
UNIT 4 CONSTITUENT ASSEMBLY DEBATES*

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4.0 OBJECTIVES

After reading this unit, you will be able to:

- Explain the nature of the representation of Assam (Northeast India) in the Constituent Assembly of India;
- Discuss the role of the Advisory Committees about Assam in the Constituent Assembly;
- Analyse the arguments in the debate in the Constituent Assembly regarding the VI Schedule of the Constitution.

4.1 INTRODUCTION

The Constitution of India was adopted on 26th November 1949, which means the Constituent Assembly finalised it on that day. But it came into force two months after its adoption, i.e., on 26th January 1950, which is also known as the date of its “commencement”. However, some provisions of it, i.e., those relating to citizenship, elections, provisional Parliament, temporary and transitional provisions, had become operative on 26th November 1949 itself. The reason for its

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commencement after two months of its adoption was to signify the January 26th as the original date of achievement of Independence. In 1929, the Indian National Congress chose 26th January as the day to announce *Poorna Swaraj Day*. Since then, Indian National Congress started celebrating Independence Day from 1930 onwards by hoisting the National Flag on 26th January. Assam, which later became Northeast India, was a reference point of debate in the Constituent Assembly of India about creating constitutional devices such as Autonomous District Councils and Autonomous Regional Councils to protect the rights of the tribal people in the region. In this unit, you will read about the debate in the Constituent Assembly of India pertaining to these issues.

4.2 GOVERNMENT OF INDIA ACTS, 1919 AND 1935

The Constitution of India embodies provisions providing basic democratic rights of human beings, including those who are not Indian citizens. It also embodies provisions for the availability of institutions for legislation, execution, and jurisdiction to fulfil these rights. It presents a vision for social transformation and the deepening of democracy in India. The evolution of democratic institutions and rights had started much before the Constituent Assembly made the Constitution of India. However, it must be underlined that the features of democratic institutions and values introduced during the colonial period were meant to serve the colonial interests in contrast to the purpose of the provisions of the Constitution made by the Constituent Assembly of India. Although the Indian Constitution was a result of the deliberations (from December 9, 1947 to November 26, 1949) of the Constituent Assembly, some of its features had evolved over three-quarters of a century through various Acts, i.e., from 1858 to 1935. Among these Acts, the Government of India Act 1919, and the Government of India Act, 1935 have special significance regarding Northeast India. As you have read in Unit 1, the British occupied different territories in Northeast India at different times from the third decade of the 19th century. After 1874, they became part of Assam. As you will read in Unit 5, the Government of India Act, 1919 designated those areas as “backward tracts”. The Government of India Act, 1935, re-designated “backward tracts” as “excluded” and “partially excluded” areas. These were the central points of debate in the Constituent Assembly debates resulting in the incorporation of the special provisions for Northeast India in the Indian Constitution.

4.3 THE CONSTITUENT ASSEMBLY AND NORTHEAST INDIA (ASSAM & TRIPURA AND MANIPUR)

Initially, the colonial authorities resisted the demand for the creation of a Constitution of India. However, the change in the circumstances - the outbreak of World War II and the formation of the new Coalition (Labour-led) government in Britain forced the British Government to acknowledge the urgency to solve the problem related to the Constitution of Indians. The colonial authorities realized

the need to form a Constitution for India after the end of their rule in India. In this regard, they sent two missions – Cripps Mission in 1942 and Cabinet Mission in 1946. The formation of the Constituent Assembly was the finale of the process that began with the proposal of these two missions. As you will read in sub-section 4.3.3, the Province of Assam and Princely states of Tripura and Manipur (representing other princely states of the region), which later formed Northeast India, were also represented in the Constituent Assembly of India.

4.3.1 The Cripps Mission (1942)

In 1942, the British Government sent its cabinet member – Sir Stafford Cripps, with the draft declaration on proposals (regarding the formation of the Constitution for Indians) to be implemented at the end of World War II if both the Muslim League and the Indian National Congress had agreed to accept them. Cripps's visit with the proposal to India was known as Cripps Mission. The draft proposals of the Cripps Mission recommended the following: granting Dominion Status to India, i.e., an equal partnership of the British Commonwealth of Nations; formation of one Indian Union which would consist of all Provinces (ruled by the British India government) and Indian States (ruled by Indian princes) but if any province which was not prepared to accept the Constitution was to be free to retain its constitutional position which had existed at that time; and, formation of Constituent Assembly consisting of the member partly elected by the provincial assemblies. Both the Indian National Congress and the Muslim League did not accept the proposals of the Cripps Mission. The Muslim League demanded that India be divided on the communal lines and some provinces form an independent state of Pakistan; there should be two Constituent Assemblies, one for Pakistan and another for India.

