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### **CONFLICT RESOLUTION AND PEACE RESEARCH PROGRAMME**

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## **Federalism and Local Governance in the Scheduled Areas The Case of Odisha and Assam**

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### **The Question(s)**

The special administrative arrangements and governance system in the Scheduled Areas, ensured through the Fifth and Sixth Schedules of the Indian constitution, merits discussions through the prism of federalism (Centre-state relationships). The Scheduled Areas, often seen as ‘states within the states’, in general, and the local governance in these areas in particular, do not find adequate discussion in the larger discourse of federalism in India. Considering the marginal socio-political and economic status of the citizens in the Scheduled Areas and the long-standing grievances that they have over lack of development, representation, and absence or inadequate governance,

an attempt to locate them in the larger framework of the relationship between the Centre and the state, offers important insights. While the issues of autonomy, and preservation of cultural, linguistic, and ethnic identity of the citizens dominate the discourses around Scheduled Areas, the issues of local governance are mostly overlooked. A research study conducted by the National Institute of Advanced Studies (NIAS) supported by the Hans Siedel Stiftung (HSS), tries to interrogate the issues and the status of local governance in the Scheduled Areas in reference to federalism in India. The finding of the study is mainly based on the observations drawn from the Scheduled Areas of Assam and Odisha,

covered under the Sixth and the Fifth Schedules of the Indian constitution respectively. Based on the primary research conducted in Bodoland (Assam) and Nilagiri (Odisha), this report reflects on the important issues of local governance and cooperation and the conflicts between the respective states and the Centre in addressing the grievances. Subsequently, the report offers and set of recommendations to address the issues of local governance in the Scheduled Areas and to strengthen the federal relationships.

## **The Case of Odisha**

The Fifth Scheduled Areas, covered under Article 244 (1) of the Indian constitution, cover seven full districts and partially six districts in Odisha. The areas covered under the Fifth Schedule are majorly inhabited by the tribals, Scheduled Tribes (ST), and other marginalized communities, mostly the Scheduled Castes (SC). The tribals constitute around 23 percent of the total population of Odisha while they are more than fifty percent in some of the districts covered under the Fifth Schedule. The governance issues and the grievances of the citizens living in the Scheduled Areas can safely be linked to their socio-political and economic status. The Scheduled Areas of Odisha, unfortunately, have been the victim of violent movements waged by the non-state actors and at the same time, been exposed to the indifference and apathy of the state administration which has resulted in sustained misgovernance, exploitation, and underdevelopment. The issues and the status of the local governance and grievances in the Scheduled Areas in Odisha are very much linked to the nature of the relationship between the state and the Union governments. The presence of non-state actors like the Maoists who claim to be representing the demands and the grievances of the tribal and other marginalized communities has not only made the relationship between the state and the Centre complicated but also opened up several areas of cooperation. The main issues relating to the local governance conceived through the federalism framework are as follows.

One of the main issues of local governance is the lack of political representation of the people living in the Scheduled Areas. While it is an accepted fact that the political representation of the tribal and other marginalized communities is not adequate at the state and the national levels, the status at the local level is not substantially different. The implementation of the implementation of the Panchayats Extension to Scheduled Areas (PESA), since 1996, the political

representation by the tribal and other marginalized communities, in terms of the authority to decide and govern themselves at the local level, has not been able to meet the desired expectation. The high-handedness of the state administration in reducing the Panchayats in the Scheduled Areas to merely implementing agencies and the indifference of the Governor's office in taking special care contribute to the lack of political representation in the Scheduled Areas.

In the absence of political representation, the Scheduled Areas in Odisha have also been the victim of dispossession of land, exploitation, and underdevelopment. Ironically, on one hand, these areas witness a lack of infrastructural development and an absence of governance, and on the other hand massive mining and deforestation activities. The resource extraction activities by the state and by the state-supported private actors hardly include the decision or the consent of the local people. As a result, the local people have been subjected to displacement, in various scales and nature, in the Scheduled Areas. Such issues reflect a typical relationship between the state and the Centre where they neither share a conflictual nor a cooperative federalism. In a way, it can be argued that the relationship converges on (mis)understanding where by the state and the Central governments overlook the genuine local governance issues.

In connection with the lack of political representation and dispossession of land, the Scheduled Areas of Odisha also encounter livelihood issues. The massive deforestation (read because of the state-led development activities) and the restriction imposed on the local people in accessing the forest and the forest products have put them in vulnerable situations, in terms of ensuring their livelihood. Leasing out to private contractors to collect and sell the forest products has worsened the livelihood situation of the tribal and other forest dwellers in the Scheduled Areas. The Forest Rights Act (FRA), implemented in 2006, like the PESA has not been able to make substantial changes in ensuring the livelihood of the local people. Several popular movements demanding their fair share of the resources are hardly addressed effectively. On the contrary, they are often seen through the prism of a law-and-order situation where the Central governments pass the responsibility on to the state and the state governments hold the office of the Governor responsible. In such a tricky relationship between the state and the Central government, the local governance issues in the Scheduled Areas of Odisha continue to suffer.

