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CONSTITUTIONAL CONUNDRUMS: A COMPARATIVE ANALYSIS OF SIXTH SCHEDULE AND ARTICLE 371-371J OF THE INDIAN CONSTITUTION

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Abstract

India is known for its regional diversity, historical experiences and distinct socio-cultural identities. Such diversity requires differentiated constitutional arrangements rather than uniform governance, in order to ensure safeguards of different communities' political and cultural aspirations. India's federal structure, especially its unique asymmetrical federal framework embedded within the Indian constitution, recognizes the same. Sixth Schedule and Articles 371-371J of the Constitution are examples of asymmetrical federalism that has for long, facilitated self-governance in designated tribal areas by establishing Autonomous District and Regional Councils; and provided diverse State and regional-specific safeguards addressing customary practices, land interests, political representation, administrative arrangements and regional development, respectively. This article comparatively analyse these two frameworks. It explores how these constitutional provisions seek to reconcile national integration with regional autonomy, cultural protection and equitable development. It analyses these frameworks across key constitutional dimensions, including institutional design, legislative authority, protection of customary laws, financial autonomy, democratic accountability and the relationship between autonomous institutions and State governments. It argues that, although both frameworks embody the principle of constitutional asymmetry, they represent distinct approaches to accommodating regional aspirations. The analysis further identifies persistent challenges, including overlapping jurisdiction, gubernatorial discretion, financial dependence, uneven institutional capacity and gaps between constitutional guarantees and their practical implementation. It suggests that the effectiveness of asymmetrical federalism cannot be assessed solely by the formal recognition of special constitutional provisions but must also be measured by their ability to secure meaningful participation, protect community identity, promote regional development and ensure accountability. Accordingly, the article proposes context-specific reforms aimed at strengthening autonomous councils and improving the implementation of State-specific safeguards.

Keywords – Asymmetric Federalism, Sixth Schedule, Tribal Autonomy, Constitutional Governance.

I. INTRODUCTION

In India, asymmetrical federalism is an important constitutional mechanism for accommodating diversity (historical, ethnic, cultural, and territorial) and maintaining national unity. It refers to a system of federal governance in which different constituent units enjoy varying degrees of

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autonomy, powers, or special constitutional arrangements. Rao and Singh distinguish[1] transparent, rule-based asymmetry from discretionary arrangements driven by political expediency, emphasizing that differentiated treatment must remain consistent with equality and fairness among jurisdictions. Embedded in the Constitution, asymmetric federalism allows certain states or regions special provisions: Article 370,[2] before its abrogation in 2019, provided special constitutional arrangements for Jammu and Kashmir. Articles 371 to 371J provide specific safeguards and special provisions for certain states. Article 371A for instance, provides special safeguards for Nagaland concerning Naga religious and social practices, customary law, and ownership and transfer of land and its resources. The Fifth Schedule under Article 244(1) establishes a distinct constitutional framework[3] for the administration and control of Schedule Areas and Scheduled Tribes in most parts of India (excluding the tribal areas covered by the Sixth Schedule). The Sixth Schedule establishes autonomous district and regional councils in specific tribal areas of Assam, Meghalaya, Tripura and Mizoram, enabling forms of self-governance and protection of customary practices.

The significance of asymmetrical federalism lies in the capacity to reconcile regional aspirations with the integrity of the Indian Union.[4] It promotes inclusive governance, protects minority identities, regional diversity, and accommodates indigenous communities within the constitutional framework. However, its effectiveness depends on meaningful implementation, respect for regional autonomy and cooperative relations between the Union and the states.[5] Thus, asymmetrical federalism represents an instrument of constitutional accommodation, rather than an exception to national unity.

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[1] M Govinda Rao and Nirvikar Singh, 'Asymmetric Federalism in India' (2004) 3 <https://people.ucsc.edu/~boxjenk/wp/Asymmetric_Federalism.pdf> accessed 1 February 2026.

[2] This is a historically significant provision of asymmetric federalism, providing Jammu and Kashmir with a distinct constitutional relationship with the Union. It limited the automatic application of the Indian Constitution and Parliamentary laws to the State, subject to the mechanisms provided under the Article. It however, differs substantially from both the Sixth Schedule and Articles 371-371J in its origin, scope and subsequent constitutional development.

[3] For instance it establishes Tribes Advisory Councils (TACs) "to advise on matters concerning the welfare and advancement of Scheduled Tribes."

