

The Tribes Advisory Councils: Time to be replaced by the Autonomous District Councils



Asian Indigenous & Tribal Peoples Network

[AITPN has Special Consultative Status with the United Nations Economic and Social Council (ECOSOC)]



The Tribes Advisory Councils: Time to be replaced by the Autonomous District Councils



Asian Indigenous & Tribal Peoples Network

[AITPN has Special Consultative Status with the United Nations Economic and Social Council (E/1994/23)]



© Asian Indigenous & Tribal Peoples Network, December 2012

ISBN : 978-81-907996-5-2

Contributory Price : Rs. 295/-

Photo: Reangs of Shikaribari

Published by:

Asian Indigenous & Tribal Peoples Network

C3/441, Third Floor, Janakpuri, New Delhi-110058, India

Tel/Fax: +91 11 25503624

Email: aitpn@aitpn.org

Website: www.aitpn.org

Acknowledgement: This report is being published with the financial assistance from the European Commission under the project, EIDHR/2010/232154 titled “Implementation of rights of indigenous peoples in India with special focus on armed conflict situations” granted to Asian Indigenous and Tribal Peoples Network. The views are of the AITPN and not the European Commission.

Contents

1. Preface.....	1
2. Executive summary and recommendations.....	3
2.1 TACs: Toothless wonders	3
2.2 The TACs: Perfunctory meetings and little follow up of recommendations	4
2.3. Conclusions and recommendations.....	8
3. Composition of various TACs.....	9
4. Powers and Functions of the Tribes Advisory Council.....	13
Andhra Pradesh.....	14
Chhattisgarh.....	14
Himachal Pradesh.....	14
Jharkhand.....	15
Rajasthan.....	15
5. Assessment of the functioning of the TACs	16
Andhra Pradesh TAC.....	16
i. Concerns raised in the TAC meetings are not duly reflected in the resolutions . 16	
ii. Recommendations not followed up	18
iii. Failure to tackle critical issue of Tribal land alienation	20
5.2 Chhattisgarh TAC.....	20
i. Recommendations followed up	21
II. Recommendations followed up but not successfully implemented	29
iii. Recommendations not followed up	37
5.3 Rajasthan TAC	39

i. Lack of implementation of recommendations	40
ii. Lack of follow up	42
5.4 Jharkhand TAC.....	49
I. Recommendations followed up	49
ii. Recommendations not followed up	51
5.5 Himachal Pradesh TAC	55
I. No follow up and premature closure of the issues.....	55
II. Follow up of decisions and implementation.....	58
III. Lack of follow up	61
Annexure -I: Fifth Schedule to the Constitution of India	64
FIFTH SCHEDULE	64
PART A.....	64
PART B	64
PART C.....	66
PART D	66
Annexure-II: Sixth Schedule to the Constitution of India	67
SIXTH SCHEDULE	67

1. Preface

As India faces the most serious internal security threats from the Naxalites mainly active in the Scheduled Areas notified under the 5th Schedule to the Constitution of India, there is little discussion on the (in)effectiveness of the Tribes Advisory Councils (TACs). The TACs, established under the 5th Schedule, are mandated to “advise on such matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to them by the Governor.”¹ The TACs have been constituted in the nine states having Scheduled Areas namely Andhra Pradesh, Jharkhand, Chhattisgarh, Himachal Pradesh, Madhya Pradesh, Gujarat, Maharashtra, Orissa and Rajasthan. Apart from these states, West Bengal and Tamil Nadu, which have Scheduled Tribes but not Scheduled Areas, have also constituted TACs.

Unfortunately, no evaluation of the functioning of the TACs has ever been conducted since their inceptions.

This study of Asian Indigenous and Tribal Peoples Network (AITPN) seeks to evaluate the functioning of the TACs based on the minutes of the meetings of the TACs obtained under the Right to Information Act, 2005 and assessment of the recommendations made and implementation of the same. The study indicates an extremely disturbing state of affairs.

The TACs are neither independent nor accountable.

The legal shortcomings of the 5th Schedule is well-known. The TAC can only discuss the issues referred to it by the Governor. Its recommendations are advisory. The TAC members are appointed by the concerned State government or the Governor and are not accountable to the Scheduled Tribes in their capacity as members of the TAC. Effectively, the TAC is an extension of the Tribal Welfare Department in the state.

The meetings of the TACs are perfunctory. Some of the critical issues affecting the tribals in the State are seldom raised. The minutes often do not reflect the discussion. The resolutions adopted are not followed up. Even in cases where the State Government claims to have submitted Action Taken Reports on the recommendations, such as in the case of Chhattisgarh, there is no verification while the situation of the tribals continues to remain deplorable. Despite increasing land alienation in the Scheduled Areas despite prohibition, the TACs whether headed by

1. Paragraph 4 of the Fifth Schedule to the Constitution of India

a tribal Chief Minister like Arjun Munda or non-Tribal Chief Minister Ram Singh of Chhattisgarh, have been maintaining conspicuous silence over the issue. In the case of Andhra Pradesh, Union Tribal Affairs Minister V Kishore Chandra Deo had to request the Andhra Pradesh governor ESL Narsimhan to use special powers bestowed to Governors under the 5th Schedule to the Constitution of India to cancel the bauxite mining leases given in Vishakhapatnam district.²

The TACs have outlived their utility and reflect colonial era administrative set-up at a time when self-governance through decentralization has become the moto and the norm. In comparison to the TACs, the Autonomous District Councils (ADCs) under the Sixth Schedule to the Constitution of India (Annexure – II) are run by tribals elected through direct universal suffrage and the ADCs have executive, legislative and judicial powers. The ADCs have often been described as “States within a State” but increasingly they reflect India’s decentralisation for serving the people.

The study recommends that the Fifth Schedule to the Constitution of India should be repealed and the Sixth Schedule of the Constitution of India should be extended to the Scheduled Areas currently notified under the Fifth Schedule of the Constitution of India. This will help to empower the tribal people, take their own decisions and also fight the Naxalites who are exploiting the tribals and their plight.

Paritosh Chakma
Director

2. Special powers to be used to cancel Bauxite lease in Andhra Pradesh. The Economic Times (online), 16 May 2012, available at http://articles.economictimes.indiatimes.com/2012-05-16/news/31727041_1_mining-leases-special-powers-bauxite-mining

2. Executive summary and recommendations

The Fifth Schedule to the Constitution of India, which deals with the provisions as to the Administration and Control of Scheduled Areas and Scheduled Tribes, provides for establishment of a “Tribes Advisory Council” (TAC) in each State having Scheduled Areas therein and, if the President so directs, also in any State³ having Scheduled Tribes but not Scheduled Areas therein. The mandate of the TAC is to “advise on such matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to them by the Governor.”⁴

Nine states having Scheduled Areas are Andhra Pradesh, Jharkhand, Chhattisgarh, Himachal Pradesh, Madhya Pradesh, Gujarat, Maharashtra, Orissa and Rajasthan. In addition, West Bengal and Tamil Nadu, which have Scheduled Tribes but not Scheduled Areas, have also constituted TACs.

2.1 TACs: Toothless wonders

The TACs as constituted under the 5th Schedule to the Constitution are toothless wonders.

First, the 5th Schedule itself imposes unreasonable restrictions on the powers of the TAC. As per Paragraph 4(2) of the 5th Schedule, the TAC can advise only “on such matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to them by the Governor”.

Second, the TACs are not representative of the tribals. Sub Paragraph 1 of Paragraph 4 of the Fifth Schedule provides that the TAC shall be consisted of “not more than twenty members of whom, as nearly as may be, three-fourths shall be the representatives of the Scheduled Tribes in the Legislative Assembly of the State” provided that “if the number of representatives of the Scheduled Tribes in the Legislative Assembly of the State is less than the number of seats in the Tribes Advisory Council to be filled by such representatives, the remaining seats shall be filled by other members of those tribes.”⁵ Rule 4 of the Rajasthan Tribes Advisory Council Rules 1980 clearly states that “the members of the Council shall

3. Excluding the States of Assam, Meghalaya, Tripura and Mizoram, as stated in Para 1 of the 5th Schedule to the Constitution of India

4. Paragraph 4 of the Fifth Schedule to the Constitution of India

5. Sub Paragraph 1 of Paragraph 4 of the Fifth Schedule to the Constitution of India

be appointed by the State Government.” Rule 3 of the Andhra Pradesh Tribes Advisory Council Rules, 1958 simply provides that “The members of the Council shall be appointed by the Governor by notification in the Andhra Pradesh Gazettee”. The Jharkhand Tribes Advisory Council Rules states that apart from the ex-officio members (i.e. the Chief Minister and the Minister of Tribal Welfare department), the other members shall be appointed by the Governor and notified in the Official Gazettee (Rule 4).⁶ The TACs are often headed either by the Chief Minister or the Minister in-charge of Tribal Welfare/Development department or the Minister in-charge of Social Welfare department. The other members are mostly bureaucrats.

2.2 The TACs: Perfunctory meetings and little follow up of recommendations

Under this study, AITPN has assessed the effectiveness of TACs of five Fifth Scheduled states, namely, Andhra Pradesh, Chhattisgarh, Himachal Pradesh, Jharkhand and Rajasthan. The TACs have been quite ineffective in addressing the problems of the tribal people in the respective states. The decisions are rarely followed up, with the exception of Chhattisgarh TAC.

In the case of Andhra Pradesh, the decisions taken at a TAC meeting are not followed up in the next meetings. This makes it impossible to verify whether the recommendations were implemented by the State government. Further, the concerns raised in the TAC meetings are not duly reflected in the resolutions adopted at the end of the meeting. For example, while discussing the Annual Reports on the Administration of Scheduled Areas in Andhra Pradesh for the years 2001-2002, 2002-2003, 2003-2004, 2004-2005 and 2005-2006 at the 99th Andhra Pradesh TAC meeting held on 3 November 2006, TAC Member P. Venkateswarulu stated that in certain instances, the Central government had reduced or totally stopped allocation of funds for certain schemes as the utilization certificates were not submitted by the state government on time and asserted that instructions be issued to the officials to submit the utilization certificates on time to get full funds from the Central government. The Minutes of the meeting recorded that all the APTAC members unanimously agreed to approve the reports for onward submission to the Government and suggested “to submit reports in time with more budgetary information including expenditure particulars reflecting the facts.” But the resolution merely records that “Council perused the reports and recommended for forwarding the same to Government for submission to Hon’ble Governor of Andhra Pradesh for onwards transmission to Government of India.”

6. RTI information received from Pawan Lal Das, Public Information Officer, Welfare Department, Jharkhand government, Ranchi, dated 25/01/2012

The Himachal Pradesh Tribes Advisory Council (HTAC) held 41 meetings as on 24 March 2011 since its constitution on 13 December 1977 and discussed issues mostly relating to infrastructure development.⁷ The HTAC took up too many items for discussions but dropped many of them prematurely, without arriving at any conclusion. For example, in the 36th meeting held on 12 May 2006, 102 items were discussed, 119 items were discussed in 37th meeting held on 30 November 2006, 104 items were discussed in 38th meeting held on 2 August 2007, 86 items were discussed in 39th meeting held on 3 February 2009, 88 items (including 21 follow up items and 67 new items) were discussed in the 40th meeting held on 15 May 2010, and 66 items (including 19 follow up items and 47 new items) were discussed in the 41st meeting held on 24 March 2011. The TAC members could not give sufficient time to discuss each of the issues seriously. A lot of issues were dropped at the very meeting it was raised without implementation of the decisions. For example, in the 40th meeting held on 15 May 2010, an issue related to filling up vacant post of teachers in Govt Schools in Kinnaur district was discussed. The Education department stated that efforts were being made to fill up nine posts of Headmasters, 1325 posts of lecturers (in Senior Secondary Schools) in Kinnaur district. As soon as the selection list was available, the vacancies would be filled up as a priority. In view of this response, the matter was dropped without any further instruction to submit status report.⁸

The Jharkhand Tribes Advisory Council (JTAC) Rules states that only those matters shall be discussed in the Council which had been referred to the Council by the Governor for advice but the Chairperson may allow discussion on any other matter (not referred to by the Governor) if he/she considers that matter important for the working of the TAC.⁹ In November 2012, two members of the Jharkhand TAC namely former Human Resource Development Minister Bandhu Tirkey and Congress legislator Geetashree Oraon walked out of the TAC meeting alleging that Chief Minister Arjun Munda, who is also the Chairman of TAC, did not take much interest in discussing welfare of the tribal population. Mr Tirkey said that they wanted the Chairman to discuss the problems faced by tribals at Nagri with their land being acquired by the government for construction of India Institute of Management (IIM) and National University for Study and Research in Law, but he did not allow any discussion on that subject. While Chief Minister Arjun Munda allegedly insisted upon the matter being first brought before TAC in writing, Mr

7. Minutes of the meeting held by National Commission for Scheduled Tribes on 11/01/2012 with the Ministry of Home Affairs, Ministry of Tribal Affairs and the Secretaries in charge of Tribal Development/Welfare in the States having Scheduled Areas to discuss the status of implementation of the provisions under Fifth and Sixth Schedule to the Constitution for adaption of laws applicable to Scheduled Areas/Tribes

8. Minutes of the 40th meeting of Himachal Pradesh TAC held on 15 May 2010

9. RTI information received from Pawan Lal Das, Public Information Officer, Welfare Department, Jharkhand government, Ranchi, dated 25/01/2012

Tirkey stated that several memorandums had been submitted to the Governor and the state government and therefore the matter should automatically come to TAC for discussion.¹⁰

The Rajasthan Tribes Advisory Council (RTAC) rarely follows up the issues. Even in a case where the recommendation is said to have been implemented by the State government, it was not reflected in TAC's minutes as the concerned departments do not submit action taken report to the TAC. For example, in its meeting held on 10 November 2005, the RTAC recommended that 45% vacancies be reserved for STs from Scheduled Areas in respect of filling up vacancies in Scheduled Areas and 5 per cent out of 12 per cent be reserved for STs from Scheduled Areas in respect of vacancies in State and subordinate services.¹¹ On 11 January 2012, the Principal Secretary, Tribal Area Development department stated that government of Rajasthan through notification dated 12.9.07 provided reservation of 45% seats to the local STs for direct recruitment vacancies in the Scheduled Areas (excluding State Service posts).¹² But this implementation of the TAC recommendation finds no mention in the meeting of TAC held on 11.10.2007 or thereafter.

The RTAC is so ineffective and inefficient that it passes the same recommendations again and again. On 27 May 2005, the RTAC recommended for splitting the existing 12% reservation for the STs in Rajasthan into two - 5% for STs of Scheduled Areas and 7% for STs of Non-Scheduled Areas.¹³ The same resolution was taken in three consecutive meetings held on 10 November 2005,¹⁴ 21 September 2006 and¹⁵ 19 February 2007.¹⁶ At the RTAC meeting held on 20 June 2007, it was informed that the opinion of the Advocate General of Rajasthan was sought but he failed to reply. The RTAC recommended that the State Government should try to obtain the opinion of the Advocate General at the earliest.¹⁷ In the next RTAC meeting held on 11 October 2007, it was informed that the opinion of the Advocate General of Rajasthan was still not received.¹⁸ Surprisingly, this issue

10. Tribal Advisory Council stages walkout, *The Times of India* (online), 10 November 2012, http://articles.timesofindia.indiatimes.com/2012-11-10/ranchi/35034020_1_stages-walkout-welfare-department-tribal-advisory-council

11. Minutes of Rajasthan TAC meeting held on 10 November 2005

12. Minutes of the meeting held by National Commission for Scheduled Tribes on 11/01/2012 with the Ministry of Home Affairs, Ministry of Tribal Affairs and the Secretaries in charge of Tribal Development/Welfare in the States having Scheduled Areas to discuss the status of implementation of the provisions under Fifth and Sixth Schedule to the Constitution for adaption of laws applicable to Scheduled Areas/Tribes

13. Minutes of Rajasthan TAC meeting held on 27 May 2005

14. Minutes of Rajasthan TAC meeting held on 10 November 2005

15. Minutes of Rajasthan TAC meeting held on 21 September 2006

16. Minutes of Rajasthan TAC meeting held on 19 February 2007

17. Minutes of Rajasthan TAC meeting held on 20 June 2007

18. Minutes of Rajasthan TAC meeting held on 11 October 2007

was dropped by the RTAC from the agenda of subsequent meetings. The issue was not discussed in the meetings held on 11 February 2008, 11 July 2008, and 22 October 2010.

The Chhattisgarh TAC (CGTAC) is the only exception which has been following up the decisions of the previous meetings but it also failed to follow up the starvation of “most backward tribes” as mentioned during the meeting of CGTAC held on 5th July 2005 by TAC Member Nand Kumar Sai. In this regard, the Chief Minister/Chairman of CGTAC informed the meeting about functioning of Annapurna Antyodaya scheme for such most backward tribes; family schemes for them; agricultural welfare schemes, distribution of bull to them in addition to directions to establish Fair Price Shops in the affected areas.¹⁹ But the CGTAC failed to follow up this matter. Similarly, at the meeting held on 26 September 2011, it was stated that genuine STs who are landless and illiterate were being denied ST certificates because they could not produce land documents or any documents relating to education. The CGTAC Members suggested that such STs be given tribal certificates on the basis of identification by Village Sarpanch, village elders and Social workers.²⁰ But this matter was not taken to a definite conclusion.

It is pertinent to mention that land alienation remains the main problem of the tribals. Yet, none of the TACs (covered under this study) including Chhattisgarh TAC ever discussed the issue of land alienation of the tribals as per the minutes of the meetings of the TACs since 2005. With respect to Andhra Pradesh, according to the 2007-08 Annual Report of the Ministry of Rural Development, a total of 65,875 cases of land alienation involving an area of 287,776 acres of land have been filed by the tribals in the Courts in Andhra Pradesh. Of these, 58,212 cases were disposed off by the Courts out of which 26,475 cases (45.48%) were disposed off in favor of tribals restoring 94,312 acres of land to the tribal owners, but 31,737 cases (54.52%) were rejected and decided against the tribals involving 15,227 acres of land.²¹ Yet this issue never figured in the agenda of the Andhra Pradesh Tribes Advisory Council. As recently as in May 2012, Union Tribal Affairs Minister V Kishore Chandra Deo confirmed that the Central government had asked the Andhra Pradesh governor ESL Narsimhan to use special powers bestowed to the Governors under the 5th Schedule to the Constitution of India to cancel the bauxite mining leases given in Vishakhapatnam district.²²

19. Minutes of the Meeting of the Chhattisgarh TAC held on 5 July 2005

20. Minutes of the Chhattisgarh TAC meeting held on 26 September 2011

21. Annual Report 2007-08, Ministry of Rural Development, Govt of India, Page 276

22. Special powers to be used to cancel Bauxite lease in Andhra Pradesh. The Economic Times (online), 16 May 2012, available at http://articles.economictimes.indiatimes.com/2012-05-16/news/31727041_1_mining-leases-special-powers-bauxite-mining

2.3. Conclusions and recommendations

In comparison to the Autonomous District Councils under the Sixth Schedule to the Constitution of India, the TACs are toothless wonders. The TACs have outlived their utility and do not reflect the modern day governance realities. The TACs have effectively been reduced to a government department while the need of the hour is to empower the tribals to govern themselves.

Asian Indigenous and Tribal Peoples Network therefore makes the following recommendations to the Ministry of Tribal Affairs, Government of India:

- Repeal the 5th Schedule to the Constitution of India and extend the Sixth Schedule to the Scheduled Areas currently identified under the Fifth Schedule to the Constitution of India.

In the Interim period, AITPN recommends the Ministry of Tribal Affairs, Government of India to direct the Governors to ensure the following with respect to the TACs:

- Hold meetings at least twice a year;
- Divide the agenda of the meetings into two categories (1) Discussion on the Action Taken Report on the recommendations of the previous meetings, and (2) New items; and
- Create a Monitoring Wing in the TAC to monitor the implementation of its recommendations.

3. Composition of various TACs

Paragraph 4 of the 5th Schedule to the Constitution of India states,

“4. Tribes Advisory Council.—(1) There shall be established in each State having Scheduled Areas therein and, if the President so directs, also in any State having Scheduled Tribes but not Scheduled Areas therein, a Tribes Advisory Council consisting of not more than twenty members of whom, as nearly as may be, three-fourths shall be the representatives of the Scheduled Tribes in the Legislative Assembly of the State:

Provided that if the number of representatives of the Scheduled Tribes in the Legislative Assembly of the State is less than the number of seats in the Tribes Advisory Council to be filled by such representatives, the remaining seats shall be filled by other members of those tribes.....

(3) The Governor may make rules prescribing or regulating, as the case may be,—

- (a) the number of members of the Council, the mode of their appointment and the appointment of the Chairman of the Council and of the officers and servants thereof;
- (b) the conduct of its meetings and its procedure in general; and
- (c) all other incidental matters.”

AITPN has studied the composition of TACs of five states²³ having Scheduled Areas and found that they are often headed either by the Chief Minister or the Minister in-charge of Tribal Welfare/Development department or Minister in-charge of Social Welfare department while other members are mostly bureaucrats. This does not allow any critical discussions and decisions.

The Andhra Pradesh Tribes Advisory Council comprises of 20 members of whom not less than 15 shall be members of Scheduled Tribes in the Legislative Assembly. If the number of Tribal MLAs in the Legislative Assembly is less than 15, the

23. While the other States refused to provide information, the information provided by Gujarat TAC was in Gujarati. AITPN is of the opinion that the functioning of these five TACs is indicative of the state of affairs.

remaining seats shall be filled by other members of these tribes.²⁴ The members are appointed by the Governor by notification in the Andhra Pradesh Gazette.²⁵ The term of the members shall ordinarily be three years, provided that the term of the Council shall, where there is a general election to the Andhra Pradesh Legislative Assembly, terminate on the date on which the said Assembly is first summoned to meet after the general elections and further provided that a member of the Andhra Pradesh Legislative Assembly shall vacate his/her office in the Council if he/she ceases to be member of that Assembly.²⁶ The current Andhra Pradesh TAC, appointed vide G.O.Ms No. 88, Social Welfare Department dated 21-08-2009, consists of the Minister of Tribal Welfare, Andhra Pradesh (Chairperson); the Principal Secretary to Government of Andhra Pradesh (TW), Social Welfare Department (Member); the Director for Scheduled Castes and Scheduled Tribes, Government of India (Member); the Director of Tribal Cultural Research and Training Institute, Hyderabad (Member); the Commissioner of Tribal Welfare, Government of Andhra Pradesh (Member Secretary); and 15 tribal MLAs.²⁷

The Jharkhand Tribes Advisory Council consists of 20 members including 15 Members of Legislative Assembly belonging to the Scheduled Tribes provided that if the number of Scheduled Tribes members in the Legislative Assembly is less than 15 the remaining seats shall be filled by other members of these tribes. The Chief Minister of Jharkhand and the Minister of Tribal Welfare department shall be Ex-officio Chairperson and Vice Chairperson respectively.²⁸ The Jharkhand TAC as constituted on 8 June 2010 comprised of the Chief Minister of Jharkhand (Ex-officio Chairperson), the Minister of Welfare department (Ex-officio Vice Chairperson); 15 tribal MLAs; two other members, and two Special Invitees. The Secretary, Welfare department shall be Secretary of the TAC.²⁹

24. Rule 2, Andhra Pradesh Tribes Advisory Council Rules, 1958 constituted vide G.O.Ms.No.117 Social Welfare & Labour Dept. dated 28-1-1958, RTI information received from M. Vijaya, Deputy Director (Edn), Tribal Welfare Department, Government of Andhra Pradesh, vide letter Rc.No.E(2)/9427/2011 dated 21.12.2011

25. Rule 3, Andhra Pradesh Tribes Advisory Council Rules, 1958 constituted vide G.O.Ms.No.117 Social Welfare & Labour Dept. dated 28-1-1958, RTI information received from M. Vijaya, Deputy Director (Edn), Tribal Welfare Department, Government of Andhra Pradesh, vide letter Rc.No.E(2)/9427/2011 dated 21.12.2011

26. Rule 4, Andhra Pradesh Tribes Advisory Council Rules, 1958 constituted vide G.O.Ms.No.117 Social Welfare & Labour Dept. dated 28-1-1958, RTI information received from M. Vijaya, Deputy Director (Edn), Tribal Welfare Department, Government of Andhra Pradesh, vide letter Rc.No.E(2)/9427/2011 dated 21.12.2011

27. RTI information received from M. Vijaya, Deputy Director (Edn), Tribal Welfare Department, Government of Andhra Pradesh, vide letter Rc.No.E(2)/9427/2011 dated 21.12.2011

28. RTI information received from Pawan Lal Das, Public Information Officer, Welfare Department, Jharkhand government, Ranchi, dated 25/01/2012

29. RTI information received from Pawan Lal Das, Public Information Officer, Welfare Department, Jharkhand government, Ranchi, dated 25/01/2012

The Chhattisgarh TAC as constituted on 20 May 2009 has the following members: the Chief Minister (Chairperson), the Minister of Scheduled Tribes and Schedule Caste Development Department (Vice Chairperson); 15 Scheduled Tribes MLAs (Members); three Members of Parliament (nominated as Members); and Secretary, Scheduled Tribes and Schedule Caste Development Department, Chhattisgarh government (Secretary).³⁰

The Rajasthan TAC shall consist of a Chairman, Vice Chairman and eighteen other members. The Minister of the Tribal Area Development Department shall be the Ex-officio Chairman of the TAC while the State Minister/Deputy Minister of Tribal Area Development Department shall be the Ex-officio Vice-Chairman. Out of the eighteen members of the Council, fourteen shall be the representatives of the Scheduled Tribes in the Assembly to be nominated by the State Government. Out of the remaining four members of the Council, one non-official member shall be a person who is not a member of the Scheduled Tribes and who has been taking keen interest in the welfare of the Scheduled Tribes of Rajasthan". The remaining three members shall be officials, out of whom one shall be appointed as the ex-officio Secretary of the Council.³¹ The present composition of the Rajasthan TAC is as follows: the Minister of Tribal Area Development department (Chairperson); 14 Scheduled Tribes MLAs (Members); one nominated representative (Member); Principal Secretary, Department of Rural Development and Panchayati Raj, Jaipur (Member); Secretary, Tribal Area Development department (Member) and Commissioner, Tribal Area Development department, Udaipur (Member Secretary).³²

The Himachal Pradesh Tribes Advisory Council consists of twenty members. The composition of the TAC is as follows: The Chief Minister (Ex-officio Chairperson); the Minister Incharge, Social Welfare (Ex-officio Vice-Chairperson); three tribal MLAs in the Assembly (Members); the Minister Incharge, Tribal Development Department (Member), Member of Lok Sabha representing Tribal Area (Member); 12 members to be nominated by the Governor out of the persons of Scheduled Tribes, and one member to be nominated by the Governor from amongst persons, who in his opinion has special knowledge and experience of the needs of the Scheduled Tribes or the Scheduled Areas of the State.

