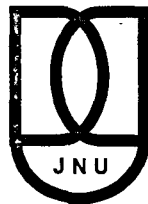


# **SPECIAL STATUS OF THE NORTH-EAST IN INDIAN FEDERALISM**

**Dissertation submitted to Jawaharlal Nehru University in partial  
fulfillment for the Award of the Degree**

**MASTER OF PHILOSOPHY**

**H. Kham Khan Suan**



*CENTRE FOR POLITICAL STUDIES  
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**2002**



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22 July 2002

### CERTIFICATE

Certified that the Dissertation entitled, *Special Status of the North-East in Indian Federalism*, submitted by **H. Kham Khan Suan** in partial fulfillment of the requirements for the award of the degree of **Master of Philosophy** of this University, is an original work of his own. This Dissertation has not been submitted for any other degree in this University or any other University.

We recommend that this work be placed before the board of examiners for evaluation.

**Prof. Rakesh Gupta**

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**Prof. Balveer Arora**

(Supervisor)

*Dedicated to the fond memory of  
my father Zel Za Kap  
and  
younger brothers Chin Mung & Sum Muan Thang  
who have shown me a rainbow after every thunderstorm*

*Thei bang sen lai tun leh tuai momnote,  
Zua saulim ah nunnuam nga bang i bual hi;  
Hangin lungzuan dahna huihpi'n hong nawk a,  
Pham na'n gibang khenna hong lel maita maw!  
Ngilh mawng e phamsa zua leh tuai momnote,  
Sian simthu hi ci'n lailung heh nem ni;  
Tung thangvan Sianmang siangah  
Dawn bang tuak ding Sian in hong siam hen.*

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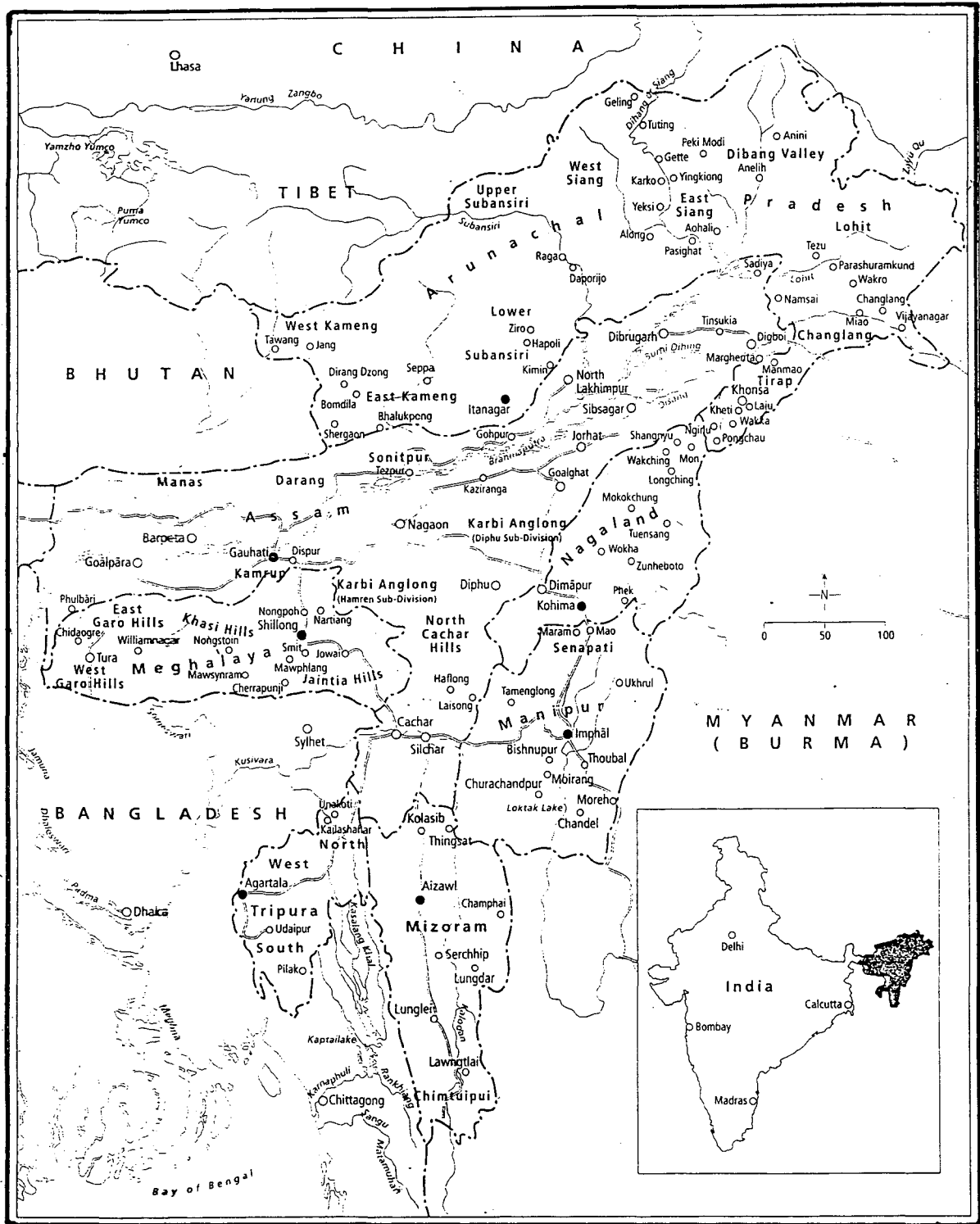
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# MAP OF NORTH-EAST INDIA



## **Abbreviations**

AASU	: All Assam Students' Union
ABSU	: All Bodo Students' Union
ADCs	: Autonomous District Councils
APCC	: Assam Pradesh Congress Committee
APHLC	: All-Party Hill Leaders' Conference
ARC	: Administrative Reforms Commission
BAC	: Bodoland Autonomous Council
BPAC	: Bodo Peoples' Action Committee
BTC	: Bodo Territorial Council
CAD	: Constituent Assembly Debate(s)
CEM	: Chief Executive Member
CIPOD	: Centre for International Politics, Organization and Disarmament Studies
CM	: Chief Minister
CPS	: Centre for Political Studies
DONER	: Department for the Development of North-Eastern Region
EPW	: Economic and Political Weekly
GIC	: General Insurance Company
GoI	: Government of India
HAC	: Hill Area(s) Committee
ICICI	: Industrial Credit Investment Corporation of India
IDBI	: Industrial Development Bank of India
IFCI	: Industrial Finance Corporation of India
IIAS	: Institute of Advance Studies
INC	: Indian National Congress
ISI	: Indian Social Institute
ISS	: Institute of Social Sciences
JNU	: Jawaharlal Nehru University
JVP	: Jawaharlal Nehru-Vallabhai Patel-Pattavi Sitamaryya

LIC	: Life Insurance Corporation
MLA	: Member of Legislative Assembly
MNF	: Mizo National Front
MP	: Member of Parliament
NABARD	: National Bank for Agriculture and Rural Development
NDA	: National Democratic Alliance
NEC	: North-Eastern Council
NEDC	: North-East Development Council
NEDFi	: North-East Development Finance Corporation
NEFA	: North-East Frontier Agency
NGO	: Non-Governmental Organization
NIRD	: National Institute of Rural Development
NNC	: Naga National Council
NPC	: Naga Peoples' Convention
OUP	: Oxford University Press
PM	: Prime Minister
RBI	: Reserve Bank of India
SBI	: State Bank of India
SC	: Scheduled Caste
SIS	: School of International Studies
SRC	: States Reorganization Commission
SSS	: School of Social Sciences
ST	: Scheduled Tribe
UF	: United Front
UK	: United Kingdom
UMFO	: United Mizo Freedom Organization
UP	: Uttar Pradesh
USA	: United States of America
UT	: Union Territory
UTI	: Unit Trust of India



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## Preface

To an inquisitive mind, the North-East—a geographical expression to encompass the seven sister states of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura—evokes a mixture of curiosity and interest. The labyrinthine maze of socio-cultural formations dominated by the Tibeto-Burman family and Austro-Asiatic group wherein 220 of the 635 distinct tribal groups and speaking as many as 100 different languages co-mingle is unparalleled in any part of the country. The evolution of this region from a mere 'territorial appendage' to a region of extreme geo-strategic and political importance which happened in the post-colonial period is a viable ground for in-depth research and study.

The present research has drawn sustained interests—if there is any—from the rapid and strikingly clear yet seemingly invisible ways in which the process of change enveloped this extraordinary borderlands once looked upon only for a riposte of “museum of nationalities”. The invocation of *special status* through various provisions of the Indian Constitution as a contingent corollary to the national integration process, which posits the ideational premise of maintaining “national unity with rights and autonomy for the states” has spawned many expectations and demands. The interface between the Indian concept of nationhood and the assertive sub-nationalities in the North-East evokes much excitements and insights.

The creation of Nagaland in 1963 on the basis of ethnicity against the usual norm and the consequent assertion of “indestructibility of the Indian Union”; the rigorous ways and fervour with which Assamese was tried to be imposed upon as the state language of

Assam when most of the present North-East except Manipur, Nagaland and Tripura was formed around Assam, and the subsequent backlash leading to the balkanisation of the North-East via the North-Eastern Areas (Reorganization) Act, 1971 is painstakingly studied with incisive details. The evolution of the North-East into its present status engenders, in the process, numerous special status provisions encompassing the socio-cultural, political, economic and financial dimensions and have been separately dealt with in the current work.

Writing a dissertation and going through the rigours and hard work it entails calls for sustained effort, cooperation and inspiration. I owe to my supervisor, Professor Balveer Arora an in-depth debt of gratitude for introducing me into the world of systematic research (though I am unequal to the task many a time). His understanding and patience coupled with his keenness to discuss help me sail through this onerous endeavour.

Many a thanks are due to all the following library staffs at: Indian Social Institute, Lodhi Road; Institute of Social Sciences, Nelson Mandela Road; Nehru Memorial Museum and Library, Teen Murti; and Jawaharlal Nehru University—all in New Delhi. Their considerate assistance in facilitating relevant materials is invaluable. Thanks are also due to my esteemed seniors Pu L. Lam Khan Piang, Pu Lalengzauva Ngaihte, U Vungzamawi, Pu Pau Do Mang and U Khampu Hatzaw for sharing me their rare materials. I must also thank Prof. Gulshan Sachdeva and D.K. Singh, Jt. Secy., North-East Division, Ministry of Home Affairs who not only shared their expertise but provide me important official documents.

I should register my heartfelt gratitude to the Computer Centre, JNU; Delhi Zomi

Christian Fellowship; and my friends—Ashok D. Maharaj, Hemis Negi, T. Lalboi Haokip, Lhipe Naro and Yutaka Sato—for giving me unfettered access to their wonder machines. Their generosity and cooperation simply come in incommensurable ways; I am proud of them.

I am obliged to give my sincere thanks to my local guardian and grand-in-law, Pu G. Swan Za Lian and his family in Delhi for always being available for me. But for his advice, I would not have been here in JNU. In the same vein I must also thank my grand-in-laws: Pu En Khaw Suan, Pu Suan Za Chin, (Late) Pa Pum Sial Cin and all their family members for extending their hospitality and support in the course of my sojourn-life's journey.

Special thanks are also due to my brother-in-law, Pu Suan Min Thang and sister U Zam Khan Cing for flexing their muscle and purse for a concerted period of time. I owe to them what I am today. I should also thank the University Grants Commission for granting me JRF without which the current work would have been handicapped.

My recipe of thanks would be incomplete if I don't assign a special space for my parents. I pay my respect to my father Pa Zel Za Kap who would have been too delighted to see the light of this day. His inimitable ways of doing things systematically that too with a *never-say-die* spirit still enlivens our family. "My son, I would not have been here (in Manipur) had I been able to manage my *manga subah*" -as he would dismissively say often—come to me as a reckoner of the enormous challenge that lies ahead of me being placed in a better stead. To my mom Nu Huai Khan Nem; elder sisters: U Ning Khan Niang

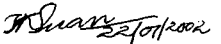
and U Zam Khan Cing; sister-in-law U Ngaibiakching and brothers: U Tual Khan Lal and Thang Khan Lian for their consistent faith in me and their constant prayers and inspiration.

I would also like to thank U Khampu Hatzaw and U Pau Za Cin for helping my brother U Lal in formatting the vernacular (Zo language) dedication which aptly reflects our love for our dad and two younger brothers: Chin Mung and Sum Muan Thang who left us long before we share our cherished dreams come true.

My friend Lalgoulian who shared with me the rigour of typing also deserves my thanks. Last but not the least, I owe my kudos to my friend Yutaka Sato for his timely arrival from Japan; he has made an indelible fingerprint on my work.

Above all, I must exalt my God for giving me the strength and understanding to accomplish this work. But for all the prayers of all my well wishers especially JNU Zo (Unau) Friday prayer cell I would not have been able to sustain to this far.

It is with great pleasure that I place this humble work to the academic world, which I think would serve its purpose only when it evokes further debates and discussion on the subject. Needless to say though, any inconsistency and mistake in the work may be attributed to me—a fledging research scholar as I am.

  
(H. Kham Khan Suan)

# CHAPTER I

## CONCEPTUAL FRAMEWORK AND SURVEY OF LITERATURE

### A. Conceptual Framework

#### Federalism as a Dynamic Concept

Today federalism has emerged as what Philip Goetz<sup>1</sup> calls one of the most successful “vehicle(s) of political integration” in a world marked by “concurrent pressures of integration and differentiation.”<sup>2</sup> First conceived in the covenant theories of the Bible, the concept of federalism was revived by the Bible-centered “federal” theologians of the 17th century wherein the term “federal” is used to describe the system of holy and enduring covenants between God and man.<sup>3</sup> This concept was concretized by the 19th century French and German social theorists<sup>4</sup> and with the formal adoption of the federal constitution of the United States in 1787 (accredited as the first modern federation), federalism has been devised to express multinationalism, linguistic diversities, caste and communal loyalties, ethnological dissimilarities, particularism, religious heterogeneity and numerous other similar diversities.<sup>5</sup>

As a dispensation, federalism has become the mood of the present and the wave of the future in humanity's quest for an egalitarian, just and equipoise pattern of collective existence.<sup>6</sup> This is established by the fact that among the approximately 180 politically sovereign states in the world, there are 24 federations containing about two billion people or

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<sup>1</sup> Philip W. Goetz, *The New Encyclopaedia Britannica*, Vol. 4 (Chicago: Encyclopaedia Britannica, 1987), p. 712.

<sup>2</sup> Arora, Balveer, “Adapting Federalism to India: Multilevel and Asymmetrical Innovations,” in Balveer Arora and Douglas V. Verney (eds.), *Multiple Identities in a Single State: Indian Federalism in Comparative Perspective* (Delhi: Konark, 1995), p. 83.

<sup>3</sup> Elazar, Daniel J., “Federalism” in David L. Shils (ed.), *International Encyclopaedia of the Social Sciences*, Vol. 5 (New York: Cromwell Colliers Macmillan, 1968), p. 353.

<sup>4</sup> *ibid.*, p. 354.

<sup>5</sup> R.D. Dikshit, *The Political Geography of Federalism* (Delhi: Macmillan, 1975), pp. 113-125.

<sup>6</sup> Rasheeduddin Khan, *Federal India: A Design for Change* (New Delhi: Vikas, 1992), p. 4.

40 percent of the world population; they encompass about 480 constituent or federated states.<sup>7</sup>

Etymologically, the term “federal” is derived from the Latin word *foedus* which means covenant. It follows then that federalism rests on the principle that political and social institutions and relationships are established through covenants, compacts or other contractual arrangements.<sup>8</sup> Federalism is basically not a descriptive but a normative term and refers to the advocacy of multi-tiered government combining elements of shared-rule and regional self-rule.<sup>9</sup> It is based on the presumed value and validity of combining unity and diversity and of accommodating, preserving and promoting distinct identities within a larger political union.<sup>10</sup>

Ronald L. Watts comprehensively defines the term “federation” after reviewing the works of K.C. Wheare, Preston King, Ivo Duchacek and Daniel J. Elazar as a form whose characteristics involve the following:

- (i) two orders (not levels) of government;
- (ii) a national government that deals directly with individual citizens;
- (iii) a formal distribution of legislative and executive authority;
- (iv) revenue resources allocated between the two orders of government;
- (v) some autonomy for each order;
- (vi) provision for the representation of regional views within the national-policy making institutions;
- (vii) a written constitution;
- (viii) a constitution not unilaterally amendable and requiring the consent of all or a majority of the constituent units;
- (ix) an umpire (courts or referenda) to rule on disputes between governments; and

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<sup>7</sup> Ronald L. Watts, *Comparing Federal Systems* (Kingston: Queens University Press, 1999, 2nd Edition), p. 4.

<sup>8</sup> Daniel J. Elazar, *Exploring Federalism* (Tuscaloosa: The University of Alabama Press, 1987), p. 5.

<sup>9</sup> Ronald L. Watts, *op. cit.*, p. 6. The concept of federalism as combining self-rule and shared-rule is traced to what Daniel J. Elazar explicitly mentions in his monumental work, *Exploring Federalism*. Watts here in fact borrowed the term albeit with some modifications.

<sup>10</sup> *ibid.*, p. 6.

(x) Processes to facilitate inter-governmental relations.<sup>11</sup>

The definition given by Watts, comprehensive as it is, is an attempt to facilitate what he aptly calls “the closest institutional approximation to the multinational reality of the contemporary world.”<sup>12</sup> Such an approximation can come about under certain conditions paramount to which are the rapid “modern developments” witnessed in the fields of transportation, social communications, technology and industrial organization. These give impetus to decentralized and “flattened hierarchies” involving non-centralized interactive networks which in turn produced more favorable attitudes towards non-centralized political organization. The spread of market-based economies in creating socio-economic conditions conducive to support for the federal idea is also crucial. These conditions are: the emphasis on contractual relationship; the recognition of the non-centralized character of market-based economy; entrepreneurial self-governance and consumer rights consciousness; markets that thrive on diversity rather than homogeneity, on inter-jurisdictional mobility and on competitions as well as cooperation; and the recognition that people do not have to like each other in order to benefit each other.<sup>13</sup> Thus at one sweep, Watts defines a framework which seeks to address directly the multi-faceted problems of the society.

Federalism has also been a centralizing and decentralizing ideology, as well as a doctrine of balance.<sup>14</sup> In other words, the introduction of federalism into a political system changes the locus of power<sup>15</sup> and functions as a form of empowerment. It creates opportunities for regional voices to be heard and within multi-ethnic federations enables ethno-regional issues to take on greater political saliency.<sup>16</sup> Thus federalism is a contrivance to reconcile national unity with the maintenance of state rights.<sup>17</sup>

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<sup>11</sup> Ronald L. Watts, “Contemporary Views on Federation” (paper presented at the Centre for Constitutional Analysis, Republic of South Africa, 2-6 August, 1993), p. 11. Quoted in Verney, Douglas, V., “Federalism, Federative Systems, and Federations: The United States, Canada and India,” *Publius: The Journal of Federalism*, Vol. 25 (2), Spring 1995, pp. 81- 97.

<sup>12</sup> Ronald L. Watts, *op. cit.*, p. 4.

<sup>13</sup> *ibid.*, p. 5.

<sup>14</sup> Smith, Graham, “Introduction,” in Graham Smith, *Federalism: The Multiethnic Challenge* (London: Longman, 1995), pp. 16-17. Cited in Brzinski, Joanne Bay, “Changing Forms of Federalism and Party Electoral Strategies: Belgium and the European Union,” *Publius: The Journal of Federalism*, Vol. 29 (1), Winter 1999, p. 47.

<sup>15</sup> Brzinski, *ibid.*, p. 45.

<sup>16</sup> Smith, *ibid.*

<sup>17</sup> Dicey quoted in D.D. Basu, *Comparative Federalism* (New Delhi: Prentice Hall, 1987), p. 43.



It must be noted here that federalism can emerge through either decentralization or centralization. When a federal polity is created by decentralizing political power from a formerly unitary state, the effect of federalism is to shift power to the regional elites and interests. When a federal polity is created by concentrating certain powers in an overarching governmental organization, federalism restricts the ability of those regional interests and elites to take independent action in areas ceded to the overarching government.<sup>18</sup> This tension between the centralizing and decentralizing elements of federalism has to be considered dynamically.

It is clear by now that federalism deals with the relationship between the two faces of politics, viz., power and justice. In its most limited form it is usually defined as having to do with the distribution of power whereby, in the words of K.C. Wheare, the relationship between the national and constituent governments, in law and practice, is not sub-ordinate but co-ordinate.<sup>19</sup> In its broadest sense, federalism is presented as form of justice—emphasizing liberty and citizen participation in governance.<sup>20</sup> This is effectualized by two important elements intrinsic to the very concept of federalism, viz., dispersed power centers and territorial democracy.<sup>21</sup> The first element animates federal principle by emphasizing the primacy of bargaining and negotiated co-ordination among several power centers. The second element is very crucial in the era of what Thomas Courchene labeled *glocalisation*<sup>22</sup> where the accommodation of very diverse groups whose differences are fundamental and enduring rather than transient by giving them territorial power bases of their own. In other words, it implies the use of areal divisions to ensure neutrality and equality in the

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<sup>18</sup> Buchanan, James M., "Federalism as Ideal Political Order," *Publius: The Journal of Federalism*, Vol. 25 (2), Winter 1995, pp. 19- 27.

<sup>19</sup> Quoted in Verney, *ibid.*, p. 83.

<sup>20</sup> Daniel J. Elazer, *ibid.*, p. 8.

<sup>21</sup> Philip W. Goetz, *ibid.*, p. 712.

<sup>22</sup> Courchene, Thomas J., "Glocalisation: The Regional/ International Interface," *Canadian Journal of Regional Science*, Vol. 18(1), Spring, 1995, pp. 1- 20, quoted in Ronald L. Watts, *ibid.*, p. 5. This is a phenomenon in which the governments worldwide have been faced increasingly with the desires of their people to be both global consumers and local citizens at the same time. Emphasizing this Watts draws parallel to the increasing popularity of federalism as a concept that coincides with the decreasing appeal of nation-state as a traditional concept of homogenization and centralization.

representation of various groups and interests in the polity and the use of such divisions to secure local autonomy and representations for diverse groups within the same civil society.<sup>23</sup>

Having emphasized the “integrational” role of federalism, one must not be cowed down to a monolithic structure as there is no single or obvious model for federations or for their constitutional arrangements. It is imperative therefore to take into account the institutions and principles on which a federation might be built upon, some of which, at least, will be secured in the constitution.<sup>24</sup> In the ultimate analysis, M. H Boehm seems to have struck the right chord when he says:

“Federalism is characterized by a tendency to substitute coordinating for subordinating relationship or at least to restrict the latter as much as possible, to replace compulsion from above with reciprocity, understanding and adjustment, command with persuasion and force with law. The basic aspect of federalism is pluralistic, its fundamental tendency is harmonization and its regulative principle is solidarity.”<sup>25</sup>

### **Indian Federalism and Special Status: Asymmetry in Operation**

#### **Indian Federalism in the Light of its Ideational Premise**

If any discussion on the concept of federalism is considered to be barren without reference to its ideational foundation, Indian federalism will fit in as a classic case. The ideational premise of Indian federalism is unmistakably imprinted in the philosophy of the Constitution itself, which is: “national unity with rights and autonomy for the states” or “union without loss of state identities.”<sup>26</sup>

This is imperative for a country of continental size where there are about sixty socio-cultural sub-regions marked for their internal homogeneity and sub-national identity within

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<sup>23</sup> Philip W. Goetz, *op. cit.*, p. 712.

<sup>24</sup> Saunders, Cheryl, “Constitutional Arrangements of Federal Systems,” *Publius: The Journal of Federalism*, Vol. 6, p. 169.

<sup>25</sup> M.H. Boehm, “Federalism” in *Encyclopaedia of Social Sciences*, Vol. 6 (New York: Macmillan, 1931), p. 169.

<sup>26</sup> Narain, Iqbal, “A Framework for Studying Federalism in India,” in Tarun Chadra Bose (ed.), *Indian Federalism: Problems and Issues* (New Delhi/Calcutta: K.P. Bagchi, 1987), p. 22.

the seven natural geographical regions of India.<sup>27</sup> This multifaceted ensemble of diversities persisting for centuries passed through the stages of competition, conflict and reconciliation and gives this realization that in mutual confrontation they might themselves destroy each other, while in reciprocal cooperation they can thrive jointly and severally.<sup>28</sup> As if these divergences within the Indian population are not enough the political development of the country has also been markedly different in different areas. There are on the one side, the erstwhile British Indian Province wherein an imperial power wielded direct administrative power, and where the national movement took root.<sup>29</sup>

These considerations apart, the framers of the Indian Constitution exhibit abundant caution because of the fact that the Constitution was framed under the dark shadows of events like the war in Kashmir, the communal insurrection in Telengana and the Rajakar troubles in Hyderabad, all of which seemed, at that time, to make the very survival of the Republic problematic.<sup>30</sup>

Taking all these into considerations, the Constituent Assembly set aside the classical models of federalism then in vogue and opted for an unorthodox distribution of powers with an unmistakable unitary bias. This indelibly has a remarkable degree of flexibility and pragmatism.<sup>31</sup> Such a Constitution is intended to serve as a bulwark against disintegrating forces.<sup>32</sup>

What emerged eventually is a “multi-regional federation” wherein the *melting pot approach*<sup>33</sup> to ethnic problems is rejected and preference is given to the *bouquet approach* of

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<sup>27</sup> Rasheeduddin Khan, *ibid.*, p. 17.

<sup>28</sup> *ibid.*, p. 18.

<sup>29</sup> Ghose, Arun, “Federalism, Democracy and Decentralization,” *EPW*, Vol. 27(46), 14 November 1992, p. 2453.

<sup>30</sup> Bombwall, K.R., “Lineaments of Normative Federalism,” in K.R. Bombwall and L.P. Choudhary (eds.), *Aspects of Democratic Government and Politics in India* (Delhi: Atma Ram and Sons, 1968), p. 205.

<sup>31</sup> Arora, *op. cit.*, 71.

<sup>32</sup> Umakant Tiwari, *The Making of the Indian Constitution* (Allahabad: Central Book Depot, 1974), p. 8.

<sup>33</sup> For a federal idea to take deep root, it is often postulated that the existence of an overarching concept of the “nation” is a prerequisite. The conspicuous absence of such a concept, it is often argued, makes the integration of sub-nationalities or identities difficult. It is in line with this ideology that the concept of *melting pot approach* must be placed and understood. The proponents of such an approach emphasize upon the need to subdue the various

exhibiting diverse flowers each within its own individuality yet tied together as a single whole.<sup>34</sup> There is however this fear that the federal safeguards against the interests of the lesser states being overridden by the interests of the larger or more populated states is absent under our Constitution.<sup>35</sup> It is this fear which underlines the extremely cautious approach adopted by the framers of the Indian Constitution in using the term "Union" instead of "Federal." The employment of this term, according to B. R Ambedkar<sup>36</sup> has two-fold advantages, viz., that the Indian federation is not the result of any agreement by the units, and that the component units have no freedom to secede from it.<sup>37</sup>

This seemingly advantageous yet contradictory ideational foundation of Indian federalism i.e. "union without loss of state identities" has been sought to be kept intact while carrying out the first round of reorganization of states under the States Reorganization Act, 1956. The fact that there is no "theory of equality of state rights" underlying the federal scheme of our Constitution (since it is not the result of agreement between the states)<sup>38</sup> gives the Indian Parliament vide Article 3 a free hand to alter or change the boundaries of state(s) and create new states on certain reasonable grounds.<sup>39</sup>

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contesting identities under the overarching framework of the concept of nationhood. In other words, the concept of *nation* has overriding importance over the so-called *sub-identities* within the nation. Hence they should be subdued and submerged upon within the concept of the nation.

<sup>34</sup> Rasheeduddin Khan, *ibid.*, p. 30.

<sup>35</sup> D.D. Basu, *Introduction to the Constitution of India* (New Delhi: Prentice Hall, 1998), p. 53.

<sup>36</sup> *Constituent Assembly Debates* (hereinafter refer to as CAD), Vol. VII, p. 43. In his words, "I do not know why the word 'union' was used in the Canadian Constitution. But I can tell you why the Drafting Committee has used it. The Drafting Committee wanted to make clear that though India was to be a federation, the *Federation was not the result of any agreement by the states to join a Federation and that, the Federation not being the result of agreement, no state has the right to secede from it.* The Federation is a Union because it is indestructible." (italics are mine).

<sup>37</sup> D.D. Basu, *op. cit.*, p. 50.

<sup>38</sup> *ibid.*, p. 56.

<sup>39</sup> Article 3 reads as: Parliament may by law: (a) form a new state by separation of territory; (b) increase of any area of any state; (c) alter the boundaries of any state; d) alter the name of any state; provided that no Bill for the purpose shall be introduced (...) unless, where the proposal contained in the Bill affects the area, boundaries or name of any states, the Bill has been referred by the President to the Legislature of that state for expressing its views thereon (...). Commenting on it, Krishna P. Mukherji says: "If this is not the very definition of unitary government, I do not know what else is." (See CAD, Vol. X (20), p. 179). K. Santhanam considers that in incorporating Article 3 in its final form in the Constitution, "the fundamental principle that a federation depends upon the territorial integrity of states seems to have been forgotten." [See K. Santhanam, *Union-State Relations in India* (Bombay: 1959, p. 7.). Hence unlike classical federal country like the United States where the *concept of indestructibility* prevails, such a norm is conspicuous by its absence in the Indian federal framework.

When the theory of equality of state rights is implicitly absent, it is explicitly clear that the imbalances emanating from it would inevitably create tensions and dissatisfaction among the federating units/ states. Such a conflictual situation is often heightened in a social system like India which is characterized by what Francine Frankel describes as “asymmetrical obligations among unequals.”<sup>40</sup> This explains the logic as to why special status and multilevel arrangements in India encounters no conceptual objections.<sup>41</sup> To diffuse such problems every federation recognize the virtue of asymmetry and make certain institutional arrangements to guarantee special status. In the Indian context, such an experimentation is seen as an extended discovery of the minimum degree of uniformity necessary for maintaining a coherent union.<sup>42</sup>

### Special Status as a Species of Asymmetric Federalism

The term ‘special status’ is widely used in this research to imply a species of asymmetric federalism which is embedded in every federalism. The terms ‘special status’ and ‘asymmetric federalism’ are used interchangeably throughout the current work but must be understood as implying the same meaning because special status is a species of which asymmetric federalism is the genus.

Special Status in federalism is a unique feature to meet unique situation or circumstances. The demand for it, according to *The New Encyclopaedia Britannica*,<sup>43</sup> arises when a unit (read here as state) contains a population which is a majority in that unit but otherwise a minority in the entire federation. The demand, he says, can be for political equality with the majority or for a special status relying upon the recognition of differences. The recognition of the virtues of asymmetry i.e., “the uneven distribution of elements along a common axis” is crucial. This is so because asymmetric federalism is in essence a

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<sup>40</sup> Francine Frankel and M.S.A. Rao (eds.), *Dominance and State Power in Modern India* (Delhi: OUP, 1989), Vol. 1, p. 1; quoted in Arora, *op. cit.*, p. 72.

<sup>41</sup> Arora, *ibid.*

<sup>42</sup> *ibid.*, p. 78.

<sup>43</sup> *The New Encyclopaedia Britannica*, Vol. 15 (Chicago: 1969), p. 542; cited in Hari Ram, *Special Status in Indian Federalism: Jammu and Kashmir* (Unpublished M.Phil dissertation submitted to the CPS/SSS, JNU, New Delhi, 1979).

calibrated institutional response to the diversity of constituent units, permitting both *de facto* and *de jure* variations.<sup>44</sup>

There are two types of asymmetry in federal systems:

- (i) political asymmetry and
- (ii) constitutional asymmetry.

Political asymmetry arises from the impact of cultural, economic, social and political conditions affecting the relative power, influence, and relations of different regional units with each other and with the federal government. This type of asymmetry exists in every federation.

The second type of asymmetry with which the current research project is concerned and considers special status as a species is constitutional asymmetry. This relates specifically to the degree to which powers assigned to regional units by the constitution of the federation are not uniform.<sup>45</sup> Constitutional asymmetry has taken various forms, viz., federal capital districts, federal administered territories, or peripheral federacies and associated states.<sup>46</sup>

So far, three approaches establishing constitutional asymmetry in the distribution of powers within federal systems are plausible:

- (i) To increase from the norm federal authority thereby reducing regional autonomy. This approach has been adopted several times in countries like India during the proclamation of emergency under Article 352 (national emergency arising out of external aggression, war, internal disturbances, etc.), Article 356 (constitutional breakdown of state government) and Article 360 (financial crisis/ breakdown). In such instances, the federal system readily gets transformed into a semblance of unitary system which significantly reduced the powers of the federating units/ states.

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<sup>44</sup> Arora, *ibid.*, see end notes, p. 98.

<sup>45</sup> Ronald L. Watts, *ibid.*, p. 63.

<sup>46</sup> *ibid.*, p. 68.

- (ii) The second approach is concerned with the facilitation of asymmetry in the jurisdiction and powers exercised by certain member states. In other words, it implies that the constitution is formally asymmetrical in giving all the member states the same jurisdiction, but includes provisions that permit member states in certain cases to 'opt in' or 'opt out' of these assignments. The legislative and administrative asymmetry enjoys by Quebec which respectively allows a unique Pension Plan and the right to collect its own income tax is a striking example of this approach.
- (iii) The third approach pertains to increasing regional autonomy expanding from the norm the jurisdiction of particular members states. This is exemplified in the concessions made to Borneo states when they joined the Malaysian federation in 1963. Under this arrangement, the jurisdiction of native laws, communications, shipping and fisheries were made matters of exclusive state or concurrent jurisdiction in Sabah and Sarawak.<sup>47</sup> Other matters such as immigration remained under federal authority, but in these Borneo states the approval of the concerned states(s) is required when they are applied to those states.

Canada is another illuminating case in point. Under the British North America Act, 1857, the hitherto united province of Canada, viz., Canada, Nova Scotia and new Brunswick was divided into two political units on ethnic lines: Ontario occupied by the majoritarian English speaking group and Quebec with ethnic French minorities.<sup>48</sup> Consequently Quebec seeks larger powers to defend its traditional French- Canadian nationalism and constantly emphasized cultural survival.<sup>49</sup> In the process, Quebec enjoys special property and civil rights provisions under a system of law based in

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<sup>47</sup> *ibid.*

<sup>48</sup> Murray Forsyth (ed.), *Federalism and Nationalism* (Leicester: Leicester University Press, 1989), p. 4.

<sup>49</sup> Paul Fox, *Politics: Canada, Culture and Process* (Toronto: Mc Graw Hill, 1970), pp. 25-28.

common with countries of continental Europe, the Roman Civil Law for French Canadian.<sup>50</sup>

- (iv) Another striking examples are the special status enjoyed by Jammu and Kashmir under Article 370 of the Indian Constitution and the case of North-East India which enjoys special status under Article 244, 275, 371 etc. The case of Jammu and Kashmir is exceptional in that under Article 370 separate constitutional arrangement is made to guarantee the autonomy of the state. In the process, it (incorporation of Article 370) introduced two type of federal structure in India: (a) between the center and all other states, and (b) between the center and the state of Jammu and Kashmir.<sup>51</sup> The article could however be abrogated or applied with modification by the President of India by public notification made on the recommendation of the Constituent of the state of Jammu and Kashmir.<sup>52</sup>

The case of North East India is unique. It has far reaching consequences as exemplified by the reach of its (special status provisions) dimensions ranging from socio-cultural and political to the economic and financial realms. This would be comprehensively examined in the course of the research.

The three approaches discussed above succinctly points out the dynamic nature of federalism in dealing with the uneven nature of diversities across societies. Asymmetry among the regional units in a federation is a reality.<sup>53</sup> In dealing with this problem proper care should be taken and asymmetric federalism/ special status as an institutional framework

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<sup>50</sup> J.R. Mallory, *The Structure of Canadian Government* (Toronto: Macmillan, 1971), p. 394.

<sup>51</sup> Sathe, S.P., "Article 370 and Jammu and Kashmir: For a Future Federalization of Polity", *Mainstream*, Vol. 30(40), 25 July 1992, pp. 13-16.

<sup>52</sup> *ibid.*

<sup>53</sup> T. Uniel Kichu Ao, *Asymmetric Federalism and Special Status: The Case of Nagaland* (Unpublished M. Phil dissertation submitted to CPS/SSS, JNU, New Delhi, 2001).



must be seen as a response to the quest for more responsive and participatory federal democracy.<sup>54</sup>

## B. Survey of Literature

### General Theoretical Survey on Federalism

Earle Valerie, an American author, gives us a glimpse of the daunting nature of general theoretical survey on federalism in his book, *Federalism: Infinite Variety in Theory and Practice*, 1963. This, he says, stems from the fact that there is no cast-iron mould, which a constitution must fit in, in order to be dubbed “federal.”<sup>55</sup> The present work does not attempt a comprehensive general theoretical survey on federalism but seeks to make a brief survey on some of the influential texts on federalism as a broad principle and those pertaining to Indian federalism that serve as starters for the current enterprise.

The present day concern on federalism as an institutional response to the plural character of modern societies was raised by M.H. Boehm while writing on “Federalism” in *Encyclopaedia of Social Sciences*, 1931. He neatly projects the fundamental tendency of federalism as harmonization actualized by its substitution of coordinating in place of subordinating relationship. Daniel J. Elazar aptly carries on this line of thinking when he contributed on the same subject in *International Encyclopedia of the Social Sciences*, 1968. He clearly reflected the prevailing indisposition of the concept which, according to him, foundered on, *inter alia*, the problems of distinguishing between : (i) the federal principle as a broad social concept and federalism as a narrower political device; and (ii) federalism and “inter-governmental relations” as distinct political phenomena.<sup>56</sup> His observation that: “federalism can exist only where there is considerable tolerance of diversity and willingness to take political action through conciliation even when the power to act unilaterally is

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<sup>54</sup> Arora, Balveer, “Coalitions, Reforms and the New Federal Polity”, *Social Action*, July-September 2001, Vol. 51(3), p. 287.

<sup>55</sup> Earle Valerie, *Federalism: Infinite Variety in Theory and Practice* (Illinois: Peacock, 1963), cf. D.D. Basu, *Comparative Federalism* (New Delhi: Prentice Hall, 1987), p. 13.

<sup>56</sup> Elazar, Daniel J., “Federalism” in David L. Shills, *International Encyclopedia of the Social Sciences*, Vol. 5 (New York: Cromwell Collier & Macmillan, 1968), p. 353.

available”<sup>57</sup> makes an intellectual reading. Elazar elaborated and gives us a more expansive view of the concept in his book, *Exploring Federalism*, 1987. It is in this book that he gives us the invaluable concept of federalism as a principle concerned with the “combination of self-rule and shared.”<sup>58</sup> The books does not only gives us the “joy of exploration”—to borrow him—of the concept on federalism in comparative perspective, but also “demonstrates that federalism offers a way to approach political phenomenon in its own right and is not to be subsumed within other models of political enquiry.”<sup>59</sup>

Ronald L. Watts, a Canadian, is another influential author who gives us a comparative view on federalism. In his article, “Contemporary Views on Federalism,” 1993 and later on in his monumental book, *Comparing Federal Systems*, 1999 Watts builds upon the ideas of Daniel J. Elazar and considers federalism as the “closest institutional approximation to the multinational reality of the contemporary world.”<sup>60</sup> The present work borrows heavily his views (categorized into three broad approaches) on the approaches to constitutional asymmetry.

Another monumental work on federalism that steers us clear of the rather befuddled nature of the concept is D.D. Basu’s, *Comparative Federalism*, 1987. It not only provides us with a holistic view on the different practices of federalism but shows us the two important steps of proceeding the study of federalism, viz., (i) what provisions are there in the federal constitution in favor of the pre-federal autonomy of the federating states; and (ii) what are the provisions for controlling the states by the federal authority to ensure natural unity.<sup>61</sup>

Moreover, another “must read” category of literature on federalism is *Publius: The Journal of Federalism*. The Journal, exclusively devoted as it is on federalism, invites prominent experts on federalism around the globe and really enriches the subject’s discipline. Of the many articles which have been fruitfully utilized in the present work, mention may be made of: Cheryl Saunders’, “Constitutional Arrangements of Federal System,” Spring 1995;

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<sup>57</sup> *ibid.*, p. 360.

<sup>58</sup> Daniel J. Elazar, *Exploring Federalism* (Tuscaloosa: The University of Alabama Press, 1987), p. 5.

<sup>59</sup> *ibid.*, see Preface, p. xi.

<sup>60</sup> Ronald L. Watts, *Comparing Federal System*, *op. cit.*, p. 4.

<sup>61</sup> D.D. Basu, *Comparing Federalism* (New Delhi: Prentice Hall, 1987), p. 44.

James M. Buchanan's, "Federalism as Ideal Political Order," Winter 1995; Douglas V. Verney's, "Federalism, Federation's Systems, and Federations: The United States, Canada and India," Spring 1995; and Joanne Bay Brzenski, "Changing Forms of Federalism and Party Electoral Strategies: Belgium and the European Union," Winter 1999. The articles, interpretative in themselves, help us understand the deeper meanings of federalism.

Murray Forsyth (ed.), *Federalism and Nationalism*, 1989 is another mine in the study of federalism. A compilation of research articles, it throws light on the interface between federalism and nationalism with special focus on Africa. In the introductory note, Forsyth traced the first instance in which a decision was taken to create a federal rather than a unitary form of government to accommodate differences based on ethnicity to the Constitution of the Canadian Confederation by the British North America Act of 1867. The book is replete with details of federal experience across the globe.

Let us now make a general theoretical survey on Indian federalism.

K.R. Bombwall, one of the most formidable constitutionalists in post-independent India explicitly traced the growth of Indian federalism in his, "Lineaments of Normative Federalism," which came out in the book *Aspects of Democratic Government and Politics in India*, 1968 that he jointly brought out with L.P. Choudhary. He gives us insights into the Constituent Assembly debates where most of the members, dismayed over the turn of events, considered that the federal principle was "brutally butchered." Admitting the fact that Indian federalism can not take the form of 'classical' model offered by the United States and Switzerland, he, however, considered it as an instance of "mature federalism" in that it clearly responded to the requirement of the Indian Government under contemporary conditions.

The current work is much replenished by the work of one of the most eminent multiculturalists in India, i.e. Iqbal Narain. In his thought-provoking work, "A Framework for Studying Federalism in India" that came out in Tarun Chandra Bose (ed.), *Indian Federalism: Problems and Issues*, 1987, he enunciated the much vaunted "ideational premise" of Indian federalism: a national unity with rights and autonomy for the state. This

is in line with a framework that gives space to a political system which is culturally a federation but politically and economically a unitary one.

Another celebrated authority on Indian federalism is Rasheeduddin Khan. In his book, *Federalism: A Design for Change*, 1992, Professor Khan gives us new insights and approach to Indian federalism. He popularized the terms “bouquet approach” and “melting-pot approach” in this book and has been deeply appreciated and optimally used in the current work.

A study on Indian federalism cannot be said to be a complete exercise without reference to Professor Balveer Arora whose insights into contemporary trends of Indian federalism are applaudable. His work, “Adapting Federalism to India: Multilevel and Asymmetrical Innovations” which formed a part and parcel of the book, *Multiple Identities in a Single State: Indian Federalism in Comparative Perspective*, 1995 that he co-edited with Douglas V. Verney throws light on the various ways in which the Indian Constitution responded to multi-ethnic challenges. In the same vein, he wrote an article on “Coalitions, Reforms and New Federal Polity,” 2001 which came out in the periodical *Social Action*. His exposition that asymmetrical federalism is “related to the quest for a more responsive and participatory federal democracy” is striking and is highly relevant vis-à-vis the North-East.

We may wind up our general theoretical survey on Indian federalism with Hari Ram whose M.Phil dissertation thesis, *Special Status in Indian Federalism: Jammu and Kashmir* submitted to the Centre for Political Studies, Jawaharlal Nehru University, New Delhi and later published as a book has been a trend setter on the study of ‘special status’ accorded under the Indian Constitution. In this monumental work, he has drawn parallels the constitutional practices of India and various federal countries especially the Canadian Constitution whose constitutional experience in guaranteeing special status to Quebec has been widely appreciated and researched upon.