4.3.2 The Cabinet Mission (1946)

The British Indian government made several attempts to bridge the differences between the Indian National Congress and the Muslim League. However, it was unsuccessful. The British government sent another delegation of the Cabinet members, which came to be known as the Cabinet Mission Plan. It consisted of three British cabinet members – Lord Pethick-Lawrence, Sir Stafford Cripps and Mr A.V. Alexander. The Cabinet Delegation also failed to bring the Indian National Congress and the Muslim League to an agreement. However, it made its own proposal, which was announced simultaneously on 16th May 1946 in England and India. The Cabinet delegation made the following recommendations: there should be a Union of India consisting of British India Provinces and the Princely States, which would have jurisdiction over subjects of Foreign Affairs, Defense and Communication; all residuary powers would belong to the Provinces and the States; the Union would have Executive and Legislature consisting of the representatives from the Provinces and the States but for decision relating to a major communal issue in the legislature a majority of representatives of two major communities would be present and voting along with the majority of all members present and voting would be required; the provinces would be free to form groups with executives and legislatures, and

each group would be free to determine the Provincial Subjects which the group would take up.

4.3.3 Representation of Northeast India in Constituent Assembly

According to the proposal of the Cabinet Mission, the Constituent Assembly consisted of the members elected by the members of Provincial Legislative Assemblies and the representatives of the princely states. Both the Indian National Congress and the Muslim League were returned from the Provincial Legislative Assemblies. However, differences between the Indian National Congress and the Muslim League arose on the interpretation of “Group Clauses” of the Cabinet Mission. The British government intervened at this stage and explained to the leaders in London that the contention of the Muslim League was correct. And on December 6, 1946, the British Government published a statement, which for the first time acknowledged the possibility of two Constituent Assemblies and two States. As a result, when the Constituent Assembly first met on December 9, 1946, it was boycotted by the Muslim League, and it functioned without the participation of the Muslim League. The Constituent Assembly consisted of 296 members, but only 207 members could attend it because the Muslim League members boycotted it.

As the Constituent Assembly members consisted of the member elected by the members of the provincial assembly, and of the representatives from the princely states, following members represented Assam (excluded and “partially excluded areas), and princely states of the regions, in the Constituent Assembly:

1. Gopinath Bardoloi,
2. J.J. M. Nickols Roy,
3. Rohini Kumar Chaudhury,
4. Kuladhar Chaliha,
5. Nibaran Chandra Laskar,
6. Dharanidhar Basu-Matrai,
7. Mohammad Saadulla,
8. Abdul Rouf,
9. Girja Shankar Guha (Princely states of Tripura and Manipur), an officer of the princely states of Tripura and Manipur, representing princely states of Northeast India.

Like members from other provincial assemblies to the Constituent Assembly were indirectly elected by the members of the legislative assembly of those provinces, those from Assam were also elected from Assam, including the partially excluded areas. The indirect election was held according to the provisions of the Cabinet Mission Plan. Among those who represented Assam (present Northeast India) leaders, Gopinath Bardoloi and James Joy Mohan Nickols Roy, popularly known as J.J.M. Nichols Roy, played a decisive role in the Constituent Assembly regarding the making of the VI Schedule of the Constitution. Gopinath Bardoloi (6 June, 1890 - 5 August, 1950) was a lawyer and a Congress leader from Assam. He was jailed by the British for participating

in the Indian national movement, and he was awarded Bharat Ratna posthumously. He played a leading role in the Constituent Assembly debates and in formulating the VI Schedule of the Constitution. He was premier of Assam (19 September 1938 to 24 December 1941), its chief minister from 11 February 1946- 5 August, 1950. James Joy Mohan Nichols Roy (1884-1959), was a Khasi legislator. In 1921, he was elected to the Assam Governor's Council, and in 1937, he was elected to the legislative Assembly of Assam province. In 1946, he was elected on a Congress ticket to the Constituent Assembly of India. Like Gopinath Bardoloi, he also played a prominent role in the making of the VI Schedule. He was a minister in two governments headed by Saadulla in the pre-Independence period, and in the post-Independence period, he was a minister in the Bardoloi government. In the post-Independence period, he supported the Hill State Movement for the creation of a separate state – the Khasi-Jaintia-Garo state.