There are no criteria with respect to competence, expertise and experience for selection of the members of the TAC.

30. RTI information received from P.D. Purbiya, Under Secretary cum Public Information Officer, Chhattisgarh government, Scheduled Tribes and Schedule Caste Development Department, vide letter dated 12 April 2012

31. Rule 3 of the Rajasthan Tribes Advisory Council Rules 1980

32. RTI information received from Additional Commissioner, Tribal Area Development department, Udaipur, dated 13 February 2012

Rule 4 of the Rajasthan Tribes Advisory Council Rules 1980 clearly states that “The members of the Council shall be appointed by the State Government.”

The Andhra Pradesh Tribes Advisory Council Rules, 1958 simply provides that “The members of the Council shall be appointed by the Governor by notification in the Andhra Pradesh Gazettee” (Rule 3).

Rule 4 of the Jharkhand Tribes Advisory Council Rules states that apart from the ex-officio members (i.e. the Chief Minister and the Minister of Tribal Welfare department), the other members shall be appointed by the Governor and notified in the Official Gazettee.³³

Similarly, the Himachal Pradesh Tribes Advisory Council (Fourth Amendment) Rules, 1982 provide no criteria for the appointment of the twelve members to be nominated by the Governor out of the persons of Scheduled Tribes.

Since the members of TAC are appointed by the State or the Governor, and not elected on the basis of adult suffrage (for the TAC), they are not accountable to the Scheduled Tribes in their capacity as members of the TAC.

33. RTI information received from Pawan Lal Das, Public Information Officer, Welfare Department, Jharkhand government, Ranchi, dated 25/01/2012

4. Powers and Functions of the Tribes Advisory Council

Apart from submitting report to the President, the powers of the Governor as given under Paragraph 5 of the Fifth Schedule include the following:

(1) the Governor may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification and any direction may be given so as to have retrospective effect,

(2) the Governor may make regulations to (a) prohibit or restrict the transfer of land by or among members of the Scheduled Tribes in such area; (b) regulate the allotment of land to members of the Scheduled Tribes in such area; (c) regulate the carrying on of business as money-lender by persons who lend money to members of the Scheduled Tribes in such area, and in making any such regulation, the Governor is empowered to repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to the area in question. In the exercise of these powers the Government must consult the Tribes Advisory Council of the state without wish “No regulation shall be made” by the Governor under Paragraph 5.

Under the Fifth Schedule to the Constitution of India the Tribes Advisory Council has been entrusted with the duty to “advise” the Governor on matters pertaining to the welfare and development of the tribals in the State. Paragraph 4 (2) of the Fifth Schedule states, “It shall be the duty of the Tribes Advisory Council to advise on such matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to them by the Governor.”³⁴ Further, the Governor may make rules prescribing or regulating, as the case may be (a) the number of members of the Council, the mode of their appointment and the appointment of the Chairman of the Council and of the officers and servants thereof; (b) the conduct of its meetings and its procedure in general; and (c) all other incidental matters.³⁵

34. Sub Para 2 of Paragraph 4 of the Fifth Schedule to the Constitution of India

35. Sub Para 3 of Paragraph 4 of the Fifth Schedule to the Constitution of India

In a way, the Fifth Schedule to the Constitution itself restricts the powers and functions of the TAC, in so far as the TAC is allowed to render its advice only on such matters as may be **referred** to them by the Governor.

The powers and functions of the Tribes Advisory Councils in different states are discussed below:

Andhra Pradesh

On 28 January 1958, the Andhra Pradesh Tribes Advisory Council Rules 1958, notified by the Governor under paragraph 4(3) of the 5th Schedule, came into effect. Rule 9 of the Andhra Pradesh Tribes Advisory Rules describes the functions of the TAC as follows:

“9. Matters on which advice of the Council is to be sought:

The Governor may require the advice of the Council on any matter pertaining to the Welfare and advancement of the Scheduled Tribes in Andhra Pradesh State and without prejudice to the generality of the foregoing power, such matters may include:

- a. All new major schemes of welfare and advancement of the Scheduled Tribes in the State; and
- b. All cases in which a regulation is proposed to be made by Governor under Paragraph 5(2) of the fifth Scheduled to the constitution.”

Chhattisgarh

The Powers of the Chhattisgarh TAC is limited. Except the issues referred to by the Governor, the Chhattisgarh TAC rules states that “No issue shall taken up for discussion and included in the proceedings and no proposals shall be passed in a meeting unless the issue has been mentioned in the notice for the meeting, however, the Chairperson can, using his discretion, permit such issues to be taken up for proceedings, that he thinks necessary and are in the direction of the motto of the council at large but was excluded in the notice.”

Himachal Pradesh

Under Rule 14 (1) of the Himachal Pradesh Tribes Advisory Council Rules, 1976, the TAC shall discuss only such matters as may be referred to it by the Governor for advice under sub-paragraph (2) of paragraph 4 of the Fifth Schedule of the Constitution of India. However, the Chairperson may permit discussion on matters not so referred if he consider that such discussions will be in the general interest of the work of the Council.³⁶

36. Himachal Pradesh Tribes Advisory Council Rules, 1976 issued by Welfare Department, Government of Himachal Pradesh vide notification No. WLFA.A(4)-4/75 dated 9th January 1976

The decisions and opinions of the TAC on matters referred to them by the Governor shall be in the form of recommendations but any member may, within 24 hours, submit a minute of dissent in regard to any recommendation adopted by the Council and such minute shall be added to and form part of the proceedings of the meeting.³⁷ The validity of any proceedings in the Council shall not be called in question on the ground of any alleged irregularity of procedure or merely by reason of any vacancy in the membership of the Council.³⁸

Jharkhand

The Jharkhand Tribes Advisory Council Rules states that only those matters shall be discussed in the Council which have been referred to the Council by the Governor for advice. However, the Chairperson may allow discussion on any other matter (not referred to by the Governor) if he/she considers that matter important for the working of the TAC.³⁹

Apart from the MLAs/Ministers who are TAC members, other Ministers of Jharkhand have the right to speak in the meeting of the TAC but not the right to vote.

Rajasthan

Rule 8 of the Rajasthan Tribes Advisory Council Rules, 1980 states that in addition to the duties imposed on it by the provisions contained in Part B of the Fifth Schedule to the Constitution, the Council shall give constructive suggestions to the State Government for the social, educational and economic advancement of the Scheduled Tribes, work towards the removal of harmful social customs that are prevalent among the Scheduled Tribes, carry on educational propaganda as far as possible, and bring the needs and grievances of the Scheduled Tribes to the notice of the State Government and local officers of the Government.

37. Rule 14(2) of the Himachal Pradesh Issued by Welfare Department, Government of Himachal Pradesh vide notification No. WLFA.A(4)-4/75 dated 9th January 1976

38. Rule 14(3) of the Himachal Pradesh Issued by Welfare Department, Government of Himachal Pradesh vide notification No. WLFA.A(4)-4/75 dated 9th January 1976

39. RTI information received from Pawan Lal Das, Public Information Officer, Welfare Department, Jharkhand government, Ranchi, dated 25/01/2012

5. Assessment of the functioning of the TACs

Asian Indigenous and Tribal Peoples Network has studied the functioning of five Tribes Advisory Councils based on the minutes of the meetings and recommendations passed by them obtained under the RTI Act 2005.

Andhra Pradesh TAC

The Andhra Pradesh Tribes Advisory Council Rules came into effect from 28 January 1958.⁴⁰ The first Andhra Pradesh TAC (APTAC) was constituted in 1958 and it was last reconstituted during 2009. The decisions and opinion of the APTAC on matters referred to them by the Governor are treated as recommendations. So far, 105 Meetings of the APTAC have been held as of 11 January 2012.⁴¹ But the APTAC has been quite ineffective in addressing the problems of the tribals of the state as is evident from the study of the minutes of the meetings of the Council from 2005 to 2011.

The decisions taken at an APTAC meeting were rarely followed up in the next or subsequent meetings. Therefore, it could not be known whether the resolutions adopted by the APTAC were implemented. A study of the minutes/resolutions of the meetings held from 2005 to 2011 reveals that the APTAC abandoned the practice of reviewing the implementation of decisions of the previous meetings from its 97th Meeting dated 27 February 2006 onwards. At the 96th meeting held on 1 July 2005 it was the last time when the action taken reports on the decisions of the previous meeting held on 18 March 2003 were submitted by the concerned authorities.⁴²

i. Concerns raised in the TAC meetings are not duly reflected in the resolutions

The APTAC records separately, both the Minutes and the Resolutions passed in the meeting. In some cases, the resolutions were incorporated in the Minutes of the Meeting. It has been found that the resolutions sometimes fail to reflect some of

40. <http://www.aptribes.gov.in/html/bc-ap-tribes.htm>

41. Minutes of the meeting held by National Commission for Scheduled Tribes on 11/01/2012 with the Ministry of Home Affairs, Ministry of Tribal Affairs and the Secretaries in charge of Tribal Development/Welfare in the States having Scheduled Areas to discuss the status of implementation of the provisions under Fifth and Sixth Schedule to the Constitution for adaptation of laws applicable to Scheduled Areas/Tribes

42. Agenda and Notes of the 96th Meeting of the APTAC held on 1 July 2005

the concerns raised by APTAC members during the meeting as given below:

Annual Reports on the Administration of Scheduled Areas

The 99th APTAC meeting dated 3 November 2006 was called specially to consider and approve the Annual Reports on the Administration of Scheduled Areas in Andhra Pradesh for the years 2001-2002, 2002-2003, 2003-2004, 2004-2005 and 2005-2006. During the discussion, APTAC Member and MLA of Burgamphad, Sri P. Venkateswarulu, stated that in certain instances, the Central government had reduced or totally stopped allocation of funds for certain schemes as the utilization certificates were not submitted by the state government on time. He requested that officials be instructed to submit the utilization certificates to Central government in order to get full funds. APTAC Member and MLA of Polavaram, Sri T. Bala Raju, stated that the Mandal Revenue Officers of agency mandals were refusing to issue pattas (titles) to the tribal land holders. APTAC Member Sri Sunnam Rajaiah, MLA of Bhadarchalam constituency, expressed that the mandatory allotment of 6.6% funds to be spent on tribals in his constituency was not being adhered to. APTAC Member Sri Laxmana Murthy, MLA of Naguru, stated that more information had to be furnished on allocation of budgets to different sectors in the Annual Reports on the Administration of Scheduled Areas in Andhra Pradesh. He also pointed out that “the office of the Special Deputy Collector in ITDAs has been functioning for namesake as the post of SDC and the staff of the office has been never filled-up to the sanctioned strength.”

But these observations and comments from different APTAC members were not reflected in the resolutions. The Minutes of the meeting recorded that all the APTAC members unanimously agreed to approve the reports for onward submission to the Government and suggested “to submit reports in time with more budgetary information including expenditure particulars reflecting the facts.” But the resolution merely records that “Council perused the reports and recommended for forwarding the same to Government for submission to Hon’ble Governor of Andhra Pradesh for onwards transmission to Government of India.” No other resolution was passed in the meeting to reflect the grave concerns raised by several APTAC members.

Tribals and the Forest Rights Act

In the 101st APTAC meeting dated 11 February 2008, discussion was held only on the provisions of the Forest Rights Act and its implementation. In the meeting, the APTAC members requested to elect Forest Rights Committee (FRC) members by the Gram Sabhas and they unanimously resolved that at least one person should be nominated from each habitation to the Forest Rights Committees. APTAC Member and MLA Sri Goddeti Demudu requested to take immediate action for withdrawal of forest encroachment related cases pending against tribals in different courts. Sri

K Laxmana Murthy (MLA) requested that the lands under Van Suraksha Samity (VSS) under occupation of tribals should be regularized under the FRA.

However, the resolution of the 101st Meeting contained only two resolutions, namely (1) to recommend to Government to nominate Scheduled Tribes only as Members in Sub Divisional Committee and District Level Committee to be constituted under the FRA, and (2) to recommend to Government that all Members of the FRC to be elected by the Gram Sabha concerned in Scheduled Areas shall include Scheduled Tribes only. There was no mention of the unanimous decision that at least one person should be nominated from each habitation to the Forest Rights Committees and about the withdrawal of forest encroachment related cases filed against tribals pending in different courts.

ii. Recommendations not followed up

Recommendations made at APTAC meetings were rarely followed up. In each meeting new issues were brought up/ included in the agenda. While it is important to bring up new issues, the failure to follow up recommendations in the next or subsequent meetings implies that critical issues were ignored.

Some of the recommendations which were not properly followed up are discussed below.

a. Clearance of Polavaram Project (Indra Sagar Project)

In the 97th APTAC Meeting held on 27 February 2007 the following resolutions were passed with regard to the Polavaram Project⁴³:

1. The landless displaced families including those dependent on podu, cultivating government/forest lands without having any title must also be provided with lands in the resettlement areas
2. Wide publicity should be given to R&R package in all the affected villages for the information of the affected families
3. Organize visit of the members of the TAC to the project area
4. Land for cultivation and resettlement should be identified in consultation with tribals whether it is in scheduled area or outside
5. The shifting of the Project Affected Families shall be made only after making payment of the compensation amounts and after all the R&R works are completed in all respect.

But this issue was not followed up in any meeting up to the 105th Meeting held on 21 March 2011.

43. Resolutions of the APTAC meeting held on 27 February 2006, Agenda Item No. 9/06

b. Problems relating to drinking water and electricity

There are 11540 Tribal habitations in the Tribal Sub Plan (TSP) area out of which a total of 489 habitations were not covered under drinking water supply. In the 96th APTAC meeting held on 18 March 2003, it was proposed to cover all the left over habitations in TSP areas over a span of five years.⁴⁴ In the 98th APTAC meeting held on 30 May 2006, the subject of drinking water scheme was elaborately discussed. It was resolved that “comprehensive plans” should be prepared for drinking water supply and electricity in agency areas.⁴⁵ However, the APTAC failed to take stock of the implementation of this recommendation.

At 102nd APTAC meeting held on 18 March 2010, all the members expressed serious concern over the problem of drinking water supply in tribal areas but there was no discussion on the “comprehensive plans” to be prepared for drinking water supply as recommended in the 98th APTAC meeting. The APTAC requested the state government of Andhra Pradesh to obtain necessary proposals from the districts and consider sanctioning special projects for tribal areas.⁴⁶ However, there was no follow up of this recommendation up to the 105th APTAC meeting held on 21 March 2011.

c. Conversion of Hostels into Residential Schools

In the 96th APTAC meeting held on 18 March 2003, it was stated that there were 506 Tribal Welfare Hostels in the state located mostly in small and big towns. In order to provide better quality education, it was proposed to convert these hostels into residential schools in a phased manner starting with areas where there are no good schools.⁴⁷ The proposal was accepted in the 97th APTAC meeting held on 27 February 2006 and it was resolved that this should be done with proper staffing pattern so that quality of education could be maintained.⁴⁸

However, the status of implementation of the recommendation was not followed up as of the 105th APTAC meeting held on 21 March 2011.

d. Andhra Pradesh PESA Act

In the 97th meeting held on 27 February 2006, the APTAC discussed and adopted recommendations to be forwarded to the Governor for seeking certain critical amendments to PESA Act 1998 of Andhra Pradesh (or Andhra Pradesh Panchayat Raj (Amendment) Act of 1998). The amendments were meant to bring the Andhra Pradesh PESA Act of 1998 in conformity with the Central PESA Act of 1996 by empowering the Gram Sabha instead of the Gram Panchayat.

44. Minutes of the 96th APTAC meeting held on 18 March 2003, Agenda Item No. 17/05

45. Resolutions of the 98th APTAC meeting held on 30 May 2006, Agenda Item No. 12/06

46. Minutes of the 102nd APTAC meeting held on 18 March 2010, general discussion No. 8

47. Minutes of the 96th APTAC meeting held on 18 March 2003, Agenda Item No. 25/05

48. Resolution of the 97th APTAC meeting held on 27 February 2006, Agenda Item No. 5/06

But the APTAC has failed to follow up this issue in its subsequent meetings up to 105th meeting held on 21 March 2011.

iii. Failure to tackle critical issue of Tribal land alienation

The ineffectiveness of the APTAC is also evident from the fact that it has failed to discuss critical issues like the tribal land alienation in Andhra Pradesh.

Despite having stringent provisions under the Andhra Pradesh Schedule Areas Land Transfer Regulation of 1959 to protect the lands of the tribals in the Scheduled Areas, the alienation of tribal lands is higher both in terms of area and number. According to the 2007-08 Annual Report of the Ministry of Rural Development, a total of 65,875 cases of land alienation involving an area of 287,776 acres of land have been filed by the tribals in the Courts in Andhra Pradesh. Of these, 58,212 cases were disposed of by the Courts out of which 26,475 cases (45.48%) were disposed of in favor of tribals restoring 94,312 acres of land to the tribal owners, but 31,737 cases (54.52%) were rejected and decided against the tribals involving 15,227 acres of land.⁴⁹ As recently as in May 2012, Union Tribal Affairs Minister V Kishore Chandra Deo confirmed that the Central government has asked the Andhra Pradesh governor ESL Narsimhan to use special powers bestowed to Governors under the 5th Schedule to the Constitution of India to cancel the bauxite mining leases given in Vishakhapatnam district. The mining leases in question were given out by the government-owned Andhra Pradesh Mining Development Corporation to several companies, between 2005 and 2010, in violation of constitutional provisions and the Andhra Pradesh Scheduled Areas Land Transfer Regulation of 1959 which prohibits a non-tribal from either purchasing any land or even leasing it in Scheduled Areas.⁵⁰ Despite high number of land alienation of the tribals, the APTAC has been maintaining conspicuous silence over the issue. Since 2005, it has not at all discussed the issue of tribal land alienation in its meetings.