## The Case of Assam

Out of 35 districts in Assam, seven districts are covered by areas under the protection of the Sixth Schedule of the Constitution, constituting the three autonomous administrative regions in the state. Kokrajhar, Udalguri, Chirang, Baksa, and Tamulpur form the Bodoland Territorial Region (BTR), Karbi Anglong and West Karbi Anglong constitute the Karbi Anglong Autonomous Council (KAAC), and Dima Hasao forms the North Cachar Hills Autonomous Council (NCHAC). According to the 2011 Census of India, out of the 12.45% Scheduled Tribes (ST) population of Assam, 45% reside in these autonomous regions whereas out of the total Scheduled Caste (SC) population in Assam, 10% population reside in the autonomous regions. These regions created out of negotiations against rebellions for secession are still engrossed in contentious politics and conflict, an unsatisfactory outcome for all stakeholders involved.

The political history of Assam, driven by identity politics, language movements, insurgency, and inadequate interventions by the Centre has resulted in the underdevelopment of the State. The State Government perceived the Centre's solution for the Assamese problems as unfair which was instrumental in forming the relationship between the federal levels. The local governance structure, in the presence of such complications, becomes dysfunctional, leading to poor governance driven by favouritism, sustained underdevelopment, and protracted conflict. Throughout the following paragraphs, the issues of local governance in Assam regulated by the federal relationships are described briefly.

In such a pluralistic society, power is exercised by the ruling elites, and instances involving elitism, nepotism, and favouritism are observed, especially in the Village Councils/Town Panchayats of autonomous regions (in the case of BTR and KAAC respectively). While the non-tribal Assamese population dominates the Assamese mainstream politics, reservation, and autonomous councils have been seen as tools by erstwhile subjugated minorities to dominate the other minority communities in the region. The misrepresentation of the minority ethnic communities in BTR and their underdevelopment is an apt example here. Local self-governing institutions like the Village Council Development Committees (VCDC) and the Territorial Constituency Level Coordination Committees (TCLCC), also show issues of political favouritism since it is entirely nomination-based, unlike the PRIs. Putting aside the importance of local governance as a platform for grievance redressal, this

also accounts for a serious imbalance in the representation of the villagers. In such a situation, the national planning and policies for elevating rural development cannot be utilized properly.

Furthermore, to implement the policies in the region, the administration remains heavily dependent on the State for their finances, a situation that can be seen in the case of the Centre-State relationship as well. A look into the standard issues of revenue collection indicates that, despite the government's efforts, the collection of taxes remains unattainable due to the frequent eruption of violence. The conflict between the Karbis and Pnars, KAAC, and the Jaintia Students Movement (JSM) are some of the instances where tax drain occurs due to the destruction of infrastructure during conflict, and extortion, often termed as 'unconstitutional tax'. In such a situation, letting the KAAC stay underdeveloped or depend on the federal structure for sustenance leads to a state of paralyzed local governance structure.

Administrative authorities in autonomous regions are given the right to host their elections and make their laws on sectors according to the constitutional devolution of power. However, the issue of fiscal dependency, coupled with the nature of the appointed Governor diminishes the autonomy that these councils in Assam were enjoying. Governor acts as a constitutional bridging link between the Centre and the State governments. In this light, the appointment of Governors has also been suspected to be another part of the Centre's counter-insurgency operations, as time and again, most of these position-holders have been retired army officials and intelligence personnel. The suspicion over the Governor also, thus, extends to the Central Government, deteriorating their relationship over time and governors.

## Recommendations

### Better Coordination between the Centre and the State

In order to ensure good governance in the Scheduled Areas, better coordination and cooperation between the Centre and the states are a must. In this direction, the states should not see the Scheduled Areas 'as a state within a state'. The Central government, going by the constitutional provisions, should not limit its responsibilities to merely the transfer of funds. Addressing the grievances of the local people, regular supervision of the implementation of development and welfare measures, and moreover, ensuring the political

participation of the people will contribute to better governance in the Scheduled Areas.

## **Accountability and Proactive Role of the Governors**

The constitution of India vests important power to the governance for the governance and administration of the Scheduled Areas. It has been observed that despite being vested with constitutional authorities, the Governors turn a blind eye to the demands and grievances of the people living in the Scheduled Areas. The accountable and proactive role of the governors will not only contribute to better governance in the Scheduled Areas but also help enhance cooperative federalism in India.

## **Introduction and Implementation of PESA**

In the Scheduled Areas (read Fifth Scheduled Areas) where the PESA is already implemented, the political empowerment of the local people in terms of ensuring

their development and governance needs has met with limited success. In these areas, ensuring the proper implementation of the PESA, in terms of empowering the local people will have a substantial contribution to the local governance. In the Sixth Scheduled Areas, where the PESA has not been introduced, the governments could think of introducing these provisions. The extension of Panchayati Raj in the Sixth Scheduled areas would open up the scope for democratic participation at the local level.

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