## Survey of Literature on the North-East

Voluminous books and articles have been written on the North-East. One caveat which clearly underlines all these works especially in the post-independent period has been what S.K. Chaube calls, “the alarmist concern...about the fate of the region.”<sup>62</sup> This is understandable because of the spurt of ‘insurgency movements’ in the North-East. The present work has been careful not to get enmeshed in this and seeks to steer clear of the prevailing occupation with insurgency problems by focusing on constitutional arrangements and political processes with which the Indian Constitution has come out from time to time. Although literatures having direct bearing on the topic are hard to come by, the author has been exercising his discretion in pruning out relevant materials throughout.

Any study on North-East India can never be complete without an extensive reading on Alexander Mackenzie’s, *The North-East Frontier of India*, 2001 (reproduced). Originally published in 1884 under the title, *History of the Relations of the Government with the Hill Tribes of the North-East Frontier of Bengal*, the book gives us a comprehensive account of the social and political evolution of the North-East in utmost detail. Birendra Kumar Chakravorty’s, *British Relations with the Hill Tribes of Assam Since 1858*, 1964 is also replete with details on the socio-political history of the ‘Hill Tribes of Assam’. Though these books have positivistic overtones being replete with historical details, and give a bore some reading, they are invaluable for political historians of the North-East.

If there is any exception to the general tendency to write “unimaginative and non-methodological” account on the North-East, it is Verrier Elwin’s book, *A Philosophy for NEFA*, 1964. The book pleads, in its innovative style, for a realistic principle based on understanding and consent of the tribal people and warns against the “patronizing attitude of assuming that they (officers/ administrators) knew better what was good for the tribals than did the tribals themselves.”<sup>63</sup> Elwin’s philosophy has become the “hallmark” of India’s tribal policy in the 1950s and 60s. This philosophy was built upon and popularized by Nari

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<sup>62</sup> S.K. Chaube, *Hill Politics in Northeast India* (New Delhi: Orient Longman, 1999 Reprint), p. vi.  
<sup>63</sup> This quotation is borrowed from Nari Rustomji who forcefully interpreted and put into practice Elwin’s philosophy in his book, *Imperilled Frontiers* (Delhi: OUP, 1983), p. 109.

Rustomji in his book, *Imperilled Frontiers*, 1983. Similar writings which provide us the *ought to be* policy framework vis-à-vis the North-East are: B.K. Roy Burma, “Federalism in Perspective: Problems and Prospects for North-East India”, *Mainstream*, August 1993; L.P. Singh, “National Policy for the North-East Region” in Upendra Baxi, Alice Jacob and Tarlok Singh (eds.), *Reconstructing the Republic*, 1999. Moreover, B.G. Verghese’s book, *India’s Northeast Resurgent*, 1996 and his article “End the Isolation,” 2002 are extremely important for any serious research studies on the policy framework of the Indian Government vis-à-vis the North-East.

There are also hosts of books which broadly dovetail the social and political history of the North-East. S.K. Chaube, *Hill Politics in Northeast India* which was first published in 1973 is one of the first serious books on the North-East that focus on “the contradiction/competition between the traditional chiefs making use of tribals’ love for pristine freedom to preserve their vested interests against the republican wave in India, and a new elite—the Christianized literati—claiming the leadership of a democratically constituted society that would at the same time retain its autonomy.”<sup>64</sup> The book succeeded in bringing out its focus clear while at the same time rejecting the description of the term as “tribal political.” The same concern was dealt with in more detail by V. Venkata Rao in his book, *A Century of Tribal Politics in North-East India, 1874-1974* which was published in 1976 with a focus on the evolution of the hill state demand culminating in the birth of Meghalaya. In the subsequent volumes, Rao virtually covers the social and political history of the entire North-East India and is now a *sine quo non* for students on the North-East. Moreover, Sudhakar Bhat’s, *The Challenge of the North-East*, 1975 is another study on the region except for Nagaland. The book heavily borrows upon the main report of the Administrative Reforms Commission’s *Report on the Administration of Union Territories and NEFA*, 1968.

B.B. Kumar’s book, *Reorganization of North-East India*, 1996 traced what he calls the “dismemberment of Assam due to the diverse historical, social, cultural, ethnic, linguistic, administrative and constitutional factors.” By including various historical and constitutional documents pertaining to the North-East, the book establishes itself as a basic reference

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<sup>64</sup> S.K. Chaube, *op. cit.*

manual. The same theme is dealt with in a broader intellectual spectrum in B. Datta Ray and S.P. Agrawal (eds.), *Reorganization of North-East India Since 1947*, 1996. A compilation of essays contributed by eminent experts on the field, the book in toto deals with the underpinnings of North-East reorganization, the rudiment of which was outlined by the British since their complete annexation in 1836.

Another book that deals with the constitutional development of the North-East is Savyasaachi's, *Tribal Forest Dwellers and Self-Rule: The Constituent Assembly Debates on the Fifth and the Sixth Schedules*, 1998. The book is replete with refreshing arguments that continue to confront the efficacy of constitutional arrangements under the two Schedules. According to him, the Constituent Assembly Debates on these Schedules without seeking to re-examine the secularist policy of cultural non-interference on questions of social and cultural differences simply sought to deal with the problem of social justice that arises from a situation where cultural pluralism and politico-economic inequality are co-present and co-existing. In the process, he exposes the preoccupation of the dominant mainstream discourse with mobilizing public opinion for change in tribal policy without taking into account the conditions of institutions and social structures that constitute the tribals' life.

One formidable handicap that a research undertaking on the North-East has to face is the negligible number of standard work on its economy. The *S.P. Shukla Commission Report*, 1997 along with RBI Publications on State Finance augmented with some North-Eastern Council's publications are the only consolation. Recently, Gulshan Sachdeva has written a very authoritative book on the economy of the North-East i.e., *Economy of the North-East*, 2000. In this book he incisively dispel the common notion that North-East is a neglected region by pointing out the enormous financial packages and assistance that the North-East continues to get which stand far above the national average. He extensively and intelligently make use of every possible data available on the North-East and successfully make an evaluation of the "challenges and opportunities presented by the liberalization process to the North-East," which, according to him, is the main thrust of his study.

Last in line, but not the least important, of any survey of literature on the North-East must include is the case studies which lend authenticity to the overall framework. Among others, mention may be made of: Chandana Bhattejee, *Ethnicity and Autonomy Movement: Case of Bodo Kacharis of Assam*, 1996 and Humayun Bokht, *A Sociological Study of the Bodo Movement*, 1989 on the Bodos; L.C. Srivastava, "Local Self-Government in Manipur," 1997 on Manipur; Mary Zirhmingthangi Khiangte, *The International Dimension of the Mizo Insurgency, 1965-1986*, 1991 and Animesh Ray, *Mizoram*, 1993 on Mizoram; Lanusashi Longkumar, *Core-Periphery Relationship in North-East with a Focus on Nagaland*, 1996 and T. Uniel Kichu Ao, *Asymmetrical Federalism and Special Status: The Case of Nagaland*, 2001 on Nagaland. The importance of these case studies lies in the fact that they provide us a first hand account of the respective author's intimate experience on the field.

In the end it must be said that any survey of literature can never claim itself to be a complete exercise as many important literatures are, more often than not, inadvertently missed out. This may be probably because of poor cataloguing and the enormous space and distances in which relevant literature(s) on a particular subject, which one engage himself in, is spread.

### **C. Objectives and Scope**

The present work takes utmost precaution not to fall into what S.K. Chaube seeks to desist himself from: the alarmist category of writers who are continually pessimistic about the fate of the North-East. It, however, seeks to study the socio-cultural, political, economic and financial underpinnings of North-East India in a broader perspective and establish this fact that in spite of intermittent spurt in violence, *special status* put in place by the Constitution of India vis-à-vis the North-East has the resilience to see the region through.

Is special status a natural corollary of the British legacy? Or, is it a mere institutional hangover which the framers of the Indian Constitution in their preoccupation with upholding its ideational premise and in their absent mindedness simply fit into the Constitution? Or, is it a constitutional device to keep the North-East people as "museum specimens"?



The present work does not merely seek to answer these questions but also attempts to go beyond this by exploring the various dimensions of special status and plainly examine as to how far it serves towards its intended purpose: maintain a coherent union.

In order to make a fuller appraisal, the present work starts with 1826, the time when *de facto* power of the British over the whole of Brahmaputra valley and Assam proper was established. It then traced the roots of special status treatment under the caveat of the British rule. Realizing the anachronistic nature of over-emphasis on the British approach, it has been careful to thrust its main focus on the approach of the Indian Constitution in the post-independent era. The study follows a continuum, which has relevance till today even as more and more recognition to ethnic aspirations are forthcoming.

## **D. Methodology and Sources**

The use of hyperbole *Special Status* conjures up a unique system different from the usual norm. In other words, special status is an inherently comparative term that demands comparative study. It is sensible, therefore, for a research scholar engaged in such comparative exploration to adopt the *structural-functional approach* which, despite its limitations, comes as a natural choice. The structural-functional approach by putting primacy on analyzing the functions of the inbuilt structures has been gainfully employed in the whole work.

As has been mentioned earlier, except for the Acts, Regulations, Memoranda etc., there are negligible literary—oral or written—sources that have direct bearing on our research topic. Even then the sources can be broadly classified into two types:

### **I. Primary Sources**

Government documents handed down to us as acts, laws, bills, office memoranda, reports, regulations etc and petitions/memoranda by non-governmental

institutions/groups among others serve as our primary sources. The present research work owes its authenticity, if there is any, to the large-scale access that it has to these sources.

## II. Secondary Sources

The second category of our source, which can be considered secondary to the primary source is constituted by books, articles in journals/books, editorials, newspaper items, published and unpublished dissertations/theses, etc.

## E. The Structure

The research work is divided into four comprehensive chapters preceded by a preparatory introduction and ends with a conclusion.

The preface presents an overview of the work and contains acknowledgement to all those who matter in the making of this work.

A real beginning is made with chapter one. The chapter sets in motion the direction of the research by dovetailing a conceptual framework and survey of literature. It begins by examining the concept of federalism as a general principle and outlines Indian federalism in the light of its ideational premise. It then traces the roots of special status and explores the current approaches to constitutional asymmetry, the genus of special status. The chapter also makes a selective survey on influential texts available on the subject under study.

The second chapter dwells on the contexts and conditions of the reorganization process underwent by the North-East. A study on this aspect is crucial for it determines the underpinnings of special status accruing to the North-East. It examines the imperatives for granting statehood to Nagaland in 1962 and ends with the formation the state of Arunachal Pradesh in 1987.

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The third and fourth chapters constitute the main fulcrum of the dissertation thesis. The third chapter unfolds the socio-cultural and political dimensions of special status. It traces the contingent conditions and circumstances which invited special treatments vis-à-vis the North-East. It clearly shows how the British inadvertent policy to protect their commercial interests necessitating a peaceful atmosphere devoid of “tribal raids” effectualized by “protective isolationist policy” engender special status in post-independent India. This is effectively done by examining the approaches of the British and Indian Constitution. The case of the Bodos and the Hill Areas of Manipur are studied in detail under the issue of sub-state structures.

The fourth chapter makes an extensive use of table and data in exploring the economic and financial dimensions of special status enjoyed by the North-East. Here an honest attempt is made not only to understand the institutional arrangements for special status, but goes on to examine the political processes under which various special economic and financial packages are unveiled for the North-East. In the process, it makes a full appraisal of relevant arrangements under Article 275, special category states’ status, provisions of two important sections of the Income Tax Act, 1961 and the North-Eastern Council.

The dissertation thesis ends with a conclusion that encapsulates the main interweaving ideas and assessment of the points raised in the course of the research.

## CHAPTER II

### REORGANIZATION OF THE NORTH-EAST: CONTEXTS AND CONDITIONS

The North-East, a euphemism for the seven-sister states of India, viz., Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland and Tripura is, as Subir Bhaumik would have it, “a post-colonial region created by the partition of the sub-continent.”<sup>1</sup> The evolution of this bewildering country of extraordinary complexity and heterogeneity from a mere “territorial appendage” to a territory of extreme “geo-political significance” is indeed a long and chequered one.

Following the partition of the country there was an unprecedented spurt of nationalistic assertions in the North-East. The Nagas and the Mizos, followed by almost all the major ethnic formations in the North-East soon challenged the idea of a homogenous Indian nation-state with a strong central government.<sup>2</sup> The concomitant “prairie fires”—to borrow Subir Bhaumik’s verbiage—that began to envelope the whole of the North-East in the 1960s till the 1980s, much to New Delhi’s discomfiture, set into motion a trail of reorganization process which deviate from the usual norm and put into place unique ways of dealing with extraordinary cases.

Having said that the reorganization process in the North-East is a deviation from the usual norm, it is imperative to first explore what this “usual norm” envisages before we delve deep into the reorganization process of the North-East.

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<sup>1</sup> Bhaumik, Subir, “North-East India: The Evolution of a Post-Colonial Region,” in Partha Chatterjee (ed.), *Wages of Freedom* (New Delhi: OUP, 1998), p. 310. Bhaumik accredited the British as the first to have evolved the concept of “north-eastern frontier.” He substantiated his claim by pointing out that ancient or medieval geo-political discourse had no reference to the ‘North-East.’ Alexander Mackenzie in his book, *The North-East Frontier of India* (New Delhi: Mittal, 2001 reproduced), p. 1 mentions two usages of the term ‘North-East Frontier’ from which the concept of “North-East” is derived, as: (i) to denote a boundary line; and (ii) to generally describe a tract that lies between Bengal and independent Burma, with its outlying spurs and ridges.

<sup>2</sup> Udayon Misra, *The Periphery Strikes Back: Challenge to the Nation-State in Assam and Nagaland* (Shimla: IAS, 2000), p. 10.

Ever since the 19th century A.D., which saw the phenomenal development of regional languages engendering thereby an emotional integration of different language groups, and which spawned a consciousness of being distinct cultural units, the demand for reorganization of states in India has often been equated with the demand for the formation of linguistic province.<sup>3</sup> From the time it first figured in Sir Herbert Risley's, Home Secretary, Government of India (GoI), letter to the Government of Bengal on 3 December 1903<sup>4</sup> down to the Montague-Chelmsford Report, 1918, "linguistic principle" of provincial reorganization was reiterated as a panacea to inefficient administration. The Indian National Congress (INC), the bedrock of Indian National Movement, also lent indirect support to this principle as early as 1905 when it backed the demand for annulling the partition of Bengal which had resulted in the division of Bengali-speaking people into two units.<sup>5</sup> This was endorsed by the Nagpur session of the INC in 1920.

The adherents of this principle within the Congress even spoke in terms of giving "the right to self-determination of the people speaking the same language and following the same tradition and culture" in the light of its resolution in 1927 (concomitant to the appointment of the Indian Statutory Commission) to constitute Andhra, Utkal, Sindh and Karnataka into separate provinces.<sup>6</sup> After examining the viability of it, the Nehru Committee of the All Party Conference, 1928 concluded:

"Language as a rule corresponds with a special variety of culture, of traditions and literature. In a linguistic area, all these factors will help in the general progress of the province."<sup>7</sup>

With the dawn of the nineteen forties, however, there was a perceptible change in the Congress standpoint. In 1942, the resolution of the Congress affirmed that it had been "wedded to the Indian freedom and unity and any break in that unity specially in the modern

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<sup>3</sup> *Report of the States Reorganization Commission*, 1955 (hereinafter refer to as *SRC Report*), p. 10.

<sup>4</sup> The letter pertains to 'linguistic factor' as a principle, which would determine the mooted partition of Bengal. See, *ibid.*

<sup>5</sup> *ibid.*, pp. 12-13.

<sup>6</sup> *ibid.*, p. 13.

<sup>7</sup> *ibid.*

world when people's mind inevitably think in terms of even larger federation should be injurious to all concerned and exceedingly painful to contemplate.”<sup>8</sup> As this invited a backlash from the minorities, the Congress was forced to clarify in September 1945 about its commitment to a federal polity with residuary powers vested in the units.<sup>9</sup>

In post-independent India, the question was examined for the first time in great detail by the Linguistic Provinces Commission of the Constituent Assembly famously known as the *Dar Commission* between July and December 1948.<sup>10</sup> It considered the formation of provinces exclusively or even mainly on linguistic considerations as inadvisable.<sup>11</sup> The Commission felt that in forming provinces the emphasis should be primarily on administrative convenience. The homogeneity of language should enter into consideration only as a matter of administrative convenience. It further emphasized that everything that help the growth of nationalism had to go forward and everything which impeded it had to be rejected or should stand over. In the ultimate analysis, it favored that due weight be given to the history, geography, economy and culture of the province or state taken into consideration.<sup>12</sup> Similar restraint was sought to be put in place by the *JVP Committee* (Jawaharlal Nehru-Vallabhai Patel-Pattavi Sitamaryya Committee) constituted by the Nagpur session of the Congress in 1948. The Committee emphasized on security, unity and economic prosperity of India.<sup>13</sup>

What emerged eventually, however, was the acceptance of the scheme of reorganization of states on linguistic basis. The reasons for its acceptance were not far to seek. Linguistic redistribution of states had been a part of the Indian National Movement and any reversal of the process “would lead to a frustration with serious consequences.”<sup>14</sup> This consideration must have dictated the thinking of the Ministry of Home, GoI when it

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<sup>8</sup> Cited in Nag, Sajal, “Construction of Nationhood: Ethnic Minorities, Secessionism and Legitimization in North-East India”, in Girin Phukon (ed.), *Political Dynamics of North-East India* (New Delhi: South Asian Publishers, 2000), pp. 23-50.

<sup>9</sup> *ibid.*

<sup>10</sup> H.K. Barpujari, *North-East India: Problems, Policies and Prospects* (Delhi: Spectrum, 1998), p. 1.

<sup>11</sup> *SRC Report, op. cit.*, p. 2.

<sup>12</sup> *ibid.*

<sup>13</sup> H.K. Barpujari, *op. cit.*, p. 2.

<sup>14</sup> *ibid.*

appointed the *States Reorganization Commission* (SRC) on 29 December 1953. The Commission, while accepting the linguistic principle as the basis for reorganization, in the same vein maintained in its Press Note of 22 February 1954 that: “The first essential consideration is the preservation and strengthening of the unity and security of India. Financial, economic and administrative considerations are almost equally important not only from the point of view of each state but for the whole nation. India had embarked upon a great ordered plan for economic, cultural and moral progress. Changes which interfered with the successful prosecution of such a national plan would be harmful to the national interest.”<sup>15</sup>

Thus till the Nineteen Sixties the accepted and usual norm of conferring statehood was that even when other conditions were satisfied, the territory in question must also have the revenue resources to meet its administrative and non-developmental expenditure.<sup>16</sup> It was the application of this logic which led to the rejection of the proposals for the formation of Kamatapur State consisting of Goalpara, Garo Hills, Cooch Behar, Darjeeling and Jalpaiguri besides a Purbanchal State consisting of areas in and around Cachar.<sup>17</sup> In fact, the underpinnings of these demands had been well laid down by the British. Sir Robert Neil Reid, for instance, drawing from N.E. Parry, the former Deputy Commissioner of the Garo Hills, and Dr. John H. Hutton’s, the then Deputy Commissioner of the Naga Hills District, thesis of separateness—racially, historically, culturally and linguistically, suggested to the GoI the separation of the Hill areas of North-East India and placed them “perhaps under some appropriate department at Whitehall” in his confidential twenty-two page pamphlet: *A Note on the Future of Present Excluded, Partially Excluded and Tribal Areas of Assam*.<sup>18</sup>

The thesis of “separateness” which spawned “separatist movements” in the North-East has consistently been downplayed as the outcome of “administrative anomaly” which can be rectified by guaranteeing more autonomy. The series of committees and commissions

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<sup>15</sup> See Press Note (in Appendix B) in *SRC Report, op. cit.*

<sup>16</sup> Singh, L.P., “National Policy for the North-East Region” in Upendra Baxi, Alice Jacob and Tarlok Singh (eds.), *Reconstructing the Republic* (New Delhi: Har Anand, 1999), p. 400.

<sup>17</sup> See footnote of Chapter XVI, in *SRC Report, op. cit.*, p. 183.

<sup>18</sup> Cited in Syiemlieh, David R., “The Future of the Hills of North-East India, 1928-1947: Some British Views” in B. Datta Ray and S.P. Agrawal (eds.), *Reorganization of North-East India Since 1947* (New Delhi: Concept, 1996), p. 24.

constituted from time to time vis-à-vis the North-East—Gopinath Bordoloi Committee (1947), H.V Pataskar Commission (1965), Ashok Mehta Committee (1967), etc. – painstakingly attempted to bring home this point to the North-East people. However, as the prospects of individual states getting away from the straight-jacket of a uniform constitution loomed large in the 1960s and 80s, the Indian Constitution was called upon to provide constitutional spaces that drastically deviate from the usual norm of granting states.

This is sensible not only in that the theory of indestructibility of the Indian Union had to be asserted<sup>19</sup> but also the fact that Indian federalism is not the result of agreement between the units.<sup>20</sup>

We shall now explore the circumstances attending the reorganization of North-East India which began with the formation of the state of Nagaland in 1963 and ended with the emergence of the state of Arunachal Pradesh in 1987.

### **A. The Constitution (Thirteenth Amendment) Act, 1962 and Nagaland: A Precursor to Small States**

The Constitution (Thirteenth Amendment) Act, 1962 enforced on 1 December 1963<sup>21</sup> inserted Article 371A and created the state of Nagaland. The Act was historical not only in that for the first time the theory of indestructibility of the Indian Union was asserted<sup>22</sup> but also, as B.B. Kumar says, gave birth to new trends in Indian politics because:<sup>23</sup> (i) it was not formed on linguistic lines; (ii) Nagaland was the first state with smaller area and smaller population contrary to the SRC and Indian leaders' believe in bigger states prior to the formation of Nagaland; and (iii) it was for the first time that economic viability was not the

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<sup>19</sup> Chaube, S.K., "North-East India: The Concept of Autonomy and the Federal Context of India", in Girin Phukon (ed.), *op. cit.*, p. 1

<sup>20</sup> D.D. Basu, *Introduction to the Constitution of India* (New Delhi: Prentice Hall, 1998), p. 50. Except for the states of Manipur and Tripura, the two former princely states which signed Instrument of Accession with India in 1949 (that too under highly contestable terms), the rest of the states of the North-East were integrated with the Indian Union. The reluctance of the Nagas to sign the Bordoloi Committee Report and the wild controversy that ensued following the Mizo Union's acceptance of co-opted membership in the Committee are two instances which take time to fizzle out.

<sup>21</sup> *ibid.*, p. 433.

<sup>22</sup> Chaube, S.K., *op. cit.*

<sup>23</sup> B.B. Kumar, *Reorganization of North-East India* (New Delhi: Omsons, 1996), p. 22.



main consideration in the formation of state and that the state was to run mainly on the grants received from the consolidated fund of India.

A path-breaking achievement though it was, it did not come about without a price. The Naga demand for the “right to self-determination” which traced its roots in the formation of the Naga Club (1918)<sup>24</sup> saw many ups and downs especially since 2 February 1946<sup>25</sup> when it was streamlined and spearheaded under the Naga National Council. At one point of time, NNC seemed to have agreed to be “included in an autonomous Assam...with local autonomy and duly safeguard for interests of the Nagas.”<sup>26</sup> This feeling permeated T. Aliba Imti’s, the then President of NNC, public speech in Kohima on 6 December 1946:

“The NNC stands for unification of all the Naga tribes and their freedom...today we are in the most critical time of our history...we cannot sit idle waiting for only what others assign to us...our country is connected with India, connected in many ways. We should continue this connection...but as a distinctive community...we must develop according to our genius.”<sup>27</sup>

This line of thinking underwent perceptible change as Indian independence drew closer. When Gopinath Bordoloi Committee visited Kohima on 27 May 1947, NNC demanded “autonomous status under the guardianship of India for ten years” with full powers in respect of legislation, executive and judiciary.<sup>28</sup>

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<sup>24</sup> Lanusashi Longkumar, *Core-Periphery Relationship in North-East India with a Focus on Nagaland* (Unpublished PhD Thesis submitted to CIPOD/SIS, JNU, New Delhi, 1996), p. 131.

<sup>25</sup> M. Alemchiba, *A Brief Historical Account of Nagaland* (Kohima: Naga Institute of Culture, 1970), p. 165. The Naga National Council was an offshoot of the Naga Hills Tribal Council formed in 1945 to work for rehabilitation and reconstruction of war devastated areas of the Naga Hills. In its inception it composed of 29 Naga tribal representatives and originally aimed to foster the welfare and social aspirations of the Nagas and received patronage from the British administrators.

<sup>26</sup> This acceptance formed a part of a memorandum that NNC drafted in its meeting on 19 June 1946 to be submitted to His Majesty’s Government. See B. B. Kumar, *op. cit.*, p. 24.

<sup>27</sup> Yanou Asoso, *The Rising Nagas: A Historical and Political Study* (Delhi: Mittal, 1974), pp. 164-65.

<sup>28</sup> NNC Memorandum to Gopinath Bordoloi Committee, cited in Sajal Nag, *India and North-East India* (New Delhi: Regency, 1998), p. 72.

Soon thereafter, Sir Akbar Hydari visited Kohima and after a series of hectic meetings and discussions with the members of the NNC and the Deputy Commissioner, Pawsey between 27 and 29 June 1947, a Nine-Point Agreement famously known as the *Hydari Agreement* was signed. The Agreement recognized the rights of the Nagas to develop themselves according their free wishes.<sup>29</sup> However, controversy crept in regarding the interpretation of clause nine of the Agreement, which states:

“The Governor of Assam as the Agent of the Government of Indian Union will have a special responsibility for a period of ten years to ensure the observance of this agreement; at the end of this period, the Naga National Council will be asked whether they required the above Agreement to be extended for a further period or a new agreement regarding the future of the Naga people arrived at.”<sup>30</sup>

The ensuing controversy led to its non-implementation. Despite this, the extremist elements within the NNC, led by Angami Zapu Phizo, considered the Agreement as a sell-out and a submission to the Indian Union<sup>31</sup> and declared their intention to unilaterally declare independence that they did on 14 August 1947. The proponents of Naga independence till today insist that such a principle was even accepted by Mahatma Gandhi, the father of the Nation, when the Naga delegates met him on 19 July 1947 at his residence in Bhangi Colony in New Delhi when he reportedly told them:

“Nagas have every right to be independent. We did not want to live under the domination of the British and they are leaving us. I want to feel that India is yours. I feel that the Naga Hills are mine, the matter must stop there. I believe in brotherhood of man but do not believe in force or forced union.”<sup>32</sup>

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<sup>29</sup> See *Nine Point Agreement with the Governor Late Sir Akbar Hydari*, June 1947 in M. Horam, *Naga Polity* (Delhi: 1992), Appendix III.

<sup>30</sup> *ibid.*

<sup>31</sup> Yanou Asoso, *op. cit.*, p. 175.

<sup>32</sup> Cited in Sajal Nag, *op. cit.*, p. 79.

For a dispassionate analyst, it appears that in doing so, Gandhi *per se* was not endorsing Naga independence but was trying hard to drive home his standpoint against violence.

The declaration of Naga independence on 14 August 1947 was followed in quick succession by a “Naga nation-wide” plebiscite for a “Sovereign, Independent Nagaland”<sup>33</sup> which Phizo conducted between May and August 1951 wherein 99 percent of the Nagas were said to have voted in its favor. Following the GoI rejection of the plebiscite as a ‘stage-managed show,’<sup>34</sup> the NNC delegates met Nehru on 19 December 1951 and 11 March 1951. Frustrated over the outcome, Phizo went underground.

Meanwhile, Prime Minister Nehru and his Burmese counterpart, U Nu visited Nagaland in March 1953. Their visit was a fiasco as it ended with a public meeting marked by mass protest and walkout. In the ensuing melee, the police were called in who resorted to mass arrests. This incident was exploited by the extremists and by the end of 1955, they could mobilize a armed force of 5000 men which soon after increased to 15,000 approximately.<sup>35</sup> Things came to such a pass that on 22 March 1956, Phizo announced the formation of the Federal Government of Nagaland.

As matters began to spin out of control, the GoI had to engage the security forces to carry out operations against the armed hostiles in April 1956.<sup>36</sup> Consequently, the Disturbed Area Ordinance and Assam Maintenance of Public Order were promulgated. After replacement of the Assam Police Battalions by the Indian Armed Forces, Armed Forces (Special Powers) Act was also enforced.<sup>37</sup>

It was under this critical juncture when GoI and the Naga rebels embarked upon an irreversibly dangerous path, that the “moderate Naga tribal delegates,” rallied under the

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<sup>33</sup> B.B. Kumar, *op. cit.*, p. 27.

<sup>34</sup> T. Uniel Kichu Ao, *Asymmetric Federalism and Special Status: The Case of Nagaland* (Unpublished M.Phil dissertation submitted to CPS/SSS, JNU, New Delhi, 2001), p. 32.

<sup>35</sup> M. Alemchiba, *op. cit.*, p. 184.

<sup>36</sup> S.K. Agnihotri, “Constitutional Development in North-East India Since 1947”, in B. Datta Ray and S.P. Agrawal (eds.), *op. cit.*, p. 61.

<sup>37</sup> B.B. Kumar, *op. cit.*, p. 29.

banner of peace, formed the Naga Peoples' Convention (NPC) which met consecutively at Kohima (1959), Ungma Village (1958) and Mokukchung (1959). The Conventions swore off independence and sought to devise ways in order to arrive at such a political settlement in keeping with the honor and tradition of the Nagas in contrast to the demands of the extremists.<sup>38</sup>

In the first Convention headed by Dr. Imkongliba, there was, *inter alia*, demand for creation of a single administrative unit comprising of Naga Hills District of Assam and Tuensang Frontier Division of North-Eastern Frontier Agency (NEFA) which was acquiesced to by the GoI. As a follow-up measure, the Ministry of External Affairs of India endorsed the demand in its statement on 26 September 1957 by spelling out that: "The unit will be administered by the Governor of Assam on behalf of the President under the Ministry of External Affairs."<sup>39</sup> Subsequently, a bill for the amendment of the Sixth Schedule of the Indian Constitution was introduced in the Lok Sabha on 20 November 1957 and received the President's assent on 29 November 1957, which constituted the two areas under one administrative unit, i.e., "The Naga Hills-Tuensang Area" on 1 December 1957.<sup>40</sup>

The extremists however viewed the new arrangement as a product of a "bribe to the moderates" and raided the loyal villages<sup>41</sup> and laid down the following two preconditions for any negotiations with the GoI: (i) the recognition of their Naga Federal Government and (ii) the acceptance of their demands of a sovereign, independent Naga state.<sup>42</sup> It was under this atmosphere that NPC was convened at Ungma Village between 21 and 23 May 1958. The 16-Point Agreement<sup>43</sup> formulated by the Select Committee of NPC at Ungma Village and approved by the NPC laid the foundation for the creation of Nagaland which was out rightly accepted by the Indian PM, Nehru, when the delegation of NPC met him on 26 July 1960.<sup>44</sup>

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<sup>38</sup> Yanou Asoso, *op. cit.*, p. 222.

<sup>39</sup> T. Uniel Kichu Ao, *op. cit.*, p. 39.

<sup>40</sup> *ibid.*, p. 40.

<sup>41</sup> Yanou Asoso, *op. cit.*, p. 228.

<sup>42</sup> *ibid.*, p. 229.

<sup>43</sup> The 16-Point Agreement envisages the formation of the state of Nagaland under the Ministry of External Affairs. Besides endorsing favorable grants-in-aid regime vide Point 11, it seeks to maintain the unique and distinct character of the Naga people by protecting their culture, religion, customs, etc. In fact, Point 7 finally crystallized into Article 371 A when the state of Nagaland was formed. For details see *The Sixteen Points Agreement* in T. Uniel Kichu Ao, *op. cit.*, pp. 130-39.

<sup>44</sup> Murkot Rammunny, *The World of Nagas* (New Delhi: Northern Book Centre, 1988), p. 143.

The final moment came on 1 August 1960 when the Prime Minister announced the decision about the formation of the 16th state of India, i.e., Nagaland in the Lok Sabha. Subsequently, the Nagaland (Transitional Provisions) Regulation, 1961 was enacted which provided for an Interim body of 45 members.<sup>45</sup> Ultimately, the Constitution (Thirteenth Amendment) Act, 1962 was passed and got the President's assent on 28 December 1962.<sup>46</sup> The Act inserted Article 371 A into the already existing Article 371 and created the state of Nagaland, which, for the first time, accords special status under the Indian Constitution.

## **B. The Birth of Meghalaya, 1972: From Autonomous State to a Full-Fledged State**

The emergence of the state of Meghalaya in 1972 is another serious blow to the Assamese effort to counteract the "Greater Bengal"<sup>47</sup> movement then launched by a segment of the elite from the neighboring province. The irony that the plainsmen's (read here as Assamese) well-meant efforts to woo and uplift the hill people which have been so largely responsible for engendering separatist urges<sup>48</sup> among the hill leaders became increasingly apparent with the dawn of the 1950s and early 1960s. The Shillong Conference (16 June 1954) held under the chairmanship of B.M. Roy, the Chief Executive Member of Khasi and Jaintia hills, to "discuss things of mutual interests"<sup>49</sup> and the Tura Conference of 6 October 1954 convened by Capt. Williamson Sangma, the CEM of Garo Hills, largely defined the contours of the movement for the creation of a "hill state."

Although the demand for a separate "hill state" can be traced back to 1945 when a memorandum by some Khasi leaders pleaded for the creation of a hill province comprising of the hill districts of Assam,<sup>50</sup> S.K. Chaube, a renown specialist on the North-East, considers that for the first time a specific demand for the unification of all Assam hills under

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<sup>45</sup> T. Uniel Kichu Ao, *op. cit.*, p. 49.

<sup>46</sup> D.D. Basu, *op. cit.*, p. 433.

<sup>47</sup> H.K. Barpujari, *op. cit.*, p. 16.

<sup>48</sup> Nari Rustomji, *Imperilled Frontiers* (Delhi: OUP, 1983), p. 34.

<sup>49</sup> V. Venkata Rao, *A Century of Tribal Politics in North-East India, 1874-1974* (New Delhi: S. Chand, 1976), p. 336.

<sup>50</sup> Agnihotri, S.K., *op. cit.*, p. 62.

one administration was raised in the Memorandum submitted by the Khasi National Durbar under the presidentship of Wilson Reade to Pt. Nehru, the PM of India on his visit to Shillong on 19 October 1952.<sup>51</sup> Underlying this demand is the growing chasm manifested in terms of differing perceptions of order of priorities of demands by the leaders of the hills and plain areas. This led to misunderstanding, hostility and tensions between the two simply because whereas the perception of the leaders of the hills is rooted in regional culture and traditions which thinks in terms of preserving regional and cultural identities, the perception of the leaders of the plains is rooted in the national cultural ethos which emphasizes assimilation and national integration.<sup>52</sup>

It is not strange therefore that Williamson Sangma wryly scorned the attitude of the people of the plains as “one of contempt and subtle hostility towards the hill people”<sup>53</sup> during the Shillong Conference and demanded a separate “Eastern Hill State.” He supported his contention by citing the resolution of the Asom Jatiya Maha Sabha which stated that the area or areas which were inimical to the adoption of the Assamese language as the state language should be severed from Assam and constituted into a Centrally Administered Area.<sup>54</sup> He further elaborated the growing Assamese chauvinism that permeates through the speech of Nilmoni Phukon, a Legislative Assembly member, thus:

“All the language of different communities and culture will be absorbed in Assamese culture. I speak with rather authority in this matter regarding the mind of our people that this state government cannot nourish any other language in the province when all state affairs will be conducted in Assamese, it will stand in good stead for hill people to transact their business in Assamese with their Assamese brethren.”<sup>55</sup>

To carry forward the prevailing sentiment and to counteract any further assimilative threat, Sangma, in his capacity as the CEM of Garo Hills convened another Hill Leaders Conference of Assam at Tura on 6 October 1954. In this conference, the thesis of separate

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<sup>51</sup> S.K. Chaube, *op. cit.*, p. 119.

<sup>52</sup> Roy, Ash Narain, “Challenge Before the Polity”, *Hindustan Times*, New Delhi, 9 February 1991.

<sup>53</sup> V. Venkata Rao, *op. cit.*, p. 337.

<sup>54</sup> *ibid.*

<sup>55</sup> *Assam Legislative Proceedings*, 1948, pp. 581-2, cited in H.K. Barpujari, *op. cit.*, p. 17.

identity of the hills was painstakingly evolved and streamlined which allegedly was considered to be insecure under the framework of the Sixth Schedule that provides for an autonomy which is “not real and substantial.”<sup>56</sup> Accepting the unviability of the creation of a hill state, it however went ahead with the demand and decided to submit a memorandum to the SRC by urging it to consider any expenditure coming out of the formation of a hill state as a “profitable investment”.<sup>57</sup> The demand though considered by Rao<sup>58</sup> as “not only spacious but also fanciful” can be considered as a safety-valve keenly evolved by the endangered hill people and who were confronted by a chauvinistic and assimilative Assamese constituting only 50 percent of the population of Assam, controlled 75 percent of seats in the Legislature and monopolized 90 percent of the Cabinet seats and 75 percent of public services.<sup>59</sup>

This growing assertiveness among the hill people coincided with the ascendancy of Bishnuram Medhi whom Nari Rustomji considered as “direct anti-thesis” of Gopinath Bordoloi, his predecessor.<sup>60</sup> A shrewd, narrow-minded and parochially Assamese, Medhi considered that the integration of the hills with the plains needed to be brought about immediately, if necessary by force.<sup>61</sup>

Meanwhile, the States Reorganization Commission dictated by two preponderant issues of: (i) small states should not be created, and (ii) the security of the frontier should not be affected, refused the demand for a hill state and recommended that special attention be paid to the development of the hill areas. It further contended that there was no agreement among the hill autonomous districts about the creation of a hill state with the United Mikir and North Cachar Hills and the Lushai Hills opting out in favor of amendment/strengthening the Sixth Schedule instead thereby confining the demand only to the Garo and Jaintia Hills.<sup>62</sup>

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<sup>56</sup> V. Venkata Rao, *op. cit.*, p. 338.

<sup>57</sup> *ibid.*, p. 341.

<sup>58</sup> *ibid.*, p. 340.

<sup>59</sup> *ibid.*, p. 339.

<sup>60</sup> Nari Rustomji, *op. cit.*, p. 36.

<sup>61</sup> *ibid.*

<sup>62</sup> See *SRC Report*, p. 188; cited in S.K. Chaube, *op. cit.*, p. 123.

With the 1957 elections and the cooption of Capt. Sangma as a Minister for Tribal Area Development with a cabinet rank in Bimala Prasad Chaliha's Ministry, the demand for a hill state was given a cold storage as Sangma seemed to be happily embedded in his new-found Tribal Advisory Council to the extent of giving up the demand.<sup>63</sup> The demand now get bogged down to amendment of the Sixth schedule.<sup>64</sup>

It is despairing to note that though proposals were made for the amendment of the Sixth Schedule<sup>65</sup> since 1954 and although the Prime Minister assured the tribals that he would look into the matter personally. no action was taken except interminable discussion. Meanwhile the centre decided to create Nagaland as a state, which was seen by Sangma as capable of having far reaching repercussions in the other hill districts (of Assam) unless the amendment of the Sixth Schedule, as recommended by the Advisory Committee can be taken up at a very early date.<sup>66</sup>

By 1960 numerous factors got accumulated which in due course made the movement of a separate state irreversible. Prominent among these are: the indiscreet way in which land was disposed of in Shillong and the naming of some parts of the town after some minister or the other for the plains, economic distress caused by partition, not entrusting the tribal minister with the department of tribal affairs, frequent interference in the internal affairs of the district councils, the feeling that there was not much progress in the economic development of the hill areas although sufficient funds were placed at the disposal of the government of Assam by the Government of India, the issue of licences for the extraction of mineral resources in the tribal areas without consulting the district councils and so on.<sup>67</sup>

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<sup>63</sup> V. Ventaka Rao, *op. cit.* p. 350.

<sup>64</sup> *ibid.*

<sup>65</sup> Take for instance the *Report of the States Reorganization Commission, 1955* which states: "we would recommend that the question of the working of the Sixth Schedule be examined comprehensively by a body specially constituted for this purpose ... The question should be examined with due regard to the promotion of the best interests of these people and the need for checking disruptive tendencies and securing good administration. Cited in Rao, V. Venkata, "The Formation of Meghalaya" in Alice Jacob (ed.), *Constitutional Developments Since Independence* (Bombay : N. M. Tripathi, 1975), p. 359. Another striking example is the Khongmen Bill, for detail see *ibid.*, p. 359

<sup>66</sup> *ibid.*, p. 364.

<sup>67</sup> *ibid.*



The growing anxiety and eagerness to push the Assamese language through and the contingent anticipation of Assamese assimilative design came as the last straw that broke the camel's back.<sup>68</sup> In response to the increasing demand to declare Assamese as the official state language, B.P.Chaliha, the Chief Minister made a speech on 3<sup>rd</sup> March 1960 wherein he outline two imponderable issues involved with the demand: (i) to make official communication easily understandable to the common man, and (ii) to break the barrier of language which separates the diverse population of Assam.<sup>69</sup> The Assam Pradesh Congress Committee (APCC) met on 22 April 1960 and directed the CM to declare Assamese as the State language.<sup>70</sup> In pursuance to this, the CM announced on 23 June 1960 that the Official Language Bill be introduced in the Legislative Assembly on the lines of recommendation made by the APCC.<sup>71</sup>

In the wake of this development, Capt. Sangma convened a hill leaders conference on 6 and 7 July 1960 and was presided over by B.M. Pugh, a retired Khasi agricultural scientist.<sup>72</sup> The conference gave birth to All-Party Hill Leaders' Conference (APHLC) hailed by S.K. Chaube as "the first and only hills organization"<sup>73</sup> which for the coming decade become a part and parcel of the creation of the state of Meghalaya. It set up a Council of Action which submitted a memorandum to the President on 21 August 1961.<sup>74</sup> The memorandum warned that the declaration of Assamese as the state language "would result in the eventual disintegration and assimilation of the tribals into the Assamese Community."<sup>75</sup> It vehemently opposed the proposed Language Bill and considered it impracticable as the States Reorganization Commission itself accepted the 70 percent norm prerequisite for a language to become a majority language which the memorandum said was not fulfilled by the Assamese; being spoken only by less than 50 percent of the total population.<sup>76</sup>

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68 *ibid.*  
69 V. Venkata Rao., *op. cit.*, p. 364-65  
70 *ibid.*, p. 365.  
71 Rao, V. Venkata, *op. cit.*, p. 365.  
72 S.K. Chaube, *op. cit.*, p. 131.  
73 *ibid.*, p. 133.  
74 *ibid.*,p. 132.  
75 Rao, V. Venkata, *op. cit.*, p. 366.  
76 *ibid.*

Despite vociferous protest and opposition, the Government of Assam went ahead and introduced the Assam Official Language Bill on 18 October 1960. Although section 4 of the Act (adopted as an Act by the Legislative Assembly on 24 October 1960<sup>77</sup>) seeks to protect the existing languages,<sup>78</sup> the APHLC remained unconvinced and staged a hartal and a massive demonstration in Shillong. Consequently, during the 3<sup>rd</sup> APHLC at Haflong from 16-18 November 1960 presided over by J.B. Hagjer, a Congress M.P. “immediate creation of a separate hill state” was demanded as the only solution to “a clear proof of unfair attitude of the Assamese community to avail themselves of undue advantages and thereby enhance their domination over the hills people and the rest of the people of the state of Assam.”<sup>79</sup>

It must be noted here that although the language issue indeed provided the ground for the hill state movement, it did not constitute its substance; the substance of it being the people’s protracted desire for equal status with the Assamese plains people.<sup>80</sup> There is however, one decisive pull immaculately put in place by it in the hills psyche: the die is cast on the demand for a separate state.