5.2 Chhattisgarh TAC

The Tribal Consultation Council of Chhattisgarh was renamed as Tribes Advisory Council in the meeting held on 26 September 2011.⁵¹ The Chief Minister is the Chairperson of the Chhattisgarh Tribes Advisory Council (hereafter referred to as “CGTAC”). Most of the cases were followed up rigorously. Wherever implementation was lacking, the Chief Minister took up proactive role to ensure that the recommendations were implemented expeditiously by the concerned

49. Annual Report 2007-08, Ministry of Rural Development, Govt of India, Page 276

50. Special powers to be used to cancel Bauxite lease in Andhra Pradesh. The Economic Times (online), 16 May 2012, available at http://articles.economicstimes.indiatimes.com/2012-05-16/news/31727041_1_mining-leases-special-powers-bauxite-mining

51. Minutes of the Chhattisgarh TAC meeting held on 26 September 2011

departments. The officials from the concerned departments have to submit action taken report in every CGTAC meeting.

i. Recommendations followed up

Follow up was done in most of the cases, and concerned departments have to submit action taken reports in the next meetings. The effectiveness of the CGTAC can be measured from the successful implementation of several of its recommendations, some of which are given below.

a. Vacancies in Scheduled Areas

In the meeting of the CGTAC held on 5 July 2005, with regard to filling up of vacancies in Scheduled Areas and three years mandatory service in Scheduled Areas by all state government employees, the Chief Secretary informed that meeting of a Committee of the General Administration Department had been conducted and an amended proposal in this regard was to be sent within 15 days.⁵² In the meeting held on 18 October 2006, the General Administration Department informed that instruction dated 20.10.2005 had been issued in this regard and all the doctors recruited recently were posted in Scheduled Areas.⁵³

b. Establishment of hostels for tribal students

In the CGTAC meeting held on 5 July 2005, the Tribal and Scheduled Castes Welfare Department (T&SC Department) informed that approval had already been given for establishment of a 100-seat girls and boys Ashram hostel during the financial year April 2005-March 2006.⁵⁴ The implementation status was reviewed on 18 October 2006 when the Chief Minister instructed the T&SC Department to ensure that post Matriculation hostels for girls were established in all headquarters of Development Blocks.⁵⁵ In the meeting held on 19 November 2007 the Chief Minister again instructed the T&SC Department to establish Post Matriculation hostels for girls in headquarters of all Development Blocks.⁵⁶

In the meeting held on 5 September 2008, it was informed by the T&SC Department that 82 post matriculation hostels for girls were already operational in 64 Development Blocks while approval had been given to establish such hostels in 10 Development Blocks. In the rest 72 Development Blocks, post matriculation hostels for girls were to be established as a priority during the next financial year. However, the Chief Minister instructed that post-matriculation hostels for girls should be established in 10 Development Blocks including Pakhanjarh and Borla

52. Minutes of the meeting of the Chhattisgarh TAC held on 5th July 2005

53. Minutes of the Chhattisgarh TAC held on 18 October 2006.

54. Minutes of the meeting of the Chhattisgarh TAC held on 5th July 2005

55. Minutes of the meeting of the Chhattisgarh TAC held on 18 October 2006

56. Minutes of the meeting of the Chhattisgarh TAC held on 19 November 2007

during the fiscal year 2008-09.⁵⁷ In the next meeting held on 28 July 2009, the T&SC Department informed that 10 hostels were opened during 2008-2009 while 10 hostels were opened during 2009-2010.⁵⁸

c. Establishment of residential complex for government employees in Naxalite affected areas

The proposal to establish residential complex for government employees in Naxalite affected areas was reviewed at the meeting of the CGTAC held on 5 July 2005 when it was informed that Chief Minister had directed that two such residential complexes be established in each of the Naxalite affected district.⁵⁹ The decision was reviewed in the next meeting held on 18 October 2006 where the Revenue department informed that places like Kutru, Mardapal, Durg Kondal, Kapsi, Dornapal were selected for setting up of residential complex for government employees. The Chief Minister instructed that the site for residential complex should be established in an area whose population should be 10000-12000 and should also be appropriate from the security point of view.⁶⁰

In the CGTAC meeting held on 19 November 2007 the Revenue department informed that the 1st installment of Rs.103 lakhs out of sanctioned amount of Rs.411.55 lakhs had been allocated to the Collectors of Bastar, Kanker and Dantewada district for construction of residential complex at Mardapal, Baredogra, Dhanora, Chhote Dongar in Bastar; Kapsi and Durg Kondal in Kanker; Kutaroo and Dornapal in Dantewada.⁶¹

Further, on 5 September 2008, the Revenue department informed the CGTAC that 15 houses each were being constructed at Mardapal and Bade Dongor in Bastar district; tender was issued for construction of residential complex at Dornapal in Dantewada district; in Kanker district, Public Work Department started the work at Durg Kondal while in Kapsi village the agency for construction had been selected but work had not began. The Chief Minister instructed that progress reports be sought from District Collectors.⁶² At the CGTAC meeting held on 28 July 2009, the Chief Minister instructed that the construction work be reviewed/assessed at the Divisional level.⁶³

d. Rehabilitation of Naxal conflict affected displaced persons

In the CGTAC meeting held on 18 October 2006, the plight of the IDPs displaced due to the Naxal conflict was discussed. The Home Department and Revenue

57. Minutes of the meeting of the Chhattisgarh TAC held on 5 September 2008

58. Minutes of the meeting of TAC held on 28 July 2009

59. Minutes of the meeting of the Chhattisgarh TAC held on 5th July 2005

60. Minutes of the meeting of the Chhattisgarh TAC held on 18 October 2006

61. Minutes of the meeting of the Chhattisgarh TAC held on 19 November 2007

62. Minutes of the meeting of the Chhattisgarh TAC held on 5 September 2008

63. Minutes of the meeting of TAC held on 28 July 2009

Department informed that about 40,000 persons were living in the relief camps and 6,000 persons were given permanent land titles and an Action Plan had been developed for resettlement of the IDPs who had been living near the highway. The Chief Minister instructed that the government land near the highway should be reserved for distribution to the displaced people.⁶⁴ As the instruction remained unimplemented, the Chief Minister once again instructed in the CGTAC meeting held on 19 November 2007 that information in this regard should be collected from the concerned district collectors and immediate action should be taken in this regard.⁶⁵

In the CGTAC meeting held on 5 September 2008, the Revenue Department informed that 2.50 acre land at Bamhi village; 3.00 acres at Bade Dongor village and some government land at Dhanora village under Koragaon Sub-Division in Bastar district had been reserved for distribution. 89 displaced families had been allotted 900 square feet each at Devgaon village and Halamimujmeta in Narayanpur district and land titles were issued to them. In Dantewada district action was being taken to declare an area of 3822.804 Hectare in 18 villages where 7177 Naxalite affected families had been resettled as residential area. In Kanker district the department selected an area of 64 acres private land near the main road for resettlement of the displaced families. Rs 53.20 lakh was required to acquire the said land. The Chief Minister instructed the Revenue Department to immediately take measures for acquisition of the said land and submit a proposal to the State Finance Department for grant of Rs.53.20 lakhs.⁶⁶

In the CGTAC meeting held on 9 November 2010, the Secretary, Revenue Department informed that 8,000 Sq km was eligible for de-notification. The Chief Minister instructed that the land which was eligible for de-notification was revenue land and therefore the de-notification process should continue on the basis of joint reports of the respective Divisional Forest Officers and the Collectors.⁶⁷ In the CGTAC meeting held on 26 September 2011, the Forest department informed that it would complete the process of de-notification within 3 months.⁶⁸

e. Updating and verification of land records

The meeting of the CGTAC held on 5 July 2005 discussed the issue of non-updating of land records since 1993 in Tokapal, Bastar district. The Chief Minister instructed for updating of land records in Tokapal area.⁶⁹ Further, the follow up action was taken on 18 October 2006 when the Chief Minister instructed for immediate

64. Minutes of the Chhattisgarh TAC held on 18 October 2006.

65. Minutes of the Chhattisgarh TAC held on 19.11.2007

66. Minutes of the Chhattisgarh TAC held on 5 September 2008

67. Minutes of the meeting of TAC held on 9 November 2010

68. Minutes of the Chhattisgarh TAC meeting held on 26 September 2011

69. Minutes of the meeting of the Chhattisgarh TAC held on 5 July 2005

action. The Revenue Department informed that updating of land records in Bastar district was continuing. Based on applications in the district land records had been updated for 1699 plots in 2001; 710 plots in 2002; 653 plots in 2003; 764 plots in 2004; 1910 plots in 2005 and 778 plots in 2006. On the complaint that the land records did not match with plots, the Chief Minister instructed that the land records prepared before the beginning of the security actions against the Naxalites in Bastar and Sarguja districts be verified on the spot by teams to be constituted for this purpose and this campaign should be started immediately after the harvest and should be completed within 3 months.⁷⁰

In the CGTAC meeting held on 19 November 2007 the Revenue department could not submit any progress report. The Chief Minister sought detailed reports in respect of three districts from the department.⁷¹

At CGTAC Meeting held on 05.09.2008, the Revenue department informed that the faults found in the land records in Dantewada, Sarguja, Kanker, Narayanpur and Bijapur districts were rectified by special teams constituted for this purpose. These teams have rectified 4086 cases while 953 were pending.⁷²

f. Granting of land titles to STs

The meeting of the CGTAC held on 5 July 2005 discussed the issue of granting of land titles to STs who were in possession of forest land till 1980. The Forest Department informed that there were 65,000 families who were residing and were in possession of forest land till 1980. It was stated that land titles to be granted to these families were ready but could not be distributed due to delay in official instructions from the Central Government. The CGTAC decided to request the Central Government for issuing formal approval in this regard at the earliest and to extend the cut-off year 1980 to 1993.⁷³

In the CGTAC meeting held on 18 October 2006, the CGTAC was informed that no formal order had yet been received from the Central Government to issue land titles. The CGTAC instructed that efforts should be taken at the highest level in this regard and a petition should be filed in the High Court for grant of land title who had been living in and possession of forest land since 1993.⁷⁴

In the CGTAC meeting held on 19 November 2007, it was informed that granting of land titles to STs could be possible only after the Forest Rights Act came into force. With regard to the tribal land owners who were allotted land in 1980 by

70. Minutes of the Chhattisgarh TAC held on 18 October 2006.

71. Minutes of the Chhattisgarh TAC held on 19 November 2007

72. Minutes of the Chhattisgarh TAC held on 5 September 2008

73. Minutes of the meeting of the Chhattisgarh TAC held on 5th July 2005

74. Minutes of the Chhattisgarh TAC held on 18 October 2006.

the Revenue Department but whose land was claimed by the Forest Department, it was decided that a 3-member Committee consisting of the Secretaries of Forest Department, Revenue and Tribal and Scheduled Tribes Welfare department be constituted to survey the land in dispute and prepare an action plan for rectification of the land records.⁷⁵

In the CGTAC meeting dated 5 September 2008, it was informed by the Department of Tribal and Scheduled Castes Welfare that as on 31 August 2008 land titles were given to 41,000 persons. With regard to the disputed lands, the Revenue Department informed that the land records were rectified following a joint instruction by the Secretaries of Revenue Department and Forest Department. The tribals who had been allotted the disputed plots were being granted titles under the Forest Rights Act.⁷⁶

In the CGTAC meeting held on 28 July 2009, the Secretary, Department of Tribal and SC Welfare informed that as many as 1,28,467 land titles were granted and distributed under FRA.⁷⁷

g. Food supply in Scheduled Areas

The issue of safe storage and transportation of food grains in the Scheduled areas was taken up on 18 October 2006. The Civil Supplies Department informed that transportation of food grains to fair price shop would be carried out by the department from 1st November 2006. It was further stated that in order to avoid food grains allocated to the fair price shops from being smuggled and sold in the open market as well as to prevent inordinate delay, the vehicles transporting food grains were being tracked through GPS devices. The department further stated that the Civil Supplies Corporation has been instructed that all subsidized items allocated for the fair price shop should reach the fair price shops within 10th of every month.⁷⁸

The issue was further discussed in the TAC meeting held on 19 November 2007. The Civil Supplies Department informed that all subsidized items allocated for the fair price shop were reaching the destinations within 4th of every month.⁷⁹

h. Governor's Report to the president of India

In its meeting held on 5 July 2005, the CGTAC unanimously approved the Governor's Report for 2003-2004 to the President of India. The TAC also discussed about the subject of the next Report by the Governor to the President of India and

75. Minutes of the meeting of the Chhattisgarh TAC held on 19 November 2007.

76. Minutes of the meeting of the Chhattisgarh TAC held on 5 September 2008

77. Minutes of the meeting of TAC held on 28 July 2009

78. Minutes of the meeting of Chhattisgarh TAC held on 18 October 2006

79. Minutes of the Meeting of the Chhattisgarh TAC held on 19 November 2007

decided to include the following issues in the next report of the Governor: (a) Adverse effects of the Naxalite movement on the lives of the STs residing forest areas of the state; (b) Beginning of resistance to the Naxalite by the villagers in Bastar, Dantewada and Kanker district; (c) Adivasi families living in interior forest areas of these district have started moving in hundreds to places near to the main road to avoid atrocities of the Naxalites; (c) Thousand of Adivasi families have been displaced and there is urgent need for providing gainful employment to them.

i. Development of Cane and bamboo industry

In view of growing demand for cane and bamboo products, the CGTAC at the meeting held on 5 July 2005 decided to run special programs for development of cane and bamboo industry.⁸⁰ The implementation of this decision was reviewed on 18 October 2006. The CGTAC was informed that the Forest Department has sanctioned Rs.4 lakh for plantation of 75,000 bamboos. Since bamboo takes at least two years to mature, the Chief Minister instructed for establishment of 200 bamboo nurseries to grow 50 lakhs additional bamboo plants and preparation should start immediately.⁸¹

In the CGTAC meeting held on 19 November 2007 the Forest Department informed that approval had been given for plantation of 116.54 lakhs of bamboos. Chief Minister instructed to prepare an action plan for plantation of 10 crores bamboos and 10 crore Mehndi plants.⁸² In the CGTAC meeting held on 28 July 2009, the Forest Department informed that 1.25 crore bamboos were planted while 4 crore bamboo seedlings were grown and 2.75 bamboo plants were freely distributed during 2009 in Sarguja and Bastar districts. In respect of growing of Mehndi seedlings, the Forest Department informed that they had proposed to plant 11 lakh Mehndi plants in various forest divisions across Chhattisgarh during 2009 while 10 lakh plants were available as on date for distribution.⁸³

j. Increase of seats in hostels

At the CGTAC meeting held on 18 October 2006, proposal was made to increase number of seats in hostels from 20 to 40. The Department of Tribal and Scheduled Castes Welfare stated that the main hurdle in increasing seats is non-availability of buildings because buildings enough big to accommodate 40 seats were not available on rent.⁸⁴ In the CGTAC meeting held on 19 November 2007, the Department of Tribal and Scheduled Castes Welfare informed that number of seats in all hostels run by the department had been increased to 40 and a proposal to increase to 50 seats

80. Minutes of the meeting of the Chhattisgarh TAC held on 5th July 2005

81. Minutes of the meeting of Chhattisgarh TAC held on 18 October 2006

82. Minutes of the meeting of Chhattisgarh TAC held on 19 November 2007

83. Minutes of the meeting of TAC held on 28 July 2009

84. Minutes of meeting of Chhattisgarh TAC held on 18 October 2006

was under consideration.⁸⁵ Further, in the CGTAC meeting held on 5 September 2008, the Department of Tribal and Scheduled Castes Welfare stated that number of seats in all hostels in the 991 Ashram Schools run by the department had been increased to a minimum of 50 seats.⁸⁶

k. Grants to NGOs in the education sector

The CGTAC in its meeting on 18 October 2006 discussed the issue of providing grants to NGOs working on education sector in Scheduled Areas. The Tribal and Schedule Castes Welfare Department informed that it was extending financial assistance to 32 NGOs but the State Finance Department had decided not to grant financial assistance to new NGOs. The Chief Minister instructed that 8-10 NGOs working in the field of education should be granted funding and a State level committee should be constituted for selection of the beneficiary NGOs.⁸⁷ In the next TAC meeting held on 19 November 2007, the Department of Tribal and Scheduled Castes Welfare informed that the State Level Selection Committee under the department had selected 10 NGOs and grants would be allotted to them as per rules for sanctioning of grants.⁸⁸ On 5 September 2008, the Department of Tribal and Scheduled Castes Welfare informed that during 2008-09 a lump sum amount of Rs 412 lakhs had been sanctioned to 83 new NGOs in the education sector.⁸⁹

l. Relaxation of standards in the recruitment of IR Battalion

In the CGTAC meeting held on 5 September 2008, a proposal of the Home department was discussed to allow relaxation of educational and physical standards for youths from Scheduled Areas in recruitment too Indian Reserve (IR) Battalion. The CGTAC approved the proposal to determine the eligibility criteria in recruitment of youths from Scheduled areas in IR Battalion.⁹⁰ In the CGTAC meeting held on 28 July 2009 the Home Department informed that the order was issued to relax the recruitment standards for tribal youths.⁹¹

m. Approval of schemes of the department of Water Resources and Irrigation in TSP areas

In the CGTAC meeting held on 5 September 2008, it was decided that any scheme of the Water Resources and Irrigation Department in which STs constitute 50% or more of the beneficiaries would be approved under the TSP while any scheme in which STs constitute less than 50% of the beneficiaries, such schemes

85. Minutes of the Chhattisgarh TAC held on 19 November 2007

86. Minutes of meeting of Chhattisgarh TAC held on 5 September 2008

87. Minutes of the meeting of Chhattisgarh TAC held on 18 October 2006

88. Minutes of the meeting of Chhattisgarh TAC held on 19 November 2007

89. Minutes of the meeting of Chhattisgarh TAC held on 5 September 2008

90. Minutes of the meeting of the TAC held on 5 September 2008

91. Minutes of the meeting of TAC held on 28 July 2009

would be approved under the State budget.⁹² In the CGTAC meeting held on 28 July 2009, the Water Resources and Irrigation Department informed that this decision of the CGTAC was being implemented. Some members raised the issue of delayed payment of compensation under irrigation schemes to the tribal farmers in Scheduled areas. The Chief Minister instructed that such works should be settled immediately.⁹³

In the CGTAC meeting held on 9 November 2010, the Chief Minister instructed for establishment of 1-2 small irrigation projects each in Narayanpur, Dantewada, Bijapur and such other districts and instructed that the pending amount of compensation under any irrigation project in the constituency of MLA Sevakram Netam should be paid immediately.⁹⁴

In the CGTAC meeting held on 26 September 2011 the Water Resources Department informed that reports had been prepared in respect of irrigation project at Garhbengal Diversion in Narayanpur district, Korirass crossing and Jhirampal crossing in Dantewada district.⁹⁵ In respect of payment of compensation pertaining to irrigation projects under the constituency of MLA Sevakram Netam, it was informed that payments were cleared in seven villages.⁹⁶

n. Direct recruitment of members of PTGs in state govt jobs

In the CGTAC meeting held on 28 July 2009, the issue of direct recruitment of eligible candidates from PTGs as teachers was discussed and it has been informed that provisions has been kept for direct recruitment of eligible candidates from PTGs as teachers in the recruitment to be done during 2009. The Chief Minister instructed that apart from direct recruitment of PTGs as teachers, class 8th, 10th and 12th passed belonging to PTGs should also be considered for direct recruitment in Grade III/IV vacancies reserved for STs.⁹⁷

In the CGTAC meeting held on 9 November 2010, the department of General Administration informed that 1372 in Grade – IV; 12 in Grade – III; and 272 as teaching staff have been appointed through direct recruitment from PTGs while a number of ladies from PTGs were appointed as Supervisors in the Department of Women and Child Development. Lata Usendi, CGTAC Member and MLA, Kondgaon, informed that many of the appointees did not accept their appointment in Bastar Division. The department of Women and Child Development has informed that those posts where the appointees failed to join duties till the last

92. Minutes of the meeting of CGTAC held on 5 September 2008

93. Minutes of the meeting of TAC held on 28 July 2009

94. Minutes of the meeting of the Chhattisgarh TAC held on 9 November 2010

95. Minutes of the Chhattisgarh TAC meeting held on 26 September 2011

96. Minutes of the Chhattisgarh TAC meeting held on 26 September 2011

97. Minutes of the meeting of TAC held on 28 July 2009

stipulated dates were declared vacant. The Chief Minister directed for filling up the vacant posts of lady Supervisors on contract basis and making the posts of the contract employees permanent after one year.⁹⁸

In its Action Taken Report presented at CGTAC meeting held on 26 September 2011, the department of Women and Child Development informed that 78 out of 93 vacant posts of lady Supervisors were filled up while appointment on contract basis for the rest was under process in Bastar Division.⁹⁹

II. Recommendations followed up but not successfully implemented

a. Alienation of Tribal lands through illegal sale and transfer to Non-Tribals

In the CGTAC meeting held on 28 July 2009 it was decided that cases of cheating and other forms of malpractices occurred in the illegal transfer/sale of lands of tribals to non-tribals and fraudulently obtaining approval of office of the District Collector in Scheduled Areas should be inquired into and actions should be taken as per law.¹⁰⁰ This was followed up at the next meeting held on 9 November 2010 where MLA and CGTAC Member Sohan Potai informed about large scale illegal diversion of tribal lands in Dhamtari and Mahasamund districts and demanded an inquiry.¹⁰¹ Further, Chief Minister Raman Singh also informed that he had received complaints of large scale land purchases by outsiders in Raigarh, Janjgir and Korba districts and that he had directed the concerned District Collectors to take action against such persons. CGTAC Member and MLA Subau Kashyap informed about cases of non-tribals marrying tribal women and indulging in illegal purchase and sale of tribal lands in Bastar division. The Chief Minister directed that inquiry be conducted into all cases of non-tribals marrying local tribal women and indulging in purchase and sale of lands in Scheduled Areas.¹⁰²

In respect of taking actions in cases of large scale illegal diversion of tribal lands in Dhamtari and Mahasamund districts, it was informed by the Divisional Commissioner, Raipur at the CGTAC meeting held on 26 September 2011 that all districts in the Raipur Division had been surveyed. In Mahasamund district, 178 cases of illegal diversion of tribal lands have been found and the same were being investigated.¹⁰³ With respect to questions as to the status of transfer of property that was acquired on inheritance by a non-tribal born out of a marriage between a non-tribal man and a tribal woman in the light of Section 165 (6) of the Land Revenue Regulations of 1959, it was decided to obtain legal opinion on the subject.¹⁰⁴

98. Minutes of the meeting of the Chhattisgarh TAC held on 9 November 2010

99. Minutes of the Chhattisgarh TAC meeting held on 26 September 2011

100. Minutes of the meeting of the Chhattisgarh TAC held on 28 July 2009

101. Minutes of the meeting of the Chhattisgarh TAC held on 9 November 2010

102. Minutes of the meeting of the Chhattisgarh TAC held on 9 November 2010

103. Minutes of the Chhattisgarh TAC meeting held on 26 September 2011

104. Minutes of the Chhattisgarh TAC meeting held on 26 September 2011

Further, in the CGTAC meeting held on 26 September 2011 the Revenue department informed that approval was found to have been given for sale of tribal lands to non-tribals in 1108 cases in Raipur Division and 254 cases in Bilaspur Division, 63 cases in Bastar Division while no approval was given in Sarguja Division. When raised by the Members, it was stated that approval given to sale of tribal land to non-tribals in Raipur and Bilaspur Division were non-Scheduled Areas whereas the Bastar Division was completely a Scheduled Area where tribal lands cannot be legally sold to non-tribals. Therefore, action for returning the land to the original tribal landowners was under process. It was decided that detailed report should be obtained in respect of approvals given in Raipur and Bilaspur Division while all cases of illegal transfer of tribal land to non-tribal should be repealed or abrogated.¹⁰⁵

b. Survey of Abujmadh area

In the meeting of the CGTAC held on 5 July 2005, the previous decisions asking the State Revenue Department to survey the Abujmadh area, to expedite the process of issuing land titles (patta) to the families who had previously settled and to complete the survey in 6 months, were reviewed. The Secretary, Revenue Department informed on 5 July 2005 that aerial photography of Abujmadh region was done in April 2005 and those photographs were submitted to the Central Government for approval. Those photographs were to be returned to the State Government by October 2005. Only after that the work of issuing land titles as well as other development works could be started.¹⁰⁶

In the CGTAC meeting held on 18 October 2006, the Revenue Department informed that aerial survey of the Abujmadh area had been completed but land survey could not be carried out because of security concerns in area. Chief Minister and Chairperson of CGTAC, Dr. Raman Singh suggested that instead of carrying out the survey of the area at a time, it should be done on cluster basis starting with 5 villages in the area.¹⁰⁷ In the CGTAC meeting held on 19 November 2007 the Revenue Department informed that map of the area had been prepared but land survey could not begin. The Chief Minister instructed that land survey should begin and completed as per decision taken on 18 October 2006 TAC meeting.¹⁰⁸

In the CGTAC meeting held on 5 September 2008, the Revenue Department informed that it would take two years and would cost Rs. 5.50 crore to complete surveying of the Abujmadh area. Rs.2.60 crore grant was received from the Central Government. The department further informed that in the first phase of the

105. Minutes of the Chhattisgarh TAC meeting held on 26 September 2011

106. Minutes of the meeting of the Chhattisgarh TAC held on 5th July 2005

107. Minutes of the meeting of the Chhattisgarh TAC held on 18 October 2006

108. Minutes of the meeting of the Chhattisgarh TAC held on 19 November 2007

survey, 5 villages viz. Khargaon, Kandari, Jivlapadar, Kundla and Vansing under Orsha development block were selected. The Chief Minister instructed that work of surface surveying of these five villages should be completed within October-November 2008.¹⁰⁹

In the next CGTAC meeting held on 28 July 2009, the Revenue Department informed that the some initial survey work had been completed only in two villages while work had not begun in the other three villages due to acute shortage of staff having expertise on land records and cadastral surveying. The Chief Minister instructed that the Secretary, Revenue department should ensure completion of the Survey work by hiring retired revenue officials such as *patwaris*, Revenue Director or Tehsildar from the area.¹¹⁰

In the CGTAC meeting held on 9 November 2010 the Revenue department informed that retired revenue officials such as *patwaris*, Revenue Director or Tehsildar from the area could not be found and the Chief Minister instructed that local youths should be given 6 months training and given recruitment after completion of training.¹¹¹

In the CGTAC meeting held on 26 September 2011, it was informed that the Collector, Narayanpur was implementing that decision of training local youths. It was decided to call for the report on status of implementation from the Collector, Narayanpur.¹¹²

c. Representation of backward tribes in the Chhattisgarh assembly

The meeting of the CGTAC held on 5th July 2005 discussed the possibility and need for reserving an Assembly seat for Bega tribe. During the discussion, the Chief Minister informed that the Bega tribal people which is a most backward tribe, are residing in Kavardha, Bilaspur, Rajnandangaon districts of Chhattisgarh and Mandala, Dhindora, and Shahdol district of Madhya Pradesh. A single Assembly seat cannot be created for several districts situated in two states. Therefore, the Chief Minister suggested that a Member of Legislative Assembly could be nominated from each of the backward tribes residing Chhattisgarh on rotational basis as the nomination of an Anglo Indian Member. However, the TAC members rejected another proposal for creation of an ancestral district for Bega tribe on the ground that it is impractical.¹¹³

