



## Scheduled and Tribal Areas

Article 244 in Part X of the Constitution envisages a special system of administration for certain areas designated as ‘scheduled areas’ and ‘tribal areas’. The Fifth Schedule of the Constitution deals with the administration and control of scheduled areas and scheduled tribes in any state except the four states of Assam, Meghalaya, Tripura and Mizoram<sup>1</sup>. The Sixth Schedule of the Constitution, on the other hand, deals with the administration of the tribal areas in the four northeastern states of Assam, Meghalaya, Tripura and Mizoram.

### ADMINISTRATION OF SCHEDULED AREAS

‘The scheduled areas are treated differently from the other areas in the country because they are inhabited by ‘aboriginals’ who are socially and economically rather backward, and special efforts need to be made to improve their condition. Therefore, the whole of the normal administrative machinery operating in a state is not extended to the scheduled areas and the Central government has somewhat greater responsibility for these areas’<sup>2</sup>.

The various features of administration contained in the Fifth Schedule are as follows:

1. **Declaration of Scheduled Areas:** The president is empowered to declare an area to be a scheduled area. He can also increase or decrease its area,

alter its boundary lines, rescind such designation or make fresh orders for such redesignation on an area in consultation with the governor of the state concerned.

2. ***Executive Power of State and Centre:*** The executive power of a state extends to the scheduled areas therein. But the governor has a special responsibility regarding such areas. He has to submit a report to the president regarding the administration of such areas, annually or whenever so required by the president. The executive power of the Centre extends to giving directions to the states regarding the administration of such areas.
3. ***Tribes Advisory Council:*** Each state having scheduled areas has to establish a tribes advisory council to advise on welfare and advancement of the scheduled tribes. It is to consist of 20 members, three-fourths of whom are to be the representatives of the scheduled tribes in the state legislative assembly. A similar council can also be established in a state having scheduled tribes but not scheduled areas therein, if the president so directs.
4. ***Law applicable to Scheduled Areas:*** The governor is empowered to direct that any particular act of Parliament or the state legislature does not apply to a scheduled area or apply with specified modifications and exceptions. He can also make regulations for the peace and good government of a scheduled area after consulting the tribes advisory council. Such regulations may prohibit or restrict the transfer of land by or among members of the scheduled tribes, regulate the allotment of land to members of the scheduled tribes and regulate the business of money-lending in relation to the scheduled tribes. Also, a regulation may repeal or amend any act of Parliament or the state legislature, which is applicable to a scheduled area. But, all such regulations require the assent of the president.

The Constitution requires the president to appoint a commission to report on the administration of the scheduled areas and the welfare of the scheduled tribes in the states. He can appoint such a commission at any time but compulsorily after ten years of the commencement of the Constitution. Hence, a commission was appointed in 1960. It was headed by U N Dhebar and submitted its report in 1961. After four decades, the second commission was appointed in 2002 under the chairmanship of Dilip Singh Bhuria. It

submitted its report in 2004.

## ADMINISTRATION OF TRIBAL AREAS

The Constitution, under Sixth Schedule, contains special provisions for the administration of tribal areas in the four north-eastern states of Assam, Meghalaya, Tripura and Mizoram. The rationality behind the special arrangements in respect of only these four states lies in the following:

“The tribes in Assam, Meghalaya, Tripura and Mizoram have not assimilated much the life and ways of the other people in these states. These areas have hitherto been anthropological specimens. The tribal people in other parts of India have more or less adopted the culture of the majority of the people in whose midst they live. The tribes in Assam, Meghalaya, Tripura and Mizoram, on the other hand, still have their roots in their own culture, customs and civilization. These areas are, therefore, treated differently by the Constitution and sizeable amount of autonomy has been given to these people for self-government.<sup>3</sup>”

The various features of administration contained in the Sixth Schedule are as follows:

1. The tribal areas in the four states of Assam, Meghalaya, Tripura and Mizoram have been constituted as autonomous districts<sup>4</sup>. But, they do not fall outside the executive authority of the state concerned.
2. The governor is empowered to organise and re-organise the autonomous districts. Thus, he can increase or decrease their areas or change their names or define their boundaries and so on.
3. If there are different tribes in an autonomous district, the governor can divide the district into several autonomous regions.
4. Each autonomous district has a district council consisting of 30 members, of whom four are nominated by the governor and the remaining 26 are elected on the basis of adult franchise. The elected members hold office for a term of five years (unless the council is dissolved earlier) and nominated members hold office during the pleasure of the governor. Each autonomous region also has a separate regional council.
5. The district and regional councils administer the areas under their jurisdiction. They can make laws on certain specified matters like land,

forests, canal water, shifting cultivation, village administration, inheritance of property, marriage and divorce, social customs and so on. But all such laws require the assent of the governor.