The consequent series of confabulations and offers can be seen as efforts to redress these grievances. The first in line came in November 1960 when the Scottish Pattern of government for the hills<sup>81</sup> was spelt out by Nehru on 19 February 1961. The offer came to be known as the “Scottish Plan” and contemplated 99 percent autonomy for the hill areas of Assam “within the state of Assam.”<sup>82</sup> It envisaged an enlarged powers of the autonomous districts whose elected MLAs would form a Committee to deal with legislation and like matters relating to the hill districts which might come up before the Assembly. Most strikingly, the decision of the Committee would prevail on such matters on the pattern of the Committee for Scotland in the British House of Commons.<sup>83</sup> Details regarding the

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<sup>77</sup> S.K. Chaube, *op. cit.*, p. 133.

<sup>78</sup> For details see *The Assam Official Language Act, 1960, Assam Act (No. XXXIII of 1960)* in Verinder Grover and Ranjana Arora (eds.), *Encyclopedia of India and Her States*, Vol. 9 (New Delhi; Deep & Deep, 1988), appendix IV; pp. 746-748.

<sup>79</sup> S.K. Chaube, *op. cit.*

<sup>80</sup> *ibid.*

<sup>81</sup> *ibid.*, p. 136.

<sup>82</sup> Rao, V. Venakta, *op. cit.*, p. 371.

<sup>83</sup> S.K. Chaube, *op. cit.*, p. 137.

constitution of the district or regional council were subjected to a Commission's investigation to be appointed in due course.

The delegates made the acceptance of the Commission contingent upon the solution of the language problem. Meanwhile, in 1962 Legislative Assembly elections the APHLC won 11 out of 15 seats allotted to the autonomous districts even as the Congress captured all the three seats in Mikir Hills and the North Cachar Hills.<sup>84</sup> After its spectacular victory, the APHLC called upon its members to resign as a show of protest for not conceding the demand which was acquiesced only by seven of its eleven members. In the by-election that ensued, the APHLC could capture only five seats with two seats having been captured by the Mizo National Front.<sup>85</sup> This was followed by the secession of the Mizo Union from the APHLC in 1963. Thus, when the APHLC delegation met the Prime Minister on 10 June 1963 at the Gauhati airport, they were told to see the Governor thereby marking what S.K. Chaube calls "the watering down of the original Nehru Plan."<sup>86</sup> Despite certain unsavory developments, the APHLC in its meeting on 17 April 1964 resolved to give "a fair trail" and requested the PM to proceed with the appointment of the Commission to work out the details for implementing his offer of full autonomy and his various assurances to the hill peoples.<sup>87</sup>

Shortly thereafter, upon Nehru's death, the APHLC delegation met his successor Lal Bahadur Sastri on 11 December 1964 and urged the immediate appointment of a Commission.<sup>88</sup> The Commission was constituted on 16 March 1965 under the Chairmanship of H.V. Pataskar and includes two other members, viz., Shankar Prasad and G.S. Rau. It submitted its report on 31 March 1966. The terms of reference of the Pataskar Commission avowedly seeks to protect the unity of Assam<sup>89</sup> and understandably didn't recommend the creation of a hill state.<sup>90</sup> By tracing the crux of the hills problems to the dissatisfaction with the economic progress of the hill districts, it recommended:

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<sup>84</sup> Rao, V. Venkata, *op. cit.*, p. 371.

<sup>85</sup> *ibid.*, p. 370.

<sup>86</sup> S.K. Chaube, *op. cit.*, p. 138.

<sup>87</sup> Sudhakar Bhat, *The Challenge of the Northeast* (Bombay: Popular Prakashan, 1975), p. 20.

<sup>88</sup> *ibid.*

<sup>89</sup> *ibid.*, p. 21

<sup>90</sup> Rao, V. Venkata, *op. cit.*, p. 373.

- Modification of state budget to include a new “area budget” which will show allocations for the hill districts in respect of subjects transferred to the department of the hill areas;<sup>91</sup>
- Hill Areas Committee under a Hill Commissioner to guide direct and supervise administration and development work in the hill districts; and
- Hill Areas Development Council with Chief Minister as Chairman to advise the state government on the administration and development of the hill areas.

The Pataskar Commission’s recommendations however fell far short of the demand of the hill people for complete autonomy or clear-cut separation from Assam.<sup>92</sup> The APHLC was left with no alternative but to raise the demand for a separate hill state again.<sup>93</sup> It also rejected the Nehru Plan and directed its Council of Action to take all steps necessary to launch a non-violent satyagraha.<sup>94</sup>

By now, the Government of India through its experience in the Nagaland case has realized the importance of keeping minorities in the border regions satisfied.<sup>95</sup> This is more keenly felt by Mrs. Indira Gandhi, who, soon after her successive struggle and a fledgling experience could not afford a boycott of elections in a sensitive area of India that loomed large consequent upon the APHLC decision on this matter.<sup>96</sup> On 27 December 1966 she rushed to Shillong and after some discussion with Chaliha and the APHLC leaders from 11 to 13 January 1967, announced a proposal to reorganize Assam on federal lines.<sup>97</sup> The proposal by envisaging two units with equal status without being subordinate to the other did not cut ice with the plains. As a consequence, the centre did not constitute the joint Committee to work out the details.<sup>98</sup> In response to the APHLC demand of 14 July 1967 to separate the hill areas from the state of Assam, the Central Government constituted a 12-member committee under the Chairmanship of Ashok Mehta to review the Federal Plan in

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<sup>91</sup> Sudhakar Bhat, *op. cit.*, p. 25.

<sup>92</sup> *ibid.*, p. 30.

<sup>93</sup> S.K. Chaube, *op. cit.*, p. 139.

<sup>94</sup> Rao, V. Venkata, *op. cit.*, p. 375.

<sup>95</sup> S.K. Chaube, *op. cit.*, p. 140.

<sup>96</sup> *ibid.*, p. 139.

<sup>97</sup> *ibid.*

<sup>98</sup> Rao, V. Venkata, *op. cit.*

1967.<sup>99</sup> By refusing to accept federal structure as the basis of reorganization of Assam, the Ashok Mehta Committee invited APHLC's rejection of the Plan, the members of whom resigned from all the Assembly seats it held in the Khasi and Garo Hill on 25 May 1968 and started a non-violent satyagraha on 10 September 1968.<sup>100</sup>

Consequently, as Nari Rustomji<sup>101</sup> aptly put it, the Government of India and Assam which hitherto were unprepared to give their agreement to the hill people's demand for a separate state were literally coerced to acquiesce to the demand. The historic day came on 11 September 1968 when the Government of India produced the autonomous state plan for the Garo Hills and the United Khasi and Jaintia Hills district. However with Mikir Hills and North Cachar Hills choosing to stay with Assam and the non-applicability of the plan to Mizo Hills owing to the disturbed condition,<sup>102</sup> the demand for a composite hill state was considerably denigrated. As a follow-up to this, on 24 December 1969 the Parliament created history by simultaneously passing the Assam Reorganization (Meghalaya) Bill. Enforced as an Act on 2 April 1970<sup>103</sup> the Act incorporated Article 244 A<sup>104</sup> to the Indian Constitution and created an "autonomous state" within the state of Assam. Although enormous power is given to the autonomous state (61 subjects out of the 65 entries in the state list and 4 subjects of the concurrent list of the 7th Schedule to the Constitution being given in its final form), the denial of police power except at the village and town level is interpreted by APHLC as an unwillingness and lack of trust on the part of the GoI.<sup>105</sup>

Not contented with this, the 22nd session of the APHLC at Shillong held from 19 to 22 September 1970 demanded the constitution of Meghalaya into a "full separate state."<sup>106</sup> To bolster their case, the Meghalaya Legislative Assembly in its session on 30 September 1970 passed a unanimous resolution demanding a complete statehood.<sup>107</sup> After hectic maneuvers and persistent demand, the PM, Smt. Indira Gandhi announced on 10

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<sup>99</sup> Agnihotri, S.K., *op. cit.*, p. 64.

<sup>100</sup> S.K. Chaube, *op. cit.*, p. 139.

<sup>101</sup> Nari Rustomji, *op. cit.*, p. 82.

<sup>102</sup> S.K. Chaube, *op. cit.*, p. 140.

<sup>103</sup> Agnihotri, S.K., *op. cit.*, p. 65.

<sup>104</sup> For details see *The Constitution (22nd Amendment) Act, 1969* in Manila Bose (ed.), *Historical and Constitutional Documents of North-Eastern India, 1824-1973* (Delhi: Concept, 1979), pp. 258-60.

<sup>105</sup> R.S. Lyngdoh, *Government and Politics in Meghalaya* (New Delhi: Sanchar, 1996), p. 430.

<sup>106</sup> *ibid.*, p. 434.

<sup>107</sup> *ibid.*, p. 435.

November 1970 the government's acceptance, "in principle," the demand for statehood.<sup>108</sup> Strangely enough, this announcement was welcomed by all political parties in Meghalaya.

The announcement was fructified with the passage of the North-Eastern Areas (Reorganization) Bill, 1971<sup>109</sup> and Meghalaya along with Manipur and Tripura became in December 1974 a separate states. The new state of Meghalaya was inaugurated at Polo Ground in Shillong on 20 January 1972 by Prime Minister Smt. Indira Gandhi.<sup>110</sup> S.K. Chaube aptly hailed it as: "For the first time in India, a major political demand was fulfilled with practically no violence and by means of sheer organizational ability and public relations."<sup>111</sup>

### **C. The North-Eastern Areas (Reorganization) Act, 1971: The Emergence of the Erstwhile Native States of Manipur and Tripura**

Following the success of what Sajal Nag<sup>112</sup> aptly calls the policy of "conciliation and pressure" the two erstwhile native states of Manipur and Tripura merged with the Indian Union on 15 October 1949. The integration of these two "native states" devolved two important responsibilities on the Government of India.<sup>113</sup> These are: (i) introduction of responsible government and (ii) ensuring economic development as "native states are notorious for their economic backwardness." The first responsibility is especially engendered by the age-old and historic experience of responsible government by the two "native states." For instance, it may be recalled here that in the 11<sup>th</sup> century, during the reign of King Loiyumba, Manipur had an elaborate administrative system under which it was

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<sup>108</sup> *ibid.* p. 436.

<sup>109</sup> For further details see *The North-Eastern Areas (Reorganization) Act, 1971* in Manilal Bose (ed.), *op. cit.*, pp. 260-330.

<sup>110</sup> R.S. Lyngdoh, *op. cit.*, p. 438.

<sup>111</sup> S.K. Chaube, *op. cit.*, p. 140.

<sup>112</sup> Sajal Nag, *India and North-East India* (New Delhi: Regency, 1998). In this book, Nag painstakingly explores the excruciating pace with which integration of the erstwhile native states with the Indian Union took place. He explains with incisive details, the reluctance of the Maharaja of Manipur, for instance, whose insistence to maintain the *status quo* and his anxious enclosure in Shillong by the then Assam Governor, Shri Prakasa's bodyguards which deters him from ascertaining the views of representatives of Manipur was simply denied. He concludes this episode by coining this term, "conciliation and pressure" as the Manipur Raja, Bodhi Chandra was hoodwinked to accede to the Government's pressure after he was assured an entitlement of rupees two lacs and twenty five thousand per year as his privy purse for a lifetime. For details see chapter five on "Politics of Integration," pp. 64-118.

<sup>113</sup> Jyotirmoy Roy, *History of Manipur* (Calcutta: Eastlight, 1973, 2nd Edition), p. 151.

divided into six Pannas or districts meticulously laid down by a written constitution known as “*Loiyumba Sillon*.”<sup>114</sup> In response to the demand for responsible government, the Maharaja also set-up a committee which framed the Manipur State Constitution and was effectualized by an Act in 1947 that laid down the foundation of present day local administration in Manipur.<sup>115</sup>

It was this consideration which guided the Indian Government when the two “native states” were categorized as Part C States under the Part C States Act, 1951. This Act, by dissolving the Legislative Assembly of Manipur founded by the Maharaja of Manipur,<sup>116</sup> for instance, entrusted administration to the President of India who carried on the administration through a Chief Commissioner. The will of the people was however not reflected in the administration.<sup>117</sup>

The States Reorganization Commission, 1955 examined the problems passed by Part C States and found no justification for their continuance.<sup>118</sup> Commenting on the desirability of Tripura’s merger with Assam it said: “The state was contiguous to Assam and it was connected by air and road to important towns in the state (read here as Assam).”<sup>119</sup> While expressing the desirability of Manipur also merging with Assam, it recommended: (i) “separate existence for Manipur for the time being”<sup>120</sup> under a centrally administered territory<sup>121</sup> because of the paramount nature of security aspects of a border state which were akin to NEFA; (ii) being an independent state for many centuries, (iii) being a backward state, merger with Assam would retard its economic development; and (iv) opposition to the merger arising out of a consciousness of untrammelled individuality which Manipur resiliently afforded to maintain amidst gross incursion.<sup>122</sup>

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<sup>114</sup> Sudhakar Bhat, *op. cit.*, p. 44.

<sup>115</sup> For details see the *Manipur State Constitution Act, 1947* (Imphal: State Press, 1947).

<sup>116</sup> S.K. Chaube, *op. cit.*, p. 204.

<sup>117</sup> Jyotirmoy Roy, *op. cit.*, p. 152.

<sup>118</sup> Administrative Reforms Committee (ARC), *Report of the Study Team on the Union Territories and NEFA* (Delhi: 1968), para 679, p. 184.

<sup>119</sup> *ibid.*

<sup>120</sup> *ibid.*, para 701, p. 191.

<sup>121</sup> *ibid.*, para 703, p. 191.

<sup>122</sup> *ibid.*, para 702, p. 191.

The Government of India however rejected SRC's recommendation pertaining to Tripura<sup>123</sup> and come out with the Union Territories (Laws) Act, 1956, Seventh Constitution (Amendment) Act, 1956 and altered Article 239<sup>124</sup> under which the Territorial Council Act of 1956 was passed. Consequently, the Territorial Councils in both the Union Territories of Manipur and Tripura, were granted some autonomy in local affairs such as education, public health, roads transport, revenue works, animal husbandry, relief works etc.<sup>125</sup> The Councils also had powers to levy taxes on profession, trades, callings and employment, tolls of bridges and school fees subject to the approval of the Parliament which alone is empowered to legislate under the Territorial Council Act, 1956.<sup>126</sup> However on the lines of SRC recommendation that "democracy in these areas...take the form of the people being associated with the administration in an advisory rather than a directive capacity,"<sup>127</sup> the Administrator of the territory, assisted by an Advisory Committee including local MPs as its members, wields overriding powers in administrative affairs.

There was a widespread dissatisfaction and disillusionment with the tenuous and piecemeal reforms to bring about a responsible government. It was in this backdrop that another Committee under the Chairmanship of Ashoke Sen, the then Union Law minister was constituted in 1961, perforce of course by the wide scale satyagraha movement launched in Manipur in April 1960 which resulted in large scale deaths and sufferings.<sup>128</sup> The Committee which submitted its reports in June 1962 recommended that the largest possible measure of autonomy should be granted to the Territories and that representative of the people should be associated with the Administration at every level.<sup>129</sup> Moreover, it

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<sup>123</sup> *ibid.*, para 680, p. 185.

<sup>124</sup> Article 239 states: (1) save as otherwise provided by Parliament by law, every Union Territory shall be administered by the President acting, to such extent as he thinks fit, through an administrator to be appointed by him with such designation as he may specify. (2) Notwithstanding anything contained in Part VI, the President may appoint the Governor of a state as the administrator of an adjoining union territory, and where a Governor is so appointed, he shall exercise his functions as such administrator independently of his Council of Ministers.

<sup>125</sup> *ibid.*

<sup>126</sup> Sudhakar Bhat, *op. cit.*, p. 49.

<sup>127</sup> Cited in ARC, *op. cit.*, para 704, p. 191.

<sup>128</sup> S.K. Chaube, *op. cit.*, p. 205.

<sup>129</sup> ARC, *op. cit.*, para 43, p. 11.



recommended the continuance of supreme authority of Parliament over the Territories in the matter of finance as well as general policy.<sup>130</sup>

Meanwhile, the conferment of Statehood to Nagaland in 1962 blunted such arguments as absence of economic viability, political immaturity, sensitive frontier etc.<sup>131</sup> and the demand for complete statehood gained an added momentum. The immediate outcome of this was the Constitution (Fourteenth Amendment) Act of 1962 which added Article 239 to the Constitution and enabled the Parliament to create in some of the territories, including Manipur and Tripura:

- (a) a body elected or partly nominated and partly elected, to function as a Legislature for the Union Territories, or
- (b) a Council of Ministers, or both, with such Constitution powers and functions in each case, as may be specified in the law.<sup>132</sup>

As a sequel to this, the Territorial Councils were abolished and separate Legislatures and Ministries were created in Manipur and Tripura by the Union Territories Act of 1963.<sup>133</sup> The two legislatures constituted under Part II of the Act which started functioning in July 1963 had 30 elected and two nominated members each.<sup>134</sup> They followed the same legislative practices and procedures as the State Legislative Assemblies but all Bills passed by the Territorial Assemblies had to be reserved by the administration for the President's assent though the Administrator could himself recommend the demand for grants.<sup>135</sup> In addition to this, Part IV of the Act provided for a Council of Ministers "to aid and advise the Administrator" except when he was required to act in his discretion which fall into the domain of his "special responsibility" in respect of border security. One drawback which invites protests pertains to the non-obligatory nature of ministerial advice even outside the normal discretionary fields of the administrator.<sup>136</sup>

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<sup>130</sup> *ibid.*

<sup>131</sup> Jyotirmoy Roy, *op. cit.*, p. 155.

<sup>132</sup> S.K. Chaube, *op. cit.*, p. 206.

<sup>133</sup> Vide the Manipur Code, vol. I; pp. 225-56, cited in S.K. Chaube, *ibid.*

<sup>134</sup> B.B. Kumar, *Reorganization of North-East India*, (New Delhi: Omsons, 1996), p. 73.

<sup>135</sup> S.K. Chaube, *op. cit.*

<sup>136</sup> *ibid.*, p.207.

The ARC study team on Administration of Union Territories and NEFA headed by R.R. Morarka made an exhaustive study on administrative lacunae afflicting the Union Territories and suggested amendments for three key sectors of the Union Territories Act, viz., sections 25, 27 and 46. Taking into account the superfluous nature of reservation of all Bills passed by Union Territories legislatures vide section 25, it recommended that the Centre lay down specific guideline for the Administrator in the lines of the instructions issued under the Constitutional Acts of 1919 and 1935.<sup>137</sup> This, the study team felt, would free the Territorial Administration of central control and would enable the Central Government to exercise their powers through the Administrator within “clearly defined limits.”<sup>138</sup> In the same vein, it recommended that advance intimation of the quantum of Central assistance to the Territorial Administrations be made to remove what it calls “the objectionable features of Central Scrutiny of the budget”<sup>139</sup> implicit in section 27. Moreover it found that the rules of procedures laid down by the President under section 46 of the UT Act took the form of administrative restrictions rather than flowing from any statutory or Constitutional provision. In the light of these, it recommended that the Central Government retain power to frame those rules which impinge on the relations of the Central Government and the Union Territories.<sup>140</sup> In the ultimate analysis it suggested Lt. Governor as the head of territorial administration instead of Chief Commissioner<sup>141</sup> which was fructified in 1969.<sup>142</sup>

Simultaneously, 1968 to 1970 in Manipur proved to be the years of frequent hartals, relay-hunger strikes, arrests, lathi-charges and firings<sup>143</sup> which culminated in the intervention of the all-India parties that ended the violence on 28 August 1970.<sup>144</sup> As a prelude to statehood, Manipur was reorganized administratively into five administrative units<sup>145</sup> on 14

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<sup>137</sup> ARC, *op. cit.*, para 232, p. 60.

<sup>138</sup> *ibid.*, para 234, p. 61.

<sup>139</sup> *ibid.*, para 238, p. 61.

<sup>140</sup> *ibid.*, para 243, p. 63.

<sup>141</sup> *ibid.*, para 708, p. 193.

<sup>142</sup> B.B. Kumar, *op. cit.*, p. 69.

<sup>143</sup> Jyotirmoy Roy, *op. cit.*, p. 155.

<sup>144</sup> S.K. Chaube, *op. cit.*, p. 209.

<sup>145</sup> Jyotirmoy Roy, *op. cit.*, p.155. The five administrative units with their respective headquarters are: (i) Manipur Central District (Imphal), (ii) Manipur East District (Ukhrul), (iii) Manipur North District (Harong), (iv) Manipur West District (Tamenglong) and (v) Manipur South District (Churachandpur).

November 1969 which hitherto had been a single district Territory divided into ten subdivisions.

After numerous administrative experiments, the Centre finally announced its acceptance in principle the formation of the states of Manipur and Tripura on 3 September 1970.<sup>146</sup> The acceptance speech respectively announced by the Prime Minister Smt. Indira Gandhi and the Minister of State for Home Affairs, Krishna Chandra Pant in the floors of the Lok Sabha and the Rajya Sabha, *inter alia*, states:

“The Government takes note of the special circumstances of these territories of Manipur and Tripura in which the demands for statehood have been made. We accept the demands in principle, but details have to be worked out keeping in view the importance of coordinated approach to the problem of development and security of the north-eastern region ...”<sup>147</sup>

In pursuance to this announcement, the North-Eastern Area (Reorganization) Act, 1972 was passed and the states of Manipur and Tripura were inaugurated on 21 January 1972.<sup>148</sup>

#### **D. The Constitution (Fifty- Third Amendment) Act, 1986 and the Birth of the State of Mizoram**

The Constitution (Fifty-Third Amendment) Act, 1986, a corollary of Mizo Accord of 30 June 1986<sup>149</sup> which gives birth to the state of Mizoram is the product of a long drawn struggle of the Mizos. Although its immediate underpinnings lie in the alleged mishandling of the Mautam famine (1959) leading to the birth of Mizo National Front, the seed of Mizo

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<sup>146</sup> Sudhakar Bhat, *op. cit.*, p. 49.

<sup>147</sup> Quoted in *The Times of India*, 4 September 1970.

<sup>148</sup> For details see the *North-Eastern Areas (Reorganization) Act, 1971. op. cit.*

<sup>149</sup> The *Mizo Accord* signed between Laldenga-led Mizo National Front (hereinafter refer to as MNF) and the Government of India on 30 June 1986 at 9:30 p.m. paves the way for the creation of the state of Mizoram. For details see *The Mizo Accord (Memorandum of Settlement)* in Mary Zirhmingthangi, *The International Dimension of the Mizo Insurgency, 1965-1986*, (Unpublished M. Phil Dissertation submitted to CIPOD/SIS, JNU, New Delhi: 1991), pp. 166-173.

Nationalism was sown on 20 February 1947 when the then British Prime Minister, Clement Atlee announced that the British would leave India by June 1948.<sup>150</sup> The wild dreams and speculation generated by this announcement about the future of the Lushai Hills, as Mizoram then was known, brought about sharp polarization and frictions amongst the Mizos by the time the Gopinath Bordoloi Committee visited the Lushai Hills on 17 and 18 April 1947.

Lushai Hills, after having been placed under 'Excluded Areas' by the Government of India Act, 1935 already had unique administrative experience. The "filter mechanism"<sup>151</sup> put in place by this Act is therefore subject to an acid test as Indian Independence becomes imminent. A feeling of nervousness and anxiety seems to have permeated the minds of the Mizos consequent upon Bordoloi Committee's visit which led to a trail of separatist movements. Public opinion soon gets dichotomized: Dengthuama and Saprawnga led the pro-merger group whereas Pachhunga and Vanlawma led the anti- merger group.

While the former rallies under the banner of the Mizo Union (earlier known as the Mizo Common Peoples' Union and formed on 9 April 1946), the latter's interests and views were spearheaded by the United Mizo Freedom Organization (UMFO as it is popularly known) founded on 5 July 1947. The Mizo Union submitted a memorandum to the Bordoloi Committee which demanded, *inter alia*: (i) the Mizo inhabited areas of the neighboring districts should be included in the Lushai Hills District, (ii) Lushais should be called Mizos, (iii) internal administration should be left to the Mizos, and (iv) liberal financial assistance should be given.<sup>152</sup> Differences persist on the manner of administration upon merger to remain as a part of Assam or be governed by Government of India directly.<sup>153</sup> However, the pro-merger group seemed to agree with the point raised by Rev. Zairema and R.Thanlira, the editors of *Mizo Daily*, that Mizos should demand as much autonomy as possible even if merger was agreed upon.<sup>154</sup> The question of merger was settled as the Mizo Union accepted

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<sup>150</sup> Sajal Nag, *op. cit.*, p. 82.

<sup>151</sup> The "Filter mechanism" put in place by GoI Act, 1935 implies a mechanism of protection of indigenous people/aboriginals from the "wiles of the plainsmen." This is effectualized by making the Governor of Assam the sole administrator keeping himself out of the purview of ministerial control.

<sup>152</sup> Animesh Ray, *Mizoram* (New Delhi: National Book Trust, 1993), p. 153.

<sup>153</sup> Sajal Nag, *op. cit.*, p. 89.

<sup>154</sup> *ibid.*, p. 90.

by the Bordoloi Committee instead of the District Conference<sup>155</sup> as the legitimate representative of the Mizo people, acquiesced to co-opted membership in the Committee.<sup>156</sup>

On the other hand, the anti-merger group led by Pachhunga and Vanlawma vociferously demanded independence. Vanlawma persuasively pleaded for independence and refuted the argument that the Mizos are too stupid to govern themselves in his “Khawi Lamah Nge I Kal Dawn? Quo Vadis (Where are you going?).”<sup>157</sup> Pachhunga too sent a memorandum to the Constituent Assembly, the then British Prime Minister Atlee and the Opposition leader Churchill wherein he urged the continuance of British stay in India till the Mizos were able to govern themselves and that the British should not leave the Christian Mizos to the mercy of the Hindus.<sup>158</sup> S. Ronghaka’s pamphlet entitled *Zoram Independent*,<sup>159</sup> K.Zawla’s, *Zoram Din Hmun Dik Hmuh Chuah Theina Tur*<sup>160</sup> etc., based their demand for independence on the ground of language and religion. This kind of feeling was extolled in the pamphlet, *Independence* jointly published by Pachhunga, Dahrawka and Hmartawnpunga which read:<sup>161</sup>

“We Mizos have nothing in common with the Vai (Indian). If we commit ourselves under the Indian government, we will be swallowed by the Indians because they are much more in number than the Mizo people. Until the British came we Mizos had nothing to do with the Vai, now that the British are leaving we should get out of the British government to be as we were before, namely, free. The Mizos are neither slaves nor possessions; therefore we should not allow ourselves to be treated as such, having to change owners. The Mizos should stand firm together and defend Mizoram for the Mizo people.”

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<sup>155</sup> The District Conference convened under the District Superintendent of the Lushai Hills consisted of 20 Chiefs and 20 commoners who were normally considered to be the loyalist of the British and in essence had no popular character.

<sup>156</sup> Sajal Nag, *op. cit.*, p. 84.

<sup>157</sup> R. Vanlawma, *Khawi Lamah Nge I Kal Dawn? Quo Vadis*, 18 June 1947, cited in Sajal Nag, *op. cit.*, p. 90.

<sup>158</sup> See R. Sena Samuelson, *Love Mizoram* (Imphal: 1985), p. 51; cited in Sajal Nag, *op. cit.*

<sup>159</sup> D. Ronghaka, *Zoram Independent*, 5 May 1947, cited in Sajal Nag, *op. cit.*

<sup>160</sup> K. Zawla, *Zoram, Din Hmun Dik Hmuh Chuah Theina Tur* (Aizawl: 29 July 1947), cited in Sajal Nag, *op. cit.*, p. 88.

<sup>161</sup> Pachhunga, Dahrawka and Hmartawnpunga, *Independence* (Aizawl; 7 June 1947), cited in Sajal Nag, *op. cit.*, p. 88.

Despite their hard stance, the anti-merger group spearheaded by UMFO did not make its secessionist character very explicit when it framed its Constitution.<sup>162</sup> Apparently this was done to outwit the Mizo Union which was already immensely popular among the masses.<sup>163</sup> In the ultimate analysis, UMFO's cause for the Chiefs proved to be its nemesis as the overwhelming success of the anti-chief non-cooperation movement launched by the Mizo Union between December 1948 and February 1949,<sup>164</sup> and the Lushai Hills (Acquisition of Chiefs Rights) Act, 1954 passed by the Assam Government consolidated the increasing popularity of the Mizo Union.

This does not imply that the demand for independence or separate statehood was given up. The UMFO in one of its resolution in 1953 passed for promotion of a hill state consisting of Manipur, Tripura, Autonomous Districts of Assam and NEFA.<sup>165</sup> The Constitution of Autonomous District Council in Mizoram on 25 April 1952<sup>166</sup> clearly failed to satisfy the growing aspirations of the Mizo people. They found the importunate moment in 1959 when the Mautam Famine caused by the flowering of bamboos and the concomitant multiplication of rats which devoured all the crops, broke out. With the outbreak of this famine, the Mizo Cultural Society which played outstanding precautionary measures against it got converted into Mizo National Famine Front. On 22 October 1961 this became the Mizo National Front with clear political programme—a consensual policy formulated by Laldenga wherein policy of independence of Mizoram with statehood as the real objective that would encompass all Mizo occupied areas<sup>167</sup> was put forward. In a follow-up meeting of 28 October 1961, Laldenga and F. Vanlawma was respectively elected President and General Secretary and besides independence policy, the policies of integration of all the areas inhabited by the Mizos, economic development of the people was adopted.<sup>168</sup> MNF as a new political party was finally baptized by a national convention at Aizawl which endorsed

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<sup>162</sup> For details see *Mizo Zalenna Pawl: Pawl Din Dan* (United Mizo Freedom Organization: Constitution) (Aizawl: 1947), cited in Sajal Nag, *op. cit.*, p. 95.

<sup>163</sup> *ibid.*

<sup>164</sup> Animesh Ray, *op. cit.*, p. 154.

<sup>165</sup> *ibid.*, p. 156.

<sup>166</sup> *ibid.*, p. 155.

<sup>167</sup> Lalthangliana, "Mizo National Front Movement," in R.N. Prasad (ed.), *Autonomy Movements in Mizoram* (New Delhi: Vikas, 1994), p. 175.

<sup>168</sup> *ibid.*, p. 176.

the leadership of Laldenga. What emerge eventually was a vigorous movement with Laldenga emerging as what S.K. Chaube calls, “hero of romantic reaction”<sup>169</sup> who played his trump card of “a union with the Mizos of Burma and Pakistan”<sup>170</sup> exceedingly well by employing his oratory skills.

The growing popularity of MNF can be gauged by the results of 1963 bye-elections in which its candidates, viz., J.F. Manliana (Aizawl West) and Lalnunmawi Jr. (Lunglei) wrested the two Legislative Assembly seats.<sup>171</sup> This was boosted by B.P. Chaliha’s, the Chief Minister of Assam’s support.<sup>172</sup>

Meanwhile, in December 1963, top functionaries of MNF –Laldengam, Lalnunmawia and Sainghaka crossed the border to East Pakistan and were received by top military functionaries of Pakistan. Upon their return, Laldenga and Lalnunmawia were arrested and put in Silchar Jail and when they were released a group of 21 Mizo youths surreptitiously crossed the East Pakistan border and underwent intensive military training for five months (November 1964-March 1965).<sup>173</sup> This was followed by Lalthangliana Phillips and J.H. Rothuama’s visit to Pakistan to discuss the feasibility of funneling US assistance to Mizoram through Pakistan. Pakistan assured a ‘safe passage’ to such venture.<sup>174</sup> Thus began a series of clandestine maneuvers involving international powers including China and USA.<sup>175</sup>

It was at this crucial juncture that the H.V.Pataskar Commission came to Aizawl in January 1965 to further the autonomy packages offered under the Scottish Plan of 5 October 1963.<sup>176</sup> The 25 recommendations it offered were encapsulated within the continued control of Assam and could not satisfy the MNF. Hence MNF submitted a memorandum to Lal

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<sup>169</sup> S.K. Chaube, *op. cit.*, p. 180.

<sup>170</sup> *ibid.*

<sup>171</sup> Animesh Ray, *op. cit.*, p. 160.

<sup>172</sup> B.P. Chaliha lends his support with ulterior motive i.e. out of his desire to weaken the Mizo Union.

<sup>173</sup> Lalthangliana, *op. cit.*, p. 178.

<sup>174</sup> *ibid.*

<sup>175</sup> For a proper appraisal of the international dimension of MNF movement see Mary Zirhmingthangi Khiangte’s M.Phil Dissertation, *op. cit.*

<sup>176</sup> Animesh Ray, *op. cit.*, p. 160.

Bahadur Shastri, the then Prime Minister of India, on 30 October 1965 demanding the right of territorial unity and solidarity, which it felt, was necessitated by gross “negligence” and “alien” treatment meted out to the Mizo people by the Government of India.<sup>177</sup>

As a response to this, a series of visit by “experts” continued starting with Tarlok Singh, a member of Planning Commission, on 19 January 1966. Then came Vishnu Sahay, the then Governor of Assam on 2 February 1966 followed by H.V. Pataskar who visited Mizoram for the second time on 7 February which however turned out to be a cropper as the clandestine preparation for independence movement had already reached the point of no return.<sup>178</sup>

Eventually, a tactical move was made by MNF on the night of 28 February 1966 wherein under “Operation Jericho” it simultaneously strikes different government installations at Aizawl, Lunglei, Vaivengte, Chawngte, Chhimluang and other places and a declaration of independence was made (signed by Laldenga with 60 other MNF leaders).<sup>179</sup> It invited swift and retaliatory strikes by the Indian army who resorted to air strikes with incendiary bombs at Aizawl and Demagiri and forced MNF to go in for guerilla warfare.<sup>180</sup> Immediately, the Government of Assam declared Mizoram a disturbed area on 2 March 1966 under the Assam Disturbed Area Act and enforced the Assam and Manipur Armed Force (Special Powers) Act<sup>181</sup> thereby entrusting the Army with law and order.

After a lull in between 1967 and 1968, insurgency resurfaced again on 16 February 1970 when a Major and six jawans of the army in an ambush at Maipara in the Mizo hills were killed.<sup>182</sup> Taking the fluidity of the situation into account the United Mizo Parliamentary Party—a conglomeration of Mizo Union and Mizoram Congress—led by Dengthuama which run the Mizo District Council passed a resolution on 14 April 1971 demanding the creation of Mizoram state.<sup>183</sup> This was responded with a Union Territory

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<sup>177</sup> Lalthangliana, *op. cit.*, p. 180.

<sup>178</sup> *ibid.*

<sup>179</sup> Animesh Ray, *op. cit.*, p. 161.

<sup>180</sup> Lalthangliana, *op. cit.*, p. 182.

<sup>181</sup> Animesh Ray, *op. cit.*, p. 165.

<sup>182</sup> *ibid.*, p. 166.

<sup>183</sup> *ibid.*, p. 167.



offer in July 1971 by GoI which was fructified with the North-Eastern (Reorganization) Act, 1971<sup>184</sup> and UT of Mizoram was inaugurated by Mrs. Indira Gandhi in Aizawl on 21 January 1972.<sup>185</sup>

The grant of U.T. was seen only as an “interim arrangement” and the struggle for statehood was carried on. On 28 February 1973, on MNF anniversary day, MNF blown up Aizawl Power station and Mizoram was again declared a disturbed area on 3 March 1973. In the meantime Laldenga who took shelter in Islamabad, made arrangement for talks with Indian officials and returned to India in January 1976. He then summoned the Calcutta convention (24 March to 1 April 1976) with financial assistance of the GoI to ratify his agreement with GoI in February 1971 wherein he agreed to abjure violence and sought for settlement of the Mizo problem under the ambit of the Indian Constitution. Having been ratified, another meeting of the Indian delegates and MNF was held on 1 July 1976. In this talk, MNF besides agreeing to abjure violence and suspend all its activities undertook to hand over arms and ammunition to GoI.<sup>186</sup> The sudden change in political objective created rift within MNF and Laldenga was discredited and was sidelined for some time. Consequently, MNF saw frequent change in leadership between 1978 and 1979 as Brig. General Biakchhunga, the Chief of MNF revolted against Laldenga in April 1978 and became President of MNF. He was followed by Tlangchhuaka and then Rualchhina, the then foreign secretary of Laldenga.

Simultaneously, the UT politics made a sudden turn when in the second Legislative Assembly elections Brigadier Thenphunga Sailo’s Peoples’ Conference secured 23 out of the 30 seats and formed government. In fact, Sailo nurtured these disgruntled MNF leaders so as to discredit Laldenga. His ministry could last barely for 3 months which however staged a comeback in April 1979 elections winning 18 out of the 30 seats.<sup>187</sup>

By now, Laldenga staged another dramatic comeback as his mission to unite MNF cadres at Arakan succeeded who rallied under his leadership in February 1979 when he was

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<sup>184</sup> For details see “The North-Eastern (Reorganization) Act, 1971, *op. cit.*

<sup>185</sup> Animesh Ray, *op. cit.*, p. 169.

<sup>186</sup> Lalthangliana, *op.cit.*, p. 187.

<sup>187</sup> Animesh Ray, *op. cit.*, p. 181.

elected President. MNF then resorted to serial attacks till all political parties in Mizoram urged the Centre to resume talks with Laldenga on 7 April 1980.<sup>188</sup> The newly elected Indira Government paved the way for a dialogue by withdrawing CBI cases against Laldenga. On 3 July 1980, Laldenga made a statement in which he repudiated terrorism, unambiguously disapproved quit notice to the non-Mizos and promised cooperation with the Prime Minister.<sup>189</sup> When this was confirmed by President Zail Singh's address to the Lok Sabha on 30 July 1980, Mr. Sailo, the Chief Minister of Mizoram, who had favored mobilizations of public opinion and police action against negotiation finally welcomed it.<sup>190</sup>

Laldenga now had the daunting task of convincing MNF cadres about the agreement and settlement of the Mizo problem within the Indian Constitution. In pursuance to this he arrived at Aizawl on 9 March 1981 and flew to Parva on way to Arakan to formalize peace proposals with his underground followers. On his return to New Delhi on 28 March 1981, he came out with MNF's 26-point memorandum which was submitted to the Prime Minister on 7 April 1981. Accepting the resolution of the Mizo problem "within the framework of the Indian Constitution" the memorandum demanded, *inter alia*: (i) constitution of a state with safeguards on the Kashmir pattern which would include the neighboring Mizo inhabited areas, and (ii) formation of an interim Mizoram government ousting Sailo.<sup>191</sup> Although the government endorsed the demand of statehood with special safeguards, it was non-committal on the demand for Greater Mizoram and dissolving Sailo's ministry. When, on 26 August 1981, Laldenga visited Aizawl to sort out these demands, the Government became skeptical about Laldenga, who, it alleged, had not honored a single agreement and put forward more and more unreasonable demands.<sup>192</sup> In January 1982, the GoI called off the talks.

The beginning of the eighties saw wider participation of the Mizo people to fructify the complete statehood demand. On 3 February 1982 a joint delegation of Mizoram political parties consisting of the representatives of the Mizo Union, Mizoram Congress, Mizo Democratic Front, Mizoram Janata and the People's Conference met the Prime Minister and

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188 *ibid.*, p. 185.

189 *ibid.*

190 *ibid.*, p. 187.

191 *ibid.*, p. 189.

192 *ibid.*, p. 190.

submitted a memorandum to her urging her “not to mess this golden opportunity to solve Mizoram’s political problems.”<sup>193</sup> They pleaded for the case of MNF whose proposals were seen not likely to affect the integrity and solidarity of India or violate the Constitution of India.

Meanwhile the Fourth Legislative Assembly elections were held on 25 April 1985 and the Congress-I ministry backed by MNF came to power after winning 20 out of the 30 seats. It was felt that with the Congress in power, there were brighter chances of success of talk. As a pointer in this direction, Laldenga who had left India on 20 April 1982 and stayed at Surrey in the U.K. announced from London his readiness to order immediate ceasefire by his followers as a first step towards a peaceful settlement of the Mizoram problem.<sup>194</sup> Preliminary discussion with G. Parthasarathy, Chairman of the Planning Committee of the External Affairs Ministry was held on 30 October 1984. Regular talks were scheduled to start in mid-November which was however delayed by Indira Candhi’s assassination on 31 October 1984.<sup>195</sup>

Talks were resumed on 15 February 1985 when Laldenga met the PM which now got bogged down to three contentious issues: (i) status of Mizoram on the lines of Article 370 enjoyed by Jammu and Kashmir, (ii) dissolution of Chakma Autonomous District Council, on the ground that they never had one even in Bangladesh from where they migrated into Mizoram, and (ii) special powers of the Governor in the realm of law and order as enjoyed by the Nagaland Governor which was not acceptable to MNF.<sup>196</sup> The stalemate was sought to be solved through the initiatives of the combine delegation of all party joint meeting of Mizoram and the Students Joint Action Committee who in their meeting with the PM on 27 February 1986 pleaded for immediate resumption of peace talks. The Students Joint Action Committee of Mizo Zirlai Pawl even threatened agitation from 12 March 1986 if no settlement was made before 7 March.

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193 *ibid.*, p. 191.

194 *ibid.*, p. 193.

195 *ibid.*, p. 194.

196 *ibid.*, p.195.

The onus for settlement now lies in the hand of the Government who invited Laldenga to attend peace talks from London on 15 March 1986 at New Delhi.<sup>197</sup> Hectic parleys ensued on two parallel lines—the Government and the political party. Meanwhile political settlement on sharing of power between the Congress-(I) and the MNF was signed on 25 June 1986 between Arjun Singh, Congress-I Vice-President and Laldenga in New Delhi. The Cabinet Committee on Political Affairs approved the broad agreement on the same day after extensive discussions. An Advisory Council would be formed under Laldenga till mid-term election to be held in March-April 1987 which would be preceded by surrender of all insurgents.

As a prelude to signing of the final accord, Laldenga amended the constitution of MNF making it a political party which abjures violence as a policy method.<sup>198</sup> Finally, a Memorandum of Settlement was signed on 30 June 1986 by R.D. Pradhan, Union Home Secretary, Laldenga, MNF Chief and Lalkhama, Chief Secretary, Government of Mizoram.<sup>199</sup>

The settlement, famously known as the Mizo Accord, *inter alia*, seeks to address all the outstanding demands of the Mizo people. Paragraph 3.3 enjoins upon the Central Government the responsibility of rehabilitation and resettlement of underground MNF. It also seeks to provide generous financial grants to cover revenue gaps of the state [para 5 (A)] and envisages special central assistance under the “special category states” status [vide para 5 (B)]. While remaining non-committal on the issue of Greater Mizoram (para 10), it seeks to entrust the state as the sole arbitrator in matters such as the inner line regulation (para 7). One of the most striking provisions of the Accord is the special protection and “filter mechanism” put in place by para 4.3 (II) on: (i) religious and social practices of the Mizos; (ii) Mizo customary law of procedure; (iii) administration of civil and criminal justice involving decisions according to Mizo Customary Law; and (iv) ownership and transfer of land. In fact, these provisions get indelible imprint when the Constitution (Fifty-

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<sup>197</sup> *ibid.*, p. 196.

<sup>198</sup> *ibid.*, p. 197.

<sup>199</sup> B.B. Kumar, *op. cit.*, p. 67.

Third Amendment) Act, 1986 was enforced on 14 August 1986 and Article 371 G was incorporated in the Constitution.<sup>200</sup>

Subsequently, the Government lifted the ban on MNF on 18 August 1986 and paves the way for Laldenga to become the Chief Minister on 21 August 1986. Thus Mizoram became a full-fledged state and was formally inaugurated by PM Rajiv Gandhi at Aizawl on 2 February 1987.<sup>201</sup>

### **E. The Constitution (Fifty-Fifth Amendment) Act, 1986 and the Birth of the State of Arunachal Pradesh**

The Constitution (Fifty-Fifth Amendment) Act, 1986 inserted Article 371-H<sup>202</sup> creating thereby the state of Arunachal Pradesh, the poetic name for “a hard country”<sup>203</sup> which essentially completes what S.K. Chaube aptly calls “the metamorphosis of a Frontier.”<sup>204</sup> In fact, the act is a carry-over of the old legacy of the British who as early as 1878 laid down the broad parameters of administration by introducing the Inner Line system through the Bengal Eastern Frontier Regulation, 1873.<sup>205</sup> There are three avowed objective of this Regulation: (i) to bring under more stringent control the commercial relations of British subjects with the frontier tribes; (ii) to prevent the operation of speculators in Caoutchouc (unvulcanized rubber) and spread of tea gardens beyond the fiscal limit of settled mahals; and (iii) to lay down rules for the possession of land and property beyond the “Inner Line.” The “Inner Line” then was prescribed by the Governor-General in council vide section two of the Regulation<sup>206</sup> and the violation of it entailed a fine not exceeding Rs. 500/- or simple or rigorous imprisonment for a term of not exceeding three months, or

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<sup>200</sup> For details see Article 371G in P.M. Bakshi, *The Constitution of India* (Delhi: Universal, 2000), pp. 320-21.