[4] As observed by Rekha Saxena "India is often cited as a federal democracy which holds together diverse socio-cultural groups and interests around the founding belief of unity in diversity." *See* Rekha Saxena, 'Asymmetrical Federalism in India: Promoting Secession or Accommodating Diversity?' in *Revisiting Unity and Diversity in Federal Countries: Changing Concepts, Reform Proposals and New Institutional Realities* (Brill | Nijhoff 2018) 365.

[5] John Roberts's comparative critique also highlights the risks of blurred governmental responsibility and weakened accountability when asymmetrical arrangements lack institutional clarity. He states "Effective accountability lies in being able to determine who is responsible for decisions that have been made, and thus for their consequences. It is only when responsibilities are clearly defined that the public can bring home its approval (or disapprobation) in a way that will strengthen the anticipatory sensibility of governments to the electoral consequences of their decisions." *See* John Roberts, 'Asymmetrical Federalism: Magic Wand or "Bait and Switch"' (Asymmetry Series 2005, No 14, Institute of Intergovernmental Relations, Queen's University) 2 <https://www.queensu.ca/iigr/sites/iirwww/files/uploaded_files/Roberts2005.pdf> accessed 11 February 2026.

The central focus of the present paper is to critically analyse in particular, how the sixth schedule and Article 371 accommodate regional diversity and protect tribal and indigenous interests within India. The two provisions are not identical constitutional mechanisms. Hence, the study seeks to examine their different purposes, institutional structures and legal consequences. It will develop a comparative argument about asymmetrical federalism, self-governance, legislative, judicial and executive autonomy, protection of customary practices, and the limits of constitutional autonomy.

II. THE SIXTH SCHEDULE: CONSTITUTIONAL AUTONOMY AND TRIBAL SELF-GOVERNANCE

Envisaged under Article 244 (2), the Sixth Schedule of the Indian Constitution provides a framework for the administration and self-governance of specified tribal areas in Assam, Meghalaya, Tripura and Mizoram. It establishes Autonomous District and Regional Councils with legislative, judicial, administrative, and financial powers to protect identity, customary practices, community interests and to preserve the tribal way of living and develop themselves according to their "own genius and culture".[6]

Historical Rationale and Constitutional Objectives

The tribal administration under the Sixth Schedule has a colonial history. It reflects India's transition from colonial policies of segregated tribal administration[7] towards a constitutional framework of autonomy and self-governance. During the British administration, tribal areas were governed through distinctive administrative arrangements, such as the Schedule Districts framework[8] at the initial stage and subsequently through the categories of excluded and partially excluded areas under the Government of India Act, 1935.[9] These policies basically restricted the application of ordinary laws and gave power and authority to the Governor to administer the community. Although

[6] As stated by Rev. J.J.M. Nicholas Roy, who served on the North East Frontier (Assam) Excluded and Partially Excluded Areas Sub-Committee of the Constituent Assembly, also known as the architect of the Sixth Schedule: "…If you want to win them (tribal people) over for the good of India you will have to create a feeling of friendliness and unity among them so that they may feel that their culture and ways of living have not been abolished and another kind of culture thrust upon them by force. That is why the sub-committee thought that the best way to satisfy these people is to give them a certain measure of self-government so that they may develop themselves according to their own genius and culture." *See* Constituent Assembly Debates < https://khadc.nic.in/acts_rules_regulations_bills/Constituent%20Assembly%20Debate%20relating%20to%206th%20Schedule_excerpts_.pdf?> accessed 13 February 2026.

[7] A perusal of colonial legislations relating to tribal administration, such as: "The Bengal Regulation, 1822 and Garo Hills Act, 1869, Government of India Act, 1854, The Indian Councils Act, 1861, Bengal Eastern Frontier Regulation Act, 1873, The Scheduled Districts Act, 1874, The Government of India Act, 1919, and The Government of India Act, 1935" reveals the tilt towards a policy of isolation adopted by the British government in their dealing with the tribal community in India.

[8] The Scheduled Districts Act, 1874.