109. Minutes of the meeting of the Chhattisgarh TAC held on 5 September 2008

110. A Minutes of the meeting of TAC meeting held on 28 July 2009

111. Minutes of the meeting of the Chhattisgarh TAC held on 9 November 2010

112. Minutes of the Chhattisgarh TAC meeting held on 26 September 2011

113. Minutes of the meeting of the Chhattisgarh TAC held on 5th July 2005

The proposal to nominate an MLA from the most backward tribes like an Anglo-Indian member on rotational basis was further discussed at the TAC meeting held on 18 October 2006. It has been informed that there is no such provision in the constitution. The Chief Minister has instructed that another proposal in this regard be again submitted to the Government of India.¹¹⁴

The issue was discussed further at CGTAC meeting held on 19 November 2007. The Chief Minister instructed that the proposal of the CGTAC should send to the concerned ministry of the Government of India as well as the said proposal should be presented in the State Assembly as a resolution.¹¹⁵

At CGTAC Meeting held on 05 September 2008, the Department of Tribal and Scheduled Caste Welfare informed that in response to the CGTAC resolution, the Ministry of Tribal Affairs (MoTA) stated that since special provisions are available for development of the PTGs and STs, the proposal is not appropriate. The MoTA suggested that if the Chhattisgarh Government wishes representatives of the PTGs may be called to the CGTAC meetings as Special Invitees. The Chief Minister instructed that a letter be sent to the Prime Minister and the President of India suggesting for nomination of one of Member of Parliament from PTGs in Chhattisgarh. The Chief Minister also instructed that representatives of the PTGs be invited to the TAC meetings.¹¹⁶

At CGTAC meeting held on 28 July 2009, the Chief Minister instructed that two representatives of the PTGs be invited to attend the CGTAC meetings on rotational basis.¹¹⁷

d. Fake ST certificates

In the CGTAC meeting held on 28 July 2009, Mr. Sohan Potai drew the attention of the CGTAC on inaction/delayed action against those officials whose Tribal or ST Certificates were found to be fake and those officials got adequate time to obtain Stay Order from the High Court against their termination. In response, the Tribal Research and Training Institute informed that it had submitted before the High Court through the Advocate General that after the Inquiry Committee found the Tribe Certificate submitted by an employee was false there was no need for further departmental inquiry.¹¹⁸

At CGTAC on 9 November 2010, it was informed that on 19 August 2010 the High Court heard 29 petitions pertaining to fake ST certificates. Out of these,

114. Minutes of the Chhattisgarh TAC held on 18 October 2006.

115. Minutes of the Chhattisgarh TAC held on 19 November 2007

116. Minutes of the Chhattisgarh TAC held on 5 September 2008

117. Minutes of the meeting of TAC held on 28 July 2009

118. Minutes of the meeting of TAC held on 28 July 2009

the court admitted 24 petitions on the ground of procedural lapses on the part of inquiry committee which verified the allegations of fake ST certificates. One of the procedural lapses was the lack of rules for verification. Keeping this in view, the draft rules prepared by the Department of Tribal and SC Welfare was sent for approval to the General Administration which instructed the department of Tribal and SC Welfare to obtain information on such rules of other states. At the end of the discussion on the issue, the Chief Minister instructed as under:

- 1) To obtain advice/opinion of the Law Department on the draft rules of verification of fake ST certificates and accordingly take appropriate action to pass it;
- 2) Instruct all Collectors to lodge FIR against officials who have issued fake ST certificates;
- 3) To write to the Directors of concerned departments to initiate appropriate actions in all relevant cases under them giving the case of termination of a lady warden of a hostel for girls from service by the Assistant Commissioner, Department of Tribal and SC Welfare, Raipur and denial of stay against this order by the High Court.¹¹⁹

The matter of fake ST certificates was further taken up at the CGTAC meeting held on 26 September 2011. In respect of drafting rules, the department of Tribal and SC Welfare informed that the Draft Rules have been prepared and submitted to the Department of General Administration where it was pending.¹²⁰ In respect of issuing of instructions to Collectors to lodge FIR against officials who have issued fake ST certificates it was informed by the Department of General Administration that there is no need for issuing instruction as it was issued in 1996.¹²¹ In respect of Assistant Commissioner writing to the Directors of concerned departments to terminate services of those officials who was found to have got appointment on the basis of fake ST certificate and in whose case the High Court has not granted any stay, it was informed that instructions were issued to directors of all departments, Divisional commissioners and collectors. In the course of discussion, the Minister for Tribal and SC Welfare Department stated that the General Administration department has probably given promotion to some officials against whom charges of getting appointment on the basis of forged/false ST certificates were under investigations. In response, Secretary, General Administration department has informed that decision of promotion of officials charged with allegations of getting jobs with forged ST certificates have been kept in sealed envelopes, no order of promotion was passed while against those officials who have been found guilty of getting appointment on the basis of fake ST certificates, action could not be

119. Minutes of the meeting of TAC on 9 November 2010

120. Minutes of the Chhattisgarh TAC meeting held on 26 September 2011

121. Minutes of the Chhattisgarh TAC meeting held on 26 September 2011

taken in view of stay orders obtained by them from the High Court. The TAC members stated that after finding guilty of getting jobs on the basis of fake ST certificates, the inquiry committee only terminates the guilty officials from jobs where as criminal charges should be initiated against the guilty. In response, the department of Tribal and SC Welfare stated that action to terminate the job of the guilty officials or initiating criminal charges against them were not the duty of the Inquiry Committee rather it was the duty of the department to whom the concerned officials belonged to.¹²² It was also decided that the law department would constitute team of competent lawyers to argue the writ petitions filed against the government in the High Court by officials against who actions were initiated after it was found that their ST certificates are fake.¹²³

e. Exclusion of some ST communities from ST list

In the CGTAC meeting held on 28 July 2009, some members stated that some Scheduled Tribes were excluded from the benefits given to STs due to wrong entry of surnames for example, STs with surname of Pariha; with surname of Bhuyan; with surname of Baldi. MLA Phulsingh stated that STs with surname were not even getting Tribe Certificates. Chief Minister instructed to conduct a study on the tribes who have been excluded and submit a report to the Government to enable him to take up the matter with the Ministry of Tribal Affairs in Delhi.¹²⁴

This was followed up at the CGTAC meeting on 9 November 2010. It was informed that the Minister, Tribal and SC Welfare department met Union Minister of Tribal Affairs Kanti Lal Bhuria on 2 November 2010 and requested him to include the names of the excluded STs in the list of STs in Chhattisgarh at the earliest. The Chief Minister instructed that in December 2010 the Minister, Tribal and SC Welfare along with 3-4 Members of Parliament from Chhattisgarh and Chairpersons of the relevant State Commission meet the NCST, NCSC, the Union Minister for Tribal Affairs and the Union Minister, Social Justice and Welfare and request them to include the excluded tribes and castes in the list of STs/SCs at the earliest.¹²⁵

At CGTAC meeting held on 26 September 2011 some CGTAC members also brought into focus the denial of ST certificates to the Nagesia tribe in Sarguja district because they have been recorded as Kisan in the revenue records. It was decided to conduct ethnological survey on the Nagesia and Kisan tribes and submit a report at the earliest. The Department of Tribal and SC Welfare informed that the ethnological survey on the Nagesia and Kisan tribes has already begun.¹²⁶ With regard to meeting of the NCST, NCSC, the Union Minister for Tribal Affairs and the

122. Minutes of the Chhattisgarh TAC meeting held on 26 September 2011

123. Minutes of the Chhattisgarh TAC meeting held on 26 September 2011

124. Minutes of the meeting of the TAC held on 28 July 2009

125. Minutes of the meeting of the TAC held on 9 November 2010

126. Minutes of the Chhattisgarh TAC meeting held on 26 September 2011

Union Minister, Social Justice, the department of Tribal and SC Welfare informed that the delegation was constituted and program for visit of the delegation would soon be prepared.¹²⁷

f. Problems faced by tribals displaced by industrialization:

In the CGTAC meeting held on 28 July 2009, Minister and TAC member Ram Vichar Netam drew the attention of the TAC to difficulties faced by families displaced by industrialisation. He stated that due to lack of proper resettlement and non-payment of compensation on time, the displaced families face lots of difficulties in livelihood. He suggested making the affected families share holders in the beneficiary industries apart from payment of adequate compensation.

This was followed up at the next CGTAC meeting held on 9 November 2010. With respect to the suggestion of Ram Vichar Netam, the Revenue department informed that inclusion of this aspect in the Rehabilitation Policy was under consideration. While taking part in discussion, CGTAC Member and Chairperson, Commission for ST, Devalal Dugga informed that the commission for ST had received complaints of large scale violations of Rehabilitation Policy in Raigarh district.¹²⁸

g. Delayed payment of NREGA wages

In the CGTAC meeting held on 28 Jul 2009 the Members drew the attention of the Chief Minister towards the delay in payment of wages to workers under the NREGA and requested for correction in the payment procedures.¹²⁹ On 9 November 2010, the department of Panchayat and Rural Development informed that the department was facing problems in timely payment of wages to workers in Naxalite affected areas. It was informed that the Government of India approved the proposal of the state to make cash payments to worker under NREGA in Bijapur district while a proposal has been sent to the Central Government requesting approval to cash payments to workers in Bastar Division. CGTAC Member and MLA Ram Vichar Netam requested for payment of wages to NREGA worker through the Cooperative Society of the STs in the area. The Chief Minister instructed the officials to examine the proposal of paying wages to NREGA worker through the Cooperative Society of the STs as suggested by Ram Vichar Netam.¹³⁰

In the CGTAC meeting held on 26 September 2011, Secretary, department of Panchayat and Rural Development informed that the Government of India had given approval for cash payment for 6 months in Narayanpur, Bijapur and

127. Minutes of the Chhattisgarh TAC meeting held on 26 September 2011

128. Minutes of the meeting of the Chhattisgarh TAC held on 9 November 2010

129. Minutes of the meeting of the Chhattisgarh TAC held on 28 July 2009

130. Minutes of the meeting of Chhattisgarh TAC held on 9 November 2010

Dantewada districts. Upon taking up the issue of difficulties in paying through the post office, higher officials of the department had assured raising the cash limit of the post office and filling up the vacant posts. The Secretary, department of Panchayat and Rural Department assured for expediting the process of payment of wages to the NREGA workers. MLA and TAC Member Sohan Potai suggested that in places where post offices were functional payments should be given through post offices instead of banks.¹³¹

h. Agency for PTGs in Scheduled Areas

At the CGTAC meeting held on 9 November 2010, the Department of Tribal and SC Welfare informed that an Agency was constituted at the State level for protection and development of five PTGs viz. Kamar, Bega, Bihror, Hill Korba and Abujmadia tribes. The grants received from the GoI as special central grants and Central regional schemes are utilized through the Agency for protection and development of PTGs. At present, the details of the PTGs population available in the Agency are based on survey of 2002 based on which schemes for protection and development of PTGs are submitted to the GoI. It has been informed that the Department of Tribal and SC Welfare has conducted the baseline survey on the 4 PTGs viz. the Kamar, Bega, Bihror and the Hill Korba tribes during 2005-06. However, base line survey could not be conducted on the Abujmadia tribe due to the naxalite problem. As per the new base line survey conducted during 2005-06, it has been found that the number of families of the PTGs as well as their areas of residence has increased. As per 2002 base line survey, the 5 PTGs tribes were found residing in 11 districts of Chhattisgarh and the number of families were 24,770 while according to the base line survey of 2005-06 the number of PTG families is 34,203 and out of these, 6,759 families were found residing outside the Agency area. It was informed that a proposal has already been given by the department of Tribal and SC Welfare for creation of District Cells for newly identified areas where PTGs resides and proposal is yet to be given for inclusion of those PTG areas under the PTG Agency. The CGTAC approved the proposal of the department of Tribal and SC welfare.¹³²

At CGTAC meeting held on 26 September 2011, Minister for Panchayat and Rural Development proposed to make special provisions for development of PTGs such as Parhiya, Kodaku and Nagesia in Sarguja district from the State budget. In this regard it was decided to conduct ethnological research and survey on the three tribes.¹³³

131. Minutes of the Chhattisgarh TAC meeting held on 26 September 2011

132. Minutes of the Chhattisgarh TAC Meeting held on 9 November 2010

133. Minutes of the Chhattisgarh TAC Meeting held on 26 September 2011

i. Representation of tribals in state govt jobs

In the CGTAC meeting held on 28 July 2009, TAC Member and Member of Parliament (Lok Sabha) Mr. Sohan Potai complained that STs were not being given reservation in proportion to their population in state government jobs. The Chief Minister instructed the Secretary, General Administration Department to examine the matter as per rules and present it before the Cabinet. Mr. Sohan Potai suggested that grants-in-aid should be stopped to those organizations which have not complied with reservation policy in respect of recruitment.¹³⁴

In the meeting held on 9 November 2010 the Chief Minister directed the Chief Secretary to discuss the matter district wise by involving the MLAs and Ministers from the concerned districts.¹³⁵ In the next meeting held on 26 September 2011, it was resolved to give reservation proportionate to tribal population which is 32 per cent in Chhattisgarh and the department of General Administration was instructed to submit its opinion on the issue before the Cabinet at the earliest.¹³⁶

iii. Recommendations not followed up

a. Starvation among most backward tribes

In the meeting of the CGTAC held on 5th July 2005, Member Nand Kumar Sai drew the attention of the CGTAC with regard to starvation prevailing among the most backward tribes. In this regard, the Chief Minister/Chairman of CGTAC informed about functioning of Annapurna Antyodaya scheme for such most backward tribes; family schemes for them; agricultural welfare schemes; distribution of Indian bull to them. The chairman also directed that Fair Price Shops should be established in the affected areas.¹³⁷

b. Education for tribals

In the meeting of the CGTAC held on 5 July 2005, Member Nand Kumar Shai drew the attention of the CGTAC towards providing best quality education in Scheduled Areas and to create congenial and peaceful environment of education in the Naxalite affected areas of Chhattisgarh. In response, the Chairman informed that non-governmental organization like the Ram Krishna Mission could be encouraged to open schools and provide best quality education in Scheduled Areas. In areas afflicted with Naxalite movements, the Chairman stated the NCC program shall be made mandatory so that students could join armed forces and police. In this regard, the Chairman further stated that during summer or winter vacations, 15 days program could be conducted.¹³⁸

134. Minutes of the meeting of Chhattisgarh TAC held on 28 July 2009

135. Minutes of the meeting of the Chhattisgarh TAC held on 9 November 2010

136. Minutes of the Chhattisgarh TAC meeting held on 26 September 2011

137. Minutes of the Meeting of the Chhattisgarh TAC held on 5 July 2005

138. Minutes of the Meeting of the Chhattisgarh TAC held on 5 July 2005

c. Decline in growth rate of tribal population

Decline in growth rate of tribal population in Scheduled Areas was discussed at the meeting of the CGTAC held on 5 July 2005. As per population census it was found that the growth rate of population of tribal had declined in the Scheduled Areas. Some members expressed the apprehension that in Naxalite affected areas, especially Abujmadh enumerators have not conducted the population visiting house to house in the villages and have entered the population figure on guess. In this regard, it was decided that a village should be taken as sample to collect the actual population figure and the same should be tallied with the population figure of the same village as entered in the population census and the actual figure should be determined.¹³⁹

d. Reservation of Grade C and D jobs for locals

In the CGTAC Meeting held on 18 October 2006 the proposal on reservation of Grade C and D vacant posts in Scheduled Areas for local youths was discussed. The Chief Minister instructed that a high level committee be constituted to examine the proposal with the following members:

1. Genesh Ram Bhagat, Minister, Department of Tribal and Scheduled Castes Welfare
2. Ram Vichar Netam, Minister, Home Department
3. Nanki Ram Kanwar, Minister of Agriculture, Animal Husbandry, Food and Civil Supplies
4. Kedar Kashyap, Minister of State for Public Health Engineering
5. Shiv Pratap Singh, MLA, Surajpur
6. Agan Singh Thakur, MLA, Kanker
7. T.P. Sharma, Secretary, Law Department

In an action taken report placed at CGTAC meeting held on 19 November 2007, the Department of Tribal and Scheduled Castes Welfare informed that a high level committee as instructed by the Chief Minister was constituted.¹⁴⁰ But the matter was not followed up subsequently.

e. Non-transfer of schools to Department of Tribal and Scheduled Caste Welfare Dept:

There has been a demand for transfer of schools in Scheduled Areas from the Department of School Education to the Department of Tribal and Scheduled

139. Minutes of the Meeting of the Chhattisgarh TAC held on 5 July 2005

140. Minutes of the meeting of Chhattisgarh TAC held on 19 November 2007

Caste Welfare. At the TAC meeting held on 5 September 2008, the Chief Minister instructed that the Chief Secretary should hold a joint meeting with the Secretary, School Education and Secretary, Department of Tribal and SC Welfare and settle the issue.¹⁴¹

At CGTAC meeting held on 28 July 2009, it was informed that a meeting was held in this regard on 15 January 2009 which was chaired by the Chief Secretary. The Chief Secretary stated that it was agreed upon that in case of transfer of school from one to the other and vice versa the employees in the transferred school shall be considered as employees of the transferee department.¹⁴²

f. Difficulty for STs to get ST certificates

While several non-STs were employed with fake ST certificates in Chhattisgarh, some TAC Members stated at the CGTAC meeting held on 26 September 2011 that genuine STs who are landless and illiterate were facing difficulties in obtaining ST certificates. Being landless and illiterate they are neither able to produce land documents nor any documents relating to education. The CGTAC Members suggested that such STs be given tribal certificates on the basis of identification by Village Sarpanch, village elders and Social workers. In response, the Minister for Tribal and SC Welfare stated that documents relating to land and education are not the only documents on the basis of which ST certificates are issued. The other documents included- birth and death certificate, voters Identity Card etc. On this issue, the Chairperson of the Commission on Scheduled Tribes stated that as per his information about 4-5 per cent of tribal cannot obtain ST certificate due to lack of land records. In response, the department of Tribal and SC Welfare informed that land records are not available even for 187 out of 237 villages under far flung Abujmad area. Finally, it was decided that in cases where ST certificate could not be obtained by any tribal due to lack of land records, such cases shall be brought before the inquiry committee which would take appropriate action after inquiry.¹⁴³

But this matter was not followed up.

5.3 Rajasthan TAC

The Rajasthan Tribes Advisory Council Rules, 1980 were notified in September 1981. On 11 January 2012, the Principal Secretary, Tribal Area Development department stated that during the last 5 years, eleven meetings of the Council

141. Minutes of the meeting of TAC held on 5 September 2008

142. Minutes of the meeting of TAC held on 28 July 2009

143. Minutes of the Chhattisgarh TAC meeting held on 26 September 2011

were held.¹⁴⁴ AITPN's study has found that the Rajasthan Tribes Advisory Council (RTAC) is highly ineffective. Issues discussed or decisions taken at a RTAC meeting were rarely followed up in the next meetings. Some of the decisions were followed up but these were not implemented. Even in a case where the recommendation is said to have been implemented by the State government, it was not reflected in RTAC's minutes as the concerned departments do not submit action taken report to the RTAC. For example, in its meeting held on 10 November 2005, the RTAC recommended that 45% vacancies be reserved for STs from Scheduled Areas in respect of filling up vacancies in Scheduled Areas and 5 per cent out of 12 per cent be reserved for STs from Scheduled Areas in respect of vacancies in State and subordinate services.¹⁴⁵ On 11 January 2012, the Principal Secretary, Tribal Area Development department stated that government of Rajasthan through Notification dated 12.9.07 provided reservation of 45% seats to the local STs for direct recruitment vacancies in the Scheduled Areas (excluding State Service Post).¹⁴⁶ But this implementation of the RTAC recommendation finds no mention in the meeting of TAC held on 11 October 2007 or thereafter.

The ineffectiveness of the RTAC could be measured from the lack of implementation of its recommendations and the failure of the RTAC to follow up its own recommendations.

i. Lack of implementation of recommendations

a. Fish farming

The issue of State Fisheries Department taking control of fish farming from Rajas Sangh and doing fish farming through contractors was consistently discussed in the RTAC meetings since 27 May 2005 and from the minutes of the meetings it has been found that the RTAC adopted the same decisions repeatedly, without any results. At the RTAC meeting held on 27 May 2005, the RTAC decided to write to the Department of Fisheries to hand over fish farming in the Jaisamand Lake to the Rajas Sangh, instead of engaging private contractors.¹⁴⁷ After over five years, on 22 October 2010, the RTAC ended up only deciding to take appropriate actions

144. Minutes of the meeting held by National Commission for Scheduled Tribes on 11/01/2012 with the Ministry of Home Affairs, Ministry of Tribal Affairs and the Secretaries in charge of Tribal Development/Welfare in the States having Scheduled Areas to discuss the status of implementation of the provisions under Fifth and Sixth Schedule to the Constitution for adaption of laws applicable to Scheduled Areas/Tribes

145. Minutes of Rajasthan TAC meeting held on 10 November 2005

146. Minutes of the meeting held by National Commission for Scheduled Tribes on 11/01/2012 with the Ministry of Home Affairs, Ministry of Tribal Affairs and the Secretaries in charge of Tribal Development/Welfare in the States having Scheduled Areas to discuss the status of implementation of the provisions under Fifth and Sixth Schedule to the Constitution for adaption of laws applicable to Scheduled Areas/Tribes

147. Minutes of Rajasthan TAC meeting held on 27 May 2005

for returning the work of fish farming at Jaisamund, Mahi Bajas Sagar and Kadana reservoirs to Rajas Sangh.¹⁴⁸

After the RTAC on 27 May 2005 decided to write to the Department of Fisheries to hand over fish farming in the Jaisamand Lake to the Rajas Sangh,¹⁴⁹ on 10 November 2005, it was decided to conduct a “comparative study” on the benefits extended to the tribal fishermen by the State Fisheries department and the Rajas Sangh.¹⁵⁰ The same decision to conduct a comparative study was taken at the TAC meeting held on 11 May 2006.¹⁵¹ In the next RTAC meeting held on 21 September 2006, it was decided that the comparative survey should be completed in 15 days through the Tribal Research Institute (TRI).¹⁵²

In the RTAC meeting on 19 February 2007, it was informed that the TRI in its survey found that the State Fisheries Department failed to provide all the committed facilities to the tribal fishermen even after one and half years of taking over from Rajas Sangh. So, if the chairman of the Fishermen Committee wanted that fish farming work should be given back to the Rajas Sangh, he should write in their official letterpad and submit the letter before the meeting of the Minister of Tribal Areas Development and the Minister of State Fisheries to be held in April 2007.¹⁵³ Yet, interestingly, at the next RTAC meeting held on 20 June 2007, the RTAC decided to conduct another comparative study on the facilities provided to the fishermen community by Rajas Sangh and the State Fisheries department!¹⁵⁴

In the RTAC meeting held on 11 October 2007, it was decided that Minister of Tribal Areas Development Department and the RTAC Members will discuss the issue of handing over the fish farming job at Jaisamund, Mahi Bajas Sagar and Kadana reservoirs to the Rajas Sangh with the Minister of State Fisheries Department.¹⁵⁵

In the RTAC meeting held on 11 February 2008, it was instructed to investigate to find out the reasons for which the Rajas Sangh was not given the work of fish farming at Jaisamund, Mahi Bajas Sagar and Kadana reservoirs, including negligence/dereliction of duty by any officials and to take appropriate action against the official, if found guilty. It was also instructed to find out the reservoirs in the Scheduled Areas where fish farming can be carried out. A report be presented and those reservoirs should be taken on lease.¹⁵⁶