<sup>201</sup> Animesh Ray, *op. cit.*, p. 205.

<sup>202</sup> Article 371H follows the sequel of its parent Article i.e. 371A and endows the Governor special responsibility vis-à-vis law and order problem. Being discretionary in nature, this type of responsibility comes out of the purview of ministerial control. Moreover, the Article also fixes the minimum strength of the Legislative Assembly of the State at thirty members.

<sup>203</sup> Verrier Elwin, *A Philosophy for NEFA* (Shillong: 1964, 2nd Edition), p. 6.

<sup>204</sup> S.K. Chaube, *op. cit.*, p.186.

<sup>205</sup> *ARC Report, op. cit.*, p. 195.

<sup>206</sup> See “Inner Line Regulation, 1873,” in Manilal Bose (ed.), *Historical and Constitutional Documents of North-Eastern India, 1824-1973* (Delhi: Concept, 1979), pp. 162-164.

both.<sup>207</sup> In a way, this was done for “the peace and good government” of the districts in which it was enforced viz., Darrang, Sibsagar, Lakhimpur, Nowgong etc. Between 1873 and 1986 various modifications were made which however keep intact the overriding concern of “peace and good government” as the prerogative to the Government.

The foundation of modern administration was laid in 1914, when consequent upon the murder of Noel Williamson, the Assistant Political Officer of Dibrugarh (1905-11) and Dr. Gregorson, a tea garden doctor while on tour at Pangi by the Abors, Major General Bower- led expedition realized the imperative of streamlining administration and with his recommendation the “rough country” was divided into three new sections viz. (i) Central and Eastern North East Frontier Tract, (ii) Lakhimpur Frontier Tract and (iii) Western Section of the North East Frontier Tract. Sadiya was made the headquarter of the first two tracts whereas the headquarter of the third tract was at Chardual.<sup>208</sup> In 1919, upon Sir Beatson Bell’s recommendation the name of Western and Central Section was renamed as Sadiya Frontier Tract and that of the Western Sector as Balipara frontier Tract.<sup>209</sup> Minor administrative changes were affected in the frontier tracts from time to time: in 1942 Tirap Frontier tract was carved out of Sadiya Frontier Tract; in 1946 Balipara Frontier tract was bifurcated into two administrative units, viz., Sela Sub-Agency and Sunbansiri Area<sup>210</sup> and finally in 1948, the North-East Frontier (Internal Administration) Regulation split the Sadiya Frontier tract into two districts: Abor Hills and Mishmi Hills.<sup>211</sup>

When the Indian Constitution was enforced on 26 January 1950, the North East Frontier Tract (as Arunachal Pradesh then was known) was governed under paragraph 18(2) of the original Sixth Schedule<sup>212</sup> wherein the administration of it was carried on under the direct responsibility of the President of India through the Governor of Assam.<sup>213</sup> In other

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<sup>207</sup> *ibid.*, p. 163 vide section 2 of the Regulation.

<sup>208</sup> *ARC Report, op. cit.*, p. 196.

<sup>209</sup> Sir Beatson Bell was the then Chief Commissioner of Assam. For details see Sudhakar Bhat, *op. cit.*, p. 85. ,

<sup>210</sup> *ibid.*

<sup>211</sup> S.K. Chaube, *op. cit.*, p. 187.

<sup>212</sup> This sub-para i.e. 18 (2) of the Sixth Schedule is omitted by 5. 71 (1) and Eight Schedule of the *State of Mizoram Act, 1986* (34 of 1986) w.e.f. 21 January 1972. See P.M. Bakshi, *The Constitution of India, op. cit.*, p. 358.

<sup>213</sup> *ARC Report, op. cit.*, p. 18.

words, with the creation of North-East Frontier Agency (NEFA) under the North-East Frontier Areas (Administration) Regulation, 1954,<sup>214</sup> it is to be administered under Article 240 as if it was a Union Territory specified in that Article.<sup>215</sup> This means that the President is the sole agency to make regulations for NEFA so as to ensure the peace, progress and good government of the area and the regulations so made may repeal or amend any Act made by Parliament or existing law which is for the time being applicable to the area.<sup>216</sup>

It must be noted here that though NEFA was an integral part of Assam, so long as the Governor of Assam acted as the agent of the President, he was to act in his discretion and therefore not bound by the advice of his Council of Ministers.

The newly created North-East Frontier Agency, under the Regulation of 1954 was composed of: Balipara Frontier Tract, Tirap Frontier Tract, Abor Hills District, Mishmi Hills District and the Naga Tribal Area. This Regulation further divided the Balepara Frontier Tract into two administrative units called Subansiri Frontier Division and Kameng Frontier Division.<sup>217</sup> Consequently, six divisions came into being each named after the prominent river passing through the division:

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<sup>214</sup> S.K. Chaube, *op. cit.*, p. 188.

<sup>215</sup> *ARC Report, op. cit.*, p. 17.

<sup>216</sup> *ibid.*

<sup>217</sup> Sudhakar Bhat, *op. cit.*, p. 86.

**Table 1**  
**Administrative Divisions of NEFA with their Headquarters**

Sl.No	Name of Division	Headquarter
1.	Kameng Frontier Division	Bomdila
2.	Subansiri Frontier Division	Ziro
3.	Siang Frontier Division	Along
4.	Lohit Frontier Division	Tezu
5.	Tirap Frontier Division	Khela
6.	Tuensang Frontier Division	Tuensang

The North-East Frontier Area (Administration) Regulation, 1954 therefore crystallized the administrative arrangement laid down in 1914 by Major General Bower. The Ering Commission, headed by D. Ering, the Parliamentary Secretary, Ministry of External Affairs constituted by the Governor of Assam in May 1964<sup>218</sup> recommended sweeping change in administration by changing divisions into districts, Political Officers as Deputy Commissioner and Additional Political Officer as Additional Deputy Commissioner.<sup>219</sup> This was accepted by the GoI and on 1 December 1965 the Five Divisions<sup>220</sup> were converted into five administrative districts, viz., Kameng, Subansiri, Siang, Lohit and Tirap.<sup>221</sup> Besides, it also recommended NEFA be placed under the Ministry of Home Affairs from the Ministry of External Affairs. This was done on 1 August 1965.<sup>222</sup> Another important stride taken towards making NEFA a Union Territory was in May 1966 when a Parliamentary delegation headed by Mr. S.V. Krishnamoorthy Rao, then Deputy Speaker of the Lok Sabha visited NEFA. The delegation was informed about the hardship faced by the people of NEFA as the location of NEFA Secretariat at Shillong made it difficult for the people to represent their

<sup>218</sup> *ibid.*, p. 87.

<sup>219</sup> *ibid.*, p. 90.

<sup>220</sup> With the merger of the Naga Hills District of Assam and Tuensang Frontier Division in 1957 under the provisions of Naga Hills-Tuensang Area Act, 1957, the six divisions of NEFA were reduced to five divisions.

<sup>221</sup> S.K. Chaube, *op. cit.*, p. 192.

<sup>222</sup> *ibid.*



grievances and seek redress.<sup>223</sup> A demand was made to shift the Secretariat to NEFA areas. The legitimacy of this demand was endorsed by the ARC Study Team of 1968.<sup>224</sup>

Meanwhile in July 1971 the Government of India came out with a proposal to make NEFA a Union Territory.<sup>225</sup> This was clearly a welcome step as it marked a break with the earlier commitment of the Constitution of India towards a gradual integration of NEFA with Assam.<sup>226</sup> In fact, integration of the hills of today's North-East had always been the dream of the then Assam Governor Akbar Hydari and Gopinath Bordoloi. Gopinath Bordoloi made this open secret clear when the Committee headed by him recommended the merger of the Lakhimpur Frontier Tract, along with that part of the Tirap Frontier Tract that had been taken over from the former (in 1943), with the regularly administered territories of Assam.<sup>227</sup> This was premised upon its consideration that the Lakhimpur Frontier Tract differed "in no way from the surrounding plains" and possessed none of the characteristics of the hill areas and "need not be considered in relation to the problem of the hill tribes."<sup>228</sup> Accordingly, Lakhimpur was eliminated from the Sixth Schedule and the Governor of Assam with the previous approval of the President of India transferred further territories from the Balipara, Sadiya and Tirap Frontier Tracts to the Assam plains in February 1951.<sup>229</sup>

The proposal of the GoI was boosted by the recommendation of the NEFA Agency Council in early 1971 to replace the name NEFA by Arunachal Pradesh. The stage having cleared, Arunachal Pradesh was constituted as a Union Territory on 21 January 1971<sup>230</sup> under section 7 of the North-East Areas (Reorganization) Act, 1971.<sup>231</sup> The new Union Territory was placed under a Chief Commissioner and in August 1975 a full-fledged Legislative Assembly with a Council of Ministers was inaugurated by an amendment to the

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223 *ARC Report, op. cit.*, p. 201.

224 *ibid.*, p. 297

225 S.K. Chaube, *op. cit.*, p. 194.

226 *ibid.*, p. 199.

227 *ibid.*, p. 187.

228 *ibid.*

229 This was done vide Government of Assam Notification no. TAD/R/35/50/100, dated 23 February 1951.

230 S.K. Agnihotri, *op. cit.*, p. 66.

231 See "The North-Eastern Areas (Reorganization) Act, 1971," *op. cit.*, p. 262.

Union Territories Act, 1963.<sup>232</sup> The Chief Commissioner was re-designated as Lieutenant-Governor.

Ultimately, the state of Arunachal Pradesh came into being with the passage of the Constitution (Fifty-Fifth Amendment) Act, 1986 which was enforced on 2 February 1987.<sup>233</sup> With this the metamorphosis of NEFA, always a euphemism for separation from Assam,<sup>234</sup> became a reality.

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<sup>232</sup> S.K. Agnihotri, *op. cit.*

<sup>233</sup> See D.D. Basu, *Introduction to the Constitution of India* (New Delhi: Prentice Hall of India, 1998), p. 44.

<sup>234</sup> S.K. Agnihotri, *op. cit.*, p. 200.

## CHAPTER-III

# SOCIO-CULTURAL AND POLITICAL DIMENSIONS OF SPECIAL STATUS

### A. Rationale for the Grant of Special Status to the North-East

In the preceding chapter, we have discussed federalism as “the closest institutional approximation to the multinational reality of the contemporary world”<sup>1</sup> which ensures a combination of self-rule and shared rule. The operationalization of such a device largely depends upon the recognition of the virtues of asymmetry prevalent in all pluralistic societies. The question really is: to what extent is the state willing to accommodate such asymmetries? In other words, what are the kinds of institutional framework that the state is willing to provide to give expressions to such multinational reality of the contemporary world? In this chapter, we shall explore the extent and limits of such institutional response(s) adopted by the Indian state both before and since independence.

North-East India is an extraordinary region of bewildering complexity and heterogeneity as 220 of the 635 distinct tribal groups<sup>2</sup> in India are found here. They occupy 78 percent of the region which are hilly tracts easily making it what J.B. Fuller calls “a museum of nationalities.”<sup>3</sup> This evokes great interests amongst scholars and researchers as the factors of history, geography and culture of different race, religion, language, caste, color and creed

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<sup>1</sup> Watts, Ronald L., *Comparing Federal Systems*, (Kingston: Queens University Press, 2nd edition, 1999), p. 4.

<sup>2</sup> Erni, Christian, “Indigenous Peoples Self-Determination in Northeast India,” paper presented at Kunabalu Park, Ranau, Sabah Malaysia at the *Workshop on Indigenous Peoples’ Self-Governance and Constructive Agreements with the State: An Exchange of Experiences*, organized by International Work Group for Indigenous Affairs (IWGIA) and Asia Indigenous Peoples Pact (AIPP) and hosted by Partners of Community Organisation (PACOS), 3-6 December 2001.

<sup>3</sup> Chaube, S.K., *Hill Politics in Northeast India* (New Delhi: Orient Longman, 1999), p. 1.

present a panorama of social formations, cultural diversity and institutional variety not found in any part of the country.<sup>4</sup> The distinct and unique character of this region as it evolves merit special treatment that will be specifically dealt with as we go along.

### **The British Approach: Special Treatments under Non-Regulated Areas, Backward Tract and the Partially Excluded and Excluded Areas**

The year 1826 is a turning point in the history of North-East India. The Treaty of Yandaboo signed between the victorious British and the vanquished Burmese on 24 February 1826 after the Anglo-Burmese War of 1824-26 gave the British *de facto* power over the whole of Brahmaputra valley; and Assam proper i.e. the five districts of Kamrup, Darang, Nowgong, Sibsagar and Lakhimpur remained under British occupation.<sup>5</sup> The proclamation of British supremacy was hailed and the people of Assam “entertained sanguine expectations of peace and happiness.”<sup>6</sup> This initial exuberance however proved to be short lived. Band of pirates continued to roam about the valleys, the hill tribes no longer were kept in order and the Daflas (Nishis) would descend and harry the plains. Such an adventurism on the part of the tribals perforce the British to adopt various measures which eventually brought the entire North-East under its suzerainty.

Change of administration and system of control brought with it a trail of painful transition. Purander Singh, the protected prince of Assam failed to provide a sound administration.<sup>7</sup> Following financial bankruptcy, his territories were placed under the direct management of British officers and Assam, as a whole became a Non-Regulated Province of

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<sup>4</sup> Chaudhury, R.C., “Foreward,” in B.P. Maithani (ed.), *Local Self-Government System in North-East India: An Appraisal* (Hyderabad: NIRD, 1997), p. 1.

<sup>5</sup> Amalendu Guha, *Medieval and Early Colonial Assam: Polity and Economy* (Calcutta: 1991).

<sup>6</sup> Ananda Ram Dhekial Pukam, quoted in 1853 in K.N. Dutt and N.C. Dutta (eds.), *Assam District Gazetteers: Lakhimpur District*, (Guwahati: 1976), pp. 79-80.

<sup>7</sup> Alexander Mackenzie, *The North-East Frontier of India*, (New Delhi: Mittal, 2001), p. 6.

the Indian Empire in October 1838.<sup>8</sup> The British henceforth enacted various acts and regulations from time to time that determine the mode of their relationship with the hill tribes of North-East India.

Right from the beginning of their direct contact, the British were diametrically divided into two schools of thought: according to one school espoused by David Scott, the Agent to the Governor-General (1825-32) on the Northeast Frontier of Bengal and others, the British should make “preliminary interference”<sup>9</sup> by formulating suitable economic policies. Such a policy favored resource-based development, for instance, by establishing sericulture demonstration farms like mulberry and muga silk. This kind of policy is reinforced by an extract taken from the Bengal Report for 1872-73: “There is much reason to believe that the country is rich in many natural products. Its cotton trade has always been considerable ... We may find here a new source of supply to Manchester ... The timber of the hills is also expected to prove valuable ... Wild elephants are said to be very numerous.”<sup>10</sup> It is argued that such a policy would facilitate the British policy of imperial aggrandizement and colonial expansion eastward, where prospects of tea cultivation, a highly coveted and very lucrative article of international commerce existed and if necessary, pressure could be exerted on China from the vantage point on its frontier to grant favorable terms to the British traders in their overseas trade with the canton.<sup>11</sup> This policy however was turned down and replaced by a policy of non-interference which has been explicitly laid down by Warren Hasting<sup>12</sup> in 1851 wherein stress was laid on understanding the social and cultural life of people in India. The political implications of this policy were spelt out in the Queen’s Proclamation of 1858. It defined non-interference, with regard to cultural differences as the legitimizing principle of governance. It stated: “(i) all

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<sup>8</sup> *ibid.*, p. 6.

<sup>9</sup> Guha, *op. cit.*, p. 146.

<sup>10</sup> Birendra Kumar Chakravorty, *British Relations with the Hill Tribes of Assam since 1858*, (Calcutta: Firma KLM, Reprint, 1981), p. 36.

<sup>11</sup> Burman, B.K. Roy, “Prefatory Introduction,” in Alexander Mackenzie, *op. cit.*, pp. 6-7.

<sup>12</sup> Savyasaachi, *Tribal Forest-Dwellers and Self-Rule: The Constituent Assembly Debates on the Fifth and the Sixth Schedules*, (New Delhi: Indian Social Institute, 1998), p. 8.

people in India shall alike enjoy the equal and impartial protection of law, (ii) all subjects of whatever caste, tribe, race or creed shall be freely and impartially admitted to offices in British services, (iii) in framing and administering the law, due regard will be paid to the ancient rights, usage and customs of people belonging to different castes, tribes and races in India, and (iv) the British Government will not interfere with the religious belief or worship of any of the British subjects.”<sup>13</sup> In a way, this Proclamation set in motion the era of benevolent despotism ensuring elements of self-determination on matters which impinge on their social and cultural ethos. Implicit here is also the fact that the British government is vested with the power to regulate protest and conflict so essential for proper governance and control.

This policy was carried forward by Cecil Beadon, the Lt. Governor of Bengal who in 1862 laid down that the hill people had to be “made to understand and feel the power” of the government through “a simple plan of government suitable to their present condition and circumstance and interfering as little as possible with existing institutions” through the extension of intercourse with them and endeavor “to introduce among them civilization and order.”<sup>14</sup> Soon enough British administration was reorganized and Assam became a Chief Commissioner Province on 6 February 1874 and thereon a Scheduled district. It later on paved the way for the enactment of various acts and regulations, viz., the Inner Line Regulation, 1873; the Chin Hills Regulation, 1896; the Government of India Act, 1919; and the Government of India Act, 1935 that unfold the broad contours of administration in North-East India.

It is no wonder therefore that the Inner Line Regulation, 1873 empowers the Government “to prescribe, and from time to time after notification ... a line to be called ‘the Inner Line’ ... prohibit all British subjects, or any class of British subjects, or any persons ... from going beyond such line without a pass under the hand and seal of the executive officer to

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<sup>13</sup> *ibid.*, pp. 8-9.

<sup>14</sup> Chaube, S.K., *op. cit.*, p. 7.

such district or such officer as he may authorize to grant such pass.”<sup>15</sup> The Regulation is applicable to the districts of Kamrup, Darrang, Nowgong, Sibsagar, Lakhimpur, Garo Hills, Khasi and Jaintia Hills, Naga Hills, Cachar and Chittagong Hills. Strictures were laid down on matters pertaining to trade, the possession of land beyond the line and provision for preservation of elephants was also made. In doing so, the power of the local government was given explicit recognition. It must be noted here that the “Inner Line” was defined merely for purposes of jurisdiction; it does not decide the sovereignty of the territory beyond.<sup>16</sup>

Consequent upon the constitution of Assam as a Chief Commissioner Province in 1874, the tradition of segregation was carried forward with the passage of the Scheduled District Act in 1874. The need for a more streamlined district administration was keenly felt following the recommendation of A.J. Moffat Mills (1853) on one hand and the need to dispel “doubts (which) have arisen in some cases as to which Acts or Regulations are in force in such parts and in other cases as to what are the boundaries of such parts.”<sup>17</sup> Central to this Act is the grant of sweeping powers to the local government to appoint officers who will administer civil and criminal justice and to superintend the settlement and collection of the public revenue. This was further effectualized by the Chin Hills Regulation (Regulation V) of 1896 which authorized the Superintendent or the Deputy Commissioner to order any undesirable outsider to leave the area and to tax the residents—permanent or temporary—houses, clans and villages.

The beginning of the twentieth century saw a series of reform proposals. Important among them was the Montford Reforms proposal that has direct bearings on the North-East. During discussions on the hills under the Montford Reforms, official opinion in Assam varied widely. Chief Commissioner Archdale Earle supported the exclusion of the areas from the

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<sup>15</sup> For details see, “Inner Line Regulation, 1873,” in Mani Lal Bose (ed.), *Historical and Constitutional Documents of North-Eastern India, 1824-1973* (Calcutta: Firma KLM, Reprint, 1981), p. 36.

<sup>16</sup> Mackenzie, *op. cit.*, p. 89.

<sup>17</sup> For details see “The Scheduled District Act, 1874,” in Manilal Bose, *op. cit.*, p. 164.

scheme of the reforms while senior officials wanted the Garo, Mikir and North Cachar Hills to be included in it.<sup>18</sup> The central government had no eagerness to bear the expenses of an “excluded” administration and contrary to the Montford recommendations, adopted a uniform pattern of “partial exclusion.” Thus the Government of India Act, 1919 provided that the “Governor-General-in-Council may declare any territory in British India to be a “Backward Tract” and may, by notification ... direct this Act shall apply to that territory subject to such exceptions and modification as may be prescribed in the notification.”<sup>19</sup> In effect, this implies that when the provincial legislature legislated solely for a partially excluded area (backward tract) it had to provide that the Governor could bar its application and provide for exceptions or modifications in its application in any partially excluded area.<sup>20</sup> In short, the Governor had a special responsibility for the “backward tracts” and all matters concerning them needed his approval.

Another important Act of the British government is the GoI Act, 1935. Drawing heavily upon the wisdom of the Simon Commission Report (1928) of the advisability of drawing a demarcation between the homogenous and heterogeneous “backward tracts” and thereby placing each category under slightly different system of administration, the Act under section 91 (1) & (2) empowers the Government to classify/specify any area(s) as partially or excluded areas.<sup>21</sup> According to section 92 of the Act, the executive authority of the province would extend to excluded and partially excluded areas. Yet, no federal or provincial legislative Act would apply to any such area without the Governor’s direction.<sup>22</sup> While issuing such direction the Governor could modify its application in the area. The Governor would make regulations for the peace and good government of any such area, subject to the approval of the

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<sup>18</sup> *Report of the Indian Statutory Commission (Simon Commission Report)*, 1930, Vol. 2, p. 110, cited in Chaube, *op. cit.*, p. 20.

<sup>19</sup> For details see “Government of India Act, 1919,” in Manilal Bose, *op. cit.*, p. 179.

<sup>20</sup> Chaube, *op. cit.*, p.20.

<sup>21</sup> For details see “Government of India Act, 1935,” in Manilal Bose, *op. cit.*, p.180.

<sup>22</sup> Chaube, *op. cit.*, p. 23.



Governor-General. Subsection 3 of section 92 laid down that the Governor's powers in respect of the excluded areas would be exercised in his discretion, that is, outside the scope of ministerial advice. The Governor had a "special responsibility" in respect of the partially excluded areas. The Governor had the discretion to decide when he was required to act in his individual judgments. The criterion for distinguishing the partial and wholly excluded areas had been clearly laid down by the Secretary of State, viz.; (i) exclusion must be based upon strict necessity and should be as limited as possible; and (ii) partial exclusion must be based on the preponderance of aboriginal or very backward people of sufficient size.<sup>23</sup>

This two-fold principle of exclusion was strictly followed upon by the GoI (Excluded and Partially Excluded Areas) Order of 1936.<sup>24</sup> It declared the Naga Hills district, the Lushai Hills district, the North Cachar subdivision of the Cachar district and the frontier tracts as excluded areas. The Garo Hills district, the Khasi and Jaintia Hills district (excluding Shillong) and the Mikir Hill tracts of the Nowgong and Sibsagar districts were declared as partially excluded areas.

From the above discussion it is clear that from the "earlier tasks" of what Mackenzie calls the policy to "reconcile the conflicting claims on land, money and services of *paiks* between the people of the hills and plains" to the time of their departure from India in 1947, the British has successfully translated the idea of self-rule into a secular political policy of cultural non-interference.<sup>25</sup> Right from the beginning of their direct contact with the North-East, the British realized the expensive nature of extending their rule. This was reinforced by the memorandum of the Assam government to the Simon Commission in July 1928, which calculated the total annual deficit for hills administration at about Rs.6.5 lacs. It is noteworthy

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<sup>23</sup> *ibid.*

<sup>24</sup> For details see, "The Government of India (Excluded and Partially Excluded Areas) Order, 1935," in Manilal Bose, *op. cit.*, pp. 181-182.

<sup>25</sup> Savyasaachi, *op. cit.*, p. 4.

that only the Jaintia Hills (partly settled) and the Lakhimpur frontier Tract (Plains) showed a surplus.<sup>26</sup> Financial and economic considerations apart, the British policy was also dictated by the influence of the anthropologists who are invariably accused of wanting to keep the tribal people in zoos or museums for research purposes.<sup>27</sup>

In sum, the British largely succeeded in preserving the distinct and unique tribal customs, traditions and practices by keeping them out of the purview of general laws. This tradition of “isolation” and “special protection” is carried forward by the Indian constitution as will be evident in the following discussion.

### **The Approach of the Indian Constitution**

The Indian Constitution enforced on 26 January 1950 meticulously adopted federal structure as a vehicle of balancing what A.C. Talukdar calls “the forces of unification and the quest for identities of the constituent groups.”<sup>28</sup> Such a structure, well meaning though is often dubbed as a “reluctant federalism”<sup>29</sup> as it places a Damocles’ sword in the hands of the center to convert it into unitary system under certain circumstances vides Article 352, 356 and 360. The abundant precaution taken by the framers of the Indian Constitution is understandable. The unpalatable communal backlash that ensued immediately upon the partition of the country, the revolts of the Rajakars of Hyderabad etc. reinforced the need for maintaining a strong union with sound ideational premise, i.e., “a national unity with rights and autonomy for the states.” The recognition of rights and autonomy of the constituent units presupposes special institutional arrangements to guarantee special status. Such experimentation is seen as an extended discovery

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<sup>26</sup> Chaube, *op cit.*, p. 24.

<sup>27</sup> Elwin, Verrier, *A Philosophy for NEFA*, (Shillong: 1964), p. 45.

<sup>28</sup> Talukdar, A.C., “Problems and Prospects of National Integration in North-East India—A Note,” in B.C. Bhuyan (ed.), *Political Development of the North-East*, Vol. II (New Delhi: Omsons, 1992), p. 142.

<sup>29</sup> Erni, *op. cit.*

of the minimum degree of uniformity necessary for maintaining a coherent union.<sup>30</sup>

By this time, the sprawling “museum of nationalities” i.e., the North-East already has entrenched customs and traditions which animate feeling of separateness and distinct identity character in juxtaposition to the oft acclaimed “mainstream” national character. The Indian “nationhood” nurtured and directed towards an all-encompassing identity had before long faced a browbeat following the partition of India. This concept of “nationhood” sought to be instrumentalized through the ideational premise of the Indian Constitution is therefore besieged with certain critical realities in the North-East. For one thing, the trans Ganga-Yamuna civilization, the so-called *Hindu Civilization* has not been able to make its presence felt in the North-East. Gail Omvedt<sup>31</sup> captures this precarious condition when she says: “those who say most loudly that India is a nation define the core of its national character in terms of Brahmanic Hindu, Aryan and Sanskrit derived element.” She allays the fear that such an assertion is tantamount to imposing the idea of Indianess on the rest of the nationalities of the country.<sup>32</sup> The natural corollary of such a proposition is unmistakably clear: resistance and further alienation.

It is the realization of such stark reality that India opts for what Balveer Arora calls “unorthodox distribution of powers”<sup>33</sup> as an “ingenious ways to institutionally recognize diversity.”<sup>34</sup> The Sixth Schedule under Article 244 (2) of the Indian Constitution and Article 371 are two of the many provisions incorporated in the constitution as a model of asymmetric

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<sup>30</sup> Arora, Balveer, “Adapting Federalism to India: Multilevel and Asymmetrical Innovations,” in Balveer Arora and Douglas V. Verney (eds.), *Multiple Identities in a Single State: Indian Federalism in Comparative Perspective*, (Delhi: Konark, 1995), p. 78.

<sup>31</sup> Omvedt, Gail, “National Integration and National Culture in India,” cited in K.M. Deka (ed), *Nationalism and Regionalism in North-East India*, (Dibrugarh: 1985), pp.16-37.

<sup>32</sup> For detailed discussion see Barooah, A.K., “Problems of Integration in India: Some Conceptual Issues,” in B.C. Bhuyan (ed.), *op. cit.*, pp.119-125.

<sup>33</sup> Arora, Balveer, *op. cit.*, p. 71.

<sup>34</sup> Arora, Balveer, “Coalitions, Reforms and the New Polity,” *Social Action*, Vol. 51, No. 3, July-September 2001, p. 288.

federalism with a “quest for a more responsive and participatory democracy.”<sup>35</sup> A deeper understanding and analysis of the evolution of these constitutional provisions is imperative to have a proper appraisal of the approach of the Indian Constitution to the very concept of Special Status or Constitutional Asymmetry encompassing the socio-cultural and political dimensions.

We shall now draw our attention to the Bordoloi Committee Report, the Constituent Assembly Debates and the provisions of the Constitution under the Sixth Schedule and dovetail the ideas surrounding Article 371 as they encapsulate the whole philosophy and approach of the Indian Constitution.

### **The Bordoloi Committee Report**

In pursuance of the Cabinet Mission’s statement of 16 May 1946 which mentioned that the tribal areas and the excluded areas required the special attention of the Constituent Assembly, the latter appoints an Advisory Committee on the rights of citizens, minorities and tribal and excluded areas on 24 January 1947. This Committee further appoints three sub-committees at its meeting on 27 February 1947 to prepare schemes for the administration of the North-Western tribal areas, the North-Eastern tribal areas and the excluded and partially excluded areas. Of the three sub-committees, viz., (i) the North-East Frontier (Assam) tribal and excluded areas; (ii) the excluded and partially excluded areas in the province other than Assam; and (iii) the tribal areas in the North-West Frontier Province and Baluchistan, the last became redundant following its merger with Pakistan.

The North-East Frontier (Assam) Tribal and Excluded Areas Sub-Committee is headed by Gopinath Bordoloi, premier of Assam and includes as its members Rev. J.J.M Nichols Roy, the Khasi leader, a minister of Assam, and a member of the Constituent Assembly; Rupnath

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<sup>35</sup> *ibid.*, p. 287.

Brahma, a plains tribal leader, and A.V. Thakkar, a social worker among Central Indian tribes and chairman of the second Sub-Committee.<sup>36</sup> Assisted by B.N Rau, the constitutional adviser to the Constituent Assembly, the Committee had an extensive tour to all the hill districts of Assam except the Garo Hills perforce of course by “bad weather and difficult communication”<sup>37</sup> and submitted its reports on 28 July 1947. The Sub-Committee co-opted two members from the tribes of each of the district visited, except the frontier tracts and the tribal areas. All the co-opted members except those from the Naga Hills fully endorsed the report.

The Sub-Committee lives up to the terms of its enquiry i.e., “to report on a scheme of administration for the tribal and excluded areas”<sup>38</sup> and exhibits remarkable skill in reconciling the hill peoples’ demand for political autonomy with the Assam government’s drive to integrate them with the plains.<sup>39</sup> This is remarkable considering the level of political consciousness that even “instilled ideas of an independent status, the external relations under which would be governed by treaty or agreement only.”<sup>40</sup>

In the course of their tour, the members were faced with certain political demands that have strong social and cultural overtones. Naga Hills demanded “an interim government of the Naga People” under the protection of benevolent “guardian power” who would provide funds for development and defense for a period of ten years after which Naga people would decide what they would do with themselves. In the Garo Hills, there was a demand to vest in the legal council, all powers including taxation, administration of justice etc and the only link proposed with the Provincial government was in respect of a few subjects like higher education, medical aid etc., other than the subjects of defense, external affairs and communications which were not

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<sup>36</sup> Chaube, *op. cit.*, p. 84.

<sup>37</sup> See Bordoloi’s letter to the Chairman, Advisory Committee on Fundamental Rights, Minorities, Tribal Areas, etc., The Constituent Assembly, in B. Shiva Rao, *Framing of India’s Constitution*, Vol. III (New Delhi: IIPA, 1967, p. 684).

<sup>38</sup> See Bordoloi Committee Report, in B. Shiva Rao, *ibid.*, p. 708.

<sup>39</sup> See Chaube, *op. cit.*, p.100.

<sup>40</sup> See Bordoloi Committee Report, *op. cit.*, pp. 690-691.

provincial subjects. For the Khasi Hills, federation of the states and British portions was of paramount importance. In the Mikir Hills and in the North Cachar Hills, which are the least vocal and advanced of the areas under consideration, there would be satisfaction if control over land and local customs and administration of justice are left to the local people. The Committee is struck by the undercurrent of thought common to all the hill districts: people of the same tribe should be brought together under a common administration.

The committee after careful perusal synthesized these autonomous demands and provides for administrative arrangements that would substantively meet the demands and aspirations of the hill people. A very radical and significant recommendation of the Committee is the mode of representation accorded to the hill districts. Hitherto, one representative for every lakh population was the usual norm. This mode would go beyond this and invoke certain amount of weightage in giving representation to the hill people exclusively as the following would indicate:

**Table 2**  
**Mode of representation to Provincial Assembly as recommended by the Bordoloi Committee, 1948**

Sl. No	Name of district	No. of representative	Population
1.	Khasi and Jaintia Hills	2	1,05,463
2.	Garo Hills	3	2,223,569
3.	Mikir Hills	2	1,49,746
4.	Naga Hills	2	1,89,641
5.	Lushai Hills	2	1,52,786
6.	North Cachar Hills	1	37,361
	Total	12	8,58,566

The Committee worked out this modality keeping in view the “special circumstances of the hills” which merit “proper representation.”<sup>41</sup> It recommended the constitution of district council in these six hill districts which would have not less than 20 nor more than 40 members

<sup>41</sup> *ibid.*, p.705.

of whom 3/4th would be elected by universal adult franchise. It sought to give sweeping powers to district council by envisioning administrative legislative, financial and judicial powers.

In the administrative sphere, the powers of the district council would include: conduct of elections, composition of the council, conduct of business, appointment of staff etc. Moreover, the Committee envisions giving it the power to establish or manage primary schools, dispensaries, markets, cattle pounds, ferries, fisheries, roads and waterways.

Taking cognizance of the sensitivities of the hill people regarding land and exploitation by outsiders, the Committee meticulously envisages far reaching legislative powers to the district council. It includes among other things, the power to make laws regarding: the appointment or succession of chiefs or headmen, inheritance of property, marriage and all other social customs. The councils also have been given the power to legislate on all matters pertaining to land that are not otherwise reserved under the Assam Forest Regulation, 1891.

In the financial realm, too the Committee envisages wide ranging powers. It sought to empower the district council to impose taxes on: profession, callings, animals, vehicles, toll tax, market dues, ferry dues, cess for the maintenance of schools, dispensaries or roads. It also sought to give regulatory powers to the district council in all matters pertaining to trade. It should be noted that non-tribals who wanted to carry on trade should have a license issued by the district council that framed license rules by a majority of not less than three-fourth its members. It may not be out of place here to note the modalities laid down by the Committee with regard to financial assistance. Such assistance, the Committee prescribes, should be provided by the Federation to meet the deficit in the ordinary administration based on the average deficit during the past three years and the cost of development schemes should also be borne by the central exchequer.<sup>42</sup>

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<sup>42</sup> *ibid.*, p. 712.

The Committee also sought to give extensive judicial powers to the district/ regional council. This includes the power to constitute village councils or courts for the hearing and disposal of disputes or cases. However for the trial of acts which constitute offences punishable with imprisonment for five years or more or with death, or transportation for life under the Indian Penal Code or other law applicable to the district or of suits arising out of special laws or in which one or other law applicable to the district or of suits arising out of special laws or in which one or more of the parties are non-tribals, the government of Assam may confer such powers under the Criminal Procedure Code or Civil Procedure Code as the case may be on the regional council, the district council, or courts constituted by them or any officer appointed by the government of Assam as it deems appropriate and such courts shall try the offence or suits in accordance with the code of Criminal Procedure or Civil Procedure as the case may be.<sup>43</sup>

The powers delineated above are meant to ensure considerable degree of self-rule especially on matters (land, custom and traditions) that the hill people proudly cherished from time immemorial. The Bordoloi Committee did a commendable job in taking special care about age-old traditions. It's recommendation to continue "*posa*"<sup>44</sup> system has gone a long way in building the confidence of these simple folks.

It is lamentable however that despite the well meaning and somber attitude of the Committee in recognizing the wisdom of following an evolutionary approach in place of outright assimilative approach vis-à-vis the tribals, on the line and advice of anthropologist like

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<sup>43</sup> *ibid.*, p. 710.

<sup>44</sup> Literally the word "*posa*" means a collection or subscription for a common purpose. Introduced by the Ahoms in the pre-colonial period, this system facilitated the various hill tribes to descend annually to the plains to receive subscriptions from certain border villages. Such a payment was made in kind.

For details see *Gazetteers of India: Arunachal Pradesh-Subansiri District* (Shillong, 1981), p. 84.



Dr. Guha,<sup>45</sup> the Report contains certain unpalatable and highly draconian elements. By investing the Governor of the Province with emergency power, he can automatically suspend the autonomous district council in the name of the “safety of India.” Otherwise, the Report in its totality proves to be a valuable foundation that guarantee socio-cultural and political rights and help maintain the distinct and unique character of people of the North-East.

### **The Constituent Assembly Debates and the Sixth Schedule**

The Constituent Assembly of India in its meeting on September 5, 6 and 7 concentrates its debates on special administrative arrangements recommended by the Bordoloi Committee under the Sixth Schedule. The debates draw overwhelming response and participation of the members. In the course of the debates members seemed to have proffered what Jaipal Singh, a member, reckoned with as “two solutions” bequeathed by the “learned Ambassador in Moscow,” viz., the power solution and the knowledge solution.<sup>46</sup>

It would be worthwhile therefore to discuss the major themes of debates of the Constituent Assembly in the light of these “solutions” as it will help us probe deeper into the philosophy of the Indian Constitution in tackling the issue of special status.

The so-called “power solution” which inextricably runs through the whole debate posits national interests above the so-called “provincial autonomy.” Brajeshwar Prasad participating in the debate mince no words and makes his views explicitly clear when he says: “Therefore, Sir, is it right, is it safe, is it strategically desirable, is it militarily in the interests of the government of India, is it politically advisable that the administration of such a vast tract of land should be left in the hands of provincial government, especially in a province where there

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<sup>45</sup> See the *Gopinath Bordoloi Report, op. cit.*, p. 693.

<sup>46</sup> See *The Constituent Assembly Debates* (herein after refer to as *CAD*) in Savyasaachi, *op. cit.*, p. 129.

is no element of political stability? Sir, I love this country more than provincial autonomy.”<sup>47</sup> He goes on to say: “To vest wide political powers into the hands of tribals is the surest method of inviting chaos, anarchy and disorder throughout the length and breadth of this country.”<sup>48</sup> The internal instability of Assam characterized by conflicts between the Ahoms and the Assamese, the Bengalis and the Muslims and the Mongoloid races that enlarged the scope of subversive activities across porous borders with China, Tibet, Burma and Pakistan clearly underlines the caveat of such a thought. He also frankly concedes his opposition against the principle of self-determination when he says: “I will not jeopardize the interest of India at the altar of the tribals. The principle of self-determination has worked havoc in Europe. It has been responsible for two world wars in my lifetime. It led to the vivisection of India, arson, loot, murder and the worst crimes upon women and children. It led to the assassination of Mahatma Gandhi. I do not find myself equal to the task of supporting the formation of these District and Regional Councils.”<sup>49</sup>

Speaking on the same line, Kuladhar Chaliha from Assam sees the “old separatist tendency” in the Sixth Schedule and anticipates the danger of creating “Tribalstan” and “Communistan” which would tantamount to “misrule, to a primitive rule.”<sup>50</sup> Another member Rohini Kumar Chaudhuri vigorously put forward this view when he says: “If you want to keep them separate, they will combine with Tibet, they will combine with Burma, they will never combine with the rest of India.”<sup>51</sup> He underlines the fear of losing entirely the whole of tribal areas on lack of information and forcefully stressed the policy of assimilation: “We want to assimilate the tribal people, we were not given that opportunity so far.”<sup>52</sup>

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47      *CAD*, p. 115.

48      *ibid.*, p. 120.

49      *ibid.*

50      *ibid.*, p. 119.

51      *ibid.*, p. 127.

52      *ibid.*

Thus, the “power solution” runs eminently through the course of the debate. This brand of thought seeks to bring the tribal people in line with the dominant mainstream process of development. The “policy of assimilation” however is considered inimical to tribal interests that fail to understand their life world. The “knowledge solution” therefore seeks to take the tribal sensitivities into account and deals them with understanding. This view is clearly outlined by Jaipal Singh when he says: “I would appeal to members to be generous in what they say about the tribal people, to be generous to them and not think as if they were enemies of India ... I am very optimistic about the future of Assam, particularly if the Sixth Schedule, even with all its shortcomings, is operated, in a spirit of accommodation and in the real desire to serve the hill people of Assam, as our compatriots, and as people whom we want to come into our fold, as people whom we will not let go out of our fold and for whom we will make any amount of sacrifice so that they remain with us.”<sup>53</sup>

Defending the rationale for grant of special status to the tribals of Assam, Dr. Ambedkar contends that unlike the tribal people in areas other than Assam, those in Assam have distinct and unique laws of inheritance, of marriage and customs.<sup>54</sup> He draws parallel between the tribals of Assam and the Red Indians of the United States in this realm. Gopinath Bordoloi, the Premier of Assam, exhibits rare insights and allays the fear of “misrule/primitive rule” by tribals because he considers: “What is necessary for good government is already there.”<sup>55</sup> He collaborates his point by citing the unique case of the Ao Naga who has special functional distribution based on age. Under this system, the boys would perform certain simple functions, leaving the sturdier functions of the state to the adults, while the elders would give their judgment in cases of disputes and order distribution of lands for jhuming and things of that kind.

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<sup>53</sup> *ibid.*, p. 131.

<sup>54</sup> *ibid.*, p. 139.

<sup>55</sup> *ibid.*, p. 123.

Lakshmi Narain Sahu also candidly put forward this view after an in depth appraisal of tribal institutions. According to him, “till those people acquire some capacity for judgment, we should protect them by law.”<sup>56</sup> The kind of understanding that permeates through the thinking of Rev. J.J.M Nichols Roy is striking: “Sir, the first principle for bringing about a feeling of reconciliation between people who are estranged from one another is that one must place himself in the place of another.”<sup>57</sup> According to him, “advancement comes by a process of assimilation of a higher culture, higher mode of thinking and not by force.”<sup>58</sup>

From the above discussion, it is evidently clear that there are three sets of ideas and categories that underlie the formulation of the Sixth Schedule: (i) the ideas of swaraj, of self-rule, of independence, of freedom, of self-determination rooted in the nationalist freedom struggle; (ii) the idea of an educational system designed to reform cultural traditions in India as well as blend, match and harmonize them with liberal political thinking rooted in the Bengal Renaissance; and (iii) the idea of a dominant mainstream process of development of welfare, of selective cultural non-interference and non-alignment rooted in the British cultural policy introduced by Warren Hasting.<sup>59</sup> The feasibility of maintaining separate and distinct political institutions in line with the idea of “dominant mainstream process of development” is however assigned to a mooted domain of discourse.

Having delineated the broad contours of the Constituent Assembly debates on ideas surrounding the Sixth Schedule, we will now briefly have a content analysis of the provisions of the Sixth Schedule as incorporated in the Indian Constitution.

Article 244 (2) of the Indian Constitution provides for autonomy and self-government

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<sup>56</sup> *ibid.*, p. 129.

<sup>57</sup> *ibid.*, p. 133.

<sup>58</sup> *ibid.*, p. 136.