Check Your Progress Exercise 1

Note: i) Use the space given below for your answers.

ii) Check your answers with the model answers given at the end of the unit.

1. What is the significance of the Government of India Act, 1935 regarding Northeast India?

2. Briefly describe the representation of Northeast India in the Constituent Assembly of India.

4.4 THE COMMITTEES

The Constituent Assembly divided its work among different committees for its smooth functioning. The committees were the devices formed by Constituent Assembly to help it in its smooth functioning. Some of the important committees were:

1. Drafting Committee: Dr. B.R Ambedkar, Chairman;
2. Union Powers Committee: Jawaharlal Nehru, Chairman. It had 15 members;
3. Union Constitution Committee: Jawaharlal Nehru, Chairman;
4. Provincial Constitution Committee: Vallabhabhai Patel, Chairman. It had 25 members;

5. Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas: Vallabhbhai Patel: Chairman. It had 54 members;
6. Steering Committee: Dr. K.M. Munshi, chairman. It had three members Dr. K.M. Munshi and Gopalaswami Iyengar and Bhagwan Das.

4.4.1 The Sub-Committees

Among these committees, Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas was specifically relevant with reference to the issues of Northeast India (Excluded and Partially Excluded Areas), apart from tribal regions other than the Northeast (Excluded and Partially Excluded Areas). The Cabinet Mission had recommended the constitution of an Advisory Committee to suggest constitutional mechanism to protect the interests of minorities and tribals. Such an advisory committee was supposed to be a part of the Constituent Assembly. The purpose of the Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas was to advise the Constituent Assembly to formulate policies suitable for the welfare and administration of tribal and excluded areas. The Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas consisted of the following Sub-Committees:

1. Fundamental Rights Sub-Committee: J.B. Kripalani, Chairman;
2. Northeast Frontier Tribal Areas and Assam Excluded and Partially Excluded Areas Sub-Committee: Gopinath Bardoloi, Chairman. This committee was also known as Bardoloi Committee; and,
3. Excluded and Partially Excluded Areas (Other than those in Assam): V.M. Thakkar, Chairman

4.4.2 Bardoloi Committee

The Sub-Committee - the North-East Frontier (Assam) Tribal and Excluded Areas is also known as Bardoloi Committee named after its chairman, Gopinath Bardoloi. Members of the Bardoloi Committee: Gopinath Bardoloi; J.J.M. Nichols Roy, a Khasi leader; B.N. Rau, a civil servant and advisor to the Constituent Assembly; A.V. Thakkar, a Gandhian; Rup Nath Brahmma, a plain tribal and an intellectual; and Mayangnokcha Ao, a Naga leader. The Bardoloi Committee visited tribal areas of Assam and interacted with people to get first-hand knowledge from the people and find out the reasons for the backwardness of the region. The Sub-Committee noted the significance of traditional institutions of governance and the democratic nature of their functioning, which settled disputes according to local customs. The Sub-Committee also noted the sensitivity and reverence of people for their land, forest, lifestyle, traditional justice system, language, distinct culture of the excluded (including or/and tribal areas). The Bardoloi Committee underlined the need for special provisions to protect the identity of tribal people from the dominant communities (Nag 2002; J. Zahaluna 2010). While the Bardoloi Committee dealt with Assam (Northeast India), Thakkar Committee, i.e. Committee on Excluded and Partially Excluded Areas (other than Assam) with VM Thakkar as its chairman, was about other

tribal areas than Assam. These committees submitted their reports to the Constitution drafting Committee: Bardoloi committee suggested measures for special provisions regarding Assam, and Thakkar committee about other tribal-inhabited areas. The tribal areas of Assam (Northeast), which were earlier known as “excluded” and “partially excluded” were re-designated as the “Scheduled Areas”, while tribal areas in other areas than Assam (Northeast) were designated as “Tribal Areas”.