148. Minutes of Rajasthan TAC meeting held on 22 October 2010

149. Minutes of Rajasthan TAC meeting held on 27 May 2005

150. Minutes of Rajasthan TAC meeting held on 10 November 2005

151. Minutes of Rajasthan TAC meeting held on 11 May 2006

152. Minutes of Rajasthan TAC meeting held on 21 September 2006

153. Minutes of Rajasthan TAC meeting held on 19 February 2007

154. Minutes of Rajasthan TAC meeting held on 20 June 2007

155. Minutes of Rajasthan TAC meeting held on 11 October 2007

156. Minutes of Rajasthan TAC meeting held on 11 February 2008

In the RTAC meeting held on 11 July 2008, members expressed concerns that the State Fisheries department had not engaged the ST fishermen in the fish farming work but has engaged contractors at Jaisamund, Mahi Bajas Sagar and Kadana reservoirs. It was instructed to submit the present state of affairs in the next meeting and tribal fishermen should be engaged in the fish farming work. It was also decided to take appropriate actions for doing fish farming at Daaya, Rai, Som-Kamla-Amba, Amarpura and Sukhaniya reservoirs by the Rajas Sangh through the tribal fishermen societies.¹⁵⁷

In the RTAC meeting held on 22 October 2010, it was once again decided to ask the authorities to return the work of fish farming at Jaisamund, Mahi Bajas Sagar and Kadana reservoirs to Raja Sangh.¹⁵⁸

So, it is seen that the RTAC took the same decisions repeatedly and the authorities refused to implement its recommendations.

ii. Lack of follow up

a. Connecting villages with road

In the RTAC meeting held on 27 May 2005, decision was taken to prepare a list of all tehsils and panchayat headquarters which have not been so far linked with roads and to prepare a proposal to establish road link among villages situated within 1-5 km of distance from the main road.¹⁵⁹ In the next meeting held on 10 November 2005, it was decided to construct roads in Tribal Sub Plan areas through the Tribal Development Department and asked the Public Works Department to send the estimates to the Tribal Development Department within a month. It was also decided that the elected representatives of the area would send their recommendations to the Tribal Development department to sanction funds from the MLA LAD for construction of some of the roads.¹⁶⁰

In the RTAC meeting held on 11 May 2006, it was decided to link the villages with population of 250 persons in TSP areas and 500 persons in non-TSP areas. The RTAC Members should prepare and submit proposal on their respective areas so that the same could be discussed in accordance with budgetary provisions.¹⁶¹ At the RTAC meeting held on 21 September 2006, it was decided to fix Rs.20 lakh for each of the Assembly Constituencies in the Scheduled Area for construction of link roads. MLAs were accordingly asked to submit proposals of their respective areas.¹⁶²

157. Minutes of Rajasthan TAC meeting held on 11 July 2008

158. Minutes of Rajasthan TAC meeting held on 22 October 2010

159. Minutes of Rajasthan TAC meeting held on 27 May 2005

160. Minutes of Rajasthan TAC meeting held on 10 November 2005

161. Minutes of Rajasthan TAC meeting held on 11 May 2006

162. Minutes of Rajasthan TAC meeting held on 21 September 2006

However, this proposal was not taken up by the RTAC in its subsequent meetings.

b. Irrigation and water supply

In the RTAC meeting held on 27 May 2005, a decision was taken to install more hand pumps and water sources in the Tribal Sub Plan areas. It was also stated that three schemes relating to installation of hand pumps and Kalbhata Water Supply and Irrigation project were pending. Chief Executive Officer, Bhilwara had submitted a proposal to complete those projects but the same was not received by the relevant department. Therefore, it was instructed that the proposal be again submitted to the relevant department for action. It was also decided to survey the community water supply and irrigation projects in the Tribal Sub Plan areas and Sahariya areas which had to be closed due to less water and rise in electricity bills. It was decided to take up the matter with the State Electricity department to give rebate in charges of electricity provided to the projects.¹⁶³

This decision was followed up in the next meeting held on 10 November 2005. It was decided that in Aaspur/Simalwara Panchayat Samiti in Dungarpur district, installation of hand pumps and water sources by the Water Supply Department was being done very slowly. Therefore, it was instructed that the installation of hand pumps and water sources at Modiphala, Ratdiyaphala, Kichri and Bhuwasa etc should be completed at the earliest.¹⁶⁴

In the RTAC meeting held on 10 November 2005, it was stated that approval has been already obtained for deepening of wells of over 72 holes with the use of explosive blasting. It was decided to seek approval of the State Government for new wells to be dug during FY 2006-2007.¹⁶⁵

In the RTAC meeting held on 11 May 2006, it was decided that proposals should be submitted to make the non-functional irrigation projects functional where water is available in abundance. It was recommended to the State Government to examine the issue of increasing on need basis the cost of deepening of wells with blasting and cleaning of debris from the wells. It was instructed to the Public Health Engineering department to install the hand pumps that were sanctioned so that people get the services on time.¹⁶⁶

This issue was not discussed at the next two RTAC meetings held on 21 September 2006 and 19 February 2007.

163. Minutes of Rajasthan TAC meeting held on 27 May 2005

164. Minutes of Rajasthan TAC meeting held on 10 November 2005

165. Minutes of Rajasthan TAC meeting held on 10 November 2005

166. Minutes of Rajasthan TAC meeting held on 11 May 2006

In the RTAC meeting held on 20 June 2007, it was stated that recommendation of the Hydrologists is required by the Groundwater department to install community agricultural tube well. It is difficult to get the recommendation of the hydrologists and this delay the implementation of the schemes. The Office of the Commissioner, Tribal Areas Development Department should examine whether the requirement of recommendation of the Hydrologist can be relaxed. It was also stated that several community water supply and irrigation projects constructed by the Tribal Development Department in non-Scheduled Areas remain non-functional. It was decided that all these non-functional projects should be surveyed through the Officer of the District Collector and appropriate actions should be taken to make them fully functional.¹⁶⁷

The issue was not discussed in the next meeting held on 11 October 2007.

In the RTAC meeting held on 11 February 2008, it was decided to explore the possibility of getting approval of funding under the NREGS for cleaning of mud generated in the process of deepening of irrigation wells with blasting and to prepare plan for deepening the community wells for drinking water and to put RCC rings in them. It was also decided to survey the Community Water Supply and Irrigation projects and to take necessary actions to make functional all the projects where water is available.¹⁶⁸

In the RTAC meeting held on 11 July 2008, it was decided that in order to make the scheme of deepening irrigation wells with blasting more effective and useful, a study should be carried out by a committee to be constituted under the chairmanship of the Commissioner, Tribal Development Department and elected representatives from STs should be included. The TAC has approved the inclusion of the District Chief, Udaipur, Member of Parliament from Banswada and Dungarpur, Pradhan of Pipalkhunt Panchayat Samiti and District Chief of Sirohi.¹⁶⁹

In the RTAC meeting held on 22 October 2010, it was stated that the debris generated in the well during the process of deepening by blastings were cleared by the well owning ST farmers who were often unable to do so. Therefore the Tribal Development Department should make provision for clearance of debris from wells in case of inability of the farmers to do so. It was recommended that after obtaining information about the working capacity of the Groundwater Department, the remaining works should be done through tenders to be called at Tehsil level. It was further recommended that the benefits under this scheme should be provided to BPL and APL families.¹⁷⁰

167. Minutes of Rajasthan TAC meeting held on 20 June 2007

168. Minutes of Rajasthan TAC meeting held on 11 February 2008

169. Minutes of Rajasthan TAC meeting held on 11 July 2008

170. Minutes of Rajasthan TAC meeting held on 22 October 2010

c. Filling up of job vacancies

In the RTAC meeting held on 27 May 2005, it was decided to fill up existing vacancies of STs in all Government departments.¹⁷¹ On 10 November 2005, the RTAC decided to send reminders to all departments to fill up the ST backlogs at the earliest.¹⁷²

In the meeting held on 11 May 2006, it was decided to obtain information in respect of number of backlogs vacancies and grades reserved for STs.¹⁷³

But the issue was not followed up further.

d. Reservation for tribals of Scheduled Areas

In the RTAC meeting held on 27 May 2005, it was stated that 12% reservation is provided for the STs in Rajasthan but the benefits of reservation are mostly availed by STs from non-Scheduled Areas. In this regard, it was decided that 12 per cent reservation be bifurcated into two – 5 per cent for Scheduled Areas and 7 per cent for non-Scheduled Areas.¹⁷⁴ The same resolution was taken in the RTAC meetings held on 10 November 2005,¹⁷⁵ 21 September 2006 and¹⁷⁶ 19 February 2007.¹⁷⁷ At the RTAC meeting held on 20 June 2007, it was informed that the opinion of the Advocate General of Rajasthan whose opinion was sought on the issue of reserving 5 percent for STs in Scheduled Areas out total 12 percent reservation for STs in state Government services was not received. The TAC recommended that the State Government should try to obtain the opinion of the Advocate General at the earliest.¹⁷⁸ In the next RTAC meeting held on 11 October 2007, it was informed that the opinion of the Advocate General of Rajasthan was still not received. Once again the TAC called upon the state government to take action on the matter after obtaining the opinion of the Advocate General.¹⁷⁹

Surprisingly, this issue was dropped by the RTAC from the agenda of subsequent meetings. The issue was not discussed in the meetings held on 11 February 2008, 11 July 2008, and 22 October 2010.

e. Budgetary allocation for tribal development

In the RTAC meeting held on 27 May 2005, all members of the TAC demanded that the State Government should allocate 8 per cent of the state budget at a

171. Minutes of Rajasthan TAC meeting held on 27 May 2005

172. Minutes of Rajasthan TAC meeting held on 10 November 2005

173. Minutes of Rajasthan TAC meeting held on 11 May 2006

174. Minutes of Rajasthan TAC meeting held on 27 May 2005

175. Minutes of Rajasthan TAC meeting held on 10 November 2005

176. Minutes of Rajasthan TAC meeting held on 21 September 2006

177. Minutes of Rajasthan TAC meeting held on 19 February 2007

178. Minutes of Rajasthan TAC meeting held on 20 June 2007

179. Minutes of Rajasthan TAC meeting held on 11 October 2007

time to the Tribal Welfare department for welfare of the STs as the Maharashtra Government.¹⁸⁰

In the RTAC meeting held on 10 November 2005, it was stated that in comparison to budget of FY 2004-05, Rs.2.00 crore was reduced during FY 2005-06 for tribal development. The TAC members demanded 12 per cent of the state budget be allocated for tribal development in proportionate to their population (12%) in Rajasthan.¹⁸¹

In the RTAC meeting held on 11 May 2006, it was stated that the Tribal Development Department was receiving 8 per cent budget allocation while the tribal population in Rajasthan was 12.56 per cent. Hence, the TAC demanded that budgetary allocations to Tribal Development Department should be proportionate to the percentage of the tribal population.¹⁸²

In the meeting held on 21 September 2006, it was stated that allocation of funds under the Special Central Assistance (SCA) was being done on the basis of ST population in an area but funds under the Special Central Assistance could be spent only for the ST families living below poverty line. ST population in Scheduled Areas constitutes 43.58 per cent of ST population of Rajasthan while the percentage of STs living below the poverty line (BPL) in Scheduled Areas was 63 per cent of the State's tribal BPL families. Hence, under the existing criteria the STs living in the Scheduled Areas were getting comparatively less amount under the SCA.¹⁸³

But the issue was not discussed in the next three consecutive meetings held on 19 February 2007, 20 June 2007 and 11 October 2007

In the RTAC meeting held on 11 February 2008, decision was taken to send officials from the Tribal Areas Development Department to Maharashtra to obtain information on budgetary allocation for tribal development there under the Maharashtra pattern of funding at the earliest.¹⁸⁴

On 11 July 2008, the RTAC recommended that under the Maharashtra pattern of funding 12.56% of the budget should be allocated directly to the Tribal Development department from the State Plan.¹⁸⁵

The issue was not followed up thereafter, including in the RTAC meeting held on 22 October 2010.

180. Minutes of Rajasthan TAC meeting held on 27 May 2005

181. Minutes of Rajasthan TAC meeting held on 10 November 2005

182. Minutes of Rajasthan TAC meeting held on 11 May 2006

183. Minutes of Rajasthan TAC meeting held on 21 September 2006

184. Minutes of Rajasthan TAC meeting held on 11 February 2008

185. Minutes of Rajasthan TAC meeting held on 11 July 2008

f. Shortage of staff in Ashram schools

In the RTAC meeting held on 27 May 2005, it was stated that the residential and Ashram schools have been facing acute shortage of staff due to delayed appointment by the Education Department. Staff of residential and ashram schools viz. teachers, warden, coach etc are appointed by the Education Department. The RTAC suggested that the Tribal Welfare Department should create its own cadres.¹⁸⁶ Further, it was stated that no post of warden was created to look after the residential and ashram schools and hostels.¹⁸⁷

The subject was not discussed in the next meeting held on 10 November 2005.

In the RTAC meeting held on 11 May 2006, it was decided to request the Government to hire teachers on contract basis in view of unavailability of retired teachers. Simultaneously, efforts should be made to get a positive decision on the issue of creating cadre of teaching and other staff for residential schools/Ashram which was pending at the Government level.¹⁸⁸

In the RTAC meeting held on 21 September 2006, RTAC members expressed deep concern over the poor results of the Residential Schools in CBSE exams in 2006 because of lack of adequate number of teachers. All members unanimously recommended for creation of separate cadre of staff for Residential Schools.¹⁸⁹

In the meeting held on 19 February 2007, it was stated that at present, the employees and teachers of Ashram Hostels and Residential Schools come on deputation from the Education department. The delayed posting of staff by the Education department created vacancies of staff. Therefore it was recommended that the Tribal Areas Development Department should create its own departmental cadre of staff for Ashram Hostels and Residential Schools.¹⁹⁰

But this issue was not discussed at the next meeting held on 20 June 2007

In the RTAC meeting held on 11 October 2007, it was stated that No Objection Certificate was received to fill up the vacant posts in Residential schools and Ashram Hostels. Hence, the process of appointment in the vacant positions should be completed at the earliest.¹⁹¹

But the issue was not discussed again at the next meetings held on 11 February 2008 and 11 July 2008.

186. Minutes of Rajasthan TAC meeting held on 27 May 2005

187. Minutes of Rajasthan TAC meeting held on 27 May 2005

188. Minutes of Rajasthan TAC meeting held on 11 May 2006

189. Minutes of Rajasthan TAC meeting held on 21 September 2006

190. Minutes of Rajasthan TAC meeting held on 19 February 2007

191. Minutes of Rajasthan TAC meeting held on 11 October 2007

In the RTAC meeting held on 22 October 2010, it was recommended to appoint retired employees as teachers/superintendents in Residential schools and Ashram Hostels. It was also recommended to create post of Assistant Superintendent in Boys Hostels.¹⁹²

g. Criteria for issuing permits of buses

In the RTAC meeting held on 27 May 2005, it was decided that the criteria for issuing permits of buses for hilly areas under the Scheduled area should be developed.¹⁹³ In the next meeting held on 10 November 2005, it was decided to send a reminder to the Transport department to set the criteria for issuing of permits of buses in hilly areas under the Scheduled Areas.¹⁹⁴

But the issue was not discussed in any of the subsequent meetings of the RTAC held on 11 May 2006, 21 September 2006, 19 February 2007, 20 June 2007, 11 October 2007, 11 February 2008, 11 July 2008, and 22 October 2010.

h. Poor quality construction of hostels

In the RTAC meeting held on 21 September 2006, some TAC Members stated that the quality of the work of construction in hostels done by Rajas Sangh was of poor quality. It was instructed that the works done by Rajas Sangh in Pratapgarh area should be inspected by Deputy Project Officer, Pratapgarh and a report on the quality of work should be submitted within 2.10.2006.¹⁹⁵

In the RTAC meeting held on 19 February 2007, the TAC was informed about the on-the spot inspection of the works of hostels at Pratapgarh by the Deputy Project Officer, Pratapgarh. The TAC Members were not satisfied with the findings of the investigation and therefore instructed the Deputy Project Officer to re-investigate the matter within 30 days with the help of Technical Officer.¹⁹⁶

But the issue was not discussed in the next three consecutive TAC meetings held on 20 June 2007, 11 October 2007 and 11 February 2008.

In the RTAC meeting held on 11 July 2008, it was instructed that a study be done through the Tribal Research Institute on the conditions of the Ashram Hostels and the report should be submitted within one month.¹⁹⁷

Again, the issue was not followed up at the next meeting held on 22 October 2010.

192. Minutes of Rajasthan TAC meeting held on 22 October 2010

193. Minutes of Rajasthan TAC meeting held on 27 May 2005

194. Minutes of Rajasthan TAC meeting held on 10 November 2005

195. Minutes of Rajasthan TAC meeting held on 21 September 2006

196. Minutes of Rajasthan TAC meeting held on 19 February 2007

197. Minutes of Rajasthan TAC meeting held on 11 July 2008

j. Declaration of villages in MADA areas as revenue villages

In the RTAC meeting held on 11 May 2006, it was recommended to declare villages under Modified Area Development Approach (MADA area) as Revenue villages.¹⁹⁸ But this issue was not discussed in the next meetings held on 21 September 2006, 19 February 2007, 20 June 2007 and 11 October 2007.

In the RTAC meeting held on 11 February 2008, it was instructed to take actions to declare all hamlets and pockets whose population is 250 persons as Revenue villages.¹⁹⁹ But again, the matter was not taken up in the next meetings held on 11 July 2008 and 22 October 2010.

5.4 Jharkhand TAC

The Chief Minister is the chairperson of the Jharkhand Tribes Advisory Council (JTAC). It has been found that the JTAC often did not follow up its decisions. Therefore, it was largely an ineffective mechanism to address the problems of the tribal people of the state.

In November 2012, two members of the JTAC namely former Human Resource Development Minister Bandhu Tirkey and Congress legislator Geetashree Oraon walked out of the JTAC meeting alleging that Chief Minister Arjun Munda, who is also its chairman, did not take much interest in discussing welfare of the tribal population. Mr Tirkey said that they wanted the Chairman to discuss the problems faced by tribals at Nagri with their land being acquired by the government for construction of India Institute of Management (IIM) and National University for Study and Research in Law, but he did not allow any discussion on that subject. While Chief Minister Arjun Munda allegedly insisted upon the matter being first brought before JTAC in writing, Mr Tirkey stated that several memorandums had been submitted to the Governor and the state government and therefore the matter should automatically come to JTAC for discussion.²⁰⁰

In fact, AITPN's study found that only a few decisions of the JTAC have been successfully implemented.

I. Recommendations followed up

a. Annapurna Yojana for PTGs

At the JTAC meeting held on 22 December 2005, the proposal to include all families of so-called Primitive Tribal Groups (PTGs) under the Annapurna Yojana

198. Minutes of Rajasthan TAC meeting held on 11 May 2006

199. Minutes of Rajasthan TAC meeting held on 11 February 2008

200. Tribal Advisory Council stages walkout, The Times of India (online), 10 November 2012, http://articles.timesofindia.indiatimes.com/2012-11-10/ranchi/35034020_1_stages-walkout-welfare-department-tribal-advisory-council

was approved.²⁰¹ At the next meeting held on 28 January 2006, it was informed that the PTG families have been included under the Annapurna Yojana.²⁰²

b. Alienation of tribal lands

In the JTAC meeting held on 28 January 2006, the issue of alienation of tribal lands was discussed. The JTAC members expressed deep concerns over the illegal transfer of tribal lands to non-tribals. The Chief Minister/Chairperson of the JTAC instructed for constitution of “Special Monitoring Cell” to monitor the cases of land alienation, review of land alienation cases and to regularly monitor cases registered under the Scheduled Area Regulation Act.²⁰³ But this issue was not discussed for the next four years. In the JTAC meeting held on 15 July 2010 it was once again decided that in case of special cases of illegal transfer of tribal land coming to notice, the Commissioner, Tribal Development Department shall ask the Secretary, Revenue and Land Reforms for disposal of such cases at the earliest by constituting Special Cells. In effect, the instruction for constitution of “Special Monitoring Cell” was issued once again more than four years after the decision was first taken.²⁰⁴ By the end of JTAC meeting dated 16 June 2011, no information is available with regard to the constitution of the Special Monitoring Cell, as per the minutes of the meeting accessed by the AITPN.

In the JTAC meeting of 15 July 2010, the Secretary, Revenue and Land Reform department informed that there were 3,382 cases under the Scheduled Area Regulation Act and illegal transfer involving 304.47 acres land. During 2010 as of May, 87 cases involving 65.08 acres land were disposed off and possession had been restored in 23 cases involving 10.84 acres land. The JTAC instructed the Secretary, Revenue and Land Reform department to provide the district-wise list of disposed off and pending cases. JTAC Member Chamra Linda suggested making the Scheduled Area Regulation Act more effective by amending it.²⁰⁵ But neither the district-wise list was provided nor any effort was made to strengthen the Scheduled Area Regulation Act.

At the meeting held on 21 August 2010, the JTAC took up the case of alienation of land of one Rukmini Murmu of Jamuni Village in Godda district and the Revenue and Land Reform department was directed to ensure compliance of the orders of the Deputy Commissioner and the Sub-Divisional officer who had ordered for restoration of possession in favour of Rukmini Murmu. JTAC Member Bandhu Tirkey demanded complete ban on illegal transfer of tribal lands by stringent enforcement of the relevant laws and rules. It was decided to constitute a Sub

201. Minutes of Jharkhand TAC meeting held on 22 December 2005

202. Minutes of Jharkhand TAC meeting held on 28 January 2006

203. Minutes of Jharkhand TAC meeting held on 28 January 2006

204. Minutes of Jharkhand TAC meeting held on 15 July 2010

205. Minutes of Jharkhand TAC meeting held on 15 July 2010

Committee comprising JTAC members, officials of the Revenue and Land Reforms department and some experts.²⁰⁶ In subsequent meetings, no information was tabled with regard to the constitution of the Sub Committee and if constituted, about its functioning. The meeting held on 19 April 2011 reviewed the decisions taken in JTAC meeting dated 15 July 2010 and 21 August 2010, but the tribal land alienation was not discussed at all.

In the JTAC meeting held on 16 June 2011, the Principal Secretary, Revenue and Land Reform department informed that approximately 4,000 cases of tribal land alienation were registered of which two-thirds were in Ranchi district. He stated that land was restored in 525 cases. The JTAC members gave the following suggestions to the Revenue department: (1) Fixing a time frame for return of alienated land, (2) Repeal of Section 71 (a) of the Chhotanagpur Tenancy Act relating to payment of compensation; (3) Identification of tribal places of worship and include them in the land patta; (4) Implementation of the Supreme Court judgement in Samtha case; (5) Tribal land owners should get share of profit from land given on lease for mining, and (6) arrangement of loan against landed properties of the tribals. The JTAC chairman stated that the Samatha judgement was delivered in a case from Andhra Pradesh and therefore, a law was needed to be enacted to implement this judgement in Jharkhand. It was decided that a Sub-Committee would be constituted for this purpose in which JTAC members and government officials will be members.²⁰⁷

c. Handing over of sand mines to Gram Sabhas

In the JTAC meeting held on 22 December 2005, it was decided that concerned authorities submit report with regard to the handing over of “sand mines” to the Gram Sabhas which were empowered to determine the disposal of the sand.²⁰⁸ Pursuant to this directive, it was submitted at the next meeting dated 28 January 2006 that 86 sand mines were handed over to the Gram Sabha while 545 sand mines were yet to be handed over. The JTAC decided to ensure the handing over of 545 sand mines to the respective Gram Sabhas within March 2006.²⁰⁹ But the decision was never followed up upto the meeting held on 16 June 2011.

ii. Recommendations not followed up

a. No information on use of acquired land

In the JTAC meeting held on 22 December 2005, the JTAC decided to seek reports from the Deputy Commissioners with regard to the diversion of acquired land,

206. Minutes of Jharkhand TAC meeting held on 21 August 2010

207. Minutes of Jharkhand TAC meeting held on 16 June 2011

208. Minutes of Jharkhand TAC meeting held on 22 December 2005

209. Minutes of Jharkhand TAC meeting held on 28 January 2006

if any, for purposes other than for which the land was acquired.²¹⁰ However, no Deputy Commissioner sent a report.