<sup>59</sup> Savyasaachi, *op. cit.*, p. 7.

in the tribal areas of Assam, Meghalaya, Mizoram and Tripura in the form of Sixth Schedule, which compared to the 73rd Constitution Amendment Act, 1992 comes closer to the spirit of Article 40 of the Constitution.<sup>60</sup> Defending the rationale of the inclusion of it, M. Hidayatullah, the former Chief Justice of India, maintains: “The main motive for special treatment were given slightly differently. There were two dangers from which protection was necessary: (i) the danger of exploitation by more advanced persons specially the moneylenders involving loss of their lands, and (ii) their exposure to normal laws which were unsuitable for such simple folks.”<sup>61</sup>

In order to operationalize this, Autonomous District Councils (ADCs) under paragraph 2 of the Sixth Schedule have been established in Karbi-Anglong and North Cachar Hills districts of Assam; Garo Hills, Khasi Hills and Jaintia Hills districts of Meghalaya; Lai, Mara and Chakma autonomous regions of Chhimituipui district of Mizoram and in the Tripura Tribal Areas.<sup>62</sup> Paragraph 3 of the Sixth Schedule empowers the ADCs and Regional Councils to: (i) regulate land, (ii) forest, (iii) canal or water-course for agriculture, (iv) practice of “jhum” or other forms of cultivation, (v) establishment of village or town committees or councils or their powers, (vi) and other matters relating to village or town administration, including village or town police and public health and sanitation, (vii) the appointment or succession of chiefs or headmen, (viii) the inheritance of property, (ix) marriage and divorce, and (x) social customs.<sup>63</sup> In a way, these councils have wielded enormous powers and functions ranging from executive, legislative, judicial and financial powers to enable them function as organs of self-governments.

Regarding the organizational structure, paragraph 2 (1) of the Sixth Schedule is explicitly clear in prescribing the maximum limit of 30 members of whom not more than four

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<sup>60</sup> Maithani, B.P., “Local Self-Governing Institutions in Northeast India: An Overview,” in B.P. Maithani, *op. cit.*, p. 10.

<sup>61</sup> Hidayatullah, M., *The Fifth and Sixth Schedule to the Constitution of India*, (Gauhati, 1979), p. 43.

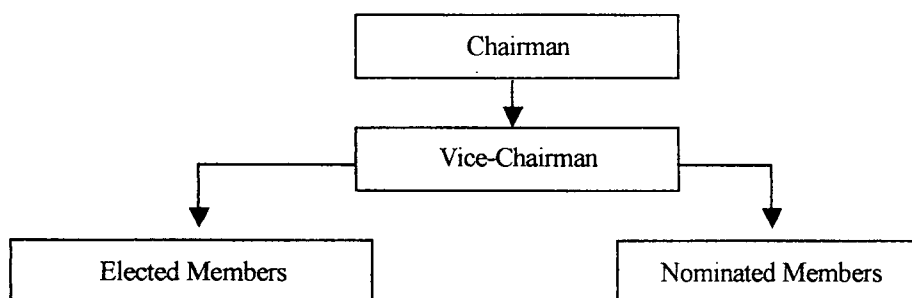
<sup>62</sup> Tripura Tribal Areas ADC was constituted in 1985 replacing the ADC constituted under the 7th Schedule.

<sup>63</sup> For details see the “Sixth Schedule,” in the *Constitution of India* (as amended up to 1 June 1996) (Government of India: Ministry of Law, Justice and Company Affairs, 1996), pp. 151-164.

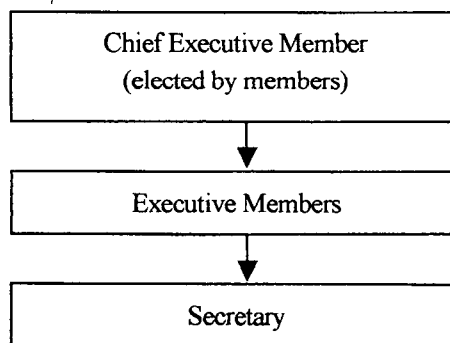
persons shall be nominated by the Governor and the rest being elected on the basis of universal adult franchise.<sup>64</sup>

In order to have greater autonomy, ADCs are structured on the lines of the trinity theory of state comprising the legislative, executive and judiciary as the following diagrams illustrate:

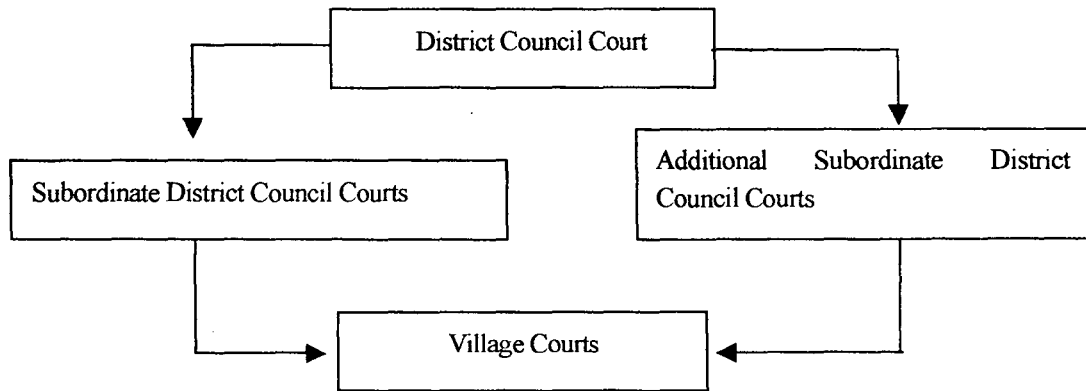
### LEGISLATURE



### EXECUTIVE



## JUDICIARY



A close analysis of the above provision would impress one with the extensive powers assigned to the ADCs to function as institutions of self-governance. The framers of the Indian Constitution in so guaranteeing such extensive powers sagaciously maintain an element of accountability and responsibility so that the unity and integrity of the country remains intact. It therefore empowers the Governor of the state to wield certain “filter mechanism” (to borrow Gopinath Bordoloi Committee Report verbiage) by making it mandatory on the part of the ADCs to take the “previous approval” of the Governor in making certain laws and regulations.<sup>65</sup> The Governor has also been given sweeping powers in investing certain powers and functions such as the trial of cases under the Code of Civil Procedure, 1908, and the Code of Criminal Procedure, 1898 vide paragraph 5 (1), (2) & (3). He has also been given the power to suspend or dissolve the ADCs under paragraph 15 by constituting an Enquiry Commission (under paragraph 14) in the name of the “safety of India.”

Despite certain lacunae in the provision of the Sixth Schedule, inextricably marked by strong central control via control of finance by the Comptroller and Auditor General of India

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<sup>65</sup> Take for instance the case of paragraph 6 (1) pertaining to the power of the ADCs to establish primary schools, etc.

and the role of the Governor, these provisions by drawing heavily upon the wisdom of the Gopinath Bordoloi Committee Report provide for certain constitutional safeguard which promise to ensure, promote and protect their interests.

## **B. Article 371 and the North-East: The Issue of Sub-State Structures**

Article 371 which introduced the concept of special provisions for individual states in India for the first time<sup>66</sup> may be seen basically as attempts to create constitutional spaces for individual states getting away from the straight-jacket of a uniform constitution. By dovetailing special socio-cultural and political rights, the various clauses of the Article have conferred validity and protection to pre-existing laws<sup>67</sup> and go a long way in protecting local identities of the North-East. Since this Article spawned various demands for special status vis-à-vis the North-East, it is imperative to understand the politico-historical context of its evolution before we delve deep into a content analysis of the Article and then come to the two important imponderable issues of sub-state structures exemplified by the Bodoland Autonomous Council (BAC) and the Hill areas of Manipur.

Consequent upon the refusal of the Naga representatives to give assent to the Bordoloi Committee Report, 1948<sup>68</sup> an alternative constitutional provision was needed to accommodate the aspirations and wishes of the Naga people. The Naga political movement that traced its roots in the formation of the Naga Club (1918)<sup>69</sup> and spearheaded by the Naga National Council

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<sup>66</sup> Mukarji, Nirmal, "A More Federal India," in Upendra Baxi, Alice Jacob and Tarlok Singh (eds.), *Reconstructing the Republic* (New Delhi: Har Anand, 1999).

<sup>67</sup> Arora, Balveer, "Adapting Federalism in India ...," *op. cit.*, p. 80.

<sup>68</sup> With Mr. Kezhol's resignation and non-availability of Mr. Aliba Imti for giving his assent via signature to the Bordoloi Committee, the Sixth Schedule is not applicable to the state of Nagaland. For details see, Bordoloi's letter to the Chairman, Advisory Committee on Fundamental Rights, Minorities, Tribal Areas etc., in B. Shiva Rao, *op. cit.*, pp. 684-685.

<sup>69</sup> Longkumar, Lanusashi, *Core-Periphery Relationship in North-East India with a Focus on Nagaland*, (Unpublished PhD thesis submitted to CIPOD/SIS, JNU, New Delhi, 1996), p. 131.



(NNC) since March 1946 has increasingly shown its intransigence on the inviolability of the principle of “self-determination.” An offshoot of the Naga Hills District Tribal Council formed under the initiative of a British official<sup>70</sup> and viewed by the British government “with a benevolent eye as truly representative of the Naga people,”<sup>71</sup> the NNC declared the independence of the Nagas on 14 August 1947; then came the infamous Naga plebiscite for a “Sovereign, Independent Nagaland” held under A.Z. Phizo in 1951 wherein not a single voice of dissent was raised against. P.K. Bhattacharjee aptly captured the prevalent mood of the time<sup>72</sup> when he says: “At that time the general masses had no contact with the plains people. For the isolated common masses their hills were the world for them ... In such a situation Phizo and his followers convinced the ignorant people to fight for an independent Nagaland.” He neatly explains the reason behind such massive rally in favor of Phizo when he says: “At that time there was not even a single organization to make the people understand about the result of such a movement. Whatever Phizo and his followers said was right for the people.” The outcome of the plebiscite being held under such a favorable circumstances was a foregone conclusion. An astute demagogue as he was, A.Z. Phizo aptly put forward to the people to choose between “a victim of Indian imperialism”<sup>73</sup> and Naga national pride which was resoundingly responded in favor of the latter.

The landmark declaration of independence and plebiscite may however be seen as the culmination of longstanding demand of the Naga for “self-determination” in as much as it is the

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<sup>70</sup> Agnihotri, S.K., “Constitutional Development in North-East India Since 1947” in B. Datta Ray and S.P. Agrawal (eds.), *Reorganization of North-East India Since 1947* (New Delhi: Concept, 1996), p. 61.

<sup>71</sup> Means, Gordon P. and Means, Ingunn N., “Nagaland: The Agony of Ending a Guerella War,” *Pacific Affairs*, Vol. 39, 1966-67, p. 132.

<sup>72</sup> Bhattacharjee, P.K., “Communication and Political Development in Nagaland” in S.M. Dubey (ed.), *North East India: A Sociological Study* (Delhi: Concept, 1978), p. 265.

<sup>73</sup> In his Plebiscite speech of 16 May 1951, A.Z. Phizo said, “We shall do all what is humanly possible so that we shall not have to go down in history in shame or live in sorrow and disgrace. What else we cannot do, we leave it to God’s own mercy and to his care and pray that we do not become victims of Indian imperialism” (emphasis added). See Kaka D. Iralu, *Nagaland and India: The Blood and the Tears*, September 2000.

outcome of recognition given by the British<sup>74</sup> and the principle espoused by the Indian National Congress (INC) during the national movement. Such an undertaking historic though is not bereft of troubles. During the charting out the Hydari Agreement (Nine Point Agreement, 27-29 June 1947) and the controversy that ensued over the Ninth clause and the concomitant threat of the Nagas to declare independence on 14 August 1947, Sir Akbar Hydari had warned them of the use of force<sup>75</sup> to clamp down on such adventurism.

The threat became real in March 1953 during the visit of Prime Minister Nehru and U Nu of Burma in Kohima when the police resorted to mass arrest subsequent upon mass protest and walkout at a public meeting attended by the two. Following this, some leaders went underground and the rift between the “moderates” and the “extremists”<sup>76</sup> became more pronounced. The formation of the Federal Government of Nagaland on 22 March 1956 under the leadership of A.Z. Phizo further cemented this rift. Subsequently, the use of force seems imminent. This put to naught the high expectation which Aliba Imti has following the Hydari Agreement: “The foundation stone of our cherished goal is already laid down, let the spirit of difference, if there be any, be taken away from your hearts. Come forward with a united spirit. Let us build a New Nagaland based on the spirit of goodwill and understanding.”<sup>77</sup>

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<sup>74</sup> The British Government explicitly recognized the principle of “right to self-determination” in the Simon Commission Report, 1928 wherein the Nagas unequivocally placed their demand for the same. The Nine Point Agreement arrived at by the NNC and the then Governor of Assam, Sir Akbar Hydari in its preamble also gave explicit recognition to “the rights of the Nagas to develop themselves according to their freely expressed wishes.” For details see “The Nine Point Agreement,” in M. Horam, *Naga Polity* (Delhi: Low Price Publications, 1992), p. 141.

<sup>75</sup> Nag, Sajal, *India and North-East India* (New Delhi: Regency, 1998), p. 79.

<sup>76</sup> The labels “moderates” and “extremists” enter the body politics of Nagaland over the issue of the Ninth Clause of the Hydari Agreement which states: “The Governor of Assam as the agent of the Government of Indian Union will have a special responsibility for a period of ten years to ensure the due observance of this agreement; at the end of this period the Naga Council will be asked whether they require the above agreement to be extended for a further period or a new agreement regarding the future of the Naga people arrived at.” Those who support this clause become to be labeled as “moderates” and those who oppose and consider it a sell out as “extremists.” The extremists demand nothing short of a “Sovereign, Independent Republic of Nagaland.”

<sup>77</sup> T. Aliba Imti *Reminiscences: Impur to Naga National Council* (Mokukchung, 1988), pp. 66-68, cited in Sajal Nag, *op. cit*, p. 76.

It was under the backdrop of this seemingly irreconcilable course adopted by the extremist elements of the Nagas which irreversibly heads toward a final show down with the Government of India (GoI) that Naga Peoples Convention (NPC) was summoned consecutively at Kohima (1957), Ungma village (1958) and Mokokchung (1959). These conventions overwhelmingly attended by “moderate Naga tribal delegates” was “motivated by an earnest desire to avoid bloodshed, to restore peace, to heal past wounds of suspicion and anxiety and to serve the people in good faith, swore off independence, mustered the courage despite the threat of their lives by Phizoites, called upon the traditional Naga leaders to get together at a convention to discuss the Naga issue, to open a new dialogue with the GoI in appropriate time and to device ways in order to arrive at such a political settlement in keeping with the honor and tradition of the Nagas in contrast to the demand of the extremists.”<sup>78</sup>

The 16 Point Agreement formulated by the select committee of NPC at Ungma village and approved by the Mokokchung NPC laid the foundation for the creation of Nagaland which was out rightly accepted by the Indian Prime Minister, Nehru when he met the delegation of the NPC on July 26, 1960.<sup>79</sup> Article 371 A which is inserted into the Constitution under the Thirteenth Amendment Act, 1962<sup>80</sup> borrows heavily from the 16 Point Agreement which will be evident in the following discussion.

### **Content Analysis of Article 371: Its Implications**

Article 371 is an instance of what Ramasubramaniam<sup>81</sup> calls a “constitutional design

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<sup>78</sup> Yanou Yososo, *The Rising Nagas: A Historical and Political Study* (Delhi: Mittal, 1974), p. 222. Cited in T. Uniel Kichu Ao, *Asymmetric Federalism and Special Status: The Case of Nagaland* (Unpublished M.Phil dissertation submitted to CPS/SSS, JNU, New Delhi, 2001), p. 35.

<sup>79</sup> Murkot Rumunny, *The World of Nagas* (New Delhi: Northern Book Centre, 1988), p. 143 cited in T. Uniel Kichu Ao, *op. cit.*, p. 48.

<sup>80</sup> D.D. Basu, *Introduction to the Constitution of India* (New Delhi: Prentice Hall of India, 1997), p. 433.

<sup>81</sup> Ramasubramaniam, K.A., “The Historical Development and Essential Features of the Federal System” in Nirmal Mukarji and Balveer Arora, *Federalism in India: Origin and Development* (New Delhi: Vikas, 1992), p. 8.

... intended to facilitate the flexible and adaptable application of the federal principle in specific cases” keeping in mind the stark reality of uneven development of various regions of the country. Article 371 A for Nagaland, 371 C for Manipur, 371 F for Sikkim, 371 G for Mizoram and 371 H for Arunachal Pradesh dovetail the nature and extent of special status accruing to North-East India.

Article 371 A (1) (a) and Article 371 G (a) contains strikingly similar provision in that they respectively empower the Legislative Assemblies of Nagaland and Mizoram exclusive powers in matters relating to: (i) religious or social practices, (ii) customary law and procedure, (iii) administration of civil and criminal justice, and (iv) ownership and transfer of land and its resources. No Act of Parliament can be applied in these states unless approved by their respective state Legislative Assemblies by a resolution.<sup>82</sup> This clause bears an indelible imprint of clause 7 of the 16 Point Agreement and may be seen as attempts to allay the fears and apprehensions regarding the loss of identity of the states concerned.<sup>83</sup> It however does not, as the Sarkaria Commission Report<sup>84</sup> pointed out, mention the consequences in case the Legislative Assemblies of Nagaland and Mizoram fail to adopt the act passed by the Parliament.

A close analysis of Article 371 A throws light on two broad issues, viz.; the satisfaction of the autonomy and identity assertion thereof as outlined above, and the developmental aspect of the region.<sup>85</sup> As a follow up to clause 11 of the 16 Point Agreement, Article 371 A (1) (c) explicitly outlines that “in making his recommendations with respect to any demand for a grant, the Governor of Nagaland shall ensure that any money provided by the GoI out of the Consolidated Fund of India for any specific service or purpose is included in the

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<sup>82</sup> For details see Government of India, *The Constitution of India* (Ministry of Law and Justice, 1989), pp. 213 and 226.

<sup>83</sup> T. Uniel Kichu Ao, *op. cit.*, p. 112.

<sup>84</sup> See Government of India, *Report of the Commission on Centre-State Relations* (commonly known as the Sarkaria Commission Report), Part II (Nasik: 1987), p. 394.

<sup>85</sup> T. Uniel Kichu Ao, *op. cit.*, p. 92.

demand for a grant relating to that service or purpose and in any other demand.” The Governor is also invested with the responsibility to ensure the “equitable allocation of that money between the Tuensang district and the rest of the state” [Article 371 A (2) (b)]. It is argued that the center considered these special considerations understanding the fact that the internal revenue of the state of Nagaland would be extremely limited.

Another striking feature of Article 371 is the sweeping discretionary powers granted to the Governor of the North-East pertaining to “law and order.” Article 371 A (1) (b) and Article 471 H (a) respectively confer upon the Governors of Nagaland and Arunachal Pradesh “special responsibilities” with respect to law and order. In the exercise of such discretionary powers, the Governors are made obligatory to exercise their powers only after “prior consultations”<sup>86</sup> with the Council of Ministers of the states. In the same breadth Article 371 F (g) gives special responsibility to the Governor of Sikkim to maintain peace and make “equitable arrangement for ensuring the social and economic advancement of different sections of the population of Sikkim. The use of such discretionary power is contingent upon the directions of the President of India. Further, for the realization of equal representation the Parliament under Article 371 F (f) is empowered to make provisions so as to ensure representation of different sections of population in Sikkim.

The case of Manipur under Article 371 C is unique. Clause 1 of the article empowers the President of India to constitute, by order, a Committee of the Legislative Assembly of the state that will consist of members elected from the Hill areas of the state. The Governor is mandated to submit annual report to the President regarding the Hill areas of the state [Article 371 C (2)]. Moreover, the executive power of the Indian Union can be extended in this realm albeit in the nature of direction. This is remarkable because Manipur Hill areas is placed under

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<sup>86</sup> According to the Sarkaria Commission Report, Article 371 A (1) (b) and Article 371 H (a) are the only two provisions in the Constitution which use the expressions, “individual judgment and make prior consultation with the Council of Minister” mandatory. See the Report, p. 134.

the Fifth Schedule which ensure special administrative structure almost in line with the Sixth Scheduled areas as will be evident in the following discussion.

### **The Issue of Sub-State Structures**

Sub-state structures that provide for institutional arrangements between the state and district structures have a long but undistinguished history in independent India.<sup>87</sup> Casted in a mould to meet what S.N. Jha calls the “twin objectives of the Indian polity,” viz.; democracy and development<sup>88</sup> they are intended to help erode “enclave-type power-base and unequal distribution of power among people.”<sup>89</sup> We shall now examine the unique case of Bodoland Autonomous Council (BAC) and that of the Hill areas of Manipur.

### **The Case of Bodoland Autonomous Council (BAC)**

The Bodoland Autonomous Council is the product of a tripartite agreement signed between the Union Government of India, the state Government of Assam and the Bodos represented by the All Bodo Students’ Union (ABSU) and the Bodo Peoples’ Action Committee (BPAC). Constituted under the state Act on 3 July 1993, BAC seeks to “provide maximum autonomy within the framework of the Constitution to the Bodos for social, economic, educational, ethnic and cultural advancement”<sup>90</sup> within the state of Assam comprising contiguous geographical areas between Sankosh and Mazbat/river Pasnai.

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<sup>87</sup> Arora, Balveer, “Adapting Federalism in India ...,” *op. cit.*, p. 84.

<sup>88</sup> Jha, S.N., “Introduction,” in S.N. Jha and P.C. Mathur (eds.), *Decentralization and Local Politics* (New Delhi: Sage, 1999), p. 16.

<sup>89</sup> The term “enclave-type power base” is extensively used here to denote centralizing trends of the polity. For details see Abdul Aziz and David D. Arnold (eds.), *Decentralized Governance in Asian Countries* (New Delhi: Sage, 1996), p. 14.

<sup>90</sup> See “Memorandum of Settlement,” in Chandana Bhattacharjee, *Ethnicity and Autonomy Movement: Case of Bodo-Kacharis of Assam* (New Delhi: Vikas, 1996), p. 335.

For the realization of these objectives, BAC has a powerful General Council that comprises of 40 members of whom 35 are elected on the basis of universal suffrage and has life tenure of five years. Clause 7 of the Accord<sup>91</sup> states that “the General Council shall be consulted and its views shall be given due regard before any law made on the following subjects is implemented in the BAC areas: (i) the religious or social practice of the Bodos, (ii) the Bodo customary laws and procedures, and (iii) the ownership and transfer of land within the BAC areas.” The expansive role of BAC is evident from the fact that the Bodoland Executive Council is empowered to implement laws on 38 subjects (see appendix) that go far beyond the 73rd Constitution Amendment Act.

It is remarkable that the finance for the BAC is earmarked under a separate sub-head within the Assam state budget, in keeping with the guidelines laid down by the GoI from time to time. The Government of Assam is debarred from diverting this earmarked allocation to other heads/areas except in exigencies when there is unavoidable budget cut. It must be noted here that the finances for BAC is managed exclusively by its General Council and the statement of its annual audited account must be laid on the table of the state Assembly.

It is a truism that BAC represents a climb down from the three political demands (concretized of course from the 92 point demands<sup>92</sup>) launched vigorously under ABSU and BPAC since March 2, 1987, viz.; (i) creation of a separate state of Bodoland on the North bank of the river Brahmaputra, (ii) creation of two autonomous districts, i.e. Nilachal and Lalung on the southern bank of the river Brahmaputra, and (iii) inclusion of Bodo-Kacharis living in

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<sup>91</sup> *ibid.*, p. 337.

<sup>92</sup> The 92 Point Demands was submitted to Bishnu Narayan Singh, the Governor of Assam and Meghalaya on 1 April 1987 and bears the “testimony of how the Bodos and other plains tribals are suffering from wants, discriminations, injustices, insecurity and tortures etc.” These demands were reduced unilaterally by the ABSU to three political demands at the Bansbari Annual Conference in 1988. See Bokht, Humayun, *A Sociological Study of the Bodo Movement* (Unpublished M.Phil dissertation submitted to CSSS/SSS, JNU, New Delhi, 1989), p. 75.

Karbi-Anglong into the ST (Hills) lists.<sup>93</sup> Recent experiences and lackadaisical approach by the Assam Government in the financial realms prove to be a hard pill to swallow down. Citing such instance, S.K. Bishwamuthiary, the present Member of Parliament (M.P.) from the Bodo-dominated Kokrajhar constituency said, “as per the population figure of the BAC, the BAC ought to have a minimum of Rs.1,400 crores as financial assistance during the last seven years and instead, the autonomous body (BAC) received a meager Rs.93 crores” (bracket within the quote mine). He further stated “as per the Planning commission guidelines, Assam Government should have released the grant but the same was denied to the Bodo people.”<sup>94</sup>

It is not surprising therefore that the political demands of the Bodos assume wider ramifications with each passing day. Following the BJP led NDA Government initiative to consider the scheme of creating Uttaranchal, Vananchal and Chattisgarh in 1999 thereby setting aside the Bodoland issue, two powerful Bodo factions always at loggerheads, viz., ABSU and People’s Democratic Front (PDF) came together and criticized the Bodo Accord of 1993.<sup>95</sup> Besides reviving the three political demands concretized at the Bansbari Conference, they now demand inclusion of Bodo language in the 8th Schedule that is endorsed by S.K. Sinha, the Assam Governor.<sup>96</sup> Moreover, the boundary of Bodoland is sought to be extended beyond the river Pasnai and will include besides Oras and Manas sanctuaries, BRPL,<sup>97</sup> and Bijni town.<sup>98</sup> As an interlude to separate state, the Center proposed to set up Bodo Territorial Council (BTC) under the Sixth Schedule of the Constitution.<sup>99</sup>

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<sup>93</sup> Bhatteerjee, Chandana, *op. cit.*, p. 19

<sup>94</sup> See Barman, Falguni, “Why not Bodoland?,” *North-East Sun*, Vol. 6, No. 2, 15-31 August 2000, p.16.

<sup>95</sup> Sharma, Shantanu Nandan, “Bodos Unite for Bodoland,” *North-East Sun*, Vol.4, No.17, 1-14 April 1999, p. 15.

<sup>96</sup> *ibid.*

<sup>97</sup> BRPL is used broadly to refer to the surrounding areas of the Bongaigon refinery.

<sup>98</sup> See interview conducted by the North-East Sun with Mainao Daimary, the Publicity Secretary of the Bodo Liberation Tigers (BLT) in Sharma, Shantanu Nandan, “New Bodoland Accord Soon,” *North-East Sun*, Vol. 6, No. 18, 15-30 April 2001, p. 12.

<sup>99</sup> Kalita, Prabin, “Bodo Issue Taking a Dangerous Turn,” *Hindustan Times*, 10 November 2001.



The proposal however is heading towards a crisis. The non-Bodos taking cue from the gory ethnic cleansing drive by the Bodos against the Adivasis of 1996<sup>100</sup> soon after the formation of BAC appear determined to oppose it until proper security and protective measures are taken. The formation of Sanmilita Jana-Gosthiya Sangram Samity, a conglomerate of 14 non-Bodo organizations, its call for a 12 hour Assam bandh on 12 November 2001 to protest any unilateral move to create the proposed BTC and the consequent negotiation entered upon by the state government with these non-Bodo groups infuriated the Bodo leaders. The convener of the Coordination Committee for Bodoland Movement, Rabiram Narzary, bluntly says that the Government has hurt the sentiments of the Bodo people by holding talks with non-Bodo organizations from outside the proposed BTC area and warned "Dispur will be responsible if anything goes wrong."<sup>101</sup>

The fear of the non-Bodos is not unjustified. The Bodoland movement itself can be understood in proper perspectives only when we analyze the growing arrogance of Assamese chauvinism exhibited from time to time, for instance: (i) the attempt to impose Assamese as the official language through the Official Language Bill, 1960, (ii) the belligerent attitude of the Asom Gana Parishad (AGP) government in prescribing Assamese as the medium of instruction in Guwahati University and the Dibrugarh University in 1972, (iii) the demands of the Association of Assam Students' Union (AASU) leaders in 1979 to do away with the policy of reservation for SC/ST candidates and scholarship for SC/ST students,<sup>102</sup> (iv) the Bhumka rape episode of January 1988 and the interference of the Guwahati High Court,<sup>103</sup> etc. It is this

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<sup>100</sup> *ibid.*

<sup>101</sup> Das, Krishna, "Bodoland Impasse Far from Over," *North-East Sun*, Vol. 7, No. 16, 15-31 March 2002.

<sup>102</sup> Gohain, Hiren, "Bodo Stir in Perspective," *EPW*, Vol. XXIV, No. 25, 24 June 1989, p. 1378.

<sup>103</sup> In January 1988, nine Bodo women were gang-raped by some Assam police personnel. The police and state administration first tried to hush up the shameful incident and dismiss it as a malicious propaganda by the Bodos to demoralize the police force engaged in fighting "tribal violence." The Guwahati High court took cognizance of this and severely condemned the police authorities for

understanding which permeates through the mind of Brajendra Kumar Brahma, the new Chief of Bodo Sahitya Sabha, when, in reaction to the demands of non-Bodos to guarantee safety, he says: “There is justification in their fear. It is natural to think of what the future holds. Our non-Bodo brethren want to be assured by the government that no harm will befall them when the Bodo Territorial Council is created.”<sup>104</sup>

The Bodoland demand therefore still remains inconclusive. This is so because the Bodos are concerned not only with development beautifully encapsulated by every autonomy proposals, but with such basic questions as; survival, preservation and growth of the Bodo ethnic identity<sup>105</sup> that continues to be intrigued by the sparse distribution of the Bodo population in the Brahmaputra valley.<sup>106</sup>

### **The Case of the Hill Areas of Manipur**

The Hill areas of Manipur occupies advantageous geographical and political positions in the history of Manipur in as much as it has a unique place in the Indian Constitution since it has Autonomous District Councils in line with those provided under the Sixth Schedule although it is placed under the Fifth Schedule.<sup>107</sup> The areas covers five of the nine districts of Manipur, viz; Chandel, Churachandpur, Senapati, Tamenglong and Ukhrul, inhabited by 20 tribal constellations.<sup>108</sup> It is interesting to note that despite contributing barely 41.16 percent of the population (2001 census), it accounts for 89.98 percent of the total geographical area of the

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suppressing the truth about its brutalities against tribal people. For details see Gupta, Barun Das, “Bodo Agitation: Background Prospects,” *Mainstream*, Vol. XXVII, No. 39, 24 June 1989, p. 17.

<sup>104</sup> Cited in Das, Krishna, *op. cit.*

<sup>105</sup> See “Why Separate State?” (Memorandum submitted by ABSU to the President, Prime Minister and Home Minister of India on 10 November 1987) in Chandana Bhattacharjee, *op. cit.*, p. 320.

<sup>106</sup> Chaube, S.K., *op. cit.*, p. 255.

<sup>107</sup> Srivastava, S.C., “Local Self-Government Institutions in Manipur” in B.P Maithani (ed.), *op. cit.*, p. 151.

<sup>108</sup> *ibid.*, p. 140.

state as the following table shows:

**Table 3**  
**District-wise area and population of Manipur according to 1991 and 2001 Census**

Sl.No	Name of District	Population			Area	
		2001 1991	%	%	Total	%
	Manipur	23,88,634	100.00	18,37,149	22,327	100.00
1.	Chandel	1,22,714	5.14	71,014	3,313	14.84
		3.87				
2.	Churachandpur	2,28,707	9.57	1,76,184	4,570	20.47
		9.59				
3.	Senapati	3,79,214	15.88	2,08,406	3,271	14.65
		11.34				
4.	Tamenglong	1,11,493	4.67	86,278	4,391	19.67
		4.69				
5.	Ukhrul	1,40,946	5.90	1,09,275	4,544	0.35
		5.95				
	Hill Areas	9,83,074	41.16	6,51,157	20,089	89.98
		35.44				
6.	Bishnupur	2,05,907	8.62	1,80,773	496	2.22
		9.84				
7.	Imphal East	3,93,780	16.48		1,228	
8.	Imphal West	7,11,261	38.72		5.50	
		4,39,532	18.40			
9.	Thoubal	3,66,341	15.34	2,93,958	514	2.30
		16.00				
	Plain Areas	14,05,560	58.84	11,85,992	2,238	10.02
		64.56				

Source: 1991 population: *Manorama Year Book, 2000*, pp. 647-48

Source (table): 2001 population: Government of India, *India 2002: Reference Manual* (Publication Division, Ministry of Information and Broadcasting, 2002), p. 730

Politically, the hill areas of Manipur has a unique tradition of special treatment which started with the Treaty of Yandaboo, 1826 when the administration of the Hill areas was formally separated from the administration of the plains by the British.<sup>109</sup> This tradition was carried forward uninterrupted even in 1891-92 when rural panchayats were introduced in the valley and the Hill areas was brought under the control of the British. In 1916 when Darbar was “annexed” by the British and the Maharaja was relegated to a supervisory position, the Hill administration came directly under the “President” of the Darbar who was assisted by two Executive Advisory Committee members. This system, by and large, remained intact till 1947, though in between sub-divisional officers, circle officers and lamboos (middlemen or interpreters) were appointed as part of the organizational hierarchy.

With the creation of the state of Manipur under the North-Eastern Areas (Reorganization) Act, 1971,<sup>110</sup> the Parliament enacted the Manipur (Hill Areas) District Council Act, 1971 which established six autonomous district councils (ADCs) in the Hill areas of Manipur from August 1973. The six ADCs with their respective headquarters are shown in the following table:

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<sup>109</sup> *ibid.*

<sup>110</sup> For details see “The North-Eastern Areas (Reorganization) Act, 1971,” in Manilal Bose (ed.), *op. cit.*, pp. 260-333.

**Table 4**  
**ADCs with their Headquarters in the Hill Areas of Manipur according to the Manipur Hill Areas District Council Act, 1971**

Sl. No.	Name of Autonomous District Council	Headquarter
1.	Manipur East	Ukhrul
2.	Manipur West	Tamenglong
3.	Manipur North	Senapati
4.	Manipur South	Churachandpur
5.	Manipur Sadar Hills	Kangpokpi (in Senapati district)
6.	Manipur Tengnopal	Chandel

The Act is in pursuance to Article 371 C (2) that states, "...the executive power of the Union shall extend to the giving of directions to the state as to the administration of the said areas."<sup>111</sup> It effectually brought the Village Authorities existent in the state since 1947<sup>112</sup> under the superintendent and control of the autonomous district council. In a way, it reverts back to the single line administration set in place by the Manipur Village Authorities (in Hill Areas) Act, 1956.

Hitherto, the Hill areas of Manipur had elaborate two-tier system of governance under the Manipur State Hill People's Regulations, 1947 (MSHPR) wherein the affairs of the village council/village authorities and circuit authorities were regulated by the state government with the Sub-Divisional Officer as the representative. Both these institutions were entrusted with legislative and judicial powers. In the former case, i.e. village council/village authority, the

<sup>111</sup> See "Article 371 C," in Government of India, *The Constitution of India, 1989, op. cit.*, pp. 217-18.

<sup>112</sup> Village Authorities formally came into being in Manipur Hill areas with the passage of the Manipur State Hill People's Regulations, 1947.

chief<sup>113</sup> assisted by his council of elders regulated the affairs of the village whereas in the circuit level the circle officer and his council of five elected members regulated the affairs. This was further streamlined in 1955 when in the aftermath of the abolition of the circle authorities (in 1955), the Parliament enacted the Manipur Village Authorities (in Hill Areas) Act, 1956 and assigns besides administrative and judicial powers, developmental functions as well.<sup>114</sup> This Act paves the way for a single-line administration with the Deputy Commissioner as the head who regulated the Village Authorities through the Sub-Divisional Magistrate.

As mentioned earlier, this system, i.e. single-line administration is upheld by the Manipur (Hill Areas) District Council Act, 1971. The Act stipulates a directly elected ADC of 18 members, besides two nominated members who may be nominated by the administrator (Governor) for a term of five year. One striking feature of the Act is that it bears the same organizational structure with the ADCs established under the Sixth Schedule. The powers of the ADCs in the Hill areas of Manipur are however restricted in that they have limited executive/administrative and financial powers. No judicial and legislative powers were given to the ADCs of Manipur.<sup>115</sup> It is remarkable that the Act envisages committee system and has made provisions for a finance committee with seven members, including the chairman of the council.<sup>116</sup>

Another outstanding feature of the Act is the enormous extraneous control procedures and provisions laid down which, according to S.C. Srivastava,<sup>117</sup> virtually made the ADCs defunct. Under section 46 of the Act<sup>118</sup> the Deputy Commissioner has been given sweeping

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113 The chief invariably known as the "Khulakpa," Hausa, etc. have overriding functions who is respected and adorned by the people in every village. In some tribes especially among the Kukis and Zomis they are hereditary whereas elective amongst some Naga tribes.

114 For details see Srivastava, S.C., *op. cit.*, pp. 145-51.

115 *ibid.*, p. 159.

116 *ibid.*, p. 157.

117 *ibid.*

118 See the "Manipur (Hill Areas) District Councils Act, 1971," in Manilal Bose (ed.), *op. cit.*, p. 367.

powers to regulate and control the proceedings of the ADCs. His power extends to the realm of suspending the execution of any resolution or order of any ADC, if in his opinion, “the act is likely to lead to a breach of the peace, or to cause annoyance or injury to the public or to any class or body of persons. One redeeming feature of the Act however is the importance given to the Hill Areas Committee (HAC) under section 3 (2) of the Act<sup>119</sup> as a consultative body. The writ of the Hill Areas Committee also extends to the powers and functions of the ADCs under section 29 of the Act in that they can be expanded in the field of agriculture, animal husbandry, community development, social and tribal welfare etc. by the Governor only in consultation with it.

The fact that the ADCs in the Hill areas of Manipur pale into insignificance when compared to those under the Sixth Schedule is recognized even by the state government. Ever since 1984 the ADCs are defunct with the HAC of Manipur Assembly resolving “No Sixth Schedule, No Council Elections.”<sup>120</sup> A movement to upgrade the status of Manipur is still gaining momentum under the aegis of the Sixth Schedule Demand Committee Manipur (SDCM). Commenting on the rationale of such a move, Col. (retd.) R.K. Rajendra says: “the implementation of the Sixth Schedule is nothing but formation of 92 percent autonomous body in Manipur.”<sup>121</sup>

Such a move was legitimized a couple of times already as the United Front (ULF) Government headed by R.K. Ranbir Singh and Congress-led Government under R.K. Dorendro Singh had recommended the extension of the Sixth Schedule in the Hill Areas of Manipur respectively on 13 May 1991 and 17 August 1992. With the passage of the Manipur Hill Areas

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<sup>119</sup> *ibid.*, p. 353. Section 3 (2) stipulates that the Hill Areas Committee must be consulted by the Governor (administrator) when any action is supposed to be taken to effect or affect the areas of the ADCs.

<sup>120</sup> See “For 6th Schedule in Manipur,” *North-East Sun*, Vol. 6, No. 5, 1-14 October 2000, p. 14.

<sup>121</sup> See Samon, Sobhapati, “Adjusting the Sixth Schedule,” *North-East Sun*, Vol. 6, No. 20, 15-31 May 2001.

Autonomous District Council Bill 2000 by the Manipur Legislative Assembly on 27 July 2000, the issue of such an extension is considered remote. The Bill impressive though (it is) to even hoodwink the HAC members who accepted *in toto* in enlarging the composition of the ADCs to 26 members with 2 nominated members<sup>122</sup> and in giving expansive powers under section 22 of the Bill<sup>123</sup> fail to give the much needed legislative and judicial function and is considered “a second BLUFF to the tribals of Manipur.”<sup>124</sup>

The recent crisis of June 2001 brought about by the Indo-Naga Ceasefire extension without “territorial limits” and the concomitant Meitei backlash brings into sharp focus the *ought to be* status of the Hill areas of Manipur. The strong recommendation for extension of the provisions of the Sixth Schedule by invoking and involving the traditional tribal institutions of the various tribes of the Hill areas of Manipur by the National Commission to Review the Working of the Constitution<sup>125</sup> comes as a reassurance to the people the imperatives of protecting and preserving the distinct and unique tribal culture and institutions.

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<sup>122</sup> For details see Report of the Hill Areas committee of the Manipur Legislative Assembly on “The Manipur Hill Areas Autonomous District Council Bill, 2000” (Presented to the Seventh Manipur Legislative Assembly on 25 July 2000).

<sup>123</sup> The powers delineated in this Bill are more expansive than the 1971 Act. For example, the ADCs are empowered to look after not only primary education but also secondary education besides adult and non-formal education.

<sup>124</sup> See “For 6th Schedule in Manipur,” *op. cit.*

<sup>125</sup> See National Commission to Review the Working of the Constitution, “A Consultation Paper on Empowering and Strengthening of Panchayati Raj Institutions/Autonomous District Councils/Traditional tribal governing institutions in North East India (New Delhi: Vigyan Bhawan Annexe: December 2001), p. 42.



## CHAPTER IV

### ECONOMIC AND FINANCIAL DIMENSIONS OF SPECIAL STATUS

It is a truism that there is no theory of “equality of rights” underlying the federal scheme of the Indian Constitution. This is a natural corollary to the *bouquet approach*<sup>1</sup> adopted in place of the *melting-pot approach*.<sup>2</sup> The conspicuous absence of such a theoretical framework also stems from the fact that Indian federalism is not the outcome of any agreement between states.<sup>3</sup> It inevitably follows that the tensions and dissatisfaction emanating from these inequalities is bound to have a corrosive impact on the federal scheme of the Indian Constitution. This is crucial for a federal system like India marked by what Francine Frankel calls “asymmetrical obligations among unequals.”<sup>4</sup>

The imponderable issue of “asymmetrical obligations among unequals” is meticulously fitted into the ideational premise<sup>5</sup> of the Indian Constitution i.e., “a national unity with rights and autonomy for the states” which have far reaching implications for a federal system enmeshed in two types of imbalances, viz., vertical and horizontal imbalances.

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<sup>1</sup> The term “bouquet approach” is used by Rasheeduddin Khan in his book, *Federal India: A Design for Change* (New Delhi: Vikas, 1992), p. 30 to refer to an approach that recognizes diversities under one overarching unified structure. Hence the term “bouquet” –exhibiting diverse flowers each within its own individuality yet tied together as a single whole.

<sup>2</sup> The “melting-pot approach,” as the name indicates, seeks to subserve the various contesting sub-identities under the overarching concept of “nationhood.” The concept of “nation” is considered paramount for a federal system to flourish because it is opined that only with the prevalence of such a concept, the integration of sub-nationalities or identities is feasible. In a way the so-called sub-nationalities or identities melt away to give way to the “Nation” to flourish.

<sup>3</sup> D.D. Basu, *Introduction to the Constitution of India*, (New Delhi: Prentice Hall, 1998), p. 56.

<sup>4</sup> Francine Frankel and M.S.A. Rao (eds.), *Dominance and State Power in Modern India*, Vol. I (Delhi: OUP, 1989), p. 1, quoted in Arora, Balveer, “Adapting Federalism to India: Multilevel and Asymmetrical Innovations,” in Balveer Arora and Douglas V. Verney (eds.), *Multiple Identities in a Single State: Indian Federalism in Comparative Perspective* (New Delhi: Konark, 1995), p. 72.

<sup>5</sup> The term “ideational premise” is eloquently enunciated by Iqbal Narain in his write up, “A Framework for Studying Federalism in India,” in Tarun Chandra Bose (ed.), *Indian Federalism: Problems and Issues* (New Delhi: K.P. Bagchi, 1987), p. 22.

Vertical imbalances occur when constitutionally assigned federal and unit/state government revenues do not match their constitutionally assigned expenditure responsibilities.<sup>6</sup> On the other hand, horizontal imbalances occur when the revenue capacities of different constituent units vary so that they are not able to provide their citizens with services at the same level on the basis of comparable tax levels.<sup>7</sup> In order to correct these imbalances most federations have arrangements for financial transfers from one level of government to another. In doing so, the Indian Constitution guarantees various special financial regimes vis-à-vis the North-East under Article 275, Special Category States' Status and various sections of the Income Tax Act, 1961. The creation of the North-Eastern Council by a Central Act of 1971 and various special financial packages announced from time to time since P.V. Narasimha Rao Congress-I led government (1991-96) help maintain and consolidate the special status occupies by the North-East in Indian federalism.

In this chapter we shall explore the extent of the economic and financial dimensions of special status accruing to the North-East with the help of relevant data and documents available on the subject.