4.4.3 Arguments in the Constituent Assembly

After discussing the reports of various committees, which *inter alia* included Bardoloi Committee’s reports, the Constituent Assembly appointed a Drafting Committee on 29th August 1947 under the chairmanship of Dr. B.R. Ambedkar. The draft Constitution was prepared by B.N. Rau, Advisor to the Constituent Assembly. A seven-member committee was constituted to examine the draft. Dr. B.R. Ambedkar, who was Law Minister and chairman of the Drafting Committee, piloted the draft in the Assembly. Dr. Ambedkar presented “Draft Constitution of India”, which was an alternative to the proposals given in the reports of the committees. Besides, it contained additional resolutions. The “Draft Constitution” was published in February 1948. It was discussed by the Constituent Assembly clause by clause in its several sessions and was completed by October 17th 1949. This discussion was known as the second reading. The Constituent Assembly again met on 14th November 1949 to discuss the draft further or to give it a third reading. It was finalised on 26th November 1949 after receiving the signature of the President of the Constituent Assembly. Nevertheless, it was January 26, 1950 which became the date of commencement of the Constitution. The recommendations of these committees were placed before the Drafting Committees. The main recommendation of the Bardoloi committee was the establishment of the Autonomous District Councils and Regional Councils for the tribal areas within the state of Assam. They were envisaged in the VI Schedule of the Constitution. You will read about Special Provisions about Northeast in Unit 5 and the Autonomous District Councils and Regional Councils in Unit 6.

The VI Schedule was created following the debate in the Constituent Assembly of India. Vol. 9 of the Constituent Assembly Debates deals with the VI Schedule). There were broadly two opposing arguments in support or in opposition to the provisions of the VI Schedule. The principal argument in support of the VI Schedule – provisions for the Autonomous District Councils and Autonomous Regional Councils, underlined the need to protect cultural identities and economic interests of the tribes in the Schedules areas. This argument was given by Gopinath Bardoloi, J.J.M. Nichols Roy, who represented Assam in the Constituent Assembly. It was also given by some members representing other regions than Assam, such as Jaipal Singh (Bihar), V.M. Thakkar (Saurashtra). The main points in the argument against the introduction of Autonomous District Councils and Autonomous Regional Councils emphasised that it would perpetuate the disassociation between tribals and non-

tribals and would not allow the non-tribals to buy land in tribal areas, and would result in disassociation of tribals and non-tribals. This argument was provided mainly by Rohini Kumar Chaudhury and Kuladhar Chaliga, both representing Assam. This argument was supported by members such as Lakshminarayan Sahu and Brijeshwar Prasad, representing Orissa and Bihar, respectively.

Check Your Progress Exercise 2

Note: i) Use the space given below for your answers.

ii) Check your answers with the model answers given at the end of the unit.

1. What were sub-Committees?

2. Summarise the arguments in the Constituent Assembly Debates on the VI schedule.

4.5 LET US SUM UP

Northeast India at the time of the Constituent Assembly was represented by Assam province and Princely states such as Tripura and Manipur. The Advisory Committee of the Constituent Assembly, i.e., Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas which was chaired by Vallabhbhai Patel, aimed to deal with the problems of minorities and tribals in specific areas. This Advisory Committee had three sub-Committees. One of these was Northeast Frontier Tribal Areas and Assam Excluded and Partially Excluded Areas Sub-Committee. It was chaired by Gopinath Bardoloi and was known as Bardoloi Committee. The Bardoloi Committee suggested the introduction of Autonomous District Councils and Autonomous Regional Councils to protect the identities and resources of the tribal people in the region. Following the debate in the Constituent Assembly, the recommendations of the Bardoloi Committee were incorporated in the VI Schedule of the Constitution.

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4.7 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

- 1) The Government of India Act, 1935, re-designated the “backward tracts” as “excluded” and “partially excluded” areas.
- 2) Northeast India in the Constituent Assembly was represented by Assam province and Tripura and Manipur princely states. Representatives from Assam were: Gopinath Bardoloi, J.J. M. Nickolas Roy, Rohini Kumar Chaudhury, Kuladhar Chaliha, Nibaran Chandra Laskar, Dharanidhar Basu-Matrai, Mohammad Saidulla, and Abdul Rouf. Princely states of Tripura and Manipur were represented by Girja Shankar Guha.

Check Your Progress 2

- 1) The sub-committees were sub-committees of the Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas of the Constituent Assembly. There were three sub-committees: Fundamental Rights Sub-Committee (J.B. Kripalani, Chairman); Northeast Frontier Tribal Areas and Assam Excluded and Partially Excluded Areas Sub-Committee (Gopinath Bardoloi, Chairman); and, Excluded and Partially Excluded Areas (Other than those in Assam) (V.M. Thakkar, Chairman).

They aimed to study the problems of minorities and tribals and to suggest constitutional devices for their welfare.

- 2) There were broadly two opposing arguments: one supported the suggestion of the Bardoloi Committee to introduce Autonomous District Councils and Autonomous Regional Council, another opposed it. The argument in support underlined their need for protection of identities and interests of tribals in these areas; those against them emphasised that their introduction would result in differences between tribals and non-tribals and unequal treatment of the latter.



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