In the meeting held on 28 January 2006, it was decided to issue another instruction to all districts that failed to send reports within one month.²¹¹ But the decision was never followed up upto the meeting held on 16 June 2011.

b. Removing nationalization of non-timber forest produce

In the JTAC meeting held on 22 December 2005, the JTAC members stated that due to failure of the Forest Corporation to buy *saal* seed and *tendu* leaves, the local tribals had suffered losses. As these produce are nationalized, selling these to private persons is illegal. Therefore, it was decided to remove nationalization of all non-timber forest produce and fix a minimum support price as well as legalise their sale to anyone.²¹²

In the next meeting held on 28 January 2006, it was decided to fix minimum support prices of all minor forest products (MFP); to prepare an Action Plan on production and marketing of MFPs based on their commercial viability; Commissioner, Tribal Development Department to coordinate with all relevant departments for formulation of the Action Plan; to develop a data base on the persons who are dependent on MFP and the quantum of annual production of each of MFP. The JTAC also instructed Committee headed by the Commissioner, Tribal Development department to prepare a proposal with respect to management of MFP. Further, instruction was issued to the Commissioner of Tribal Development department to take necessary action to fix the rate of *tendu* leaves within 31.3.2006.²¹³

However, this issue was not followed up upto the meeting held on 16 June 2011.

c. Industrial policy 2001

In the JTAC meeting held on 28 January 2006, the Industrial policy of 2001 was discussed and the following suggestions were given: a Rehabilitation Policy be prepared; affected tribal families be resettled before acquisition of their land; affected families be resettled with in the vicinity of the industries which are established on their land; make the affected families shareholders in the industries to be established; make the requirement of spending 20% of profit of the industry for development of facilities to be availed by the affected families mandatory; and to give special attention to small and cottage industries. The Chief Minister/ Chairperson , JTAC, also instructed the Commissioner, Tribal Development Department to hold consultation with the Departments of Revenue, Industry, Tribal Welfare, Planning

210. Minutes of Jharkhand TAC meeting held on 22 December 2005

211. Minutes of Jharkhand TAC meeting held on 28 January 2006

212. Minutes of Jharkhand TAC meeting held on 22 December 2005

213. Minutes of Jharkhand TAC meeting held on 28 January 2006

and Irrigation on all above mentioned issues and prepare an Approach Paper on Rehabilitation Policy at the earliest.²¹⁴

But the matter was not discussed in the next three consecutive meetings held on 16 January 2007, 15 March 2008, and 15 July 2010.

The matter was discussed at the JTAC meeting held on 21 August 2010 when the following suggestions were given: (1) Affected land owners should get share in the proposed industry; (2) To send proposal to the Government of India to return the acquired land to the affected owner after completion of mining activities; and (3) Project affected persons should be rehabilitated on prime lands.²¹⁵

The matter was not followed up in the next meeting held on 19 April 2011 and 16 June 2011.

d. Poor implementation of the housing schemes

The Jharkhand government launched Birsa Munda Awas Yojna to provide housing to the families of so-called “Primitive Tribes” such as Asur, Birhor, Birajia, Korba, Hill Kharia, Mal, Pahariya, Sauriya Paharia, Parahriya and Sabar. Each family is provided Rs 70,500 by the state government to construct a house.²¹⁶ But there are allegations that the scheme is not properly implemented.

In the JTAC meeting held on 22 December 2005, JTAC Members raised the issue of poor implementation of the Birsa Awas Yojana scheme implemented by the Tribal Welfare Department. The Chief Minister/Chairperson of the JTAC ordered an investigation. The Chief Minister also expressed willingness to implement the Birsa Awas Yojana through Non-governmental organizations such as Bharat Seva Ashram Sangh, Ram Krishna Mission etc.²¹⁷ At the next meeting held on 28 January 2006, the JTAC was provided written information on partnership of the NGOs and State agencies in implementation of Birsa Awas Yojana.²¹⁸

However, the matter was not followed up.

Similarly, the JTAC on 15 July 2010 decided to investigate the alleged irregularities committed in the implementation of the Indira Awas Yojana,²¹⁹ but nothing was discussed thereafter.

214. Minutes of Jharkhand TAC meeting held on 28 January 2006

215. Minutes of Jharkhand TAC meeting held on 21 August 2010

216. http://jharkhand.nic.in/schemes/birsa_munda_awas.pdf

217. Minutes of Jharkhand TAC meeting held on 22 December 2005

218. Minutes of Jharkhand TAC meeting held on 28 January 2006

219. Minutes of Jharkhand TAC meeting held on 15 July 2010

e. Development of forest villages

At the JTAC meeting held on 22 December 2005, the Forest and Environment department was instructed to submit proposals to the Government of India for development of forest villages. It was also instructed to prepare a list of all forest villages and make the list available to all JTAC Members.²²⁰

At the next meeting held on 28 January 2006, the proposal submitted to the Govt of India was placed before the JTAC and discussed. The JTAC members gave several suggestions including timely repair of roads connecting the forest villages; black topping of roads; construct new road or improve the existing pedestrian road in the interior forest areas; prevent arrest of tribals for petty forest offences; and develop a State level Forest Policy in the light of National Forest Policy with the advice of the Commissioner, Tribal Development Department.²²¹ However, the suggestions were not followed up.

f. Withdrawal of pending forest cases against the tribals

At the JTAC meeting held on 15 July 2010, Member Gopal Krishna Patar raised the issue of pending cases against the forest dwellers. In response, Secretary, Forest department stated that actions were being taken to withdraw the pending cases. Principal Secretary, Home department informed that a Committee had been constituted under the chairmanship of the Commissioner, Home department to review and withdraw the pending cases against tribals and assured that the review would be completed within one month.²²² However, upto 16 June 2011, no information has been placed with regard to number of cases against tribals withdrawn by the state government.

g. Discussion on Forest Rights Act

The JTAC meeting on 15 March 2008 was held particularly to discuss the Forest Rights Act, 2006 and the Rules, 2007. The following decisions were adopted in the meeting: (1) It was decided to again discuss in detail the suggestions of JTAC Members for amendment of certain provisions of the Act in the next meeting; and (2) to send a letter of thanks to the Government of India for staying the enforcement of the proposal of the Delimitation Committee.²²³

In the meeting held on 15 July 2010, the following decisions were taken: to publicise and broadcast the Act and Rules in local languages; to publicise the Act and Rules through beating of the drums at the local markets; and to make claim applications available at the Gram Sabha level.²²⁴

220. Minutes of Jharkhand TAC meeting held on 22 December 2005

221. Minutes of Jharkhand TAC meeting held on 28 January 2006

222. Minutes of Jharkhand TAC meeting held on 15 July 2010

223. Minutes of Jharkhand TAC meeting held on 15 March 2008

224. Minutes of Jharkhand TAC meeting held on 15 July 2010

In the meeting held on 21 August 2010, JTAC Member and Member of Parliament Mr. Rameshwar Oraon stated that implementation of the FRA was not satisfactory. According to him, there were three lakh forest dwelling tribal families but only 30,000 claim applications were received and out of these, only 7000 claims were disposed off. In response, the Secretary, Tribal Welfare Department stated that as of May 2010, 31,810 claim applications were received and out of this 11,343 claims were accepted. Out of the accepted claims, 9,142 pattas were distributed.²²⁵

In the JTAC meeting dated 19 April 2011, the Chief Minister/ Chairman of the JTAC instructed for more publicity of the provisions of the FRA. Some TAC members stated that scores of tribal claimants have not received titles. The Chief Minister instructed to prepare a report on the number of claim applications received, number of disposed claims, and number of claimants who have received land titles as of April 2011. The Chief Minister also directed the Forest department to prepare an updated list of total number of forest dwellers. In respect of forest area in Jharkhand, the Chief Secretary directed the Forest department present disaggregated figure in the next meeting.²²⁶

5.5 Himachal Pradesh TAC

On 11 January 2012, the Principal Secretary, Tribal Development stated that the Himachal Pradesh Tribes Advisory Council so far held 41 meetings, the last being held on 24 March 2011 since its constitution on 13 December 1977. He mentioned that most of the issues discussed in the TAC were relating to the infrastructure development.²²⁷

The effectiveness and drawbacks of the Himachal Tribes Advisory Council (HTAC) is discussed below.

I. No follow up and premature closure of the issues

It is observed that the Himachal Pradesh TAC (HTAC) took up too many items in each sitting. For example, in the 36th meeting held on 12 May 2006, 102 items were discussed, 119 items were discussed in 37th meeting held on 30 November 2006, 104 items were discussed in 38th meeting held on 2 August 2007, 86 items were discussed in 39th meeting held on 3 February 2009, 88 items (including 21 follow up items and 67 new items) were discussed in the 40th meeting held on 15

225. Minutes of Jharkhand TAC meeting held on 21 August 2010

226. Minutes of Jharkhand TAC meeting held on 19 April 2011

227. Minutes of the meeting held by National Commission for Scheduled Tribes on 11/01/2012 with the Ministry of Home Affairs, Ministry of Tribal Affairs and the Secretaries in charge of Tribal Development/Welfare in the States having Scheduled Areas to discuss the status of implementation of the provisions under Fifth and Sixth Schedule to the Constitution for adaption of laws applicable to Scheduled Areas/Tribes

May 2010, and 66 items (including 19 follow up items and 47 new items) were discussed in the 41st meeting held on 24 March 2011.

As a result, the HTAC members could not give sufficient time to discuss each of the issues seriously. A lot of issues were dropped at the very meeting it was raised without implementation of the decisions. For example, in the 40th meeting held on 15 May 2010, an issue related to filling up vacant post of teachers in Govt Schools in Kinnaur district was discussed. The Education department stated that efforts were being made to fill up nine posts of Headmasters, 1325 posts of lecturers (in Senior Secondary Schools) in Kinnaur district. As soon as the selection list was available, the vacancies would be filled up as a priority. In view of this response, the matter was dropped.²²⁸

Some other matters which were dropped midway without implementation are given below:

a. Filling up vacant posts of doctors in Kinnaur

In the TAC meeting held on 30 November 2006, the Health Department stated that one post each of Medical Officer (Dentist) were sanctioned at PHCs at Tapri and Spello which would be filled up soon. *Following the Health department's advertisement dated 13-11-2006, doctors have been appointed at PHCs at Kilba, Sapni, Gebang, Katgaon, and Rupi.*²²⁹

In the next meeting held on 2 August 2007, the Health Department stated that as many as 10 posts of Medical Officers were lying vacant out of 13 sanctioned posts in three Community Health Centres at Sangla, Puh, and Nichar in Kinnaur district and there were 15 posts of Medical Officers lying vacant out of 31 sanctioned posts in 21 Primary Health Centres across the district. The Health Department further stated that as soon as trained Himachal Pradesh resident candidates were available all the vacant posts would be filled up. Interestingly, this matter was dropped in view of this response of the Health Department without the vacancies being filled up.²³⁰

b. Filling up the post of Ayurvedic doctors and Pharmacists in Pangti Valley:

In the HTAC meeting held on 30 November 2006, it was stated that only one out of seven sanctioned Ayurvedic doctors was appointed in the Pangti Valley. Further, the posts of Ayurvedic Pharmacists were lying vacant at Ayurvedic Health Centres at Dharwas, Sural, and Mindal and the Ayurveda department has sought permission from the state government to fill up the posts.²³¹

228. Minutes of the 40th meeting of Himachal Pradesh TAC held on 15 May 2010

229. Minutes of the 37th meeting of Himachal Pradesh TAC held on 30 November 2006

230. Minutes of the 38th meeting of Himachal Pradesh TAC held on 2 August 2007

231. Minutes of the 37th meeting of Himachal Pradesh TAC held on 30 November 2006, Agenda 114

In the next HTAC meeting held on 2 August 2007, the Ayurveda department informed that five posts of Ayurvedic Medical Officers were lying vacant at Ayurvedic Health Centres at Sural, Mindal, Dharwas, Karyuni and Thandal and these posts would be filled up soon. Further, three posts of Ayurvedic Pharmacists were lying vacant at Ayurvedic Health Centres at Sural, Mindal and Dharwas. Due to ban on new appointment, it would not be possible to fill up these posts. However, once permission is received these posts would be filled up. In view of this reply, this matter was dropped from further discussions.²³²

c. Vacancies in the Health department

In the HTAC Meeting held on 12 May 2006, the Chief Minister directed the Health Department to send grade wise details of vacancies to the government and to check the matter of engaging part time safai karmacharis. The Director, Health department was directed to check in respect of Government's taking up the hospital at Bhava.²³³

In the next meeting held on 30 November 2006, the Health department informed that instruction was issued to allow transfer of only those doctors who have completed 10 years of service. It was further informed that the Bhavanagar hospital has been taken over by the State Government. In view of this departmental reply, this item was dropped from further discussion.²³⁴

d. Construction of hostel for tribal students at Sanskrit University, Sundernagar

In the 36th HTAC meeting held on 12 May 2006, the Tribal Development department stated that it had submitted a proposal for construction of hostel for 54 ST students at an estimated cost of 117.45 lakh to the Ministry of Tribal Affairs on 6 January 2006. Future actions would be taken once the project received approval from the Ministry.²³⁵

In the 38th HTAC meeting held on 2 August 2007, the Tribal Development department stated that the site for the hostel had been selected and proposal for budgetary allocation had been sent to the Central Government. Construction would start as soon as the budget was approved. In view of this reply, this matter was dropped.²³⁶

232. Minutes of the 38th meeting of Himachal Pradesh TAC held on 2 August 2007, Agenda 73

233. Minutes of the meeting of Himachal Pradesh TAC held on 12 May 2006

234. Minutes of the meeting of Himachal Pradesh TAC held on 30 November 2006

235. Minutes of the 36th meeting of Himachal Pradesh TAC held on 12 May 2006, Agenda No. 2

236. Minutes of the 38th meeting of Himachal Pradesh TAC held on 2 August 2007, Agenda No. 24

e. Opening of an office of the Fire Services at Kelang, Udaipur and Kaza

In the HTAC Meeting held on 12 May 2006, the Chief Minister directed the department of Fire Services to set up office at Kelang, Udaipur and Kaza.²³⁷

In the next meeting held on 30 November 2006, the Home department informed that a proposal had been sent to the District Magistrate pertaining to opening of Fire Services on 4 November 2006. In view of this reply this item was dropped.²³⁸

f. Opening an Ayurvedic dispensary in Bajol, Chamba district

Due to lack of Ayurvedic dispensary at Bajol panchayat in Chamba district the local people had been facing a lot of problems as they have to walk 15 km to the nearest health centre. Therefore, in the 39th HTAC meeting held on 3 February 2009 it was directed that an Ayurvedic dispensary be opened at Thadi Grauda village in Chamba district. The Ayurved department stated that correspondence was being done with the District Ayurvedic Officer in this regard. As soon as report was received, the matter would be sent to the State Govt for further necessary action. In view of this reply of the Ayurved department, the matter was dropped from further discussion.²³⁹

g. Denial of ST certificates to tribal people in Udaipur Sub-Division

In the HTAC Meeting held on 12 May 2006, the Office of the D.C, Lahaul and Spiti district stated that SC and ST certificates were issued based on report of the concerned patwari which is prepared on the basis of revenue records. Certificates were not issued in cases where the caste/community mentioned in the Revenue does not fall under the list of SC and ST. The Chief Minister directed that the Revenue department should send the cases for correction of any entry in the revenue record.²⁴⁰

On 30 November 2006, the Revenue Department informed that as per information received from the Commissioner, Lahaul-Spiti, SC and ST certificates were issued on the basis of relevant revenue records. In cases, where the claimant's surname do not match or is not found in the revenue records certificate is not issued. In view of this reply, this item is dropped from further discussion.²⁴¹

II. Follow up of decisions and implementation

In the 40th HTAC meeting held on 15 May 2010, the Agenda of the meeting was divided into two parts : (A) Review of the decisions taken at the 39th Meeting held on 3 February 2009, and (B) New items. In the 41st HTAC meeting held on 24

237. Minutes of the meeting of Himachal Pradesh TAC held on 12 May 2005

238. Minutes of the meeting of Himachal Pradesh TAC held on 30 November 2006

239. Minutes of the 39th meeting of Himachal Pradesh TAC held on 3 February 2008, Agenda No. 16

240. Minutes of the meeting of Himachal Pradesh TAC held on 12 May 2005

241. Minutes of the 37th meeting of Himachal Pradesh TAC held on 30 November 2006

March 2011, the agenda of the meeting was divided into two parts: (A) Review of the decisions taken at the 39th and 40th HTAC Meetings, and (B) New items.

Some of the successful cases are given below

a. Inspection of schools:

In the HTAC Meeting held on 12 May 2006, the Directorate of Primary Education stated that the Primary Education Officer at the block level and Deputy Director of School Education were instructed to inspect the schools in their jurisdiction. Instructions for regular inspection of schools and guidelines have been issued by the Education department. It was informed that the guidelines were being enforced and during academic year 2005-2006, 654 regular and 416 surprise inspections were conducted by the officials of the Education department.²⁴²

In the next meeting held on 30 November 2006, it was informed that schools and educational institutions were inspected regularly as per guidelines of the Directorate of Education. It was informed that during 2006, regular inspection of 242 schools and surprise inspection of 142 schools were conducted. In view of this reply, the matter was dropped from further discussion.²⁴³

b. Starting classes at ITI situated at Rongtong in Lahaul & Spiti district

In the HTAC Meeting held on 12 May 2006, the department of Technical Education stated that in order to start classes at the ITI at the Wild Life Interpretation Centre Building at Rongtong in Lahaul & Spiti district, building will have to be renovated costing about Rs. 10 lakh and infrastructure like machineries, equipments and educational staffs were required to be provided. The Chief Minister directed the Department to first start classes at the ITI.²⁴⁴ On 30 November 2006, the department of Technical Education informed that classes for trades like Plumber and Cutting had been started at ITI, Rongtong.²⁴⁵

c. Providing wood for construction at subsidized rate in Spiti:

In the HTAC Meeting held on 12 May 2006, the Chief Minister instructed the Forest department to examine the demand of providing wood for construction at subsidized rate in Spiti and take necessary actions.²⁴⁶ In the next meeting held on 30 November 2006, the Forest Department informed that instruction was complied with as it started providing timber/slipper for house construction to the tribals in Spiti at subsidized rates.²⁴⁷

242. Minutes of the 36th meeting of Himachal Pradesh TAC held on 12 May 2006, Agenda 19

243. Minutes of the 37th meeting of Himachal Pradesh TAC held on 30 November 2006, Agenda 16

244. Minutes of the 36th meeting of Himachal Pradesh TAC held on 12 May 2006, Agenda 97

245. Minutes of the 37th meeting of Himachal Pradesh TAC held on 30 November 2006, Agenda 46

246. Minutes of the 36th meeting of Himachal Pradesh TAC held on 12 May 2006, Agenda 96

247. Minutes of the 37th meeting of Himachal Pradesh TAC held on 30 November 2006, Agenda 45

d. Restoration of supply of kerosene oil in Lahaul district

In the HTAC meeting held on 30 November 2006, the Chief Minister directed the Food and Civil Supplies department to ensure supply of kerosene oil as per the requirement of the people.²⁴⁸ In the next meeting held on 2 August 2007, the department informed that the decision was complied with.²⁴⁹

e. Supplying ration at fixed price in Lahaul & Spiti

In the HTAC meeting held on 30 November 2006, the Chief Minister directed the department of Food and Civil Supplies to inquire into the demand for supplying ration at fixed price in Lahaul & Spiti and take appropriated action.²⁵⁰

In the next meeting held on 2 August 2007, it was stated that ration items to BPL and Antyodaya beneficiaries were provided as per criteria fixed by the Central Government. It was also stated that Himachal Pradesh government amended the relevant policy and was providing 8 kg wheat and 8 kg rice.²⁵¹

f. Setting up Primary Health Center at Leo village, Kinnaur district

With regard to setting up of a Primary Health Center at Leo village in Kinnaur district, it was informed in the HTAC meeting held on 30 November 2006 that the matter was pending with the Health department.²⁵² From the minutes of the meeting dated 2 August 2007 it is evident that a PHC was set up at Leo village and eight posts including two doctors, one Lab Technician, one Pharmacist, one Staff Nurse were sanctioned, but only one Male Health Worker was posted. The Health Department stated that medical facilities would be made available soon.²⁵³

g. Filling up vacant posts of doctors at Regional Hospital, Reckong Peo in Kinnaur district

In the HTAC meeting held on 30 November 2006, Jagat Singh Negi, MLA, Kinnaur stated that seven posts of doctors were lying vacant in the Regional Hospital at Reckong Peo. Due to lack of specialists in the Regional Hospital at Reckong Peo patients were facing problems. In response the Health Department stated that two posts of Medical Officer (Dentist) have been sanctioned and filled up at Regional Hospital at Reckong Peo and the other vacant *posts would be filled up once eligible candidates were available.*²⁵⁴

248. Minutes of the meeting of Himachal Pradesh TAC held on 30 November 2006

249. Minutes of the meeting of Himachal Pradesh TAC held on 2 August 2007

250. Minutes of the meeting of Himachal Pradesh TAC held on 30 November 2006

251. Minutes of the meeting of Himachal Pradesh TAC held on 2 August 2007

252. Minutes of the meeting of Himachal Pradesh TAC held on 30 November 2006, Agenda No. 86

253. Minutes of the meeting of Himachal Pradesh TAC held on 2 August 2007, Agenda No 72

254. Minutes of the 37th meeting of Himachal Pradesh TAC held on 30 November 2006, Agenda No. 87

This matter was followed up in the 40th HTAC meeting held on 15 May 2010 when the Health Department stated that all 13 sanctioned posts of doctors have been filled up at the Regional Hospital at Reckong Peo.²⁵⁵

III. Lack of follow up

a. Opening Ayurvedic dispensaries at Parmar and Sahali in Pangri valley

The Ayurved department informed in the 38th HTAC meeting held on 2 August 2007 that so far no proposal was received in respect of opening Ayurvedic dispensary at Parmar and Sahali in Pangri valley. However, on the demand of some TAC Members about opening Ayurvedic dispensaries at these two places, District Ayurvedic Officer, Chamba was directed for survey and appropriate steps to be taken as per his report. The Chief Minister directed the Ayurved department to examine the matter and send proposals.²⁵⁶ But this matter has not been followed up in the subsequent HTAC meetings up to the meeting of 15th May 2010.

b. Filling of vacancies in educational institutions in Pangri Valley:

In the HTAC meeting held on 3 February 2009, it was brought to the notice of the TAC that in Pangri Valley the Grade III and IV posts in several schools, offices and college were lying vacant, and these were needed to be filled up urgently. The Education department replied that two posts of Senior Library Assistant and two posts of Junior Library Assistant had been sanctioned in Pangri College and the same would be filled up only when Science stream would be opened. In Chamba district, 119 posts of lecturers (in schools) were vacant. The State government approved appointment of 1404 posts in different subjects throughout the state and same including 119 posts in Chamba district were to be filled by the Himachal Pradesh Subordinate Services Board. The government had approved recruitment of 125 posts of clerks which were being filled up. With respect to filling up posts of Grade IV employees, notice had been sent to the Deputy Director of Education.²⁵⁷

This matter was discussed in the 40th HTAC meeting held on 15 May 2010 but the Department of Education merely stated that the process of filling up various posts like Lecturers in Higher Secondary Schools, Lecturers in College, clerks and IV Grade employees was on progress. The Chief Minister directed the Department to fill up the vacancies as a priority.²⁵⁸

c. Ghoraru and Bharmani as tourist spots

In the HTAC Meeting held on 12 May 2006, the follow up of decision to develop Ghoraru and Bharmani as tourist spots was placed. It was stated that fund was being

255. Minutes of the 40th meeting of Himachal Pradesh TAC held on 15 May 2010, Agenda No. 50

256. Minutes of the 38th meeting of Himachal Pradesh TAC held on 2 August 2007, Agenda No. 98

257. Minutes of the 39th meeting of Himachal Pradesh TAC held on 3 February 2009, Agenda No. 20

258. Minutes of the 40th meeting of Himachal Pradesh TAC held on 15 May 2010, Agenda No. 4

given to the Circle level Officer of Forest department for beautification of Ghoraru and a Forest Rest House was established. For beautification of Bharmani, Rs.5.50 lakh was sanctioned to the Assistant Engineer, Public Works department. The Chief Minister who is also the Chairman of the HTAC instructed for construction of 6 km road between Bharmani and Muni-Mahesh and a proposal in this regard should be sent to the Public Works department.²⁵⁹ In the next meeting held on 30 November 2006, it was stated that survey for construction 6 km road between Bharmani and Muni-Mahesh was underway.²⁶⁰

d. Vacancies in education department:

In the HTAC Meeting held on 12 May 2006, the Chief Minister instructed the Education department to submit the grade wise details of all vacancies lying in all levels of schools.²⁶¹ In response the department of Primary Education informed in the next meeting held on 30 November 2006 that there was no vacancy in any of the primary schools in the tribal areas. The department of Higher Education stated it had the following vacancies: 146 posts of lecturers; 84 posts of Sanskrit teachers; 52 posts of Language teachers; 76 post of Library Assistants; 2 post of Physical Education (Diploma holder) teachers; 36 posts of Physical Education Teachers; 12 posts of Superintendents; 46 posts of Senior Assistants; 78 posts of Clerks; 32 posts of IV Grade; 16 posts of permanent employees and 18 posts of temporary employees.²⁶²

e. Distribution of free textbooks to Class I and II in Scheduled Areas

In the HTAC Meeting held on 12 May 2006, the Chief Minister directed the Education department to work out the expenses if free text books were to be distributed in the Secondary schools in the Scheduled Areas.²⁶³

In the next meeting held on 30 November 2006, the Education department informed that a proposal for distribution free text book to Class I and II students involving an amount of Rs.60,52,623 annually had been submitted to the Government for approval.²⁶⁴

f. Increasing the output of the Thirot and Rongtong Hydro Power Projects

In the HTAC Meeting held on 12 May 2006, the Electricity department stated that it had approved the construction of a 1400 meters long tunnel at the Thirot hydro power project to increase its output strength. The Electricity department engineers have been asked to prepare a report to be submitted to the Ministry of New and

259. Minutes of the meeting of Himachal Pradesh TAC held on 12 May 2005

260. Minutes of the meeting of Himachal Pradesh TAC held on 30 November 2006

261. Minutes of the meeting of Himachal Pradesh TAC held on 12 May 2005

262. Minutes of the meeting of Himachal Pradesh TAC held on 30 November 2006

263. Minutes of the meeting of Himachal Pradesh TAC held on 12 May 2005

264. Minutes of the meeting of Himachal Pradesh TAC held on 30 November 2006

Renewable Energy for approval.²⁶⁵

However, the concerned department officials failed to comply. On 30 November 2006, the Chief Minister directed the Electricity department to constitute a Task Force and to complete the construction work in a time-bound manner. He further directed the department to send proposal of all the projects to him.²⁶⁶

g. Making the machineries of Khadi and Gramudyog functional

In the HTAC Meeting held on 12 May 2006, the department of Textiles informed that vide Govt notification dated 16.05.2005 a Fact Finding Committee headed by the Commissioner, Kinnor had been constituted for inspection of the Oil Expeller and Mini-Fishing plants at Choling, Akpa/Skiba. The Fact Finding Committee had presented its report within a month. The Chief Minister instructed to install new machines wherever needed to fulfill the needs of the people.²⁶⁷

In the next meeting held on 30 November 2006, it was stated by the department of Industries/Khadi Board that a Committee headed by the Additional Director, Industries Department was constituted to identify the defunct machineries and installing additional machineries such oil expellers, Mini Finishing Plant and Carding plant of the Khadi Board. The Chief Minister directed the Department to inspect the Khadi Gramudyog plant and hold meeting with relevant Member of the HTAC.²⁶⁸

265. Minutes of the meeting of Himachal Pradesh TAC held on 12 May 2005

266. Minutes of the meeting of Himachal Pradesh TAC held on 30 November 2006

267. Minutes of the meeting of Himachal Pradesh TAC held on 12 May 2005

268. Minutes of the 37th meeting of Himachal Pradesh TAC held on 30 November 2006

Annexure -I: Fifth Schedule to the Constitution of India

FIFTH SCHEDULE

[Article 244(1)]

Provisions as to the Administration and Control of Scheduled Areas and Scheduled Tribes

PART A

GENERAL

1. Interpretation.—In this Schedule, unless the context otherwise requires, the expression “State” does not include the States of Assam, Meghalaya, Tripura and Mizoram.
2. Executive power of a State in Scheduled Areas.—Subject to the provisions of this Schedule, the executive power of a State extends to the Scheduled Areas therein.
3. Report by the Governor to the President regarding the administration of Scheduled Areas.—The Governor of each State having Scheduled Areas therein shall annually, or whenever so required by the President, make a report to the President regarding the administration of the Scheduled Areas in that State 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.

PART B

ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES

4. Tribes Advisory Council.—(1) There shall be established in each State having Scheduled Areas therein and, if the President so directs, also in any State having Scheduled Tribes but not Scheduled Areas therein, a Tribes Advisory Council consisting of not more than twenty members of whom, as nearly as may be, three-fourths shall be the representatives of the Scheduled Tribes in the Legislative Assembly of the State:

Provided that if the number of representatives of the Scheduled Tribes in the Legislative Assembly of the State is less than the number of seats in the Tribes Advisory Council to be filled by such representatives, the remaining seats shall be filled by other members of those tribes.

(2) It shall be the duty of the Tribes Advisory Council to advise on such matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to them by the Governor.

(3) The Governor may make rules prescribing or regulating, as the case may be,—

- (a) the number of members of the Council, the mode of their appointment and the appointment of the Chairman of the Council and of the officers and servants thereof;
- (b) the conduct of its meetings and its procedure in general; and
- (c) all other incidental matters.

5. Law applicable to Scheduled Areas. – (1) Notwithstanding anything in this Constitution, the Governor may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification and any direction given under this sub-paragraph may be given so as to have retrospective effect.

(2) The Governor may make regulations for the peace and good government of any area in a State which is for the time being a Scheduled Area.

In particular and without prejudice to the generality of the foregoing power, such regulations may—

- (a) prohibit or restrict the transfer of land by or among members of the Scheduled Tribes in such area;
- (b) regulate the allotment of land to members of the Scheduled Tribes in such area;
- (c) regulate the carrying on of business as money-lender by persons who lend money to members of the Scheduled Tribes in such area.

(3) In making any such regulation as is referred to in sub-paragraph (2) of this paragraph, the Governor may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to the area in question.

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

(5) No regulation shall be made under this paragraph unless the Governor making the regulation has, in the case where there is a Tribes Advisory Council for the State, consulted such Council.

PART C

SCHEDULED AREAS

6. Scheduled Areas.—(1) In this Constitution, the expression “Scheduled Areas” means such areas as the President may by order²⁶⁹ declare to be Scheduled Areas.

(2) The President may at any time by order²⁷⁰—

(a) direct that the whole or any specified part of a Scheduled Area shall cease to be a Scheduled Area or a part of such an area;

(aa) increase the area of any Scheduled Area in a State after consultation with the Governor of that State;

(b) alter, but only by way of rectification of boundaries, any Scheduled Area;

(c) on any alteration of the boundaries of a State or on the admission into the Union or the establishment of a new State, declare any territory not previously included in any State to be, or to form part of, a Scheduled Area;

(d) rescind, in relation to any State or States, any order or orders made under this paragraph, and in consultation with the Governor of the State concerned, make fresh orders redefining the areas which are to be Scheduled Areas;

and any such order may contain such incidental and consequential provisions as appear to the President to be necessary and proper, but save as aforesaid, the order made under sub-paragraph (1) of this paragraph shall not be varied by any subsequent order.

PART D

AMENDMENT OF THE SCHEDULE

7. Amendment of the Schedule.—(1) Parliament may from time to time by law amend by way of addition, variation or repeal any of the provisions of this Schedule and, when the Schedule is so amended, any reference to this Schedule in this Constitution shall be construed as a reference to such Schedule as so amended.

(2) No such law as is mentioned in sub-paragraph (1) of this paragraph shall be deemed to be an amendment of this Constitution for the purposes of article 368.

269. 1. See the Scheduled Areas (Part A States) Order, 1950 (C.O. 9), the Scheduled Areas (Part B States) Order, 1950 (C.O.26), the Scheduled Areas (Himachal Pradesh) Order, 1975 (C.O. 102) and the Scheduled Areas (States of Bihar, Gujarat, Madhya Pradesh and Orissa) Order, 1977 (C.O. 109).

270 See the Madras Scheduled Areas (Cessor) Order, 1950 (C.O. 30) and the Andhra Scheduled Areas (Cessor) Order, 1955 (C.O. 50).

Annexure-II: Sixth Schedule to the Constitution of India

SIXTH SCHEDULE

[Articles 244(2) and 275(1)]

Provisions as to the Administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram

²⁷¹1. Autonomous districts and autonomous regions.—(1) Subject to the provisions of this paragraph, the tribal areas in each item of Parts I, II and IIA and in Part III of the table appended to paragraph 20 of this Schedule shall be an autonomous district

(2) If there are different Scheduled Tribes in an autonomous district, the Governor may, by public notification, divide the area or areas inhabited by them into autonomous regions.

(3) The Governor may, by public notification,—

- (a) include any area in any of the Parts of the said table,
- (b) exclude any area from any of the Parts of the said table,
- (c) create a new autonomous district,
- (d) increase the area of any autonomous district,
- (e) diminish the area of any autonomous district,
- (f) unite two or more autonomous districts or parts thereof so as to form one autonomous district,
- (ff) alter the name of any autonomous district,
- (g) define the boundaries of any autonomous district:

Provided that no order shall be made by the Governor under clauses (c), (d), (e) and (f) of this sub-paragraph except after consideration of the report of a Commission appointed under sub-paragraph (1) of paragraph 14 of this Schedule:

²⁷¹ Paragraph 1 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2, so as to insert the following proviso after sub-paragraph (2), namely:—
“Provided that nothing in this sub-paragraph shall apply to the Bodoland Territorial Areas District.

Provided further that any order made by the Governor under this sub-paragraph may contain such incidental and consequential provisions (including any amendment of paragraph 20 and of any item in any of the Parts of the said Table) as appear to the Governor to be necessary for giving effect to the provisions of the order.

²⁷²2. Constitution of District Councils and Regional Councils.— (1) There shall be a District Council for each autonomous district consisting of not more than thirty members, of whom not more than four persons shall be nominated by the Governor and the rest shall be elected on the basis of adult suffrage.

(2) There shall be a separate Regional Council for each area constituted an autonomous region under sub-paragraph (2) of paragraph 1 of this Schedule.

(3) Each District Council and each Regional Council shall be a body corporate by the name respectively of “the District Council of (name of district)” and “the Regional Council of (name of region)”, shall have perpetual succession and a common seal and shall by the said name sue and be sued.

(4) Subject to the provisions of this Schedule, the administration of an autonomous district shall, in so far as it is not vested under this Schedule in any Regional Council within such district, be vested in the District Council for such district and the administration of an autonomous region shall be vested in the Regional Council for such region.

(5) In an autonomous district with Regional Councils, the District Council shall have only such powers with respect to the areas under the authority of the Regional Council as may be delegated to it by the Regional Council in addition to the powers conferred on it by this Schedule with respect to such areas.

272 Paragraph 2 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2, so as to insert the following proviso after sub-paragraph (1), namely: —

“Provided that the Bodoland Territorial Council shall consist of not more than forty-six members of whom forty shall be elected on the basis of adult suffrage, of whom thirty shall be reserved for the Scheduled Tribes, five for non-tribal communities, five open for all communities and the remaining six shall be nominated by the Governor having same rights and privileges as other members, including voting rights, from amongst the un-represented communities of the Bodoland Territorial Areas District, of which at least two shall be women :”

Paragraph 2 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 1995 (42 of 1995), s.2, so as to insert the following proviso after sub-paragraph (3), namely : —

“Provided that the District Council constituted for the North Cachar Hills District shall be called as the North Cachar Hills Autonomous Council and the District Council constituted for the Karbi Anglong District shall be called as the Karbi Anglong Autonomous Council.”

Paragraph 2 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2, so as to insert the following proviso after sub-paragraph (3), namely: —

“Provided further that the District Council constituted for the Bodoland Territorial Areas District shall be called the Bodoland Territorial Council.”

(6) The Governor shall make rules for the first constitution of District Councils and Regional Councils in consultation with the existing tribal Councils or other representative tribal organisations within the autonomous districts or regions concerned, and such rules shall provide for—

- (a) the composition of the District Councils and Regional Councils and the allocation of seats therein;
- (b) the delimitation of territorial constituencies for the purpose of elections to those Councils;
- (c) the qualifications for voting at such elections and the preparation of electoral rolls therefor;
- (d) the qualifications for being elected at such elections as members of such Councils;
- (e) the term of office of members of Regional Councils;
- (f) any other matter relating to or connected with elections or nominations to such Councils;
- (g) the procedure and the conduct of business (including the power to act notwithstanding any vacancy) in the District and Regional Councils;
- (h) the appointment of officers and staff of the District and Regional Councils.

(6A) The elected members of the District Council shall hold office for a term of five years from the date appointed for the first meeting of the Council after the general elections to the Council, unless the District Council is sooner dissolved under paragraph 16 and a nominated member shall hold office at the pleasure of the Governor:

Provided that the said period of five years may, while a Proclamation of Emergency is in operation or if circumstances exist which, in the opinion of the Governor, render the holding of elections impracticable, be extended by the Governor for a period not exceeding one year at a time and in any case where a Proclamation of Emergency is in operation not extending beyond a period of six months after the Proclamation has ceased to operate:

Provided further that a member elected to fill a casual vacancy shall hold office only for the remainder of the term of office of the member whom he replaces.

(7) The District or the Regional Council may after its first constitution make rules with the approval of the Governor with regard to the matters specified in sub-paragraph (6) of this paragraph and may also make rules with like approval regulating—

- (a) the formation of subordinate local Councils or Boards and their procedure and the conduct of their business; and
- (b) generally all matters relating to the transaction of business pertaining to the administration of the district or region, as the case may be:

Provided that until rules are made by the District or the Regional Council under this sub-paragraph the rules made by the Governor under sub-paragraph (6) of this paragraph shall have effect in respect of elections to, the officers and staff of, and the procedure and the conduct of business in, each such Council.

3. Powers of the District Councils and Regional Councils to make laws.—

(1) The Regional Council for an autonomous region in respect of all areas within such region and the District Council for an autonomous district in respect of all areas within the district except those which are under the authority of Regional Councils, if any, within the district shall have power to make laws with respect to—

- (a) the allotment, occupation or use, or the setting apart, of land, other than any land which is a reserved forest for the purposes of agriculture or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interests of the inhabitants of any village or town:

Provided that nothing in such laws shall prevent the compulsory acquisition of any land, whether occupied or unoccupied, for public purposes by the Government of the State concerned in accordance with the law for the time being in force authorising such acquisition;

- (b) the management of any forest not being a reserved forest;
- (c) the use of any canal or water-course for the purpose of agriculture;
- (d) the regulation of the practice of jhum or other forms of shifting cultivation;
- (e) the establishment of village or town committees or councils and their powers;
- (f) any other matter relating to village or town administration, including village or town police and public health and sanitation;
- (g) the appointment or succession of Chiefs or Headmen;
- (h) the inheritance of property;
- (i) marriage and divorce;
- (j) social customs.

(2) In this paragraph, a “reserved forest” means any area which is a reserved forest under the Assam Forest Regulation, 1891, or under any other law for the time being in force in the area in question.

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

²⁷³4. Administration of justice in autonomous districts and autonomous regions.—

(1) The Regional Council for an autonomous region in respect of areas within such region and the District Council for an autonomous district in respect of areas within the district other than those which are under the authority of the Regional Councils, if any, within the district may constitute village councils or courts for the trial of suits and cases between the parties all of whom belong to Scheduled Tribes within such areas, other than suits and cases to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply, to the exclusion of any court in the State, and may appoint suitable persons to be members of such village councils or presiding officers of such courts, and may also appoint such officers as may be necessary for the administration of the laws made under paragraph 3 of this Schedule.

(2) Notwithstanding anything in this Constitution, the Regional Council for an autonomous region or any court constituted in that behalf by the Regional Council or, if in respect of any area within an autonomous district there is no Regional Council, the District Council for such district, or any court constituted in that behalf by the District Council, shall exercise the powers of a court of appeal in respect of all suits and cases triable by a village council or court constituted under sub-paragraph (1) of this paragraph within such region or area, as the case may be, other than those to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply, and no other court except the High Court and the Supreme Court shall have jurisdiction over such suits or cases.

(3) The High Court shall have and exercise such jurisdiction over the suits and cases to which the provisions of sub-paragraph (2) of this paragraph apply as the Governor may from time to time by order specify.

(4) A Regional Council or District Council, as the case may be, may with the previous approval of the Governor make rules regulating —

273 Paragraph 4 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2, so as to insert the following sub-paragraph after sub-paragraph (5), namely :—

“(6) Nothing in this paragraph shall apply to the Bodoland Territorial Council constituted under the proviso to sub-paragraph (3) of paragraph 2 of this Schedule.” .

- (a) the constitution of village councils and courts and the powers to be exercised by them under this paragraph;
 - (b) the procedure to be followed by village councils or courts in the trial of suits and cases under sub-paragraph (1) of this paragraph;
 - (c) the procedure to be followed by the Regional or District Council or any court constituted by such Council in appeals and other proceedings under sub-paragraph (2) of this paragraph;
 - (d) the enforcement of decisions and orders of such councils and courts;
 - (e) all other ancillary matters for the carrying out of the provisions of sub-paragraphs (1) and (2) of this paragraph.
- (5) On and from such date as the President may, after consulting the Government of the State concerned, by notification appoint in this behalf, this paragraph shall have effect in relation to such autonomous district or region as may be specified in the notification, as if—
- (i) in sub-paragraph (1), for the words “between the parties all of whom belong to Scheduled Tribes within such areas, other than suits and cases to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply,” the words “not being suits and cases of the nature referred to in sub-paragraph (1) of paragraph (5) of this Schedule, which the Governor may specify in this behalf,” had been substituted;
 - (ii) sub-paragraphs (2) and (3) had been omitted;
 - (iii) in sub-paragraph (4)—
 - (a) for the words “A Regional Council or District Council, as the case may be, may with the previous approval of the Governor make rules regulating”, the words “the Governor may make rules regulating” had been substituted; and
 - (b) for clause (a), the following clause had been substituted, namely:—
 - “(a) the constitution of village councils and courts, the powers to be exercised by them under this paragraph and the courts to which appeals from the decisions of village councils and courts shall lie;”;
 - (c) for clause (c), the following clause had been substituted, namely:—
 - “(c) the transfer of appeals and other proceedings pending before the Regional or District Council or any court constituted by such Council immediately before the date appointed by the President under sub-paragraph (5);”;

- (d) in clause (e), for the words, brackets and figures “sub-paragraphs (1) and (2)”, the word, brackets and figure “sub-paragraph (1)” had been substituted.

5. Conferment of powers under the Code of Civil Procedure, 1908, and the Code of Criminal Procedure, 18981, on the Regional and District Councils and on certain courts and officers for the trial of certain suits, cases and offences.—(1) The Governor may, for the trial of suits or cases arising out of any law in force in any autonomous district or region being a law specified in that behalf by the Governor, or for the trial of offences punishable with death, transportation for life, or imprisonment for a term of not less than five years under the Indian Penal Code or under any other law for the time being applicable to such district or region, confer on the District Council or the Regional Council having authority over such district or region or on courts constituted by such District Council or on any officer appointed in that behalf by the Governor, such powers under the Code of Civil Procedure, 1908, or, as the case may be, the Code of Criminal Procedure, 1898²⁷⁴, as he deems appropriate, and thereupon the said Council, court or officer shall try the suits, cases or offences in exercise of the powers so conferred.

(2) The Governor may withdraw or modify any of the powers conferred on a District Council, Regional Council, court or officer under sub-paragraph (1) of this paragraph.

(3) Save as expressly provided in this paragraph, the Code of Civil Procedure, 1908, and the Code of Criminal Procedure, 18981, shall not apply to the trial of any suits, cases or offences in an autonomous district or in any autonomous region to which the provisions of this paragraph apply.

(4) On and from the date appointed by the President under sub-paragraph (5) of paragraph 4 in relation to any autonomous district or autonomous region, nothing contained in this paragraph shall, in its application to that district or region, be deemed to authorise the Governor to confer on the District Council or Regional Council or on courts constituted by the District Council any of the powers referred to in sub-paragraph (1) of this paragraph.

6. Powers of the District Council to establish primary schools, etc.— (1) The District Council for an autonomous district may establish, construct, or manage primary schools, dispensaries, markets, cattle pounds, ferries, fisheries, roads, road transport and waterways in the district and may, with the previous approval of the Governor, make regulations for the regulation and control thereof and, in particular, may prescribe the language and the manner in which primary education shall be imparted in the primary schools in the district.

274 See now the Code of Criminal Procedure, 1973 (Act 2 of 1974).

(2) The Governor may, with the consent of any District Council, entrust either conditionally or unconditionally to that Council or to its officers functions in relation to agriculture, animal husbandry, community projects, co-operative societies, social welfare, village planning or any other matter to which the executive power of the State extends.

7. District and Regional Funds.—(1) There shall be constituted for each autonomous district, a District Fund and for each autonomous region, a Regional Fund to which shall be credited all moneys received respectively by the District Council for that district and the Regional Council for that region in the course of the administration of such district or region, as the case may be, in accordance with the provisions of this Constitution.

(2) The Governor may make rules for the management of the District Fund, or, as the case may be, the Regional Fund and for the procedure to be followed in respect of payment of money into the said Fund, the withdrawal of moneys therefrom, the custody of moneys therein and any other matter connected with or ancillary to the matters aforesaid.

(3) The accounts of the District Council or, as the case may be, the Regional Council shall be kept in such form as the Comptroller and Auditor-General of India may, with the approval of the President, prescribe.

(4) The Comptroller and Auditor-General shall cause the accounts of the District and Regional Councils to be audited in such manner as he may think fit, and the reports of the Comptroller and Auditor-General relating to such accounts shall be submitted to the Governor who shall cause them to be laid before the Council.

8. Powers to assess and collect land revenue and to impose taxes.—(1) The Regional Council for an autonomous region in respect of all lands within such region and the District Council for an autonomous district in respect of all lands within the district except those which are in the areas under the authority of Regional Councils, if any, within the district, shall have the power to assess and collect revenue in respect of such lands in accordance with the principles for the time being followed by the Government of the State in assessing lands for the purpose of land revenue in the State generally.

(2) The Regional Council for an autonomous region in respect of areas within such region and the District Council for an autonomous district in respect of all areas in the district except those which are under the authority of Regional Councils, if any, within the district, shall have power to levy and collect taxes on lands and buildings, and tolls on persons resident within such areas.

(3) The District Council for an autonomous district shall have the power to levy and collect all or any of the following taxes within such district, that is to say —

- (a) taxes on professions, trades, callings and employments;
- (b) taxes on animals, vehicles and boats;
- (c) taxes on the entry of goods into a market for sale therein, and tolls on passengers and goods carried in ferries; and
- (d) taxes for the maintenance of schools, dispensaries or roads.

(4) A Regional Council or District Council, as the case may be, may make regulations to provide for the levy and collection of any of the taxes specified in sub-paragraphs (2) and (3) of this paragraph and every such regulation shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect.

²⁷⁵9. Licences or leases for the purpose of prospecting for, or extraction of, minerals.—(1) Such share of the royalties accruing each year from licences or leases for the purpose of prospecting for, or the extraction of, minerals granted by the Government of the State in respect of any area within an autonomous district as may be agreed upon between the Government of the State and the District Council of such district shall be made over to that District Council.

(2) If any dispute arises as to the share of such royalties to be made over to a District Council, it shall be referred to the Governor for determination and the amount determined by the Governor in his discretion shall be deemed to be the amount payable under sub-paragraph (1) of this paragraph to the District Council and the decision of the Governor shall be final.