### **A. Special Economic and Financial Regime under Article 275 (1), “Special Category States” Status and Other Related Laws**

Till the late nineteen sixties, the accepted norm of conferring statehood<sup>8</sup> was that even when other conditions were satisfied, the territory in question must also have the revenue resources to meet its administrative and non-developmental expenditure. However, this criterion was given up in the reorganization of the North-Eastern States.<sup>9</sup> Starting with

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<sup>6</sup> Ronald L. Watts, *Comparing Federal Systems* (Kingston: Queens University Press, 2nd Edition, 1999), p. 45.

<sup>7</sup> *ibid.*, p. 46.

<sup>8</sup> For details see *Report of the States Reorganization Commission*, 1955.

<sup>9</sup> Singh, L.P., “National Policy for the North-East Region” in Upendra Baxi, Alice Jacob and Tarlok Singh (eds.), *Reconstructing the Republic* (New Delhi: Har Anand, 1999), p. 400.

Nagaland in 1963 and ending with Arunachal Pradesh becoming a state in 1987, a region with just 2.55 lacs sq. kms (about 8 percent of the country's geographical area) and roughly 4 percent of its population had been parceled into seven states just "to fulfill the ethnic, political and cultural aspirations of the people."<sup>10</sup> This calls for prudent rectification both at the economic and financial fronts that the Indian government has formulated from time to time.<sup>11</sup>

### Special Financial Regime under Article 275 (1)

Article 275 (1) provides for discriminatory grants-in-aid to different states on the basis of their need. Such a grant, to be determined by the President's order via clause 2 of the same Article after considering the recommendation of Finance Commission appointed by the President on a quinquennial basis under Article 280 (3) (b), would not be considered unconstitutional, for grants to financially weak states cannot but be discriminatory in nature.<sup>12</sup> Such grants are needed by the states for meeting their normal revenue gaps and for removing inter-state disparities.<sup>13</sup> In other words, the grants-in-aid regime is a pronged strategy to correct both vertical and horizontal imbalances, which, according to Ronald L. Watts,<sup>14</sup> have a "corrosive effect on cohesion within a federation."

It is in line with this thinking that Article 275 (1) (a) & (b) is incorporated in the Indian Constitution to help the backward tribal areas of the composite state of Assam<sup>15</sup> through a favorable grants-in-aid regime. The clause reads:

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<sup>10</sup> Gulshan Sachdeva, *Economy of the North-East* (New Delhi: Konark, 2000), p. 60.

<sup>11</sup> Sachdeva, Gulshan, "India's North-East: Rejuvenating a Conflict Ridden Economy," in K.P.S. Gill and Ajai Sahni (eds.), *Faultlines*, Vol. 6 (New Delhi: Bulwark, 2000), p. 82.

<sup>12</sup> D.D. Basu, *Commentary on the Constitution of India*, Vol. 5 (Calcutta: S.C. Sankar and Sons, 1968), p. 305.

<sup>13</sup> H.L. Bhatia, *Public Finance* (New Delhi: Vikas, Reprint, 1999), p. 379.

<sup>14</sup> Ronald L. Watts, *op. cit.*, p. 51.

<sup>15</sup> The composite state of Assam consists of the present states of Assam, Meghalaya, Mizoram and Nagaland. The chronic financial deficiency of the tribal states and the need for central subvention had been clearly noted by the Bordoloi Committee Report. See the "Bordoloi

“... there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the state of Assam, sums, capital and recurring, equivalent to:

- (a) the average excess of expenditure over the revenues during the two years immediately preceding the commencement of this Constitution in respect of the administration of the tribal areas specified in [Part I]\* of the table appended to paragraph 20\*\* of the Sixth Schedule; and
- (b) the costs 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 of the level of administration of the said areas to that of the administration of the rest of the areas of the state.”<sup>16</sup>

\*Substituted by the North-Eastern Areas (Reorganization) Act, 1971 (81 of 1971), sec. 71, for “Part A” (w.e.f. 21 January 1972)

\*\*The areas specified in Part I of the Table appended to paragraph 20 of the Sixth Schedule are: the North Cachar Hills District and the Karbi Anglong District of present Assam.

Under this scheme, the composite state of Assam was receiving a sum of Rs.40 lacs that has been reduced to Rs.13 lacs following the reorganization of the state.<sup>17</sup> Moreover, with the creation of the autonomous state of Meghalaya in 1969, clause 1A was inserted into Article 275 by the Constitution (Twenty-Second Amendment) Act, 1969, Sec. 3 which states:

“On and from the formation of the autonomous state under Article 244:

- (i) any sum payable under clause (a) of the second proviso to clause (1) shall, if the autonomous state therein, be paid to the autonomous state, and, if the autonomous

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Committee Report,” in B. Shiva Rao, *Framing of India's Constitution*, Vol. III (New Delhi: IIPA, 1967), p. 700.

<sup>16</sup> P.M. Bakshi, *The Constitution of India* (Delhi: Universal, 2000), p. 239.

<sup>17</sup> See Government of Assam's “Replies to Questionnaire,” in *Report of the Commission on Centre-State Relations*, Part II (Nasik: Government of India, 1987), p. 77.

state comprises only some of those tribal areas, be apportioned between the state of Assam and the autonomous state as the President may, by order, specify;

(ii) there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the autonomous state, sums, capital and recurring, equivalent to the costs of such schemes of development as may be undertaken by the autonomous state with the approval of the Government of India for the purpose of raising the level of administration of that state to that of the administration of the rest of the state of Assam.”<sup>18</sup>

There are two striking features encapsulated by this Article. Firstly, the grants-in-aid provided under it is meant for bearing the cost of developmental administration of these predominantly tribal areas. Secondly, these are strictly discretionary grants that the Government of India may fix from time to time.

It is important at this stage to note the principles governing grants-in-aid to states of the Indian Union. Article 280 (3) (b)<sup>19</sup> of the Constitution requires the Finance Commission to determine the principles which should govern the grants-in-aid of the revenues of the states out of the Consolidated Fund of India.

Historically speaking, the most important factor governing grants-in-aid has been the deficient resources of the states “at a time when the impact of a rapidly changing economic situation created large and insistent demands for new governmental services.”<sup>20</sup> The fact that the existing scheme of fiscal transfer from the Centre to states is marked by the prevalence of a parallel assessment of needs of the states by the Finance Commission and the Planning Commission opens the possibility of overlapping, not envisaged by the framers of the Constitution. Such an overlapping situation is sought to be rectified by a distinction between

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<sup>18</sup> *ibid.*

<sup>19</sup> *ibid.*, p. 241.

<sup>20</sup> D.D. Basu, *op. cit.*, p. 288.

plan and non-plan revenue account.<sup>21</sup> While the Finance Commission confines itself to tax sharing and grants-in-aid covering non-plan revenue account of the states, plan assistance is channelized through the Planning Commission in the shape of loans and grants.<sup>22</sup>

Coming back to grants-in-aid, the principles that should govern them have been clearly enunciated by the First Finance Commission in 1952. According to these, eligibility of a state to receive grants-in-aid and its quantum should be on the basis of fiscal need derived by appropriately modifying budgetary needs in the light of the factors such as tax effort and economy in expenditure.<sup>23</sup> Besides, the grants should also serve the purpose of equalizing standards of basic social services, help the states to meet special burdens of national concern and to augment services of primary importance in the less developed states in the national interest. Although that Commission laid down these guidelines, when actually making the recommendations, it largely went by budgetary needs and factors such as tax effort and expenditure economy were not taken into account.<sup>24</sup> It is this lurking fear of financial indiscipline that promoted states like Gujarat to suggest that no grants-in-aid be made to cover post post-devolution revenue gaps.<sup>25</sup> In the ultimate analysis, what come to be accepted by all the Finance Commissions is that the grants-in-aid may be given to the states to cover the assessed deficit on non-plan revenue account after devolution of taxes and duties.<sup>26</sup>

Let us now examine this general principle vis-à-vis the North-East from the following table.

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<sup>21</sup> See Government of Manipur's "Replies to Questionnaire," in *Report of the Commission on Centre-State Relations, op. cit.*, p. 367.

<sup>22</sup> *ibid.*

<sup>23</sup> See, "Grants-in-Aid" in the *First Report of the Ninth Finance Commission* (for 1989-90), July 1988, p. 48.

<sup>24</sup> *ibid.*, p. 49.

<sup>25</sup> This idea was put forward by Gujarat before the Tenth Finance Commission (1995-2000). See "Grants-in-Aid" in *Report of the Tenth Finance Commission* (1995-2000), p. 49.

<sup>26</sup> See "Grants-in-Aid" in the *Report of the Eleventh Finance Commission* (for 2000-05), June 2000, p. 95.

**Table 5**  
**Net non-plan revenue deficit/surplus of North-Eastern states after devolution of taxes and duties (1990-2005)**

Sl. No	State	1990-95	1995-2000#	2000-05
1.	Arunachal Pradesh	302.79	25.60	1228.02
2.	Assam	560.32	35.67	2975.62
3.	Manipur	371.65	28.21	1744.94
4.	Meghalaya	265.18	23.54	1572.38
5.	Mizoram	379.79	27.16	1676.30
6.	Nagaland	458.67	46.17	3536.24
7.	Tripura	466.01	38.74	2414.16
Total		2804.41	225.09	12172.04
All India		6016.35	91600.19	35359.07
% share of NE states to all India		46.61	0.25	34.42

(figures given are in rupees crores)

# Shows surplus

Source: 1. *Second Report of the Ninth Finance Commission* (for 1990-95), December 1989, p. 27.  
2. *Report of the Tenth Finance Commission* (1995-2000), December 1994, p. 52.  
3. *Report of the Eleventh Finance Commission* (2000-05), June 2000, pp. 96-97.

**Table 6**  
**Net non-plan revenue grants to North-Eastern states, 1995-2005**

Sl.No	State	1990-95	1995-2000	2000-05
1.	Arunachal Pradesh	302.79	307.60	1228.02
2.	Assam	874.23	712.03	110.68
3.	Manipur	371.65	350.92	1744.94
4.	Meghalaya	256.18	316.42	1572.38
5.	Mizoram	379.79	331.19	1676.30
6.	Nagaland	458.67	529.78	3536.24
7.	Tripura	466.01	488.78	2414.16
Total		3109.32	3036.72	12282.72
All India		15017.18	7582.68	35359.07
Percentage of Sl. No. 8 to Sl. No. 9		20.71	40.05	34.74

(figures given are in rupees crores)

Source: 1. *Second Report of the Ninth Finance Commission* (for 1990-95), December 1989, p. 29.  
2. *Report of the Tenth Finance Commission* (1995-2000), December 1994, p. 51.  
3. *Report of the Eleventh Finance Commission* (for 2000-05), June 2000, p. 97.

From Table 5 it is clear that except for the period 1995-2000 wherein all the North-Eastern states maintain marginal post-devolution surplus of course in tune with the all-India performance, there is a huge post-devolution deficit in the period 1990-95 and 2000-05 respectively contributing for a whopping 46.61 and 34.42 percent to the all-India average. There is an exception here. Assam manages to maintain a huge surplus of Rs.2975.62 crores even as all the other North-Eastern states are reeling under huge post-devolution deficit in the period 2000-05.

It is significant that Assam continues to receive huge non-plan revenue grants more than sufficient to cover up its post-devolution non-plan deficits as clearly indicated by Table 6. It is also striking that despite maintaining post-devolution surplus, North-east received huge non-plan revenue grants in the ratio of 1:13 when compared to the all-India average share in the period 1995-2000. In other words, the North-East receives thirteen times the post-devolution surplus grants received by other states of the Union. In the remaining period, however, the non-plan revenue grants exactly correspond to the post-devolution revenue deficits except for Assam.

By now it is clear that the principles governing grants-in-aid delineated from time to time by subsequent Finance Commissions seem to go well as far as the North-East is concerned. It must be noted here that grants-in-aid constitute just a part of the federal scheme to correct both horizontal and vertical imbalances. This is so because Indian federalism evolves certain modes of transfer and devolution of resources from the center to states to rectify these imbalances that essentially follows through three channels, viz.,

- (i) Statutory transfer (comprising tax sharing and grants-in-aid) through the Finance Commission recommendations.
- (ii) Plan grants through the Planning Commission guidelines; and



- (iii) Discretionary grants through central ministries, primarily centrally sponsored schemes.<sup>27</sup>

There are practical difficulties, as the Ninth Finance Commission has pointed out, to follow the same methodology and assess both the non-plan and plan revenue expenditure of the North-Eastern states in line with the rest of the country<sup>28</sup> crucial for determining the mode of devolution and transfer of resources from the center. In fact, their problems and stage of development are such that even for the limited purpose of evolving a total financing scheme for the revenue account, it will not be safe to apply a general formula.<sup>29</sup> This is highlighted by the Gadgil Formula prepared in the Fourth Five Year Plan to determine the basis for the transfer of financial assistance to the states which work out the modalities as:<sup>30</sup>

**Table 7**  
**Weightage for Financial Assistance under Gadgil Formula**

Sl. No.	Bases	Weightage in %
1.	Population of the State	60
2.	Per Capita Income	10
3.	Tax Efforts	10
4.	Ongoing Irrigation & Power Projects	10
5.	Special Problems	10
	Total	100

If the Gadgil Formula were to be applied to the North-Eastern states they would be at a disadvantage because of their small population and also because of the incidence of poverty in these states compared to the more populous states of Bihar, U.P., Madhya Pradesh,

<sup>27</sup> Sachdeva, Gulshan, *op. cit.*, p. 62.

<sup>28</sup> "Grants-in-Aid," in *Second Report of the Ninth Finance Commission, op. cit.*, pp. 27-28.

<sup>29</sup> *ibid.*

<sup>30</sup> *Pratiyogita Darpan* (Extra Issue on Indian Economy) 2001, p. 135. The Gadgil Formula and the subsequent formulae worked out to determine the modalities of financial assistance such as the Formula formulated by the Mukherjee Committee set practical problems for the North-East which helplessly stands at a despicable state of affairs if these modalities are strictly followed upon.

Rajasthan and Andhra Pradesh.<sup>31</sup> It is striking to point out that the total (combined) population of the seven North-Eastern states i.e. 195.82 lacs (1971 census) is lower when compared with the population of Bihar (563.53 lacs), U.P. (883.41 lacs), Madhya Pradesh (416.54 lacs), Rajasthan (257.66 lacs) etc.<sup>32</sup> Apart from these, the North-Eastern states' performance in tax efforts for the period between 1990-99 is dismally poor as Tables 8.1-8.9 elucidates.

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<sup>31</sup> See "Annexure 1," in S.P. Shukla Commission Report, *Transforming the North-East* (New Delhi, 7 March 1997), p. 142.

<sup>32</sup> These calculations are computed from data provided in "Annexure V.2," in *Report of the Eleventh Finance Commission, op. cit.*, p. 218.

Table 8.1

Budgetary position of Arunachal Pradesh (1990-1999)

Heads	1990-91	1991-92	1992-93	1993-94*	1994-95	1995-96	1996-97	1997-98*	1998-99#
Total Revenue Receipts	358.22	545.72	503.18	546.42	598.01	753.77	808.97	881.49	871.53
Total Expenditure	258.14	287.53	340.13	398.88	435.65	507.27	602.23	677.01	671.22
Surplus/Deficit	100.08	158.19	163.05	147.54	162.36	246.5	206.74	204.48	200.27
Gross Devolution from the Centre	314.73	392.42	444.89	457.62	507.67	665.02	735.46	817.92	801.72
	<b>68.79</b>	<b>88.0</b>	<b>88.4</b>	<b>83.7</b>	<b>84.9</b>	<b>88.2</b>	<b>90.9</b>	<b>92.8</b>	<b>92.0</b>
Tax Revenue	84.73	101.51	120.37	121.53	139.19	132.21	187.58	266.86	306.19
	<b>23.65</b>	<b>22.77</b>	<b>23.92</b>	<b>22.24</b>	<b>23.28</b>	<b>17.54</b>	<b>23.19</b>	<b>30.27</b>	<b>35.13</b>
(i) Revenue from State's Taxes	2.65	4.09	4.45	3.63	7.42	7.67	8.53	9.21	9.88
	<b>0.74</b>	<b>0.92</b>	<b>0.88</b>	<b>0.66</b>	<b>0.24</b>	<b>1.02</b>	<b>1.05</b>	<b>1.04</b>	<b>1.13</b>
(ii) Share in Central Taxes	82.08	97.42	115.92	117.90	131.75	124.54	179.05	257.65	296.31
	<b>22.91</b>	<b>21.86</b>	<b>22.04</b>	<b>21.58</b>	<b>22.03</b>	<b>16.52</b>	<b>22.13</b>	<b>29.23</b>	<b>33.99</b>
Non Tax Revenue	273.49	344.21	382.81	424.89	458.84	621.56	621.39	614.63	565.34
	<b>76.35</b>	<b>77.23</b>	<b>76.08</b>	<b>77.76</b>	<b>76.72</b>	<b>82.46</b>	<b>76.81</b>	<b>69.73</b>	<b>64.87</b>
(i) Grants from the Centre	232.65	295.00	328.97	339.72	375.92	540.48	556.41	560.27	505.41
	<b>64.95</b>	<b>66.19</b>	<b>65.38</b>	<b>62.17</b>	<b>62.86</b>	<b>71.7</b>	<b>68.78</b>	<b>63.56</b>	<b>57.99</b>
(ii) Other Non-Tax Revenue	40.84	49.21	53.84	85.17	82.92	81.08	64.98	54.36	59.93
	<b>11.40</b>	<b>11.04</b>	<b>10.7</b>	<b>15.58</b>	<b>13.86</b>	<b>10.76</b>	<b>8.03</b>	<b>6.17</b>	<b>6.88</b>

Heads	1990-91	1991-92	1992-93	1993-94	1994-95*	1995-96	1996-97	1997-98*	1998-99#
Total Expenditure	258.14	287.53	340.13	398.88	435.65	507.27	602.23	677.01	671.26
Developmental Expenditure	180.17	203.43	244.94	296.65	306.97	366.00	434.98	476.81	481.22
	<b>69.8</b>	<b>70.8</b>	<b>72.0</b>	<b>74.4</b>	<b>70.5</b>	<b>72.2</b>	<b>72.2</b>	<b>70.4</b>	<b>71.7</b>
(i) Social Services	74.83	86.96	106.75	112.83	127.44	156.60	200.05	217.79	205.46
	<b>29.0</b>	<b>30.2</b>	<b>31.4</b>	<b>28.3</b>	<b>29.3</b>	<b>30.9</b>	<b>33.2</b>	<b>32.2</b>	<b>30.6</b>
(ii) Economic Services	105.34	116.47	138.19	183.82	179.53	209.40	234.93	259.02	275.76
	<b>40.8</b>	<b>40.6</b>	<b>40.6</b>	<b>46.1</b>	<b>41.2</b>	<b>41.3</b>	<b>39.0</b>	<b>38.2</b>	<b>41.0</b>
Non-Developmental Expenditure	77.97	84.10	95.19	102.23	128.68	141.27	167.25	200.20	190.04
	<b>30.2</b>	<b>29.2</b>	<b>28.0</b>	<b>25.6</b>	<b>29.5</b>	<b>27.8</b>	<b>27.8</b>	<b>29.6</b>	<b>28.3</b>
Compensation and Assignments to Local Bodies									

\*Revised Estimate #Budget Estimate  
Source: Various RBI Publications

**Table 8.2**

**Budgetary Position of Assam (1990-1999)**

Heads	1990-91	1991-92	1992-93	1993-94*	1994-95	1995-96	1996-97	1997-98*	1998-99#
Total Revenue Receipts	1776.65	2417.66	2613.23	3317.46	3315.00	3375.74	3855.81	4721.43	5120.91
Total Expenditure	1920.40	2148.10	2450.93	2901.18	3241.88	3575.76	3571.30	4759.39	5481.92
Surplus/Deficit	-143.75	-269.56	162.3	416.28	73.12	-200.02	284.51	-37.96	-361.01
Gross Devolution from the Centre	1078.98	1642.98	1635.01	2355.66	2275.44	2337.69	2766.78	3391.89	3608.91
	60.7	68.0	62.6	71.0	68.6	69.2	71.8	71.8	70.5
Tax Revenue	907.78	1043.08	1107.55	1390.19	1482.59	1615.94	1942.46	2380.10	2753.35
	51.1	43.1	42.4	41.9	44.7	47.9	50.4	50.4	53.8
(i) Revenue from State's Taxes	420.14	512.17	517.71	612.81	664.78	702.45	766.90	965.03	1126.02
	23.7	21.2	19.8	18.5	20.1	20.8	19.9	20.4	22.0
(ii) Share in Central Taxes	487.64	530.91	589.84	777.38	817.81	913.49	1175.56	1415.07	1627.33
	27.4	21.9	22.6	23.4	24.6	27.1	30.5	30.0	31.8
Non Tax Revenue	868.87	1374.58	15.5.68	1927.27	1832.41	1759.80	1913.35	2341.33	2367.56
	48.9	56.9	57.6	58.1	55.3	52.1	49.6	49.5	46.2
(i) Grants from the Centre	591.34	1112.07	1045.17	1578.28	1457.63	1424.20	1591.22	1976.82	1981.58
	33.3	46.0	40.0	47.6	44.0	42.1	41.3	41.9	38.7
(ii) Other Non-Tax Revenue	277.53	262.51	460.51	348.99	374.78	335.60	322.13	364.51	385.98
	15.6	10.9	17.6	10.5	11.3	10.0	8.3	7.7	7.5

Heads	1990-91	1991-92	1992-93	1993-94	1994-95*	1995-96	1996-97	1997-98*	1998-99#
Total Expenditure	1920.40	2148.10	2450.93	2901.18	3241.88	3575.76	3571.30	4759.39	5481.92
Developmental Expenditure	1316.65	1604.61	1578.89	1854.65	2087.13	2344.85	2250.84	3024.05	3504.62
	68.6	74.7	64.4	63.9	64.4	65.6	63.0	63.5	63.9
(i) Social Services	781.85	951.11	985.25	1215.64	1244.90	1456.74	1553.33	2021.27	2400.25
	40.7	44.3	40.2	41.9	38.4	40.7	43.5	42.5	43.8
(ii) Economic Services	534.80	653.50	593.64	639.01	842.23	888.11	697.51	1002.78	1104.37
	27.9	30.4	24.2	22.0	26.0	24.9	19.5	21.0	20.1
Non-Developmental Expenditure	595.83	534.99	865.65	1037.05	1142.64	1221.35	1316.39	1723.08	1964.84
	31.0	24.9	35.3	35.7	35.2	34.2	36.9	36.2	35.8
Compensation and Assignments to Local Bodies	7.92	8.50	6.39	9.48	12.11	9.56	4.07	12.26	12.46
	0.4	0.4	0.3	0.4	0.4	0.2	0.1	0.3	0.3

\*Revised Estimate

#Budget Estimate

Source: Various RBI Publications

Table 8.3

## Budgetary position of Manipur (1990-1999)

Heads	1990-91	1991-92	1992-93	1993-94*	1994-95	1995-96	1996-97	1997-98*	1998-99#
Total Revenue Receipts	395.70	450.79	479.97	578.52	580.80	691.68	808.12	906.87	938.42
Total Expenditure	307.16	377.50	397.81	437.66	520.76	618.77	708.17	814.14	900.20
Surplus/Deficit	88.54	73.29	82.16	140.86	60.04	72.91	99.95	92.73	38.22
Gross Devolution from the Centre	354.91	414.7	442.82	532.03	508.23	618.29	734.77	792.42	796.73
	89.7	92.0	92.3	92.0	87.5	89.4	90.9	87.4	84.9
Tax Revenue	129.14	146.99	173.64	180.02	205.47	193.71	246.05	361.74	417.12
	32.6	32.6	36.2	31.1	35.4	28.0	30.4	39.9	44.4
(i) Revenue from State's Taxes	17.14	14.35	15.32	18.52	24.69	27.90	14.20	38.84	45.78
	4.3	3.2	3.2	3.2	4.3	4.0	1.8	4.3	4.9
(ii) Share in Central Taxes	112.00	132.64	158.32	161.50	180.78	165.81	231.85	322.90	371.34
	28.3	29.4	33.0	27.9	31.1	24.0	28.6	35.6	39.5
Non Tax Revenue	266.56	303.80	306.33	398.50	375.33	497.97	562.07	545.13	521.30
	67.4	67.4	63.8	68.9	64.6	72.0	69.6	60.1	55.6
(i) Grants from the Centre	242.91	282.06	284.50	370.53	327.45	452.48	502.07	545.13	521.30
	61.4	62.6	59.3	64.0	56.4	65.4	62.2	51.8	45.3
(ii) Other Non-Tax Revenue	23.65	21.74	21.83	27.97	47.88	45.49	59.15	75.61	95.91
	6.0	4.8	4.5	4.9	8.2	6.6	7.4	8.3	10.3

Heads	1990-91	1991-92	1992-93	1993-94	1994-95*	1995-96	1996-97	1997-98*	1998-99#
Total Expenditure	307.16	377.50	397.81	437.66	520.76	618.77	708.17	814.14	900.20
Developmental Expenditure	208.88	251.68	262.01	282.52	331.67	409.33	468.37	526.39	585.93
	68.0	66.7	65.9	64.6	63.7	66.2	66.1	64.7	65.1
(i) Social Services	118.44	153.34	166.69	171.53	204.49	238.52	275.09	308.25	333.79
	38.6	40.6	41.9	39.2	39.3	38.5	38.8	37.9	37.1
(ii) Economic Services	90.44	98.34	95.32	110.99	127.18	170.81	193.28	218.14	252.14
	29.4	26.1	24.0	25.4	24.4	27.7	27.3	26.8	28.0
Non-Developmental Expenditure	98.28	125.82	135.80	155.14	189.09	209.44	239.80	287.75	314.27
	32.0	33.3	34.1	35.4	36.3	33.8	33.9	35.3	34.9
Compensation and Assignments to Local Bodies									

\*Revised Estimate

#Budget Estimate

Source: Various RBI Publications

**Table 8.4**

**Budgetary position of Meghalaya (1990-1999)**

Heads	1990-91	1991-92	1992-93	1993-94*	1994-95	1995-96	1996-97	1997-98*	1998-99#
Total Revenue	352.97	403.68	428.50	500.79	588.42	683.89	730.46	945.45	961.86
Receipts									
Total Expenditure	310.77	368.05	410.29	482.85	552.65	580.39	616.96	890.38	910.92
Surplus/Deficit	42.2	35.63	18.21	17.94	35.77	103.5	113.5	55.07	50.94
Gross Devolution from the Centre	298.25	338.52	366.24	424.46	502.78	550.71	605.62	806.03	804.65
	84.5	83.9	85.5	84.8	85.4	80.5	82.9	85.3	83.7
Tax Revenue	116.37	147.81	169.82	175.76	207.03	225.97	294.94	379.95	435.31
	33.0	36.6	39.6	35.1	35.2	33.0	40.4	40.2	45.3
(i) Revenue from State's Taxes	36.01	42.54	44.18	47.93	64.15	66.26	77.37	83.45	94.33
	10.2	10.5	10.3	9.6	10.9	9.7	10.6	8.8	9.8
(ii) Share in Central Taxes	80.36	105.27	125.64	127.83	142.88	159.71	217.57	296.50	340.98
	22.8	26.1	29.3	25.5	24.3	23.3	29.8	31.4	35.5
Non Tax Revenue	236.60	255.87	258.68	325.03	381.39	457.92	435.52	565.50	526.55
	67.0	63.4	60.4	64.9	64.8	67.0	59.6	59.8	54.7
(i) Grants from the Centre	217.89	233.25	240.60	296.63	359.90	391.00	388.05	509.53	463.67
	61.7	57.8	56.1	59.2	61.2	57.2	53.1	53.9	48.2
(ii) Other Non-Tax Revenue	18.71	22.62	18.08	28.40	21.49	66.92	47.47	55.97	62.88
	5.3	5.6	4.3	5.7	3.6	9.8	6.5	5.9	6.5

Heads	1990-91	1991-92	1992-93	1993-94	1994-95*	1995-96	1996-97	1997-98*	1998-99#
Total Expenditure	310.77	368.05	410.29	482.85	552.65	580.39	616.96	890.38	910.92
Developmental Expenditure	223.67	264.59	287.95	335.93	389.32	394.01	413.36	617.58	617.67
	72.0	71.9	70.2	69.6	70.4	67.9	67.0	69.4	67.8
(i) Social Services	114.27	136.95	149.15	181.45	197.59	212.28	227.26	347.70	359.90
	36.8	37.2	36.4	37.6	35.8	36.6	36.8	39.1	39.5
(ii) Economic Services	109.40	127.64	138.80	154.48	191.73	181.73	186.10	269.88	257.77
	35.2	34.7	33.8	32.0	34.6	31.3	30.2	30.3	28.3
Non-Developmental Expenditure	87.10	103.46	122.34	146.92	163.33	186.38	203.60	272.80	293.25
	28.0	28.1	29.8	30.4	29.6	32.1	33.0	30.6	32.2
Compensation and Assignments to Local Bodies									

\*Revised Estimate

#Budget Estimate

Source: Various RBI Publications

**Table 8.5**

**Budgetary position of Mizoram (1990-1999)**

Heads	1990-91	1991-92	1992-93	1993-94*	1994-95	1995-96	1996-97	1997-98*	1998-99#
Total Revenue Receipts	461.92	400.03	421.37	502.68	518.56	627.37	667.57	797.87	661.67
Total Expenditure	304.83	321.07	374.10	418.80	487.78	565.07	620.63	681.20	640.09
Surplus/Deficit	157.09	78.96	47.27	83.88	30.78	62.3	46.94	116.67	21.58
Gross Devolution from the Centre	325.63	366.69	385.6	466.81	484.69	575.73	614.48	751.76	617.00
	<b>48.9</b>	<b>62.2</b>	<b>58.0</b>	<b>64.5</b>	<b>63.0</b>	<b>72.1</b>	<b>64.8</b>	<b>61.2</b>	<b>46.9</b>
Tax Revenue	103.13	121.31	145.73	147.21	162.16	129.45	188.45	270.78	314.87
	<b>22.3</b>	<b>30.3</b>	<b>34.6</b>	<b>29.3</b>	<b>31.3</b>	<b>20.6</b>	<b>28.2</b>	<b>33.9</b>	<b>47.6</b>
(i) Revenue from State's Taxes	3.43	3.34	4.45	4.65	4.01	5.78	6.67	7.34	7.89
	<b>0.7</b>	<b>0.8</b>	<b>1.1</b>	<b>0.9</b>	<b>0.8</b>	<b>0.9</b>	<b>1.0</b>	<b>0.9</b>	<b>1.2</b>
(ii) Share in Central Taxes	99.70	117.97	141.28	142.56	158.15	123.67	181.78	263.44	306.98
	<b>21.6</b>	<b>29.5</b>	<b>33.5</b>	<b>28.4</b>	<b>30.5</b>	<b>19.7</b>	<b>27.2</b>	<b>33.0</b>	<b>46.4</b>
Non Tax Revenue	358.79	278.72	275.64	355.47	356.40	497.92	479.12	527.09	346.80
	<b>77.7</b>	<b>69.7</b>	<b>65.4</b>	<b>70.7</b>	<b>68.7</b>	<b>79.4</b>	<b>71.8</b>	<b>66.1</b>	<b>52.4</b>
(i) Grants from the Centre	225.93	248.72	244.32	324.25	326.54	452.06	432.70	488.32	310.02
	<b>48.9</b>	<b>62.2</b>	<b>58.0</b>	<b>64.5</b>	<b>63.0</b>	<b>72.1</b>	<b>64.8</b>	<b>61.2</b>	<b>46.9</b>
(ii) Other Non-Tax Revenue	132.86	30.00	31.32	31.22	29.86	45.86	46.42	38.77	36.78
	<b>28.8</b>	<b>7.5</b>	<b>7.4</b>	<b>6.2</b>	<b>5.7</b>	<b>7.3</b>	<b>7.0</b>	<b>4.9</b>	<b>5.5</b>

Heads	1990-91	1991-92	1992-93	1993-94	1994-95*	1995-96	1996-97	1997-98*	1998-99#
Total Expenditure	304.83	321.07	374.10	418.80	487.78	565.07	620.63	681.20	640.09
Developmental Expenditure	216.73	243.40	273.43	307.41	340.35	400.06	434.99	465.50	419.75
	<b>77.1</b>	<b>75.8</b>	<b>73.1</b>	<b>73.4</b>	<b>69.8</b>	<b>70.8</b>	<b>70.1</b>	<b>68.3</b>	<b>65.6</b>
(i) Social Services	96.60	107.98	120.79	141.65	156.05	194.26	229.11	242.65	222.78
	<b>31.7</b>	<b>33.6</b>	<b>32.3</b>	<b>33.8</b>	<b>32.0</b>	<b>34.4</b>	<b>36.9</b>	<b>35.6</b>	<b>34.8</b>
(ii) Economic Services	120.13	135.42	152.64	165.76	184.34	205.80	205.88	222.85	196.97
	<b>39.4</b>	<b>42.2</b>	<b>40.8</b>	<b>40.6</b>	<b>37.8</b>	<b>36.4</b>	<b>33.2</b>	<b>32.7</b>	<b>30.8</b>
Non-Developmental Expenditure	88.10	77.67	100.67	111.39	147.43	165.01	185.64	215.70	220.34
	<b>28.9</b>	<b>24.2</b>	<b>26.9</b>	<b>26.6</b>	<b>30.2</b>	<b>29.2</b>	<b>29.9</b>	<b>31.7</b>	<b>34.4</b>
Compensation and Assignments to Local Bodies									

\*Revised Estimate

#Budget Estimate

Source: Various RBI Publications.

**Table 8.6**

**Budgetary position of Nagaland (1990-1999)**

Heads	1990-91	1991-92	1992-93	1993-94*	1994-95	1995-96	1996-97	1997-98*	1998-99#
Total Revenue Receipts	416.69	495.05	514.20	632.44	630.96	781.08	873.98	1029.52	966.71
Total Expenditure	421.91	488.80	527.13	679.59	721.80	845.21	865.22	1004.08	863.38
Surplus/Deficit	-5.22	6.25	-12.93	-47.15	-90.84	-64.13	8.76	25.44	103.33
Gross Devolution from the Centre	372.49	449.46	469.59	590.27	543.8	726.18	801.59	952.45	890.54
	<b>89.4</b>	<b>90.8</b>	<b>91.3</b>	<b>93.3</b>	<b>86.2</b>	<b>93.0</b>	<b>91.7</b>	<b>92.5</b>	<b>92.1</b>
Tax Revenue	141.51	162.79	190.33	192.64	213.11	219.17	306.10	442.86	439.86
	<b>34.0</b>	<b>32.9</b>	<b>37.0</b>	<b>30.5</b>	<b>33.8</b>	<b>28.1</b>	<b>35.0</b>	<b>43.0</b>	<b>45.5</b>
(i) Revenue from State's Taxes	17.73	18.00	17.38	18.25	19.30	20.82	31.35	33.50	30.50
	<b>4.3</b>	<b>3.6</b>	<b>3.4</b>	<b>2.9</b>	<b>3.1</b>	<b>2.7</b>	<b>3.6</b>	<b>3.3</b>	<b>3.2</b>
(ii) Share in Central Taxes	123.78	144.79	172.95	174.39	193.81	198.37	274.75	409.36	409.36
	<b>29.7</b>	<b>29.3</b>	<b>33.6</b>	<b>27.6</b>	<b>30.7</b>	<b>25.4</b>	<b>31.4</b>	<b>39.7</b>	<b>42.3</b>
Non Tax Revenue	275.18	332.26	323.87	439.80	417.85	561.91	567.88	586.66	526.85
	<b>66.0</b>	<b>67.1</b>	<b>63.0</b>	<b>69.5</b>	<b>66.2</b>	<b>71.9</b>	<b>65.0</b>	<b>57.0</b>	<b>54.5</b>
(i) Grants from the Centre	248.71	304.67	296.64	415.88	349.99	527.81	526.84	543.09	481.18
	<b>59.7</b>	<b>61.5</b>	<b>57.7</b>	<b>65.8</b>	<b>55.5</b>	<b>67.6</b>	<b>60.3</b>	<b>52.8</b>	<b>49.8</b>
(ii) Other Non-Tax Revenue	26.47	27.59	27.23	23.92	67.86	34.10	41.04	43.57	45.67
	<b>6.3</b>	<b>5.6</b>	<b>5.3</b>	<b>3.7</b>	<b>10.7</b>	<b>4.3</b>	<b>4.7</b>	<b>4.2</b>	<b>4.7</b>

Heads	1990-91	1991-92	1992-93	1993-94	1994-95*	1995-96	1996-97	1997-98*	1998-99#
Total Expenditure	421.91	488.80	527.13	679.59	721.80	845.21	865.22	1004.08	863.38
Developmental Expenditure	272.48	311.50	334.79	399.80	418.09	507.41	497.21	584.64	477.55
	<b>64.6</b>	<b>63.7</b>	<b>63.5</b>	<b>58.8</b>	<b>57.9</b>	<b>60.0</b>	<b>57.5</b>	<b>58.2</b>	<b>55.3</b>
(i) Social Services	119.69	121.74	143.18	186.88	201.79	259.54	232.28	250.14	227.38
	<b>28.4</b>	<b>24.9</b>	<b>27.2</b>	<b>27.5</b>	<b>28.0</b>	<b>30.7</b>	<b>26.8</b>	<b>24.9</b>	<b>26.3</b>
(ii) Economic Services	152.79	189.76	191.61	212.92	216.30	247.87	264.93	334.50	250.17
	<b>36.2</b>	<b>38.8</b>	<b>36.3</b>	<b>31.3</b>	<b>29.9</b>	<b>29.3</b>	<b>30.7</b>	<b>33.3</b>	<b>29.0</b>
Non-Developmental Expenditure	149.43	177.30	192.34	279.79	303.71	337.80	368.01	419.44	385.83
	<b>35.4</b>	<b>36.3</b>	<b>36.5</b>	<b>41.2</b>	<b>42.1</b>	<b>40.0</b>	<b>42.5</b>	<b>41.8</b>	<b>44.7</b>
Compensation and Assignments to Local Bodies									

\*Revised Estimate

#Budget Estimate

Source: Various RBI Publications



**Table 8.7**

**Budgetary position of Tripura (1990-1999)**

Heads	1990-91	1991-92	1992-93	1993-94*	1994-95	1995-96	1996-97	1997-98*	1998-99#
Total Revenue Receipts	495.33	563.20	604.11	642.74	751.79	937.32	1028.92	1130.25	1277.04
Total Expenditure	497.03	547.65	550.13	642.99	709.56	786.63	907.16	1124.75	1351.52
Surplus/Deficit	-1.7	15.55	53.98	-0.25	42.23	150.69	121.76	5.5	-74.48
Gross Devolution from the Centre	451.02	516.58	549.02	580.49	681.09	850.81	927.76	1024.23	1172.92
	<b>91.05</b>	<b>91.72</b>	<b>90.88</b>	<b>90.31</b>	<b>90.59</b>	<b>90.77</b>	<b>90.16</b>	<b>90.62</b>	<b>91.85</b>
Tax Revenue	182.15	217.47	248.25	256.42	287.53	276.28	379.28	501.42	524.24
	<b>36.8</b>	<b>38.6</b>	<b>41.1</b>	<b>39.9</b>	<b>38.2</b>	<b>29.5</b>	<b>36.9</b>	<b>44.4</b>	<b>41.1</b>
(i) Revenue from State's Taxes	26.02	28.84	33.74	37.12	44.39	47.99	60.50	71.65	72.37
	<b>5.3</b>	<b>5.1</b>	<b>5.6</b>	<b>5.8</b>	<b>5.9</b>	<b>5.1</b>	<b>5.9</b>	<b>6.3</b>	<b>5.7</b>
(ii) Share in Central Taxes	156.13	188.63	214.51	219.30	243.14	228.29	318.78	429.77	451.87
	<b>31.5</b>	<b>33.5</b>	<b>35.5</b>	<b>34.1</b>	<b>32.3</b>	<b>24.4</b>	<b>31.0</b>	<b>38.1</b>	<b>35.4</b>
Non Tax Revenue	313.18	345.73	355.86	386.32	464.26	661.04	649.64	628.83	752.80
	<b>63.2</b>	<b>61.4</b>	<b>58.9</b>	<b>60.1</b>	<b>61.8</b>	<b>70.5</b>	<b>63.1</b>	<b>55.6</b>	<b>58.9</b>
(i) Grants from the Centre	294.89	327.95	334.51	361.19	437.95	622.52	608.98	594.46	721.05
	<b>59.5</b>	<b>58.2</b>	<b>55.4</b>	<b>56.2</b>	<b>58.3</b>	<b>66.4</b>	<b>59.2</b>	<b>52.6</b>	<b>56.5</b>
(ii) Other Non-Tax Revenue	18.29	17.78	21.35	25.13	26.31	38.52	40.66	34.37	31.75
	<b>3.7</b>	<b>3.2</b>	<b>3.5</b>	<b>3.9</b>	<b>3.5</b>	<b>4.1</b>	<b>3.9</b>	<b>3.0</b>	<b>2.4</b>

Heads	1990-91	1991-92	1992-93	1993-94	1994-95*	1995-96	1996-97	1997-98*	1998-99#
Total Expenditure	497.03	547.65	550.13	642.99	709.56	786.63	907.16	1124.75	1351.52
Developmental Expenditure	360.00	389.95	374.51	416.75	479.39	534.03	611.11	734.96	724.18
	<b>72.4</b>	<b>71.2</b>	<b>68.1</b>	<b>64.8</b>	<b>67.6</b>	<b>67.9</b>	<b>67.4</b>	<b>65.3</b>	<b>53.6</b>
(i) Social Services	212.25	228.25	225.79	256.39	275.23	304.15	373.71	418.95	427.12
	<b>42.7</b>	<b>41.7</b>	<b>41.4</b>	<b>39.9</b>	<b>38.8</b>	<b>39.9</b>	<b>41.2</b>	<b>37.2</b>	<b>31.6</b>
(ii) Economic Services	147.75	161.70	148.72	160.36	204.16	219.88	237.40	316.01	297.06
	<b>29.7</b>	<b>29.5</b>	<b>26.7</b>	<b>24.9</b>	<b>28.8</b>	<b>28.0</b>	<b>26.2</b>	<b>28.1</b>	<b>23.0</b>
Non-Developmental Expenditure	133.49	155.05	172.64	222.47	225.15	247.58	291.03	370.95	608.78
	<b>26.9</b>	<b>28.3</b>	<b>31.4</b>	<b>34.6</b>	<b>31.7</b>	<b>31.5</b>	<b>32.1</b>	<b>33.0</b>	<b>45.0</b>
Compensation and Assignments to Local Bodies	3.54	2.65	2.98	3.77	5.02	5.02	5.02	18.84	18.56
	<b>0.7</b>	<b>0.5</b>	<b>0.5</b>	<b>0.6</b>	<b>0.7</b>	<b>0.6</b>	<b>0.5</b>	<b>1.7</b>	<b>1.4</b>

\*Revised Estimate

#Budget Estimate

Source: Various RBI Publications

**Table 8.8**

**Budgetary position of Sikkim (1990-1999)**

Heads	1990-91	1991-92	1992-93	1993-94*	1994-95	1995-96	1996-97	1997-98*	1998-99#
Total Revenue Receipts	159.52	182.44	209.32	224.93	572.38	941.21	1157.59	1344.50	1402.84
Total Expenditure	128.15	155.09	179.73	188.91	536.05	881.19	1118.86	1301.32	1476.25
Surplus/Deficit	31.37	27.35	29.59	36.02	36.33	60.02	38.73	43.18	-73.41
Gross Devolution from the Centre	121.59	142.44	166.78	183.09	222.35	293.76	306.55	386.94	347015
	76.2	78.1	79.7	81.4	38.8	31.2	26.5	28.8	24.7
Tax Revenue	36.50	40.93	52.33	56.92	56.23	72.38	103.25	118.33	133.62
	22.9	22.4	25.0	25.3	9.8	7.7	8.9	8.8	9.5
(i) Revenue from State's Taxes	11.32	11.35	11.62	14.30	14.06	20.72	21.70	26.01	29.25
	7.1	6.2	5.6	6.4	2.5	2.2	1.9	1.9	2.1
(ii) Share in Central Taxes	25.18	29.58	40.71	42.62	42.17	51.66	81.55	92.32	104.37
	15.8	16.2	19.4	18.9	7.3	5.5	7.0	6.9	7.4
Non Tax Revenue	123.02	141.51	156.99	168.01	516.15	868.83	1054.34	1226.17	1269.22
	77.1	77.6	75.0	74.7	90.2	92.3	91.1	91.2	90.5
(i) Grants from the Centre	96.33	112.86	126.07	140.46	180.18	242.10	225.00	294.62	242.78
	60.4	61.9	60.2	62.4	31.5	25.7	19.4	21.9	17.3
(ii) Other Non-Tax Revenue	26.69	28.65	30.92	27.55	335.97	626.73	829.34	931.55	1026.44
	16.7	15.7	14.8	12.3	58.7	66.6	71.7	69.3	73.2

Heads	1990-91	1991-92	1992-93	1993-94	1994-95*	1995-96	1996-97	1997-98*	1998-99#
Total Expenditure	128.15	155.09	179.73	188.91	536.05	881.19	1118.86	1301.32	1476.25
Developmental Expenditure	98.52	117.62	134.27	134.92	165.22	215.34	242.85	306.94	339.36
	76.9	75.8	74.7	71.4	30.8	24.4	21.7	23.6	23.0
i) Social Services	42.89	52.37	60.43	63.06	75.71	105.51	124.92	153.02	184.09
	34.5	33.8	33.6	33.4	14.1	12.0	11.2	11.8	12.5
ii) Economic Services	55.63	65.25	73.84	71.86	89.51	109.83	117.93	153.92	155.27
	42.4	42.0	41.1	38.0	26.7	12.4	10.5	11.8	10.5
Non-Developmental Expenditure	29.63	37.47	45.46	53.99	370.83	665.85	876.01	994.38	1136.89
	23.1	24.2	25.3	28.6	69.2	75.6	78.3	76.4	77.0
Compensation and Assignments to Local Bodies									

\*Revised Estimate

#Budget Estimate

Source: Various RBI Publications

**Table 8.9**

**Budgetary position of all Indian states in average (1990-1999)**

Heads	1990-91	1991-92	1992-93	1993-94*	1994-95	1995-96	1996-97	1997-98*	1998-99#
Total Revenue	66466.78	80535.70	91091.13	105563.72	123301.56	136803.38	152836.38	177083.59	200237.73
Receipts									
Total Expenditure	71775.75	86186.45	96205.19	109376.19	131013.85	145003.93	168949.89	196719.09	228810.79
Surplus/Deficit	-5308.97	-5650.75	-5114.06	-3812.47	-7712.29	-8200.55	-16113.51	-19635.5	-28573.06
Gross Devolution from the Centre	26884.76	32073.54	38338.97	43570.82	47140.86	50043.44	58192.28	67791.43	75110.8
	40.4	39.8	42.1	41.3	38.2	36.6	38.1	38.3	37.5
Tax Revenue	44586.30	52603.91	60448.42	68818.89	79266.90	92912.83	106139.13	124998.05	144893.80
	67.1	65.3	66.4	65.2	64.3	67.9	69.4	70.6	72.4
(i) Revenue from State's Taxes	30344.83	35756.05	39868.28	46424.07	54416.83	63865.19	71101.52	84958.88	98214.89
	45.7	44.4	43.8	44.0	44.1	46.7	46.5	48.0	49.0
(ii) Share in Central Taxes	14241.47	16847.86	20580.14	22394.82	24850.07	29047.64	35037.61	40039.17	46678.91
	21.4	20.9	22.6	21.2	20.2	21.2	22.9	22.6	23.3
Non Tax Revenue	21880.48	27931.79	30642.71	36744.83	44034.66	43890.55	46697.25	42085.54	55343.93
	32.9	34.7	33.6	34.8	35.7	32.1	30.6	29.4	27.6
(i) Grants from the Centre	12643.29	15225.68	17758.83	21176.00	22290.79	20995.80	23154.67	27552.26	28431.89
	19.0	18.9	19.5	20.1	18.1	15.3	15.1	15.7	14.2
(ii) Other Non-Tax Revenue	9237.19	12706.11	12883.88	15568.83	21743.87	22894.75	23542.58	24333.28	26912.04
	13.9	15.8	14.1	14.7	13.6	16.8	15.5	13.7	13.4

Heads	1990-91	1991-92	1992-93	1993-94	1994-95*	1995-96	1996-97	1997-98*	1998-99#
Total Expenditure	71775.75	86186.45	96205.19	109376.19	131013.85	145003.93	168949.89	196719.09	228810.79
Developmental Expenditure	48854.71	57871.13	62555.58	70838.22	80238.90	89275.77	104973.55	119672.07	126915.68
	68.1	67.1	65.0	64.8	61.2	61.6	62.1	60.8	55.5
(i) Social Services	27962.29	31003.70	34493.70	38960.61	45614.73	53606.59	60257.24	72749.95	79621.63
	39.0	36.0	35.9	35.6	34.8	37.0	35.7	37.0	34.8
(ii) Economic Services	20892.42	26867.43	28061.88	31877.61	34624.17	35669.18	44716.31	46922.12	47294.05
	29.1	31.1	30.1	29.2	26.4	24.6	26.4	23.8	20.7
Non-Developmental Expenditure	22136.99	27315.40	32435.27	37366.71	49390.60	54197.43	62044.36	73876.12	98227.14
	30.8	31.7	33.7	34.2	37.7	37.4	36.7	37.6	42.9
Compensation and Assignments to Local Bodies	784.05	999.92	1214.34	1171.26	1384.35	1530.73	1931.98	3170.90	3667.97
	1.1	1.2	1.3	1.0	1.1	1.0	1.2	1.6	1.6

\*Revised Estimate

#Budget Estimate

Source: Various RBI Publications

A close analysis of the table shows that the tax revenue of most of the North-Eastern states hardly accounts for 5 percent of their respective revenue receipts. Tripura with 5.1 to 6.3 percent, Meghalaya with about 10 percent and Assam with 18.5 to 23.7 percent tax revenue receipts are the consolatory exception. When the performance of these states are compared with the national average of 43.8 to 49 percent, they just pale into insignificance. It is in the light of this that the North-Eastern states are kept outside the purview of the Gadgil Formula alongside Himachal Pradesh, Sikkim and Jammu and Kashmir and favorably placed under “Special Category States.”

