

# Standing Committee Report Summary

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

- The Standing Committee on Home Affairs (Chair: Mr. Anand Sharma) submitted its report on the Constitution (One Hundred and Twenty-fifth Amendment) Bill, 2019, on March 5, 2020. The Bill amends provisions related to the Sixth Schedule of the Constitution. The Sixth Schedule relates to the administration of tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram.
- **Membership:** The Sixth Schedule provides a list of ten tribal areas in Assam (3), Meghalaya (3), Tripura (1) and Mizoram (3). Each of these tribal areas constitutes an autonomous district. Each autonomous district has an Autonomous District Council (ADC). As per the Sixth Schedule, each ADC must have at least 30 members. The Bill enhances the membership of all the ADCs, except the Bodoland Territorial Council in Assam. For example, it increases the membership of the Karbi Anglong District Council in Assam from 30 to 50. For the Garo and Khasi ADCs of Meghalaya, the Bill additionally requires nomination of two members from unrepresented tribes.
- In the context of Assam, Mizoram and Tripura, the Committee noted that the increase is not based on any objective criteria, such as population or area. The Committee noted that the increase or decrease in the membership to the Councils should be based on some rational criteria. For Meghalaya, the Committee noted that the state government requested that there should be nomination of members from unrepresented tribes. The Committee observed that representation is necessary, and recommended that nominations should only take place from tribes which could not get elected. Further, nominations should be on the basis of reasonable criteria, to avoid arbitrariness.
- **Village and Municipal Councils:** The Sixth Schedule states that that the Governor may divide an autonomous district into autonomous regions, each consisting of a Regional Council. The administration of such districts and regions will be carried out by District and Regional Councils, respectively. The Bill amends this to additionally provide for Village and Municipal Councils.
- Village Councils will be established for villages or groups of villages in rural areas, and Municipal Councils will be established in urban areas of each district. Further, the District Councils may make laws on various issues, including: (i) number of Village and Municipal Councils to be formed, and their composition, (ii) delimitation of constituencies for election to the Councils, and (iii) their powers and functions. These provisions will not apply to Meghalaya. The Committee noted that this goes against basic democratic principles and recommended a time limit within which this exemption would be removed for Meghalaya.
- The Bill also states that all elections to the District, Regional, Village, and Municipal Councils will be conducted by the State Election Commission. These provisions will not apply for Village or Municipal Councils in Meghalaya, unless approved by the Governor. The Committee noted the explanation by the government of Meghalaya that elections to the Village Councils are not through adult suffrage. The Committee noted that this goes against basic democratic principles and recommended insertion of a time limit within which this exemption would be removed for Meghalaya.
- **Power to make laws:** The Sixth Schedule empowers the ADCs in North Cachar and Karbi Anglong in Assam to make laws with respect to certain subjects, including on agriculture, education, and public health. The Bill expands this list to include powers to make laws on various other subjects, including land. In this context, the government of Assam requested for an exception in the Bill to clarify that the state government will have the power to take over land for government projects. The Committee recommended that the Ministry build consensus on the provision with the state government, the Councils, and other elected representatives. It further recommended that the Ministry should consider devolution of powers to make laws on these subjects to the ADCs in Mizoram and Tripura.
- The Committee noted that there is a shortage of funds in ADCs which is hampering the process of development in the region. It recommended that the State Finance Commission should earmark funds for ADCs while distributing financial resources between the State and the District Councils.

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