275 Paragraph 9 has been amended in its application to the States of Tripura and Mizoram by the Sixth Schedule to the Constitution (Amendment) Act, 1988 (67 of 1988), s. 2, so as to insert the following sub-paragraph after sub-paragraph (2), namely :-

“(3) The Governor may, by order, direct that the share of royalties to be made over to a District Council under this paragraph shall be made over to that Council within a period of one year from the date of any agreement under sub-paragraph (1) or, as the case may be, of any determination under sub-paragraph (2).”.

²⁷⁶10. Power of District Council to make regulations for the control of money-lending and trading by non-tribals.—(1) The District Council of an autonomous district may make regulations for the regulation and control of money-lending or trading within the district by persons other than Scheduled Tribes resident in the district.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may—

- (a) prescribe that no one except the holder of a licence issued in that behalf shall carry on the business of money-lending;
- (b) prescribe the maximum rate of interest which may be charged or be recovered by a money-lender;
- (c) provide for the maintenance of accounts by money-lenders and for the inspection of such accounts by officers appointed in that behalf by the District Council;
- (d) prescribe that no person who is not a member of the Scheduled Tribes resident in the district shall carry on wholesale or retail business in any commodity except under a licence issued in that behalf by the District Council :

Provided that no regulations may be made under this paragraph unless they are passed by a majority of not less than three-fourths of the total membership of the District Council:

Provided further that it shall not be competent under any such regulations to refuse the grant of a licence to a money-lender or a trader who has been carrying on business within the district since before the time of the making of such regulations.

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

11. Publication of laws, rules and regulations made under the Schedule.—All laws,

²⁷⁶ Paragraph 10 has been amended in its application to the States of Tripura and Mizoram by the Sixth Schedule to the Constitution (Amendment) Act, 1988 (67 of 1988), s.2, as under--

- (a) in the heading, the words “by non-tribals” shall be omitted;
- (b) in sub-paragraph (1), the words “other than Scheduled Tribes” shall be omitted;
- (c) in sub-paragraph (2), for clause (d), the following clause shall be substituted, namely: —

“(d) prescribe that no person resident in the district shall carry on any trade, whether wholesale or retail, except under a licence issued in that behalf by the District Council.”

Paragraph 10 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2 , so as to insert the following sub-paragraph after sub-paragraph (3), namely: —

“(4) Nothing in this paragraph shall apply to the Bodoland Territorial Council constituted under the proviso to sub-paragraph (3) of paragraph 2 of this Schedule.”.

rules and regulations made under this Schedule by a District Council or a Regional Council shall be published forthwith in the Official Gazette of the State and shall on such publication have the force of law.

²⁷⁷12. Application of Acts of Parliament and of the Legislature of the State of Assam to autonomous districts and autonomous regions in the State of Assam. —

(1) Notwithstanding anything in this Constitution, —

- (a) no Act of the Legislature of the State of Assam in respect of any of the matters specified in paragraph 3 of this Schedule as matters with respect to which a District Council or a Regional Council may make laws, and no Act of the Legislature of the State of Assam prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to any autonomous district or autonomous region in that State unless in either case the District Council for such district or having jurisdiction over such region by public notification so directs, and the District Council in giving such direction with respect to any Act may direct that the Act shall in its application to such district or region or any part thereof have effect subject to such exceptions or modifications as it thinks fit;
- (b) the Governor may, by public notification, direct that any Act of Parliament or of the Legislature of the State of Assam to which the provisions of clause (a) of this sub-paragraph do not apply shall not apply to an autonomous district or an autonomous region in that State, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification.

(2) Any direction given under sub-paragraph (1) of this paragraph may be given so as to have retrospective effect.

12A. Application of Acts of Parliament and of the Legislature of the State of Meghalaya to autonomous districts and autonomous regions in the State of Meghalaya.—Notwithstanding anything in this Constitution,—

²⁷⁷ Paragraph 12 has been amended to its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 1995 (42 of 1995), s.2, as under;—
'in paragraph 12, in sub-paragraph (1), for the words and figure "matters specified in paragraph 3 of this Schedule", the words, figures and letter "matters specified in paragraph 3 or paragraph 3A of this Schedule" shall be substituted.'

Paragraph 12 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2, as under;—
'in paragraph 12, in sub-paragraph (1), in clause (a), for the words, figures and letter "matters specified in paragraph 3 or paragraph 3A of this Schedule", the words, figures and letter "matters specified in paragraph 3 or paragraph 3A or paragraph 3B of this Schedule" shall be substituted.'

- (a) if any provision of a law made by a District or Regional Council in the State of Meghalaya with respect to any matter specified in sub-paragraph (1) of paragraph 3 of this Schedule or if any provision of any regulation made by a District Council or a Regional Council in that State under paragraph 8 or paragraph 10 of this Schedule, is repugnant to any provision of a law made by the Legislature of the State of Meghalaya with respect to that matter, then, the law or regulation made by the District Council or, as the case may be, the Regional Council whether made before or after the law made by the Legislature of the State of Meghalaya, shall, to the extent of repugnancy, be void and the law made by the Legislature of the State of Meghalaya shall prevail;
- (b) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to an autonomous district or an autonomous region in the State of Meghalaya, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.

12AA. Application of Acts of Parliament and of the Legislature of the State of Tripura to the autonomous districts and autonomous regions in the State of Tripura.—Notwithstanding anything in this Constitution,—

- (a) no Act of the Legislature of the State of Tripura in respect of any of the matters specified in paragraph 3 of this Schedule as matters with respect to which a District Council or a Regional Council may make laws, and no Act of the Legislature of the State of Tripura prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to any autonomous district or autonomous region in that State unless, in either case the, District Council for such district or having jurisdiction over such region by public notification so directs, and the District Council in giving such direction with respect to any Act may direct that the Act shall, in its application to that district or such region or any part thereof have effect subject to such exceptions or modifications as it thinks fit;
- (b) the Governor may, by public notification, direct that any Act of the Legislature of the State of Tripura to which the provisions of clause (a) of this sub-paragraph do not apply, shall not apply to the autonomous district or any autonomous region in that State, or shall apply to that district or such region, or any part thereof, subject to such exceptions or modifications, as he may specify in the notification;
- (c) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to the autonomous district or an autonomous

region in the State of Tripura, or shall apply to such district or region or any part thereof, subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.

12B. Application of Acts of Parliament and of the Legislature of the State of Mizoram to autonomous districts and autonomous regions in the State of Mizoram.—Notwithstanding anything in this Constitution, —

- (a) no Act of the Legislature of the State of Mizoram in respect of any of the matters specified in paragraph 3 of this Schedule as matters with respect to which a District Council or a Regional Council may make laws, and no Act of the Legislature of the State of Mizoram prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to any autonomous district or autonomous region in that State unless, in either case, the District Council for such district or having jurisdiction over such region, by public notification, so directs, and the District Council, in giving such direction with respect to any Act, may direct that the Act shall, in its application to such district or region or any part thereof, have effect subject to such exceptions or modifications as it thinks fit;
- (b) the Governor may, by public notification, direct that any Act of the Legislature of the State of Mizoram to which the provisions of clause (a) of this sub-paragraph do not apply, shall not apply to an autonomous district or an autonomous region in that State, or shall apply to such district or region, or any part thereof, subject to such exceptions or modifications, as he may specify in the notification;
- (c) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to an autonomous district or an autonomous region in the State of Mizoram, or shall apply to such district or region or any part thereof, subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.

13. Estimated receipts and expenditure pertaining to autonomous districts to be shown separately in the annual financial statement.—The estimated receipts and expenditure pertaining to an autonomous district which are to be credited to, or is to be made from, the Consolidated Fund of the State shall be first placed before the District Council for discussion and then after such discussion be shown separately in the annual financial statement of the State to be laid before the Legislature of the State under article 202.

²⁷⁸14. Appointment of Commission to inquire into and report on the administration of autonomous districts and autonomous regions.—(1) The Governor may at any time appoint a Commission to examine and report on any matter specified by him relating to the administration of the autonomous districts and autonomous regions in the State, including matters specified in clauses (c), (d), (e) and (f) of sub-paragraph (3) of paragraph 1 of this Schedule, or may appoint a Commission to inquire into and report from time to time on the administration of autonomous districts and autonomous regions in the State generally and in particular on—

- (a) the provision of educational and medical facilities and communications in such districts and regions;
- (b) the need for any new or special legislation in respect of such districts and regions; and
- (c) the administration of the laws, rules and regulations made by the District and Regional Councils;

and define the procedure to be followed by such Commission.

(2) The report of every such Commission with the recommendations of the Governor with respect thereto shall be laid before the Legislature of the State by the Minister concerned together with an explanatory memorandum regarding the action proposed to be taken thereon by the Government of the State.

(3) In allocating the business of the Government of the State among his Ministers the Governor may place one of his Ministers specially in charge of the welfare of the autonomous districts and autonomous regions in the State.

²⁷⁹15. Annulment or suspension of acts and resolutions of District and Regional Councils.—(1) If at any time the Governor is satisfied that an act or resolution of a District or a Regional Council is likely to endanger the safety of India or is likely to be prejudicial to public order, he may annul or suspend such act or resolution and take such steps as he may consider necessary (including the suspension of the Council and the assumption to himself of all or any of the powers vested in or exercisable by the Council) to prevent the commission or continuance of such act, or the giving of effect to such resolution.

278 Paragraph 14 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 1995 (42 of 1995), s. 2, as under,—

‘in paragraph 14, in sub-paragraph (2), the words “with the recommendations of the Governor with respect thereto” shall be omitted.’

279 Paragraph 15 has been amended in its application to the States of Tripura and Mizoram by the Sixth Schedule to the Constitution (Amendment) Act, 1988 (67 of 1988), s. 2, as under,—

‘(a) in the opening paragraph, for the words “by the Legislature of the State”, the words “by him” shall be substituted;

(b) the proviso shall be omitted.’

(2) Any order made by the Governor under sub-paragraph (1) of this paragraph together with the reasons therefor shall be laid before the Legislature of the State as soon as possible and the order shall, unless revoked by the Legislature of the State, continue in force for a period of twelve months from the date on which it was so made:

Provided that if and so often as a resolution approving the continuance in force of such order is passed by the Legislature of the State, the order shall unless cancelled by the Governor continue in force for a further period of twelve months from the date on which under this paragraph it would otherwise have ceased to operate.

²⁸⁰16. Dissolution of a District or a Regional Council.— (1) The Governor may on the recommendation of a Commission appointed under paragraph 14 of this Schedule by public notification order the dissolution of a District or a Regional Council, and—

- (a) direct that a fresh general election shall be held immediately for the reconstitution of the Council, or
- (b) subject to the previous approval of the Legislature of the State assume the administration of the area under the authority of such Council himself or place the administration of such area under the Commission appointed under the said paragraph or any other body considered suitable by him for a period not exceeding twelve months:

Provided that when an order under clause (a) of this paragraph has been made, the Governor may take the action referred to in clause (b) of this paragraph with regard to the administration of the area in question pending the reconstitution of the Council on fresh general election:

Provided further that no action shall be taken under clause (b) of this paragraph without giving the District or the Regional Council, as the case may be, an opportunity of placing its views before the Legislature of the State.

(2) If at any time the Governor is satisfied that a situation has arisen in which the administration of an autonomous district or region cannot be carried on in accordance with the provisions of this Schedule, he may, by public notification, assume to himself all or any of the functions or powers vested in or exercisable by

280. Paragraph 16 has been amended in its application to the States of Tripura and Mizoram by the Sixth Schedule to the Constitution (Amendment) Act, 1988 (67 of 1988) s. 2, as under,--

‘(a) in sub-paragraph (1), the words “subject to the previous approval of the Legislature of the State” occurring in clause (b), and the second proviso shall be omitted;

(b) for sub-paragraph (3), the following sub-paragraph shall be substituted, namely:--

“(3) Every order made under sub-paragraph (1) or sub-paragraph (2) of this paragraph, along with the reasons therefor shall be laid before the Legislature of the State.”.

the District Council or, as the case may be, the Regional Council and declare that such functions or powers shall be exercisable by such person or authority as he may specify in this behalf, for a period not exceeding six months:

Provided that the Governor may by a further order or orders extend the operation of the initial order by a period not exceeding six months on each occasion.

(3) Every order made under sub-paragraph (2) of this paragraph with the reasons therefor shall be laid before the Legislature of the State and shall cease to operate at the expiration of thirty days from the date on which the State Legislature first sits after the issue of the order, unless, before the expiry of that period it has been approved by that State Legislature.

²⁸¹17. Exclusion of areas from autonomous districts in forming constituencies in such districts.—For the purposes of elections to the Legislative Assembly of Assam or Meghalaya or Tripura or Mizoram, the Governor may by order declare that any area within an autonomous district in the State of Assam or Meghalaya or Tripura or Mizoram, as the case may be, shall not form part of any constituency to fill a seat or seats in the Assembly reserved for any such district but shall form part of a constituency to fill a seat or seats in the Assembly not so reserved to be specified in the order.

²⁸²19. Transitional provisions.—(1) As soon as possible after the commencement of this Constitution the Governor shall take steps for the constitution of a District Council for each autonomous district in the State under this Schedule and, until a District Council is so constituted for an autonomous district, the administration of such district shall be vested in the Governor and the following provisions shall apply to the administration of the areas within such district instead of the foregoing provisions of this Schedule, namely:—

281 Paragraph 17 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2, so as to insert the following proviso, namely:—

“Provided that nothing in this paragraph shall apply to the Bodoland Territorial Areas District.”.

282 Paragraph 19 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2, so as to insert the following sub-paragraph after sub-paragraph (3), namely:—

“(4) As soon as possible after the commencement of this Act, and Interim Executive Council for Bodoland Territorial Areas District in Assam shall be formed by the Governor from amongst leaders of the Bodo movement, including the signatories to the Memorandum of Settlement, and shall provide adequate representation to the non-tribal communities in that area:

Provided that Interim Council shall be for a period of six months during which endeavour to hold the election to the Council shall be made.

Explanation.-- For the purposes of this sub-paragraph, the expression “Memorandum of Settlement” means the Memorandum signed on the 10th day of February, 2003 between Government of India, Government of Assam and Bodo Liberation Tigers.’.

- (a) no Act of Parliament or of the Legislature of the State shall apply to any such area unless the Governor by public notification so directs; and the Governor in giving such a direction with respect to any Act may direct that the Act shall, in its application to the area or to any specified part thereof, have effect subject to such exceptions or modifications as he thinks fit;
- (b) the Governor may make regulations for the peace and good government of any such area and any regulations so made may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to such area.

(2) Any direction given by the Governor under clause (a) of sub-paragraph (1) of this paragraph may be given so as to have retrospective effect.

(3) All regulations made under clause (b) of sub-paragraph (1) of this paragraph shall be submitted forthwith to the President and, until assented to by him, shall have no effect.

20. Tribal areas.—(1) The areas specified in Parts I, II, IIA and III of the table below shall respectively be the tribal areas within the State of Assam, the State of Meghalaya, the State of Tripura and the State of Mizoram.

(2) Any reference in Part I, Part II or Part III of the table below to any district shall be construed as a reference to the territories comprised within the autonomous district of that name existing immediately before the day appointed under clause (b) of section 2 of the North-Eastern Areas (Reorganisation) Act, 1971:

Provided that for the purposes of clauses (e) and (f) of sub-paragraph (1) of paragraph 3, paragraph 4, paragraph 5, paragraph 6, sub-paragraph (2), clauses (a), (b) and (d) of sub-paragraph (3) and sub-paragraph (4) of paragraph 8 and clause (d) of sub-paragraph (2) of paragraph 10 of this Schedule, no part of the area comprised within the municipality of Shillong shall be deemed to be within the Khasi Hills District.

(3) The reference in Part IIA in the table below to the “Tripura Tribal Areas District” shall be construed as a reference to the territory comprising the tribal areas specified in the First Schedule to the Tripura Tribal Areas Autonomous District Council Act, 1979.

PART I

1. The North Cachar Hills District.
2. The Karbi Anglong District.
3. The Bodoland Territorial Area District.

PART II

1. Khasi Hills District.
2. Jaintia Hills District.
3. The Garo Hills District.

PART IIA

Tripura Tribal Areas District

Part III

1. The Chakma District.
2. The Mara District.
3. The Lai District.

20A. Dissolution of the Mizo District Council.—(1) Notwithstanding anything in this Schedule, the District Council of the Mizo District existing immediately before the prescribed date (hereinafter referred to as the Mizo District Council) shall stand dissolved and cease to exist.

(2) The Administrator of the Union territory of Mizoram may, by one or more orders, provide for all or any of the following matters, namely:—

- (a) the transfer, in whole or in part, of the assets, rights and liabilities of the Mizo District Council (including the rights and liabilities under any contract made by it) to the Union or to any other authority;
- (b) the substitution of the Union or any other authority for the Mizo District Council, or the addition of the Union or any other authority, as a party to any legal proceedings to which the Mizo District Council is a party;
- (c) the transfer or re-employment of any employees of the Mizo District Council to or by the Union or any other authority, the terms and conditions of service applicable to such employees after such transfer or re-employment;
- (d) the continuance of any laws, made by the Mizo District Council and in force immediately before its dissolution, subject to such adaptations and modifications, whether by way of repeal or amendment, as the Administrator may make in this behalf, until such laws are altered, repealed or amended by a competent Legislature or other competent authority;
- (e) such incidental, consequential and supplementary matters as the Administrator considers necessary.

Explanation—In this paragraph and in paragraph 20B of this Schedule, the expression “prescribed date” means the date on which the Legislative Assembly of the Union territory of Mizoram is duly constituted under and in accordance with the provisions of the Government of Union Territories Act, 1963.

²⁸³20B. Autonomous regions in the Union territory of Mizoram to be autonomous districts and transitory provisions consequent thereto.—(1) Notwithstanding anything in this Schedule,—

(a) every autonomous region existing immediately before the prescribed date in the Union territory of Mizoram shall, on and from that date, be an autonomous district in that Union territory (hereafter referred to as the corresponding new district) and the Administrator thereof may, by one or more orders, direct that such consequential amendments as are necessary to give effect to the provisions of this clause shall be made in paragraph 20 of this Schedule (including Part III of the table appended to that paragraph) and thereupon the said paragraph and the said Part III shall be deemed to have been amended accordingly;

(b) every Regional Council of an autonomous region in the Union territory of Mizoram existing immediately before the prescribed date (hereafter referred to as the existing Regional Council) shall, on and from that date and until a District Council is duly constituted for the corresponding new district, be deemed to be the District Council of that district (hereafter referred to as the corresponding new District Council).

283 After paragraph 20B, the following paragraph has been inserted in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 1995 (42 of 1995), s. 2, namely:—

“20BA. Exercise of discretionary powers by the Governor in the discharge of his functions. — The Governor in the discharge of his functions under sub-paragraphs (2) and (3) of paragraph 1, sub-paragraphs (1), (6), sub-paragraph (6A) excluding the first proviso and sub-paragraph (7) of paragraph 2, sub-paragraph (3) of paragraph 3, sub-paragraph (4) of paragraph 4, paragraph 5, sub-paragraph (1) of paragraph 6, sub-paragraph (2) of paragraph 7, sub-paragraph (4) of paragraph 8, sub-paragraph (3) of paragraph 9, sub-paragraph (3) of paragraph 10, sub-paragraph (1) of paragraph 14, sub-paragraph (1) of paragraph 15 and sub-paragraphs (1) and (2) of paragraph 16 of this Schedule, shall, after consulting the Council of Ministers and the North Cachar Hills Autonomous Council or the Karbi Anglong Autonomous Council, as the case may be, take such action as he considers necessary in his discretion.”

After paragraph 20B, the following paragraph has been inserted in its application to the States of Tripura and Mizoram, by the Sixth Schedule to the Constitution (Amendment) Act, 1988 (67 of 1988), s. 2, namely:—

“20BB. Exercise of discretionary powers by the Governor in the discharge of his functions. The Governor, in the discharge of his functions under sub-paragraphs (2) and (3) of paragraph 1, sub-paragraphs (1) and (7) of paragraph 2, sub-paragraph (3) of paragraph 3, sub-paragraph (4) of paragraph 4, paragraph 5, sub-paragraph (1) of paragraph 6, sub-paragraph (2) of paragraph 7, sub-paragraph (3) of paragraph 9, sub-paragraph (1) of paragraph 14, sub-paragraph (1) of paragraph 15 and sub-paragraphs (1) and (2) of paragraph 16 of this Schedule, shall, after consulting the Council of Ministers, and if he thinks it necessary, the District Council or the Regional Council concerned, take such action as he considers necessary in his discretion.”

(2) Every member whether elected or nominated of an existing Regional Council shall be deemed to have been elected or, as the case may be, nominated to the corresponding new District Council and shall hold office until a District Council is duly constituted for the corresponding new district under this Schedule.

(3) Until rules are made under sub-paragraph (7) of paragraph 2 and sub-paragraph (4) of paragraph 4 of this Schedule by the corresponding new District Council, the rules made under the said provisions by the existing Regional Council and in force immediately before the prescribed date shall have effect in relation to the corresponding new District Council subject to such adaptations and modifications as may be made therein by the Administrator of the Union territory of Mizoram.

(4) The Administrator of the Union territory of Mizoram may, by one or more orders, provide for all or any of the following matters, namely:—

- (a) the transfer in whole or in part of the assets, rights and liabilities of the existing Regional Council (including the rights and liabilities under any contract made by it) to the corresponding new District Council;
- (b) the substitution of the corresponding new District Council for the existing Regional Council as a party to the legal proceedings to which the existing Regional Council is a party;
- (c) the transfer or re-employment of any employees of the existing Regional Council to or by the corresponding new District Council, the terms and conditions of service applicable to such employees after such transfer or re-employment;
- (d) the continuance of any laws made by the existing Regional Council and in force immediately before the prescribed date, subject to such adaptations and modifications, whether by way of repeal or amendment, as the Administrator may make in this behalf until such laws are altered, repealed or amended by a competent Legislature or other competent authority;
- (e) such incidental, consequential and supplementary matters as the Administrator considers necessary.

20C. Interpretation.—Subject to any provision made in this behalf, the provisions of this Schedule shall, in their application to the Union territory of Mizoram, have effect—

(1) as if references to the Governor and Government of the State were references to the Administrator of the Union territory appointed under article 239, references to State (except in the expression “Government of the State”) were references to the Union territory of Mizoram and references to the State Legislature were references to the Legislative Assembly of the Union territory of Mizoram;

(2) as if—

- (a) in sub-paragraph (5) of paragraph 4, the provision for consultation with the Government of the State concerned had been omitted;
- (b) in sub-paragraph (2) of paragraph 6, for the words “to which the executive power of the State extends”, the words “with respect to which the Legislative Assembly of the Union territory of Mizoram has power to make laws” had been substituted;
- (c) in paragraph 13, the words and figures “under article 202” had been omitted.

21. Amendment of the Schedule.—(1) Parliament may from time to time by law amend by way of addition, variation or repeal any of the provisions of this Schedule and, when the Schedule is so amended, any reference to this Schedule in this Constitution shall be construed as a reference to such Schedule as so amended.

(2) No such law as is mentioned in sub-paragraph (1) of this paragraph shall be deemed to be an amendment of this Constitution for the purposes of article 368.

The Asian Indigenous and Tribal Peoples Network (AITPN) is an alliance of indigenous and tribal peoples' organisations and individual activists across the Asian region. It seeks to promote and protect the rights of indigenous and tribal peoples in Asia:

- by providing accurate and timely information to national human rights institutions, the United Nations and its specialised mechanisms, as appropriate;
- by conducting research, campaigning and lobbying on country situations or individual cases;
- by increasing the capacity of indigenous peoples through relevant training programmes for indigenous peoples' rights activists and community leaders;
- by providing legal, political and practical advice to indigenous peoples organisations;
- by providing input into international standard-setting processes on the rights of indigenous peoples; and
- by securing the economic, social and cultural rights of indigenous peoples through rights-based approaches to development.

AITPN has Special Consultative Status with the United Nations Economic and Social Council (ECOSOC).

For further details, please write to:



Asian Indigenous and Tribal Peoples Network
C-3/441 Top Floor , Janakpuri , New Delhi-110058, India
E-Mail: aitpn@aitpn.org
Tel: +91 11 25503624