under Sixth Schedule. But the Committee finds it dichotomous that other States after having transferred subjects to Village and Municipal Councils under Eleventh and Twelfth Schedules respectively still have subjects under their jurisdiction but if the same subjects are transferred to Village and Municipal Councils of Meghalaya the State Government is left with very few subjects under its jurisdiction. The Committee recommends that Ministry of Home Affairs needs to hold discussion with the State Government of Meghalaya to impress upon it that when non Sixth Schedule State Governments are having subjects under their jurisdiction after transferring subjects under Eleventh and Twelfth Schedules to Village and Municipal Councils, how the Meghalaya Government stands on a different footing. For transfer of more subjects to Autonomous Councils, the Ministry may discuss with the concerned State Governments and arrive at a consensus to ensure smooth implementation of the proposed amendment.

(Para 3.9.10)

The Committee observes that subjects enumerated in Eleventh & Twelfth Schedule to the Constitution have been reproduced in clause 6(3)(a)(ii) of the Sixth Schedule. These subjects have been stated in a paragraph in the proposed amendment instead of in a serial order as has been done in Eleventh and Twelfth Schedules of the Constitution.

(Para 3.9.11)

The Committee, therefore, recommends that instead of reproducing the subjects enumerated in the Eleventh and Twelfth Schedules, they may be linked to those Schedules in the proposed amendment. Whenever any amendment in those Schedules i.e. Eleventh and Twelfth, takes place, it will automatically get updated for these subjects of Sixth Schedule that will obviate the exercise of amending this Schedule again.

(Para 3.9.12)

The Committee further recommends that subjects under clause 6(3)(A) (ii) may be entrusted to Village Councils for implementation of scheme for economic development and social justice of India. Similarly, subjects under clause 6(3) (b) (ii) may be entrusted to Municipal Councils for the performance of functions in the implementation of schemes.

(Para 3.9.13)

### Clause 3 (e)

The Committee feels that very purpose of bringing the proposed amendment is to bring Sixth Schedule States ADCs at par with local bodies of the rest of the country. There may be some discrepancies in the Sixth Schedule areas like existing provisions in Meghalaya which has its own State Finance Commission *vis-à-vis* rest of the Sixth Schedule States who do not have such State Finance Commissions. But, the Committee finds nothing objectionable in the provision of the proposed Bill which provides for appointment of a State Finance Commission to recommend devolution of resources between State and local bodies. It would strengthen the democracy at grassroot level.

(Para 3.10.10)

The Committee is aware of the shortage of funds in ADCs which is hampering the process of development in the region. The Committee strongly feels that State Finance Commission should earmark funds for ADCs while distributing financial resources between the State and the District Councils. Besides, States should also provide budgetary allocation and timely release of funds to the ADCs for the implementation of socio-economic developmental plans.

(Para 3.10.11)

The Committee recommends that the term District Councils may be replaced with 'District/Territorial Councils' in lines 25 and 29 of Page 6 of this amendment Bill.

(Para 3.10.12)

### Clause 3(f)

The Committee notes assessment of the Ministry of Home Affairs that the term Territorial Council is used when the jurisdiction of the District Council extends to more than one Revenue District in the State. The Committee agrees to the views of the Ministry. However, change in the name of Tripura Autonomous Council as Tipraland Territorial Council may be considered.

(Para 3.11.7)

### Clause 3(g)

The Committee agrees to the proposed amendment.

(Para 3.12.3)

### General Recommendation

The Committee sincerely feels that while finalizing this legislation, there had been intensive discussion with concerned State governments. Agreements signed with the Autonomous District/Territorial Councils of the State of Assam and Meghalaya needs to be honored. Reviewing them may cause erosion of confidence between centre and these states.

(Para 3.12.4)

**The Committee also recommends that provision for adequate representation of women in Autonomous District/Territorial Councils needs to be made/continued. The Committee considers that the amendment proposed through the Bill with regard to issues like name of the Autonomous District/Territorial Councils; number of representatives therein; and powers devolved to them are very sensitive and therefore the Government should keep the sentiment of the citizens of the affected States in mind while taking any decision.**

**(Para 3.12.5)**

#### **Issues Other Than Provisions in the Bill**

**The suggestions/ proposed amendments in the representations received by the Committee though, outside the scope of “The Constitution (One Hundred and Twenty-Fifth Amendment) Bill, 2019” but concern the Sixth Schedule of the Constitution of India and Tribes under that Schedule. The Committee recommends that the Ministry of Home Affairs may in consultation with concerned State Governments consider those suggestions and may act appropriately upon them.**

**(Para 4.1.8)**