### **Special Economic and Financial Regime under the Status of “Special Category States”**

The classification of the North-Eastern states alongside the aforementioned three states under “Special Category States” envisages special economic and financial regime. This is effectualized by the National Development Council that lays down a criterion for distribution of normal central assistance for state plans. According to this criterion, out of a given sum of Central Assistance for the state plans available in any particular year, the requirements of funding externally aided projects and special area programs like border areas, hill areas, NEC, tribal sub-plans, etc. is deducted as the first charge. Of the balance, 30 percent is earmarked for ten special category states leaving 70 percent for distribution among the non-special category states according to the Gadgil Formula.<sup>33</sup> The *inter se* distribution of this earmarked fund among the special category states is determined in the light of the previous plan size and special problems, needs and priorities of the state.<sup>34</sup> For a fuller appraisal of Central Assistance see Table 2 wherein the North-Eastern states minus Sikkim get a whopping Rs.53,260.63 crores as Central Assistance in the form of grants and share in central taxes between 1990-91 and 1998-99. It is remarkable to note that Central Assistance accounts for well above 85 percent of the total revenue receipts of the North-Eastern states.

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<sup>33</sup> S.P. Shukla Commission Report, *op. cit.*

<sup>34</sup> *ibid.*

Professor Gulshan Sachdeva, a renowned specialist on North-East economy, based his calculations on "State Finances" published by the Reserve Bank of India and put the gross and net devolution and transfer of resources to the North-East between 1990-91 and 1997-98 at Rs.50,299 crores and Rs.42,809 crores respectively as the following table indicates.<sup>35</sup>

**Table 9**  
**Devolution and transfer of resources to the North-East between 1990-91 and 1997-98**  
(In Rupees Crores)

Sl. No	State	Gross Devolution	Net Devolution
1.	Arunachal Pradesh	4600	4469
2.	Assam	21163	15637
3.	Manipur	4663	4374
4.	Meghalaya	4205	3869
5.	Mizoram	4071	3873
6.	Nagaland	5448	4846
7.	Tripura	6149	5741
	North-East	50299	42809

This has far reaching implications and places the North-East under a special economic and financial regime. This is further confirmed by the per capita assistance received by the North-Eastern states.<sup>36</sup> Against the national average of 1080 between the period 1992-93 and 1996-97, Arunachal Pradesh gets 36,237, Assam (3,161), Manipur(11,937), Meghalaya (11,051), Mizoram (32,567), Nagaland (23,177) and Tripura (8476). This is significant when compared with the backward states like Bihar which gets only 876, U.P. (789), Orissa (920) etc during the same period. For year-wise assessment see Table 10 below:

<sup>35</sup> Sachdeva, Gulshan, "Rejuvenating the North-Eastern Economy," *NE Newsletter*, Vol. 1, No. 2, December, 1998, p. 2.

<sup>36</sup> Gulshan Sachdeva, *Economy of the North-East, op. cit.*, pp. 78-79

**Table 10**  
**Per capita assistance during the Eight Plan period**

Sl. No	State	1992-93	1993-94	1994-95	1995-96	1996-97	Total
1.	Arunachal Pradesh	5291	5929	6557	8942	9518	36237
2.	Assam	517	579	614	673	778	3161
3.	Manipur	1805	1936	2315	2734	3147	11937
4.	Meghalaya	1708	1813	2340	2413	2777	11051
5.	Mizoram	4664	5346	6527	7786	8244	32567
6.	Nagaland	3185	3625	4901	5541	5925	23177
7.	Tripura	1356	1443	1614	1897	2166	8476
8.	Jammu & Kashmir	1562	1712	1618	2257	2605	9754
9.	Himachal Pradesh	803	963	1117	1449	1589	5921
10.	Sikkim	4686	5141	6427	8262	8970	33486
11.	Bihar	138	154	170	187	227	876
12.	U.P.	129	135	146	171	208	789
13.	Orissa	155	155	173	200	237	920
14.	West Bengal	96	105	118	140	199	658
	All India	170	184	206	238	282	1080

Source: Parliamentary Questions, 21 February 1997, cited in Gulshan Sachdeva, *Economy of the North-East, op. cit.*, pp. 78-79

Another peculiar position occupies by the North-East pertains to Plan Assistance, the terms and conditions of which are far more favorable than those applicable to the non-special category states.<sup>37</sup> Under this system, the grant-loan composition of the assistance is 90:10 whereas it is 30:70 for the non-special category states. Moreover, owing to the poor position of the special category states' own resources they are allowed to divert 20 percent of their plan allocation to meet non-plan expenditure requirements.<sup>38</sup>

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<sup>37</sup> *S.P. Shukla Commission Report, op. cit.*  
<sup>38</sup> *ibid.*

## **Special Economic and Financial Regime under Section 10 (26) and Section 80 IA of the Income Tax Act, 1961**

The North-East also enjoys special economic and financial regime under section 10 (26) and section 80 IA (substituted by the Finance act, 1999) of the Income Tax Act, 1961. Section 10 (26) of the Act exempts member of a Scheduled Tribe (ST) in the states of Nagaland, Manipur and Tripura or any ST defined in clause 25<sup>39</sup> of Article 366 of the Constitution any income which accrues or arises to him:

- (i) from any source in the area, state or union territories aforesaid, or
- (ii) by way of dividend or interest or securities.<sup>40</sup>

Such a preferential treatment is under clout as it tends to derail “equality before law” guaranteed under Article 14 of the Constitution. The matter came up in the *ITO vs. N. Takin Roy Rymbai Case* [1976, 103 ITR 82 (SC)]. In this case the Supreme Court clarifies this by stating that an exemption of income tax for the Scheduled Tribe cannot be considered discriminatory and does not offend Article 14 of the Constitution.<sup>41</sup>

Another aspect of the section that creates confusion pertains to the extent of its applicability. This is neatly defined by the Delhi High Court in *J. Lalhmingliana vs. Union of India Case* [1989, 44 taxman 327/177 ITR 24 (Delhi)] wherein it holds that income tax

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<sup>39</sup> Clause 25 of Article 366 states, “Scheduled Tribes’ means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under Article 342 to be Scheduled Tribes for the purposes of this Constitution.” It must be noted here that the President under Article 342 (1) has been empowered, after consultation with the Governor of the state thereof, to specify certain groups as Scheduled Tribes by public notification. Article 342 (2) empowers the Parliament to include or exclude such tribes as may be determined by law passed by it.

<sup>40</sup> See Government of India, *Income Tax Act, 1961*, pp. 34-35

<sup>41</sup> Rakesh Bhargava (ed.), *Masters Guide to Income Tax Act (with commentary on Finance Act, 1999)* (New Delhi: Taxmann’s, 1999), p. 488.

“exemption can not be extend to income, the source of which lies outside the specified area.”<sup>42</sup>

Now the question really is: how long and how far is this exemption to be extended. This assume significance in the light of continued fiscal deficits that haunts most of the North-Eastern states accentuated by their failure to exact enough tax revenues from their respective resources. It is pertinent here to note the suggestions put forward by B.G. Verghese<sup>43</sup> and Gulshan Sachdeva<sup>44</sup> to introduce income tax to the North-East. The suggestions of these two renown specialists carry heavy weight owing to the poor resource mobilization of the North-Eastern states for the past more than five decades.

There is another important sub-section of a section of the Income Tax Act, which is a part of the substituted section to the original Act that provides special economic regime to the North-East. This is sub-section 4 of section 80 1B inserted by the Finance Act, 1999 and effectualized from the assessment year 2000-01. Under this sub-section “such industries in the North-eastern Region, as notified by Central Government would be eligible for 100 percent deduction for a period of ten assessment years.”<sup>45</sup> The Central Government in notifying the eligible industry(ies) has to ensure that such industry(ies) manufactures/produces articles or things specified in the Eleventh Schedule.<sup>46</sup>

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<sup>42</sup> *ibid.*

<sup>43</sup> B.G. Verghese, *India's Northeast Resurgent: Ethnicity, Insurgency, Governance, Development* (New Delhi: Konark, 1996). p. 365. Verghese considers the desirability of creating a special North-East Development Fund, which would be derived from the tax proceed of the region for the first decade.

<sup>44</sup> Gulshan Sachdeva, *Economy of the North-East, op. cit.*, p. 99.

<sup>45</sup> Rakesh Bhargava, *op. cit.*, p. 1160. Section 80 IB (14) (d) of the Act defines North Eastern Region as including the states of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Sikkim and Tripura.

<sup>46</sup> *ibid.*, p. 1165. For items included in the Eleventh Schedule see Appendix on the “Eleventh Schedule.”



## **B. The North-Eastern Council and the North-East: The Nuts and Bolts**

### **Genesis of NEC: From Supra-State to Inter-State Structure**

The North Eastern Council (NEC) hailed by Mrs. Indira Gandhi as “a promising innovations in regional planning”<sup>47</sup> formally came into being on 1 August 1972<sup>48</sup> with the enforcement of the North-Eastern Council Act, 1971. Inaugurated by the then Prime Minister, Mrs. Indira Gandhi on 7 November 1972,<sup>49</sup> it is in fact “an unmatched administrative innovation”<sup>50</sup> to arrest the evil consequences of what S.K. Chaube calls “the balkanization of the North-East.”<sup>51</sup> Although its blueprint was sought to have been provided by the Internal affairs Committee of the Central Cabinet, which envisaged a supra-state structure for the North-East to be presided over by the Union Home Minister with the Union Government retaining the power “to issue directions which the Governor was required to enforce,”<sup>52</sup> the actual genesis of the Council can be traced to the Sixth Schedule of the Indian Constitution, the “Tribal Panchsheel” of Pt. Nehru, the Administrative Reforms Commissions (ARC)’s recommendations on the administration of Union Territories of NEFA,<sup>53</sup> Tripura and Manipur as well as the Regional Councils Act of 1956, along with the necessity to establish some sort of link between the Hills and the people of the plains emphasizing a sense of interdependence among the newly formed states which are

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<sup>47</sup> Cited in Singh, B.P., “The Problems of Change- A Study of North East India”, in *North Eastern Council, 1972-1992: Commemoration of 20 Years of NEC* (Shillong: Director of Information and Public Relations, 1992), p. 25.

<sup>48</sup> S.K. Chaube, *Hill Politics in Northeast India* (New Delhi: Orient Longman, 1999), p. 231.

<sup>49</sup> Singh, B.P., *op. cit.*

<sup>50</sup> Maheshwari cited in Agrawal, B.N., “The North-Eastern Council: A Study” in Verinder Grover and Ranjana Arora (eds.), *Encyclopaedia of India and Her States*, Vol. 9 (New Delhi: Deep and Deep, 1998, 2nd Edition), p. 83.

<sup>51</sup> Chaube, S.K., *op. cit.*

<sup>52</sup> Ganguly, J.B., “Role of the North-Eastern Council in Economic Development of North-East India,” in S.M. Dubey (ed.), *North-East India: A Sociological Study* (Delhi: Concept, 1978), p. 349.

<sup>53</sup> NEFA is an acronym for North East Frontier Area/Agency now is known as the state of Arunachal Pradesh.

comparatively backward and underdeveloped and are not in a position to gear up large scale resource mobilization and even utilization.

Agrawal<sup>54</sup> adumbrates upon the genesis of the NEC by elaborating each of these factors. According to him, the desire to bring the people of the North-East together in the national mainstream is unmistakably imprinted in the Constitution while envisaging maximum autonomy to the “hill areas”. He also considers that Nehru’s *Tribal Panchsheel* envisions the same by dovetailing the following five principles:

- (i) people should develop along the lines of their own genius and we should avoid imposing anything on them. We should try not to encourage in every way their own traditional art and culture.
- (ii) Tribal rights in land and forests should be respected.
- (iii) We should try to train and build up a team of their own people to do the work of administration and development. Some technical personnel from outside will, no doubt, be needed, especially in the beginning. But we should avoid introducing too many outsiders into tribal territory.
- (iv) We should not over administer these areas or overwhelm them with a multiplicity of schemes. We should rather work through and not in rivalry to their own social and cultural institutions.
- (v) We should judge results, not by statistics or amount of money spent but the equality of human character that is evolved.

The organization and the functions of NEC, Agrawal considers, “clearly reflects the gospel of Nehru and carefully avoid over administering the units of the Council and encourage them to shape their future destiny and an atmosphere of respect, goodwill and

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<sup>54</sup> Agrawal, B.N., *op. cit.*

understanding.”<sup>55</sup> He further goes on to say that the formation of the NEC does not overlook the concern on “national security” expressed in the ARC report on the administration of Union Territories and NEFA dealing with NEFA, Manipur and Tripura in Chapter III which suggested that “whatever administrative arrangements are devised for these areas must subserve the needs of national security.”<sup>56</sup>

The creation of NEC in 1972 instead of a Zonal Council in line with the rest of the rest of the country raised serious doubts, criticisms and even suspicions in different quarters.<sup>57</sup> Ashok Chanda who closely followed the progress of NEC scheme and who was a proponent of setting up “a unified command echelon” lamented: “But the Council can hardly be regarded as a satisfactory substitute for a unified command echelon” which, according to him, could “ensure security of this sensitive border region.”<sup>58</sup> This line of thinking permeates the proposals put up by the Internal Affairs Committee of the Central Cabinet wherein the proposed Council was sought to be placed strictly under the umbrella of the Union Home Ministry leaving it merely to be an implementing agency.

Another group of thinkers led by Prabhakar were skeptical about the central design of the Act which, according to them, seek to curtail the autonomy of the North-Eastern states. Prabhakar forcefully advance his case as he expressed his mind explicitly:

“NEC has been set up to make sure that the border regions would not be loosely drifting into postures of defiance, or nursing ambitions of autonomy...The NEC seeks, not merely to usurp the limited powers of the states, but to totally replace, as it

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<sup>55</sup> *ibid.*, p. 85

<sup>56</sup> *ibid.*

<sup>57</sup> Ganguly, J.B., *op. cit.*, p. 349

<sup>58</sup> Chanda, Ashok, “North-Eastern Council: An Essentially Sound Plan,” *The Statesman*, Calcutta, 12 August 1971, cited in Ganguly, *op. cit.*

were, the authority of the states by the centre, especially by the most actively repressive organs of the centre.”<sup>59</sup>

Coming in this line is the state of Nagaland which refused to join in the initial years of its functioning; although it joined in the sixth year.<sup>60</sup> The concerns raised by them are understandable. The reorganization of Assam following Assamese chauvinistic policy is yet to take its hold on the new feeble ground. The Council comes, as it were, close on the heels of this metamorphosis, tends to create a lurking fear among the proponents of state autonomy that this cherished goal will easily be washed away with the formation of a supra-state authority. Added to this fear, is the incorporation of certain strict principles of control and scrutiny by sub-section (3) of section 5 of the North-Eastern Council Act,<sup>61</sup> which required that “the proceedings of every meeting of the Council shall be forwarded to the Central Government and also to the Government of each state represented on the Council.” It is also anticipated that the erosion of state autonomy will come soon enough with the general tendency “to look upon the NEC as an additional source of funds to execute schemes which are of immediate concern to the state concerned.”<sup>62</sup>

The contrasting positions dovetailed above are sought to be crystallized and harmonized by the North-Eastern Council Act by making the Council an advisory body which is to be based on the voluntary cooperation and coordination among the constituent units.

What emerged eventually in 1972 was an inter-state council which brought about, in the opinion of B.P. Singh,<sup>63</sup> two policy innovations, viz.,

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<sup>59</sup> Prabhakar, M.S., “The North-Eastern Council: Some Political Perspectives,” *EPW*, Bombay, Vol. 8, No. 40, October 1973, pp. 1823-26.

<sup>60</sup> Agrawal, B.N., *op. cit.*, p. 84.

<sup>61</sup> “The North-Eastern Council Act” in Manila Bose (ed.), *Historical and Constitutional Documents of North-Eastern India, 1824-1973* (Delhi: Concept, 1979), p. 350.

<sup>62</sup> *The Statesman*, Calcutta, 22 July 1974.

<sup>63</sup> Singh, B.P., *op. cit.*, p. 15.

- (i) the concept of planning authority with a separate plan outlay, and
- (ii) the Council was given the task of being a source of ideas for the development of the region for human welfare as well as maintenance of security and public order.

### **Organization and Functions of NEC**

The North-Eastern Council (NEC) was organized to fit the federal structure of the Constitution<sup>64</sup> with “the primary purpose...(of) the development of the region for greater human welfare.”<sup>65</sup> Section 3 read with sections 4, 5, 6 & 7 of the North Eastern Council Act, 1971<sup>66</sup> delineates the organization structures of NEC. As an advisory body, NEC comprises the Governors and Chief Ministers of the “Seven Sisters,” viz., Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura. Besides these political figures, the Council is assisted by official nominees of the Ministries of the Central Government dealing with matters relating to Defence, Finance, Home Affairs and Planning. Moreover, the Council is invested with well organized bureaucratic structure comprising of a Secretary, a Planning Adviser, a Financial Adviser and a Security Adviser and such other officers and employees as the Central Government, may by order, determine. It is placed under the direction, supervision and control of its Chairman, the office of which is handled by the Governor of the North-Eastern states on a rotation basis. It has its headquarter at Shillong.

The functions of the Council are clearly laid down by section 4 of the Act,<sup>67</sup> which reads:

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<sup>64</sup> T. Uniel Kichu Ao, *Asymmetric Federalism and Special Status: The Case of Nagaland* (unpublished M.Phil dissertation submitted to the Centre for Political Studies, School of Social Sciences, Jawaharlal Nehru University, New Delhi, 2001), p. 102.

<sup>65</sup> Mrs. Indira Gandhi cited in Singh, B.P., *op. cit.*, p. 25. She said this in her inaugural address of NEC.

<sup>66</sup> “The North-Eastern Council Act, 1971,” *op. cit.*, pp. 347-351.

<sup>67</sup> *ibid.*, pp. 349-350.

“(1) The Council shall be an advisory body and may discuss any matter in which some or all of the states represented in that Council, or the union and one or more of the states represented in that Council, have a common interest and advise the Central Government and the Government of each state concerned as to the action to be taken on any such matter, and, in particular, may discuss and make recommendations with regard to:

- (i) any matter of common interest in the field of economic and social planning;
- (ii) any matter concerning inter-state transport and communications;
- (iii) any matter relating to power or flood control projects of common interests.

(2) For securing the balanced development of the North-Eastern area, the Council shall forward proposals:

- (i) formulating for the states represented in the Council a united and co-ordinated regional plan (which will be in addition to the state plan) in regard to matters of common importance to that area;
- (ii) regarding the priorities of the projects and schemes included in the regional plan and the stages in which the regional plan may be implemented; and
- (iii) regarding the location of the projects and schemes included in the regional plan, to the Central Government for its consideration.

(3) The Council shall:

- (a) review, from time to time, the implementation of the projects and schemes included in the regional plan and recommend measures for affecting co-

ordination among the Governments of the states concerned in the matter of implementation of such projects and schemes;

- (b) where a project or scheme is intended to benefit two or more states, recommend the manner in which;
  - (i) such project or scheme may be executed or implemented and managed or maintained; or
  - (ii) the benefits there from may be shared; or
  - (iii) the expenditure thereon may be incurred;
- (c) on a review of progress of the expenditure, recommend to the Central Government the question of financial assistance to be given, from time to time, to the state or states entrusted with the execution or implementation of any project or scheme included in the regional plan;
- (d) recommend to the Government of the state concerned or to the Central Government the undertaking of necessary surveys and investigations of projects in any state represented in the Council to facilitate consideration of the feasibility of including new projects in the regional plan.

(4) The Council shall review from time to time the measures taken by the states represented in the Council for the maintenance of security and public order therein and recommend to the Governments of the states concerned further measures necessary in this regard.”

An analysis of the above-enumerated functions will impress one that the overriding factors of development and security which need a coordinated response especially in the North-East are sought to be addressed. By ensuring generous Central Assistance to the Council, it is expected to help accelerate the economic growth of the North-East as an integrated whole through the voluntary cooperation and mutual understanding of all the units. This was not to be taken that the components in it could not develop themselves. Far from it,

they are to be encouraged by the Council to be self-sufficient in meeting the basic requirements of their people and cooperating with their neighbors.<sup>68</sup> It is to be noted that NEC is concerned mostly with those schemes or projects which are advantageous to several units simultaneously and which the state cannot undertake without some sort of inter-state agency to coordinate development activities affecting several states.<sup>69</sup> In a way it is an agency for inter-state linkage wherein schemes for horizontal and not vertical development<sup>70</sup> are undertaken; the latter being confined to each individual state(s). In the light of this, NEC schemes being supplementary to the state and Central schemes, operating in the region are expected to plug the horizontal loopholes of development which each states of the region undergo in an uneven manner.

### Restructuring NEC

The imperative of restructuring NEC is couched upon an assessment of its workings for the last three decades which throws light on the nitty-gritty of its roles and functions. B.G. Verghese, an acclaimed expert on the North-East, makes an incisive insights into certain areas where NEC is inherently weak.<sup>71</sup> According to him, there is a “weak organic unity among the constituent units” of NEC because of making the office of its Chairman rotationary among the Governors of the states. Secondly, by increasingly detaching North-East security advisor from the NEC and vertically integrating with the Centre, peace (security) and development are made to embark upon a “parallel tract” instead of making to “go hand in hand.” Thirdly, he identifies the narrow mandate given to NEC as another factor contributing to its inherent weakness. The Planning Commission, he says, draws up the State Five Year Plans in conjunction with each of the respective units and approves the latter’s annual plans. The aggregation of these disparate plans does not make for an integrated

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<sup>68</sup> T. Uniel Kichu Ao, *op. cit.*, p. 104.

<sup>69</sup> Agrawal, B.N., *op. cit.*, p. 87.

<sup>70</sup> *ibid.*

<sup>71</sup> Verghese, B.G., “End the Isolation,” *Hindustan Times*, New Delhi, 2 May 2002.



North-East plan within an interdependent geo-political and natural resources.<sup>72</sup> The present arrangement leaves the NEC with no more than a limited coordinating role with little additional funds to promote inter-state projects. It is neither staffed nor mandated to undertake regional planning.<sup>73</sup>

On the basis of this appraisal, he suggested that NEC be restructured by making the Minister of the newly created Department of Development for the North-Eastern Region (DONER), an ex-officio Chairman of the NEC and an ex-officio Planning Commission member to be headquartered at Shillong. The Minister is to be assisted by the current North-East Advisor in the Commission and shall preside over a standing Committee of officers drawn from various Central departments and PSUs engaged in development activities in the North-East.

This is a sound proposition in view of the distance of the North-East from Delhi and the legacy of all round non-development or underdevelopment<sup>74</sup> which demand ground-level assessment and understanding of problems besetting the North-East.

In fact, the imperative for restructuring the NEC has gained an added momentum following the constitution of S.P. Shukla Commission by the Central Government in 1997 which suggests means and ways to transform the North-East. The Commission in its Report suggested that NEC be rechristened as NEDC (North-East Development Council) by including Sikkim as its member. Taking into account the lack of coordination among various developmental projects undertaken in the North-East, the Report<sup>75</sup> suggested that NEDC have a central coordination committee in Delhi under the Chairman, NEDC and serviced by the Adviser (North-East) in the Planning Commission which would coordinate the various

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<sup>72</sup> *ibid.*

<sup>73</sup> *ibid.*

<sup>74</sup> Singh, B.P., *op. cit.*, p. 27.

<sup>75</sup> S.P. Shukla Commission Report, "Transforming the Northeast," (New Delhi: 7 March 1997), p. 97.

Central Ministries/Department/Agencies/Public Undertakings concerned with the North-East. The Chairman of the Council “should be a public figure of high standing who should be located in Shillong ... (and) be an ex-officio Member of the Planning Commission with ministerial rank.<sup>76</sup> Another radical suggestion made by the Commission is that NEDC have an NGO wing as a focal point for liaison and coordination with credible NGOs in the region on development issues including those pertaining to the environment and gender issues.<sup>77</sup>

The creation of such specialized wing is a logical corollary to the new economic environment which calls for technical advisory services<sup>78</sup> badly needed by the North-East.

This spirit is carried forward by the NEC (Amendment Bill) introduced in the Rajya Sabha on 8 December 1998. Its main features are:<sup>79</sup>

- (i) Sikkim shall be included in the Council.
- (ii) Governors, who are constitutional heads, shall cease to be members of the Council.
- (iii) Besides the Chief Minister of the North-Eastern states, the Council shall consist of three members to be nominated by the President of India.
- (iv) The Council shall function as a regional planning body for the North-East area. Instead of being merely an advisory body, the Council shall have such powers as may be delegated to it by the Central Government.

With the creation a new department for the Development of the North-Eastern Region (DONER) in 2001, and the new challenges thrown up by India’s *Look East Policy*, the North-Eastern states are expected to play a crucial role. The attempts made by various

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<sup>76</sup> *ibid.*

<sup>77</sup> *ibid.*, pp. 97-98.

<sup>78</sup> Sachdeva, Gulshan, “Focus on the North-East,” *Hindustan Times*, New Delhi, 3 July 1997.

<sup>79</sup> Government of India, *Annual Report, 1998-1999*, Ministry of Home Affairs. Cited in T. Uniel Kichu Ao, *op. cit.* p. 105.

quarters to infuse new strength and vigor to NEC by inducting specialists and technicians come at an appropriate time, which, if fructified, holds great promises for the North-East.

### **C. Recent Economic and Financial Packages: A Cohort Analysis of Various Packages Offered under P.V. Narasimha Rao-Led Congress-I, United Front (UF) and National Democratic Alliance Governments**

The nineteen nineties proved to be crucial for the country and the North-East in particular for many reasons. The beginning of the decade saw the resurgence of the Congress-I Government led by P.V. Narasimha Rao at the Centre, which radically responded to the imperatives of Structural Adjustment Programme (SAP)<sup>80</sup> proffered by the World Bank. The concomitant trails of liberalization that ensued throws up new challenges and imperatives especially for the North-East which shared more than 4,500 kms. International borders with Nepal, Tibet/China, Bhutan, Myanmar and Bangladesh.<sup>81</sup> The geo-strategic importance of the region compounded with the highly explosive ethnic formations become more glaring in the gaze of policy-planners and makers. This assumes more significance in the context of globalization and liberalization even as the two “catchy words” caught the imaginations of amateur and professionals alike.

In this sub-section, we shall make a cohort analysis of the various economic and financial packages unveiled by successive governments since P.V. Narasimha Rao-led Congress-I Government, which pick up greater momentum with the emergence of United

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<sup>80</sup> The Structural Adjustment Programme (SAP) involves three major policy actions:

- (i) privatization of public enterprises,
- (ii) deregulation of domestic markets-goods and factors,
- (iii) liberalization of trade and external capital flow. For detailed discussion see Bhattacharya, B.B., “Reflections on Development Strategy in India Since Independence” (Paper presented at a National Seminar on “Economy, Society and Polity in South Asia: Retrospect and Prospects at the Dawn of the Next Millennium and organized by the Institute of Economic Growth, Delhi, 16-17 November 1999), pp. 1-24.

<sup>81</sup> Verghese, B.G., “End the Isolation”, *op. cit.*

Front Government led by H.D Deve Gowda and I.K Gujral and the BJP-led National Democratic Alliance (NDA) Government under Atal Behari Vajpayee.

Adhocism, the hallmark of development strategy followed by the Centre and state governments of the North-East, has created a totally unbalanced economy in the North-East.<sup>82</sup> It is incompatible with a notorious type of economy characterized by differential resource endowments, levels of industrialization as well as infrastructural facilities leading to a vicious circle of what Sanjoy Hazarika aptly calls, “Look West Policy.”<sup>83</sup>

The realization of the inherent flaw of this development strategy has brought about a rethinking on the subject leading to various rectification measures from time to time. One of the outcomes of such a realization is the setting up of North-Eastern Development Finance Corporation (NEDFi) by P.V. Narasimha Rao led Congress government in August 1995. While inaugurating it in March 1996, Mr. Rao described it as “only the first of such institutions” to come, all aimed at accelerating the infrastructural development and industrialization of the region.<sup>84</sup> A bank run on commercial principle, NEDFi strives to respond to the specific need of industry in the North-East. Following are the present and future proposed products and services of NEDFi:<sup>85</sup>

- (i) Granting financial assistance as term loans or advances including by way of working capital, equity participation, refinance, discounting and rediscounting of bills of exchange or promissory notes, subscription to debentures and leasing in any form/scheme as may be deemed expedient;
- (ii) Guaranteeing loans and obligations, defer payment credits and performance of contracts;

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<sup>82</sup> Sachdeva Gulshan, *Economy of the North-East... op. cit.*, p. 13.

<sup>83</sup> “Look West Policy” is a policy of seeking funds and sustenance from New Delhi instead of turning to its (North-East) neighbors. For details see, Hazarika, Sanjoy, “Sorrow of the Seven Sisters,” *Indian Express*, New Delhi, 2 January 2001.

<sup>84</sup> Editorial, “Meaningful Initiatives,” *The Hindu*, Madras, 9 March 1996.

<sup>85</sup> Sachdeva, Gulshan, *op. cit.*, p. 139.

- (iii) Subscribing to or underwriting issues of shares and securities;
- (iv) Granting, opening, issuing, confirming or endorsing letters of credit and negotiating or collecting bills and other documents drawn there under;
- (v) Consultancy and merchant banking services;
- (vi) Encouraging and promoting the participation of private capital both internal and external;
- (vii) Providing marketing and research facilities; and
- (viii) Providing basic information on market, technology, tie-ups, etc., through the establishment of a databank.

NEDFi in its inception was promoted by IDBI, IFCI, ICICI, SIDBI, UTI, LIC, GIC and SBI. It has an authorized capital of Rs.500 crores and an initial paid up capital of Rs.100 crores.<sup>86</sup>

In pursuance of its stated objectives and perspective plans, NEDFi identifies and develops entrepreneurship and finance the establishment of new industrial and infrastructural projects as well as expansions, diversification and modernization of existing industrial enterprises. For example, NEDFi sanctions the first largest Ferro-Alloy Unit in Burnihat (in Meghalaya) a term loan of Rs.1,500 lacs to help install two 7.5 MVA sub-merged arc furnaces to make Ferro-Silicon and Silicon-Manganese.<sup>87</sup> It is in the same vein that it launched North East Equity Fund to help first generation entrepreneurs.<sup>88</sup> Moreover, it conducts studies to identify new growth opportunities and prepare a shelf of products. In short, the real task of NEDFi is to focus its energies on commissioning feasibility studies,

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<sup>86</sup> *ibid.*

<sup>87</sup> Ferro-Silicon and Silicon-Manganese are widely used in the production of various types of carbon and alloy steel as well as alloy iron. For details see, *NE Newsletter*, Vol. 2, No. 4, April 2001, p. 7.

<sup>88</sup> Gulshan Sachdeva, *op. cit.*, p. 141.

creating databases and identifying entrepreneurs so that viable projects can be created. In a way, it is expected to evolve into an economic think-tank for the North-East.<sup>89</sup>

As the era of coalition politics crystallized with the constitution of the Eleventh Loksabha in May 1996, there comes a realization that the “path to power lies in the creation of political, regional and social alliances.”<sup>90</sup> This is reinforced by the growing resurgence of regional parties like Asom Gana Parishad (AGP), Telegu Desam Party (TDP), Dravida Munetra Kazhagam (DMK), Tamil Maanila Congress (TMC), etc. The United Front (UF), a coalition of 13 parties, takes the sensitive geo-political compulsions into account. H.D. Deve Gowda, therefore, upon assuming the office of the Prime Minister, made an extensive North-East tour and unveiled new initiatives for it at the end of his tour on 27 October 1996.<sup>91</sup> According to this, an economic package of Rs.6,100 crores for specific projects in all the states of the region is provided.<sup>92</sup> Apart from this, it envisages among other things the following broad policy guidelines:

- (i) Full funding of all on going projects;
- (ii) Appointment of a high level commission under the chairmanship of S.P. Shukla to determine gaps in infrastructure and basic minimum services;
- (iii) Creation of North-East sub-plans in all Central Ministries which would earmark 10 percent of their budget for specific programs in the region;
- (iv) Development of tourism;
- (v) Improvement of railways services; and
- (vi) New Industrial Policy for the region by 31 March 1997.

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<sup>89</sup> *ibid.*, p. 140. The fact that NEDFi is firmly committed to this end is proved by the range of databases it has created over the years. For further details see the official website at: <http://nerdatabank.nic.in>

<sup>90</sup> B.L. Fadia, *Indian Government and Politics* (Agra: Sahitya Bhawan, 1999), p. 734.

<sup>91</sup> For detail see the website <http://mha.nic.in>

<sup>92</sup> *ibid.*

The new initiatives launched by H.D. Deve Gowda were carried forward by his successor, I.K. Gujral. Besides enlarging the financial package to Rs.7,200 crores,<sup>93</sup> he implemented the broad policy framework announced by Mr. Gowda. It was during his time that the Border Area Development Programme (BADP) was extended to the North-Eastern states of Arunachal Pradesh, Manipur, Mizoram and Nagaland which hitherto was launched in the 7th Plan period for the Western Sector only to bring about balanced development of remote and inaccessible areas situated near the borders and to ensure effective administration these areas for developmental activities.<sup>94</sup> A 100 percent centrally funded program, BADP funds are divided amongst the beneficiary states mainly on the basis of criteria of: (i) the length of the international border, (ii) population of the border block, and (iii) the area of the border block. Another important initiative of I.K. Gujral-led UF government is the launch of New Industrial Policy for the North-East region. Approved by the Cabinet Committee on economic Affairs of the Central Government on 20 November 1997, it envisages among other things:

- (i) Continuance of transport subsidy till 2007;<sup>95</sup>
- (ii) 15 percent capital investment subsidy;
- (iii) Exemption of income tax and excise duty for ten years;
- (iv) Provision of 100 percent insurance premium for ten years under the Comprehensive Insurance Scheme; and
- (v) 3 percent interest subsidy for ten years.<sup>96</sup>

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<sup>93</sup> Dhar, M.K., "Initiatives in North-East," *National Herald*, New Delhi, 1 April 2001.

<sup>94</sup> *NE Newsletter*, Vol. 2, No. 2, February 2001, p. 2.

<sup>95</sup> Transport subsidy was first introduced in July 1971 wherein subsidy ranging between 50 percent and 90 percent admissible on the transport cost incurred on movement of raw materials and finished goods from the designated Rail heads/ports up to the location of the industrial units and vice-versa is admissible under the scheme. For the North-East this has been fixed at 90 percent. See *NE Newsletter*, Vol. 2, No. 8, August 2001.

<sup>96</sup> Gulshan Sachdeva, *op. cit.*, p. 119. For details see the New Industrial Policy for the North Eastern Region in *Office Memorandum No. EA/1/2/96-IPD*, Department of Industrial Policy and Promotion, Ministry of Industry, Government of India, 24 December 1997.

This is not enough. With the second stint of NDA Government at the Centre in March 1998 led by Atal Behari Vajpayee, the North-East saw an added impetus as more heartwarming initiatives are unveiled. The creation of a non-lapsable annual core fund of Rs.1,500 crores built up from the unspent balance of 10 percent allocation of various Central Ministries for the North-East in 1998 came as an “improved and enlarged version”<sup>97</sup> to those announced by H.D. Deve Gowda and I.K. Gujral. This amount has been estimated to reach Rs.3,711.72 cores in 2002-03.<sup>98</sup> An appraisal of the non-lapsable pool of resources provided in 1998-99 shows that infrastructure and power are the main thrust areas of the developmental expenditure.<sup>99</sup>

The fact that NDA Government, after lackluster approach in its initial years of coming to power, is sincere in its commitment becomes clear with the establishment of a separate department for the Development of the North-Eastern region (DONER), headquartered in Shillong, under a Central Minister. Inaugurating it on 1 November 2001, the Minister-in-Charge, Arun Shourie pleads for a “positive solution oriented approach” in place of “memorandum culture.”<sup>100</sup> He suggested that the old idea of looking toward the Government as “Engines of Changes” should now be replaced by promoting active cooperation with NGOs and other institutions.<sup>101</sup> The Department will be responsible for implementation of projects under Non-lapsable Pool of Resources and NEC and will play a catalytic role in the development of the North-East.

Another important initiative taken by Vajpayee led NDA Government is the “Agenda for Socio-Economic Development of the North Eastern States and Sikkim” announced on 22 January 2000 by Vajpayee in Shillong after having a conference with the Governors and Chief Ministers of the North-Eastern states and Sikkim on 21 to 22 January 2000 to discuss

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<sup>97</sup> “Wooing the North-East”, *Times of India*, New Delhi, 11 May 1998.

<sup>98</sup> For detail see the break-up provisions made by different ministries in their budget for the North-East in *NE Newsletter*, Vol. 4, No. 3, March 2002, pp. 2-3.

<sup>99</sup> See *NE Newsletter*, Vol. 1, No. 5, March 1999, p. 1.

<sup>100</sup> *NE Newsletter*, Vol. 3, No. 12, December 2001, p. 1.

<sup>101</sup> *ibid.*



economic development and security related issues. The Agenda envisaged an estimated Rs.10,271.66 crores fund to bring about socio-economic development of the region.<sup>102</sup> By providing among other things schemes for: rural electrification of 500 tribal villages in the North-East at a cost of around Rs.30 crores under Central Plan; program to establish computer information center in all the 477 blocks in the Seven North-Eastern states and 40 blocks in Sikkim and completion of the Project in the next 2 years at a minimum cost of Rs.100 crores; provision of at least Rs.100 crores for the development of 12 new National Highways/extension of existing highways covering a total length of 1,962 kms and provision of Rs.500 crores for Rural Infrastructure development Fund (RIDF) for the North-East and Sikkim being funded by NABARD, the Agenda seeks to embark upon an ambitious plan to overhaul the entire socio-economic development scenario of the region.