6. The district and regional councils within their territorial jurisdictions can constitute village councils or courts for trial of suits and cases between the tribes. They hear appeals from them. The jurisdiction of high court over these suits and cases is specified by the governor.
7. The district council can establish, construct or manage primary schools, dispensaries, markets, ferries, fisheries, roads and so on in the district. It can also make regulations for the control of money lending and trading by non-tribals. But, such regulations require the assent of the governor.
8. The district and regional councils are empowered to assess and collect land revenue and to impose certain specified taxes.
9. The acts of Parliament or the state legislature do not apply to autonomous districts and autonomous regions or apply with specified modifications and exceptions<sup>5</sup>.
10. The governor can appoint a commission to examine and report on any matter relating to the administration of the autonomous districts or regions. He may dissolve a district or regional council on the recommendation of the commission.

**Table 41.1** *Tribal Areas at a Glance (2016)*

	<i>States</i>		<i>Tribal Areas</i>
1.	Assam	1. 2. 3.	The North Cachar Hills District. The Karbi Anglong District. The Bodoland Territorial Areas District.
2.	Meghalaya	1. 2. 3.	Khasi Hills District. Jaintia Hills District. The Garo Hills District.
3.	Tripura		Tripura Tribal Areas District
4.	Mizoram	1. 2. 3.	The Chakma District. The Mara District. The Lai District.

**Table 41.2** *Articles Related to Scheduled and Tribal Areas at a Glance*

<b>Article No.</b>	<b>Subject-matter</b>
244.	Administration of Scheduled Areas and Tribal Areas
244A.	Formation of an autonomous state comprising certain tribal areas in Assam and creation of local legislature or Council of Ministers or both therefore
339.	Control of the Union over the administration of Scheduled Areas and the welfare of Scheduled Tribes

**Table 41.3** *Orders Relating to Scheduled Areas (2016)<sup>6</sup>*

<b>S.No.</b>	<b>Name of Order</b>	<b>Name of State(s) for which applicable</b>
1.	The Scheduled Areas (Part A States) Order, 1950	Andhra Pradesh and Telangana
2.	The Scheduled Areas (Part B States) Order, 1950	Andhra Pradesh and Telangana
3.	The Scheduled Areas (Himachal Pradesh) Order, 1975	Himachal Pradesh
4.	The Scheduled Areas (States of Bihar, Gujarat, Madhya Pradesh and Orissa) Order, 1977	Gujarat and Odisha
5.	The Scheduled Areas (State of Rajasthan) Order, 1981	Rajasthan
6.	The Scheduled Areas (Maharashtra) Order, 1985	Maharashtra
7.	The Scheduled Areas (States of Chhattisgarh, Jharkhand and Madhya Pradesh)) Order, 2003	Chhattisgarh and Madhya Pradesh

8.	The Scheduled Areas (State of Jharkhand) Order, 2007	Jharkhand
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**Note:** The States of Madhya Pradesh and Bihar were reorganised vide the Madhya Pradesh Reorganisation Act, 2000 and Bihar Reorganisation Act, 2000 respectively. Consequently, a portion of Scheduled Areas of the composite State of Madhya Pradesh stood transferred to the newly formed State of Chhattisgarh and the whole of Scheduled areas stood transferred to Jharkhand from the parent State of Bihar. Hence, it became necessary to amend the Scheduled Areas (States of Bihar, Gujarat, Madhya Pradesh and Orissa) Order, 1977 in so far as it related to the composite States of Bihar and Madhya Pradesh. The President has promulgated a new Constitutional Order specifying the Scheduled Areas in respect of the States of Chhattisgarh, Jharkhand and Madhya Pradesh in 2003. The Scheduled Areas in the State of Jharkhand have been redefined to be the Scheduled Areas within the State of Jharkhand vide the Scheduled Areas (State of Jharkhand) Order, 2007.<sup>7</sup>

## NOTES AND REFERENCES

1. At present (2016), ten states of India have scheduled areas. These are: Andhra Pradesh, Telangana, Jharkhand, Chhattisgarh, Gujarat, Himachal Pradesh, Madhya Pradesh, Maharashtra, Odisha and Rajasthan.
2. M P Jain, *Indian Constitutional Law*, Wadhwa, Fourth Edition, 1987, p. 236.
3. *Ibid*, p. 237.
4. Presently (2016), there are a total of ten tribal areas. See [Table 41.1](#).
5. The power of direction, in this regard, lies either with the president or governor. Thus, in the case of Assam, it lies with the Governor, both in respect of acts of Parliament or state legislature. In the case of Meghalaya, Tripura and Mizoram, it lies with the president in respect of acts of Parliament and governor in respect of acts of state legislature.
6. Annual Report 2015-16, Ministry of Tribal Affairs, Government of India pp.33-34.
7. *Ibid*.