A critical perusal and analysis of the series of initiatives and packages announced from time to time shows that an unmistakably single thread binds them under a common umbrella. It is that they are more or less a continuation of the old policy with more promises of funding and implemented by virtually the same institutional mechanism. Unfortunately, not many of these initiatives are part of any new development strategy specifically designed for the new liberalized environment.<sup>103</sup> In the ultimate analysis, it may be seen as a rectification measure of gross negligence for the past four decades of independence, which almost literally drift away the entire region inescapably.

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<sup>102</sup> "Socio-Economic Development of NE States and Sikkim," *National Herald*, New Delhi, 24 November 2000.

<sup>103</sup> Gulshan Sachdeva, *op. cit.*, p. 103.

## CONCLUSION

We have maintained all along that Indian federalism sets aside the classical models in vogue (in the USA and Switzerland) by involving a novel kind that completely upset the accepted notions on federal balance.<sup>1</sup> The process of adapting this novel experiment to the Indian conditions marked by highly pronounced “asymmetrical obligations among unequals” is an arduous one, which demands remarkable flexibility and pragmatism.

It is a truism that the inherent loopholes and weaknesses of the new design invite a brow-beat time and again in its evolutionary process. The absence of agreement,<sup>2</sup> contract or treaty, the quintessence of federalism, in the Indian case is self-evident as it grapples with “concurrent pressure of integration and differentiation” in the North-East in the post-independent era. The policy of conciliation and pressure adopted to integrate the erstwhile native states of Manipur and Tripura, or the carrot and stick policy to prevail upon the Nagas persistent demand for the right to self-determination has been variedly interpreted and continues to haunt Indian politics till today. Moreover, the various autonomy packages unveiled under the Fifth and Sixth Schedules besides those encapsulated under the “sub-state structures” are yet to whittle down the aspirations and demands of the North-East people.

It is not the intention of this part of the dissertation thesis to merely recapitulate the various dimensions of “special status” painstakingly adumbrated upon in the preceding chapters. It rather seeks to critically analyze the interweaving ideas and assumptions underlining special status and draw conclusion from them.

In our conceptual framework, we started with the assumption that federalism emphasizes the primacy of bargaining and negotiated co-ordination among several power centers by substituting coordinating for subordinating relationship. This is effectualized by providing a multi-tier system of governance that upholds the combination of self-rule and

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<sup>1</sup> Raghav P. Dash considers this novel experiment, the hall mark of Indian federalism, as India’s distinct contribution to the art of federal governance. See Dash, Raghav P., “A Political Backgrounder to Indian Federalism”, in P. Jagdish Gandhi and Susheela Subramanya (eds.), *New Facets of Financial Federalism* (New Delhi: Deep and Deep, 1999), pp. 3-19.

<sup>2</sup> This is to say that Indian Constitution is not the outcome of agreement between the federating units. In fact, this point was raised by Ambedkar during the Constituent Assembly Debates.

shared rule. The efficacy of this system is put to test by the fundamental and enduring rather than transient nature of differences exhibited by the diverse groups within a federation.

The unorthodox distribution of power accorded by the Indian Constitution and special status that stems from such an experiment is no stranger to such a test especially when it comes to the North-East. The concept of special treatment evolved by the British vis-à-vis the North-East got ossified by the time Indian Constitution was sought to be made. The secular policy of cultural non-intervention which stems from it is subjected to cross-examination before it was finally incorporated into the Indian Constitution, albeit after much bad blood. The Fifth and Sixth Schedules which emerged as post-independent India's constitutional response despite its rhetorical contents of ensuring "self-management of the tribals has proved to be nothing more than a political toy."<sup>3</sup>

It has often been pointed out that these Schedules are nothing more than administrative arrangement effectively controlled by the political class to bring the "undeveloped," "barbaric," "savaged," and "uncivilized" people into the dominant mainstream process of development. This often threatens to derail its intended purpose: to protect the land, customs and traditions of the people. In the process, an ironical situation is created wherein the state becomes the most critical factor in their deprivation.<sup>4</sup> For instance, their lands were declared as "reserved" or "protected" areas and taken over under the purview of the Indian Forest Act, which in turn circumscribed their effective command over their cultural beings. The process has reached alarming proportions as the following table indicates:

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<sup>3</sup> Burman, B.K. Roy, "Policy Issues for the North-East and Tribal Areas," in P.S. Datta (ed.), *North-East and the Indian State* (New Delhi: Vikas, 1995), p. 80.

<sup>4</sup> Sharma, B.D., "Deprivation and Development of the Tribal People," in L.R. Singh (ed.), *Nation-Building and Development Process* (Jaipur: Rawat, 1994), p. 237.

**Table 11**  
**State-wise depletion of forest area in the North-East, 1993**

Sl. No	State	Area Depleted (in sq. km.)
1.	Arunachal Pradesh	96
2.	Assam	243
3.	Manipur	64
4.	Meghalaya	106
5.	Mizoram	156
6.	Nagaland	27
7.	Tripura	27

Source: *Forest Situation in India* (New Delhi: ISI, 2001), p. 31.

As has been pointed out, the realization of the unreal and unsubstantial nature of protection and special status accorded under the Sixth Schedule in particular spawned separate states demands amongst the hill peoples of the North-East. The interface between these demands and the so-called “exaggerated nationalism” (Rasheeduddin Khan: 79) opens the possibility of a merciless trample down of all valid and viable diversities. It also provides the opportunities to uncritically attack all genuine and positive sub-national identities as “divisive,” “fissiparous,” and “anti-national,” engendering thereby the loss of healthy balance between the “whole” and the “parts” or between the “general” and the “particular.” The invocation of the Armed Forces (Assam and Manipur) Special Powers (Amendment) Act, 1972, on 5 April 1972 which extends the Armed Forces (Assam and Manipur) Special Powers Act, 1958 to the entire North-East India is a case in point. By dubbing the various movement under the categories mentioned above and treating it as “law and order” problems which can be solved by the long arm of the Government have entailed innumerable unpalatable experiences, the scars and wounds inflicted on the minds of the North-East people will take time to heal. Although the realization of the futility of such an exercise led the GoI to settle scores on political terms, the cost of such a realization may be too expensive

for a Government which has always shown a keen interest to emotionally integrate the sensitive people on the border. This demands prudent rectification measures and humane approach to win back these people whose loyalty may well be as thin as its tenuous geographical links with the rest of the country. (The North-East is linked to mainland India by the chicken-neck at Siliguri strait just by about 22 kilometers stretch, having about 4,500 kilometers long of international borders).

The initial dissatisfaction with the provision of the Sixth Schedule seemed to have watered down when the states of Meghalaya and Mizoram incorporated this provision into their respective administrative structures. The provision however demand proper pruning and adaptation especially in the light of the Bhuria Committee Report, 1994 which envisaged extensive powers to their counterpart system, i.e. panchayati raj in the plains. The recommendations of the National Commission to Review the Working of the Constitution (NCRWC) to strengthen the local system of governance under the Fifth and Sixth Schedules especially in the North-East assumes greater saliency in this regard. The need is now being felt to give more extensive powers similar to those provided under the Bodoland Council, which has been empowered with 38 extensive subjects.

One has to be careful, however, not to confound administrative problems with political problems. The realization borne out of the experience of the GoI in tackling the Naga problem, and for that matter, that of the Mizos, has to be rekindled time and again. This is to say that the solution of vexatious Naga and Mizo problems via Article 371 A and Article 371 G respectively by a two-pronged strategy of satisfying: (i) autonomy demands and (ii) identity assertions thereof may be taken upon as a starting point in solving seemingly intractable problems in the North-East.

The case of the Bodos whose demands oscillate between the Sixth Schedule and Union Territory can effectively be approached keeping these into account. Mention may also be made about the case of the Hill Areas of Manipur. The assessment of the demand for Sixth Schedule in this part of the country as an “instance of non-seriousness” by the NCRWC is highly contestable. Given the historical and geo-strategic important role of the

Hill Areas for time immemorial, they deserve “constitutional spaces” to realize their autonomy and identity rights. This can as well become a preponderant issue not only in the state politics but also in the North-East as a whole, as the 2002 dateline for imposition of Manipuri language as a compulsory paper in Central Services examinations under the Union Public Services Commission begins to boil over.

The gravity of the situation can be gauged from similar situations that followed consequent upon the Assamese chauvinistic designs to impose Assamese as the state language. It must not be forgotten here that the North-East has rapidly graduated from being a mere “territorial appendage” to that of a highly integrated region wherein a match-stick triggered in a remote corner of its sensitive landscape could easily engulfed the whole region within a moment. This calls for serious thinking and attention as nothing can be taken for granted.

The contingent fears and alarmist concern raised about the fate of the North-East as being an untenable proposition taking into account its economic and financial unviability characterized by a “notorious type of economy” have also been sought to be addressed by incorporating special economic and financial regimes. With these in place, it has been established that unlike the commonly accepted notion of negligence of the Centre towards the North-Eastern states, the latter stand at good stead in terms of assistance and loans they received from the former. It is, however, despairing to note that despite generous and liberal assistance which is more than Rs.50,000 crores between 1990 and 1998, the entire region gets entangled in a notorious quagmire of debt trap as the following table shows:

**Table 12**  
**Debt position of the North-Eastern states, 2000**

Sl. No.	State	Amount of Debt in Rs. Crores
1.	Arunachal Pradesh	360.03
2.	Assam	4333.07
3.	Manipur	429.99

4.	Meghalaya	328.80
5.	Mizoram	336.15
6.	Nagaland	415.60
7.	Tripura	649.18
	Total	6852.82

Source: *National Herald*, New Delhi, 03 July 2000.

This can be partly explained by an insight into the attitude of the state governments of the North-East. The tendency to see the Central Government as “Engines of Change” without attempting to improve their internal resource mobilization capacity is a sad commentary on the state governments of the North-East. The attitude of the Central Government towards this should also undergo a change. The need for it was realized in mid-June 2000 when the Chief Ministers of the North-East met the Prime Minister, Atal Behari Vajpayee in New Delhi. In this meeting, the CMs pleaded for a change in the funding pattern of externally aided project (EAP) and all centrally sponsored schemes.<sup>5</sup> Under the existing EAP system, the state governments have to incur the initial expenditure for EAPs, which are later reimbursed after a review of the Project. However, due to the precarious financial positions of the state governments, it has become increasingly difficult to mobilize the required finance for the EAPs, due to which the progress of many projects have been adversely affected.

The suspicious nature of the Central Government to see foreign funded aid to come into “sensitive areas” came to the fore in 1998, when a Rome based International Fund for Agriculture and Development’s (IFAD) Rs.160 crores poverty alleviation project in Assam, Meghalaya and Manipur was disinterestedly and in a biased manner turned down by the NDA citing it as a “non-priority issue.”<sup>6</sup>

<sup>5</sup> Dasgupta, Shibani, “North-East: Looking for Joint Solutions”, *National Herald*, New Delhi, 03 July 2000. The Joint-Memorandum submitted to the PM in this meeting calls for bringing down the state governments’ share of 25 percent for centrally sponsored schemes to 10 percent and easing of the financial burden of the state, besides ensuring timely consumption of schemes.

<sup>6</sup> “Thrice Blessed? Yet No Improvement in North-East Economy,” *Statesman*, Calcutta, 25 September 1998.

Infrastructural bottlenecks and lack of technical manpower resources continue to be a major handicap for the North-East. The creation of NEDFi which has by far established its worth is expected to considerably solve this in a phased manner. The New Industrial Policy announced for the North-East in 1997 by the then Prime Minister, I.K. Gujral and effectualized by the Finance Act, 1999 which modified section 80 IA of the Income Tax Act, 1961 by providing an income tax holiday for prospective industries in the North-East for a period of 10 assessment years come as another boon to the rather unproductive region. The “Agenda for Socio-Economic Development for the North-Eastern States and Sikkim” unveiled by the PM Vajpayee in January 2000 encapsulate certain radical contents which are potent enough to trigger economy of the North-East.

With India’s *Look East Policy* in place, and the opening up of North-East to the South-East Asian economies utmost precaution should be taken so that long-term perspective plan for the North-East should not be sacrificed to the always tempting short-term gains. The proposal to revamp the North-Eastern Council and the newly created Department for the Development of the North-East (DONER) should play more crucial role in laying down perspective plans for the North-East. These institutions should, in a wider canvass, utilize the services of technocrats and professionals and help evolve an interactive network between Government and Non-Governmental Organizations so as to become more responsive to the new imperatives that the new economic environment calls for. They, in fact, should provide a wedding-out mechanism and act as technical advisory and implementing agencies for development of the North-East.

There is no denying the fact that beginning with H.D. Deve Gowda as Prime Minister there has been an added interest in the development of the North-East region. It is understandable for a political analyst who closely follow-up the structural and political compulsion set in by the era of coalition politics. This is precisely the reason as to why in spite of numerous well-intended purpose in the various initiatives for the North-East, they are not bereft of populist content and overtones. One such instance is the case of Bogibeel railway bridge project. The foundation of the project was laid in 1997 by PM H.D. Deve



Gowda with great fanfare, which unfortunately was done even without soil testing or a survey report.<sup>7</sup> The NEC and DONER should play a proactive role in such areas.

Another major impediment in the proper utilization of development fund is the lack of awareness among the people of the North-East. This was highlighted in sharp focus by G.K. Pillai in a Seminar on "Peace through Development" organized by the All India Tribal Students' Association in New Delhi between 5 and 6 October 2000. He emphasized the importance of issuing public notification in local newspapers or periodicals about any sanction amounting to more than Rs.5 lacs, and the progress of which should also be publicized in a regular basis. The contention gains weight if we take into account the rush manner in which implementation certificates for most of the projects in the North-East are produced barely within 15 days!

Now the question arises: does special status, premised upon the recognition of diversities, really satisfy the socio-cultural, political and economic aspirations of the North-East? In other words, does it really serve its intended purpose of acting as a device to maintain "the minimum degree of uniformity necessary for maintaining a coherent union?" The present study seems to strike a positive note on this. This is not to suggest, however, that the device has been extremely successful without any strains or severe challenges. The nature of special status in a federation and the extent of its success can be better assessed by having more access to private letters and documents relating to the process of integration of the states especially in the North-East where it has been persistently questioned. In directing its focus more on the constitutional dimensions and processes in the post-independent period, the present research has not been able to have a deep appraisal of this process. This may well prove to be a gray area of research on the North-East which promises to be a challenging task.

In sum, special status in a federation represents the level of asymmetries and the extent to which it is ready to accord participation and responsiveness to the system. It is an innovative way of tackling the diversified demands of extremely extrapolated societies. In a

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<sup>7</sup> Dhar, M. K., "Initiatives in North-East," *National Herald*, New Delhi, 1 April 2001.

way, it is the dynamic celebration of the virtue of unity of polity and plurality of society, which itself is the hallmark of federalism.

## APPENDIX I

### SOME IMPORTANT ARTICLES

#### 1. Article 3

**Formation of States and alteration of areas, boundaries or names of existing states.**

Parliament may by law-

- a) form a new State by separation of territory from any state or by uniting two or more States or parts of States or by uniting any territory to a part of any State;
- b) increase the area of any State;
- c) diminish the area of any State;
- d) alter the boundaries of any State;
- e) alter the name of any state:

<sup>1</sup>[Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President unless, where the proposal contained in the Bill affects the area, boundaries or name of any of the State<sup>2</sup>[\*\*\*], the Bill has been referred by the President to the Legislature of that state for expressing its views thereon within such period as may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired]

<sup>3</sup>[Explanation I- In this article, in clauses (a) to (e), “State” includes a Union territory, but in the proviso, “State” does not include a Union territory.

Explanation II- The power conferred on Parliament by clause (a) includes the power to form a new State or Union territory by uniting a part of any State or Union territory to any other State or Union territory.]

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<sup>1</sup> Subs. by the Constitution (Fifth Amendment) Act, 1955, sec. 2, for the proviso.

<sup>2</sup> The words and letters “specified in Part A or Part B of the First Schedule” omitted by the Constitution (Seventh Amendment) Act, 1956, sec. 29 and Sch.

<sup>3</sup> Ins. by the Constitution (Eighteenth Amendment) Act, 1966.

**2. Article 239**

**Administration of Union territories.-**

- (1) Save as otherwise provided by Parliament by law, every Union territory shall be administered by the President acting, to such extent as he thinks fit, through an administrator to be appointed by him with such designation as he may specify.
- (2) Notwithstanding anything contained in Part VI, the President may appoint the Governor of a State as the administrator of an adjoining Union territory, and where a Governor is so appointed, he shall exercise his functions as such administrator independently of his Council of Ministers.

**3. Article 239 A<sup>4</sup>**

**Creation of Local Legislatures or Council of Ministers or both for certain Union territories.-**

- (1) Parliament may by law create<sup>5</sup> [for the Union territory of Pondicherry]-
  - (a) a body, whether elected or partly nominated and partly elected, to function as a Legislature for the Union territory, or
  - (b) a Council of Ministers, or both with such Constitution, powers and functions, in each case, as may be specified in the law.
- (2) Any such law as is referred to in clause (1) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution.

**4. Article 240**

**Power of the President to make regulations for certain Union territories.-**

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<sup>4</sup> Ins. by the Constitution (Fourteenth Amendment) Act, 1962, sec. 4.

<sup>5</sup> Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), sec. 63, for "for any of the Union territories of Goa, Daman and Diu and Pondicherry" (w.e.f. 30-5-1987).

(1) The President may make regulations for the peace, progress and good Government of the Union territory of-

(a) the Andaman and Nicobar Islands;

<sup>6</sup>[(b) Lakshadweep;]

<sup>7</sup>[(c) Dadra and Nagar Haveli;]

<sup>8</sup>[(d) Daman and Diu;]

<sup>9</sup>[(e) Pondicherry;]

<sup>10</sup>[\*\*\*]

<sup>11</sup>[\*\*\*]

<sup>12</sup>[Provided that when any body is created under article 239A to function as Legislature for the <sup>13</sup> [Union territories of <sup>14</sup>[Pondicherry]], the President shall not make any regulation for the peace, progress and good Government of that Union territory with effect from the date appointed for the first meeting of the Legislature:.]

<sup>15</sup>[Provided further that whenever the body functioning as a Legislature for the Union territory of <sup>16</sup>[Pondicherry] is dissolved, or the functioning of that body as such Legislature remains suspended on account of any action under any such law as is referred to in clause (1) of article 239A, the President, may, during

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<sup>6</sup> Subs. by the Laccadive, Minocoy and Amindivi Islands (Alteration of name) Act, 1973, sec. 4, for entry (b) (w.e.f. 1-11-1973).

<sup>7</sup> Inserted by the Constitution (Tenth Amendment) Act, sec. 3.

<sup>8</sup> Subs. by Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), sec. 63, for entry (d) (w.e.f. 30-5-1987). Entry (d) was ins. by the Constitution (Twelfth Amendment) Act, 1962, sec. 3.

<sup>9</sup> Ins. by the Constitution (Fourteenth Amendment) Act, 1962 secs. 5 and 7 (w.e.f. 16-8-1962). The entry (f) relating to Mizoram omitted by the State of Mizoram Act, 1986 (34 of 1986), sec. 39 (w.e.f. 20-2-1987).

<sup>11</sup> The entry (g) relating to Arunachal Pradesh omitted by the State of Arunachal Pradesh Act, 1986 (69 of 1986), sec. 42 (w.e.f. 20-2-1987).

<sup>12</sup> Ins. by the Constitution (Fourteenth Amendment) Act, 1962, sec. 5.

<sup>13</sup> Subs. by the Constitution (Twenty-Seventh Amendment) Act, 1971, sec. 4, for "Union territory of Goa, Daman and Diu or Pondicherry" (w.e.f. 15-2-1972).

<sup>14</sup> Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), sec. 63 for "Goa, Daman and Diu or Pondicherry: (w.e.f. 30-5-1987).

<sup>15</sup> Ins. by the Constitution (Twenty-Seventh Amendment) Act, 1971, sec. 4 (w.e.f. 15-2-1972).

<sup>16</sup> Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), sec. 63 for "Goa, Daman and Diu or Pondicherry" (w.e.f. 30-5-1987).

the period of such dissolution or suspension, make regulations for the peace, progress and good Government of that Union territory.

(2) Any regulation so made may repeal or amend any Act made by Parliament or <sup>17</sup> [any other law] which is for the time being applicable to the Union territory and, when promulgated by the President, shall have the same force and effect as an Act of Parliament which applies to that territory.]

**5. Article 244. Administration of Scheduled Areas and Tribal Areas.-**

(1) The provision of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State <sup>18</sup> [\*\*\*] other than the <sup>19</sup> [States of Assam <sup>20</sup> [<sup>21</sup> [Meghalaya, Tripura and Mizoram].

(2) The provision of the Sixth Schedule shall apply to the administration of the tribal areas in <sup>22</sup> [the State of Assam, <sup>23</sup> [<sup>24</sup> [Meghalaya, Tripura and Mizoram]

**6. Article 244A<sup>25</sup> Formation of an autonomous State comprising certain areas in Assam and creation of Local Legislature or Council of Ministers or both thereof.-**

(1) Notwithstanding anything this Constitution, Parliament may, by law, form within the State of Assam an autonomous State

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<sup>17</sup> Subs. by the Constitution (Twenty-Seventh Amendment) Act, 1971, sec. 4 for "any existing law" (w.e.f. 15-2-1972).

<sup>18</sup> The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, sec. 29 and Sch.

<sup>19</sup> Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), sec.71, for "the State of Assam" (w.e.f. 21-1-1972).

<sup>20</sup> Subs. by the Constitution (Forty-Ninth Amendment) Act, 1984, sec. 2, for "and Meghalaya (w.e.f. 1-4-1985).

<sup>21</sup> Subs. by the State of Mizoram Act, 1986 (34 of 1986), sec. 39, for "Meghalaya and Tripura" (w.e.f. 20-2-1987).

<sup>22</sup> Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), sec.1, for "the State of Assam" (w.e.f. 21-1-1972).

<sup>23</sup> Subs. by the Constitution (Forty-Ninth Amendment) Act, 1984, sec.2, for "and Meghalaya (w.e.f. 1-4-1985).

<sup>24</sup> Sub. the State of Mizoram Act, 1986 (34 of 1986), sec.39, for "Meghalaya and Tripura and the Union Territory of Mizoram" (w.e.f. 20-2-1987).

<sup>25</sup> Ins. by the Constitution (Twenty-Second Amendment) Act, 1969, sec. 2.

comprising (whether wholly or in part) all or any of the tribal areas specified in <sup>26</sup>[Part I] of the table appended to paragraph 20 of the Sixth Schedule and create therefore-

- (a) a body, whether elected or partly nominated and partly elected, to function as a legislature for the autonomous State, or
- (b) a Council of Ministers, or both with such constitution, powers and functions, in each case, as may be specified in the law.

(2) Any such law as is referred to in clause (1) may, in particular,-

- (a) specify the matters enumerated in the State List or the Concurrent List with respect to which the Legislature of the autonomous State shall have power to make laws for the whole or any part thereof, whether to the exclusion of the Legislature of the state of Assam or otherwise;
- (b) define the matters with respect to which the executive power of the autonomous State shall extend;
- (c) provide that any tax levied by the State of Assam shall be assigned to the autonomous State in so far as the proceeds thereof are attributable to the autonomous State;
- (d) provide that any reference to a State in any article of this Constitution shall be construed as including a reference to the autonomous State; and
- (e) make such supplemental, incidental and consequential provisions as may be deemed necessary.

(3) An amendment of any such law as aforesaid in so far as such amendment relates to any of the matters specified in sub-clause (a) or sub-clause (b) of clause (2) shall have no effect unless the amendment is passed in each House of Parliament by not less than two-third of the members present and voting.

(4) Any such law as is referred to in this article shall not be deemed to be an amendment of this Constitution for the purposes of article

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<sup>26</sup> Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), sec.71, for "Part A" (w.e.f. 21-1-1972)

368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution.]

## **7. Article 275**

### **Grants from the Union to certain states.-**

(1) Such sums as Parliament may by law provide shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of such States as Parliament may determine to be in need of assistance, and different sums may be fixed for different States: Provided that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of a State such capital and recurring sums as may be necessary to enable that State to meet the costs of such schemes of development as may be undertaken by the State with the approval of the Government of India for the purpose of promoting the welfare of the Scheduled Tribes in that State or raising the level of administration of the Scheduled Areas therein to that of the administration of the rest of the areas of that State:

Provided further that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the State of Assam sums, capital and recurring, equivalent to-

- (a) the average excess of expenditure over the revenues during the two years immediately preceding the commencement of this Constitution in respect of the administration of the tribal areas specified in <sup>27</sup>[Part I] of the table appended to paragraph 20 of the Sixth Schedule; and
- (b) the costs of schemes of development as may be undertaken by that state 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 that State.

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<sup>27</sup> Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), sec.71, for "Part A" (w.e.f. 21-1-1972).



<sup>28</sup>[(1A) On and from the formation of the autonomous State under article 244A, -

(i) any sums payable under clause (a) of the second proviso to clause (I) shall, if the autonomous State comprises only some of those tribal areas, be apportioned between the State of Assam and the autonomous State as the President may, by order, specify;

(ii) there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the autonomous State sums, capital recurring, equivalent to the costs of such schemes of development as may be undertaken by the autonomous State with the approval of the Government of India for the purpose of raising the level of administration that State to that of the administration of the rest of the State of Assam.]

(2) Until provision is made by Parliament under clause (I), the powers conferred on Parliament under that clause shall be exercisable by the President by order and any order made by the President under this clause shall have effect subject to any provision so made by Parliament:

Provided that after a Finance Commission has been constituted no order shall be made under this clause by the President except after considering the recommendations of the Finance Commission.

## **8. Article 370<sup>29</sup> Temporary provisions with respect to the State of Jammu and Kashmir.-**

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<sup>28</sup> Ins. by the Constitution (Twenty-Second Amendment) Act, 1969, sec. 3.

<sup>29</sup> In exercise of the powers, conferred by this article the President, on the recommendation of the Constituent Assembly of the state of Jammu and Kashmir, declared that, as from the 17<sup>th</sup> day of November, 1952 the said article 370 shall be operative with the modification that for the *Explanation* in clause (1) thereof, the following *Explanation* is substituted namely:-  
*Explanation-* For the purpose of this article, the Government of the State means the person for the time being recognized by the President on the recommendation of the legislative Assembly of the State as the "Sadar-i-Rayasat of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office."

(1) Notwithstanding anything in this Constitution,-

- (a) the provision of article 238 shall not apply in relation to the State of Jammu and Kashmir;
- (b) the power of Parliament to make laws for the said State shall be limited to-
  - (i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and
  - (ii) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify.

*Explanation.-* For the purpose of this article, the Government of the state means the person for the time being recognized by the President as the Maharaja of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office under the Maharaja's Proclamation dated the fifth day of March, 1948;

- (c) the provisions of article 1 and of this article shall apply in relation to that State;
- (d) such of the other provisions of this constitution shall apply in relation to that State subject to such exceptions and modifications as the President may by order specify:

Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (i) of sub-clause (b) shall be issued except in consultation with the Government of the State:

Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government.

- (1) If the concurrence of the Government of the State referred to in paragraph (ii) of sub-clause (b) of clause (1) or in the second proviso to sub-clause (d) of that clause be given before the Constituent assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon.
- (3) Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify:

Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification.

## **9. Article 371A**

### **Special provision with respect to the State of Nagaland.-**

- (1) Notwithstanding anything in this Constitution,-
  - (a) no Act of Parliament in respect of-
    - (i) religious or social practices of the Nagas,
    - (ii) Naga customary law and procedure,
    - (iii) administration of civil and criminal justice involving decisions according to Naga customary law,
    - (iv) ownership and transfer of land and its resources, shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by resolution so decides;
  - (b) the Governor of Nagaland shall have special responsibility with respect to law and order in the State of Nagaland for so long as in his opinion internal disturbances

occurring in the Naga Hills-Tuensang Area immediately before the formation of that State continue therein or in any part thereof and in the discharge of his functions in relation thereto the Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken:

Provided that if any question arises whether any matter is or is not a matter as respects which the Governor is under this sub-clause required to act in the exercise of his individual judgment, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in the exercise of his individual judgment;

Provided further that if the President on receipt of a report from the Governor or otherwise is satisfied that it is no longer necessary for the Governor to have special responsibility with respect to law and order in the State of Nagaland, he may by order direct that the Governor shall cease to have such responsibility with effect from such date as may be specified in the order;

- (c) in making his recommendation with respects to any demand for a grant, the Governor of Nagaland shall ensure that any money provided by the Government of India out of the Consolidated Fund of India for any specific service or purpose is included in the demand for a grant relating to that service or purpose and not in any other demand;
- (d) as from such date as the Governor of Nagaland may by public notification in this behalf specify, there shall be established a regional council for the Tuensang district consisting of thirty-

five members and the Governor shall in his discretion make rules providing for-

- (i) the composition of the regional council and the manner in which the member of the regional council shall be chosen: Provided that the Deputy Commissioner of the Tuensang district shall be the Chairman *ex officio* of the regional council and the Vice-Chairman of the regional council shall be elected by the members thereof from amongst themselves;
- (ii) the qualifications for being chosen as, and for being, members of the regional council;
- (iii) the term of office of, and the salaries and allowances, if any, to be paid to members of, the regional council;
- (iv) the procedure and conduct of business of the regional council;
- (v) the appointment of officers and staff of the regional council and their conditions of services; and
- (vi) any other matter in respect of which it is necessary to make rules for the constitution and proper functioning of the regional council.

(2) Notwithstanding anything in this Constitution, for a period of ten years from the date of the formation of the State of Nagaland or for such further period as the Governor may, on the recommendation of the regional council, by public notification specify in this behalf,-

- (a) the administration of the Tuensang district shall be carried on by the Governor;
- (b) where any money is provided by the Government of India to the Government of Nagaland to meet the requirements of the State of Nagaland as a whole, the Governor shall in his

discretion arrange for an equitable allocation of that money between the Tuensang district and the rest of the State;

- (c) no Act of the Legislature of Nagaland shall apply to the Tuensang district unless the Governor, on the recommendation of the regional council, by public notification so directs and the Governor in giving such direction with respect to any such Act may direct that the Act shall in its application to the Tuensang district or any part thereof have effect subject to such exceptions or modifications as the Governor may specify on the recommendation of the regional council:

Provided that any direction given under this sub-clause may be given so as to have retrospective effect;

- (d) the Governor may make regulations for the peace, progress and good government of the Tuensang district and any regulations so made may repeal or amend with retrospective effect, if necessary, any Act of Parliament or any other law which is for the time being applicable to that district;

- (e) (i) one the members representing the Tuensang district in the Legislative Assembly of Nagaland shall be appointed Minister for Tuensang affairs by the Governor on the advice of the Chief Minister in tendering his advice shall act on the recommendation of the majority of the members as aforesaid;<sup>30</sup>

- (ii) the Minister for Tuensang affairs shall deal with, and have direct access to the Governor on, all matters relating to the Tuensang district but he shall keep the Chief Minister informed about the same;

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Paragraph 2 of the Constitution (Removal of Difficulties) Order, No. X provides (w.e.f 1-12-1963) that article 371A of the Constitution of India shall have effect as if the following proviso were added to paragraph (i) of sub-clause (e) of clause (2) thereof, namely:- "Provided that the Governor may, on the advice of the Chief Minister, appoint any person and Minister for Tuensang affairs to act as such until such time as persons are chosen in accordance with law to fill the seats allocated to the Tuensang district in the Legislative Assembly of Nagaland."

- (f) notwithstanding anything in the foregoing provisions of this clause, the final decision on all matters relating to the Tuensang district shall be made by the Governor in his discretion;
  - (g) in articles 54 and 55 and clause (4) of article 80, references to the elected members of the Legislative Assembly of Nagaland elected by the regional council established under this article;
  - (h) in article 170-
    - (i) clause (1) shall, in relation to the Legislative Assembly of Nagaland, have effect as if for the word “sixty”, the words “forty-six” had been substituted;
    - (ii) in the said clause, the reference to direct election from territorial constituencies in the State shall include election by the members of the regional council established under this article;
    - (iii) in clauses (2) and (3), references to territorial constituencies shall mean references to territorial constituencies in the Kohima and Mokukchung districts.
- (3) If any difficulty arises in giving effect to any of the foregoing provisions of this article, the President may by order do anything (including any adaptation or modification of any other article) which appears to him to be necessary for the purpose of removing that difficulty:

Provided that no such order shall be made after the expiration of three years from the date of the formation of the State of Nagaland.

*Explanation.-* In this article, the Kohima, Mokokchung and Tuensang districts shall have the same meanings as in the State of Nagaland Act, 1962.

**10. Article 371B<sup>31</sup> Special Provision with respect to the State of Assam.-**

Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Assam, provide for the constitution and functions of a committee of the Legislative Assembly of the State consisting of members of that Assembly elected from the tribal areas specified in <sup>32</sup>[Part I] of the table appended to paragraph 20 of the Sixth Schedule and such number of other members of that Assembly as may be specified in the order and for the modifications to be made in the rules of procedure of that Assembly for the constitution and proper functioning of such committee.

**11. Article 371C<sup>33</sup> (1) Notwithstanding anything in this Constitution, the President may, by**

order made with respect to the State of Manipur, provide for the constitution and functions of a committee of the Legislative Assembly of the State consisting of members of that Assembly elected from the Hill Areas of that State, for the modifications to be made in the rules of business of the Government and in the rules of procedure of the Legislative Assembly of the state and for any special responsibility of the Governor in order to secure the proper functioning of such committee.

(2) The Governor shall annually, or whenever so required by the President, make a report to the President regarding the administration of the Hill Areas in the State of Manipur and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said areas.

*Explanation.*-In this article, the expression "Hill Areas" means such areas as the President may, by order, declare to be Hill Areas.

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<sup>31</sup> Ins. by the Constitution (Twenty-Second Amendment) Act, 1969, sec. 4.

<sup>32</sup> Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), sec.71. for "Part A" (w.e.f 21-1-1972).

<sup>33</sup> Ins. by the Constitution (Twenty-Seventh Amendment) Act, 1971, sec. 5 (w.e.f 15-2-1972).



12. Article 371F<sup>34</sup> Notwithstanding anything in this Constitution,-

- (a) the Legislative Assembly of the State of Sikkim shall consist of not less than thirty members;
- (b) as from the date of commencement of the Constitution (Thirty-Sixth Amendment) Act, 1975 (hereafter in this article referred to as the appointed day)-
  - (i) the Assembly for Sikkim formed as a result of the elections held in Sikkim in April, 1974 with thirty-two members elected in the said elections (hereinafter referred to as the sitting members) shall be deemed to be the Legislative Assembly of the State of Sikkim duly constituted under this Constitution;
  - (ii) the sitting members shall be deemed to be the members of the Legislative Assembly of the State of Sikkim duly elected under this Constitution; and
  - (iii) the said Legislative Assembly of the State of Sikkim shall exercise the powers and perform the functions of the Legislative Assembly of a State under this Constitution;
- (c) in the case of the Assembly deemed to be the Legislative Assembly of the State of Sikkim under clause (b), the references to the period of <sup>35</sup>[five years] in clause (1) of article 172 shall be construed as references to a period of [four years] and the said period of <sup>36</sup>[four years] shall be deemed to commence from the appointed day;
- (d) until other provisions are made by Parliament by law, there shall be allotted to the State of Sikkim one seat in the House of

<sup>34</sup> Ins. by the Constitution (Thirty-Sixth Amendment) Act, 1975, sec. 3 (w.e.f. 26-4-1975).

<sup>35</sup> Subs. by the Constitution (Forty-Fourth Amendment) Act, 1978, sec. 43, for "six years" (w.e.f. 6-9-1979). The words "six years" were substituted for the original words "five years" by the Constitution (Forty-Second Amendment) Act, 1976, sec. 56 (w.e.f. 3-1-1977).

<sup>36</sup> Subs. by the Constitution (Forty-Fourth Amendment) Act, 1978, sec. 43, for "five years" (w.e.f. 6-9-1979). The words "five years" were substituted for the original words "four years" by the Constitution (Forty-Second Amendment) Act, 1976, sec. 56 (w.e.f. 3-1-1977).

People and the State of Sikkim shall form one Parliamentary (constituency to be called the parliamentary constituency for Sikkim;

- (e) the representative of the State of Sikkim in the House of the people in existence on the appointed day shall be elected by the members of the Legislative Assembly of the State of Sikkim;
- (f) Parliament may, for the purpose of protecting the rights and interests of the different sections of the population of Sikkim make provision for the number of seats in the Legislative Assembly of the State of Sikkim which may be filled by candidates belonging to such sections and for the delimitation of the Assembly constituencies from which candidates belonging to such sections alone may stand for election of the Legislative Assembly of the state of Sikkim;
- (g) the Governor of Sikkim shall have special responsibility for peace and for an equitable arrangement for ensuring the social and economic advancement of different sections of the population of Sikkim and in the discharge of his special responsibility under this clause, the Governor of Sikkim shall, subject to such directions as the President may, from time to time, deem fit to issue, act in his discretion;
- (h) all property and assets (whether within or outside the territories comprised in the State of Sikkim) which immediately before the appointed day were vested in the Government of Sikkim or in any other authority or in any person for the purposes of the Government of Sikkim shall, as from the appointed day, vest in the Government of the State of Sikkim;
- (i) the High Court functioning as such immediately before the appointed day in the territories comprised in the State of

Sikkim shall, on and from the appointed day, be deemed to be the High Court for the State of Sikkim;

- (j) all courts of civic, criminal and revenue jurisdiction, all authorities and all officers, judicial, executive and ministerial, throughout the territory of the State of Sikkim shall continue on and from the appointed day to exercise their respective functions subject to the provision of this Constitution;
- (k) all laws in force immediately before the appointed day in the territories comprised in the State of Sikkim or any part thereof shall continue to be in force therein until amended or repealed by a competent Legislature or other competent authority;
- (l) for the purpose of facilitating the application of any such law as is referred to in clause (k) in relation to the administration of the State of Sikkim and for the purpose of bringing the provisions of any such law into accord with the provisions of this Constitution, the President may, within two years from the appointed day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon, every such law shall have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law;
- (m) neither the Supreme Court nor any other court shall have jurisdiction in respect of any dispute or other matter arising out of any treaty, agreement, engagement or other similar instrument relating to Sikkim which was entered into or executed before the appointed day and to which the Government of India or any of its predecessor Governments was a party, but nothing in this clause shall be construed to derogate from the provisions of article 143;

- (n) the President may, by public notification, extent with such restrictions or modifications as he thinks fit to the State of Sikkim any enactment which is in force in a State in India at the date of the notification;
- (o) if any difficulty arises in giving effect to any of the foregoing provisions of this article, the President may, by order, do anything (including any adaptation or modification of any other article) which appears to him to be necessary for the purpose of removing the difficulty: Provided that no such order shall be made after the expiry of two years from the appointed day;
- (p) all things done and all actions taken in or in relation to the State of Sikkim or the territories comprised therein during the period commencing on the appointed day and ending immediately before the date on which the Constitution (Thirty-Sixth Amendment) Act, 1975, received the assent of the President shall, in so far as they are in conformity with the provisions of this Constitution as amended by the Constitution (Thirty-Sixth Amendment) Act, 1975, be deemed for all purposes to have been validly done or taken under this Constitution as so amended.

**13. Article 371G<sup>37</sup>**

**Special Provision with respect to the State of Mizoram.-**

- (a) no Act of Parliament in respect of-
  - (i) religious or social practices of the Mizos,
  - (ii) Mizoram customary law and procedure,
  - (iii) administration of civil and criminal justice involving decisions according to Mizo customary law,
  - (iv) ownership and transfer of land shall apply to the State of Mizoram unless the Legislative Assembly of the state of

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<sup>37</sup> See the Constitution (Removal of Difficulties) Order XI (C.O 99).

Mizoram by a resolution so decides: Provided that nothing in this clause shall apply to any Central Act in force in the Union Territory of Mizoram immediately before the commencement of the Constitution (Fifty-Third Amendment) Act, 1986;

- (b) the Legislative Assembly of the State of Mizoram shall consist of not less than forty members.

**14. Article 371H<sup>38</sup>**  
**Pradesh.-**

**Special Provision with respect to the State of Arunachal Pradesh.-**

Notwithstanding anything in this Constitution-

- (a) the Governor of Arunachal Pradesh shall have special responsibility with respect to law and order in the State of Arunachal Pradesh and in the discharge of his functions in relation thereto, the Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken: Provided that if any question arises whether any matter is or is not a matter as respects which the Governor is under this clause required to act in the exercise of his individual judgment, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in the exercise of his individual judgment:

Provided further that if the President on receipt of a report from the Governor or otherwise is satisfied that it is no longer necessary for the Governor to have special responsibility with respect to law and order in the State of Arunachal Pradesh, he may by order direct that the Governor shall cease to have such

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<sup>38</sup> Ins. by the Constitution (Fifty-Fifth Amendment) Act, 1986, sec. 2 (w.e.f. 20-2-1987).

responsibility with effect from such date as may be specified in the order;

- (b) the Legislative Assembly of the state of Arunachal Pradesh shall consist of not less than thirty members.

**APPENDIX II**  
**LISTS OF SUBJECTS AND DEPARTMENTS UNDER BAC'S**  
**CONTROL**

1. Cottage Industry
2. Animal Husbandry and Veterinary
3. Forests
4. Agriculture
5. PWD
6. Sericulture
7. Education
  - (a) Adult Education
  - (b) Primary education
  - (c) Upto Higher Secondary including Vocational Training
  
8. Cultural Affairs
9. Soil Conservation
10. Co-operation
11. Fisheries
12. Panchayat and Rural Development
13. Handloom and Textiles
14. Health and Family Welfare
15. Public Health Engineering
16. Irrigation
17. Social Welfare
18. Flood Control schemes for protection of villages (not of highly technical nature)
19. Sports and Youth Welfare
20. Weights and Measures
21. Library Services
22. Museums and Archaeology
23. Urban Development- Town and Country Planning

24. Tribal Research Institute
25. College Education (General)
26. Land Revenue
27. Publicity/ Public Relations
28. Printing and Stationery
29. Tourism
30. Transport
31. Any other matter connected with development
32. Municipal Corporation, Improvement Trusts, District Boards and other local authorities
33. Tribal Welfare
34. Markets and Fairs
35. Lotteries, theatres, dramatic performances and cinemas
36. Vital Statistics including registration of births and deaths
37. Food and Civil Supply
38. Intoxicating liquors, opium and derivatives, etc.



### **APPENDIX III**

## **LISTS OF POWERS AND FUNCTIONS OF MANIPUR'S HILL AREAS ADC S UNDER THE MANIPUR HILL AREAS AUTONOMOUS DISTRICT COUNCIL BILL, 2000<sup>1</sup>**

- (1) The District Council may recommend to the Government to make laws to be applicable in the Autonomous Districts.
- (2) The District Council may, exercise the functions given below:
  - (a) The management of any forest not being a reserve forest;
  - (b) The use of any canal or water-course for the purpose of agriculture;
  - (c) The establishment of Town Committees and Village Councils and their powers;
  - (d) Any other matter relating to Public Health and Sanitation;
  - (e) Inheritance of property;
  - (f) Social customs including marriage and divorce;
  - (g) Undertake schemes or adopt measures including the giving of financial assistance relating to the development of :-
    - (i) agriculture;
    - (ii) fisheries;
    - (iii) livestock;
    - (iv) khadi;
    - (v) cottage and small industries;
    - (vi) co-operative movement;
    - (vii) rural development;
    - (viii) water supply;
    - (ix) watershed development;
    - (x) public health and sanitation including establishment and maintenance of hospitals;
    - (xi) communication;
    - (xii) primary and secondary education;

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<sup>1</sup> According to Section 22 of the Bill.

- (xiii) adult and non-formal education;
- (xiv) physical education;
- (xv) games and sports;
- (xvi) welfare of students;
- (xvii) social forestry including fuel and fodder;
- (xviii) rural electrification including distribution of non-conventional energy sources;
- (xix) general public utility;
- (h) undertake execution of any scheme, performance of any act or management of any institution or organization entrusted to it by the State Government or any other authority;
- (i) management or maintenance of any work of public utility or any institution vested in it or under its control and management;
- (j) make grant to the Village Council;
- (k) co-ordination and integration of the development plans and schemes prepared by the Village Council in the Autonomous District;
- (l) examination and sanction of Budget Estimates of the Village Council in the Autonomous District; and
- (m) adopting measures for the relief of distress.

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