[9] Through which three types of special areas were created: "The Excluded areas, The Partially Excluded Areas and The Tribal Areas."

ostensibly intended to protect tribal communities from external exploitation and preserve their customary practices, colonial administration largely followed a policy of isolation rather than democratic participation.[10]

Post-independence, the Constituent Assembly understood the need to reconsider this approach and establish safeguards that would accommodate tribal identities within the framework of national integration.[11] "The Advisory Committee on Fundamental Right, Minorities and Tribal and Excluded Areas" constituted sub-committees to examine specific circumstances of tribal populations. "The North-East Frontier (Assam) Tribal and Excluded Areas Sub-Committee",[12] chaired by Gopinath Bordoloi, undertook this task and recommended institutional arrangements for autonomous administration. Its recommendations, together with the joint report[13] submitted by Bordoloi and A.V. Thakkar on 25 August 1947, substantially influenced the development of the Fifth[14] and Sixth Schedules.

The proposals were subsequently debated in the Constituent Assembly on 5-7 September 1949. The deliberations reflected differing perspectives on the extent of tribal autonomy, the role of the Governor[15] and the relationship between autonomous institutions and provincial administration. While some members expressed concerns about excessive autonomy and administrative

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[10] In one of the meeting of the Congress held on September 1936 at Faizpurin, this protective discrimination clause was condemned as "yet another attempt to divide the people of India into different groups, with unjustifiable and, discriminatory treatment, to obstruct the growth of uniform democratic institutions in the country". *See* SK Chaube, *Hill Politics in North-East India*, (Orient Longman, 1973) 64. *See also* Virginius Xaxa (Chair), *Report of the High Level Committee on Socio-Economic, Health and Educational Status of Tribal Communities of India* (Ministry of Tribal Affairs, Government of India, May 2014) <https://tribal.nic.in/downloads/other-important-reports/XaxaCommitteeReportMay-June2014.pdf> accessed 1 February 2026. "Subsequent ethnographers have contested these conceptualisations, arguing that tribes have constantly been in interaction with other social groups, and that, terms such as 'primitive' and 'backward' are based on the problematic assumption of social evolutionism. Other scholars have argued that the conception of tribe as isolated was based on their emergent marginalisation through unjust forest policies, forced sedentarization and pacification during British colonial rule."

[11] As distinct from "assimilation."

[12] The Constituent Assembly of India appointed an "Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas" which in turn set up three sub-committees: 1. "North East Frontier (Assam) Tribal and Excluded Areas" (also known as the Bordoloi Sub-Committee) 2. "Tribal areas in North-West Frontier Province and Baluchistan" and 3. "Excluded and partially excluded areas in states other than Assam." The Sixth Schedule of the Constitution is the result of the first Sub- Committee.

[13] Gopinath Bordoloi and A V Thakkar (Chairs), *Joint Report of the Excluded and Partially Excluded Areas (Other Than Assam) and the North-East Frontier (Assam) Tribal and Excluded Areas Sub-Committee* (25 August 1947) <https://www.constitutionofindia.net/committee-report/joint-report-of-the-excluded-and-partially-excluded-areas-other-than-assam-and-the-north-east-frontier-assam-tribal-and-excluded-areas-sub-committee/>
accessed 10 February 2026.

[14] (n 12) The Sub-Committee on Excluded and Partially Excluded Areas other than the State of Assam under the Chairmanship of Shri. A.V. Thakkar drafted the schedule.

[15] Shri Brajeswar Prasad was of the opinion that it would be a danger to hand over the administration to the provincial government or the Governor. He stated: "Is it right, is it safe, is it desirable, is it militarily in the interest of the Government of India, is it politically advisable that the administration of such a vast tract of land should be left in the hands of provincial Government, especially in a province where there is no element of political stability?" *See* Vijay Hansaria, *Sixth Schedule to the Constitution* (4th Edition, Universal Law Publishing, 2016) 9.

fragmentation,[16] others emphasized the need to recognize existing tribal institutions[17] and prevent external interference. Gopinath Bordoloi defended the proposed arrangement as a means of giving statutory recognition to indigenous self-governing practices while integrating tribal areas into the constitutional framework. The Sixth Schedule therefore represented a transition form colonial administrative "exclusion" or "isolation", towards constitutionally recognised "autonomy" through Autonomous District and Regional Councils.[18]

Institutional Structure of Autonomous Councils

The Autonomous District and Regional Councils finds its foundation under paragraph 1 and 2 of the Sixth Schedule. Paragraph 1 provides for the recognition of specified tribal areas in Assam, Meghalaya, Tripura, and Mizoram as autonomous districts. Where there are different Scheduled Tribes inhabiting in distinct areas, the Schedule provides for constituting autonomous regions within the district.[19] Further, it gives the authority to the Governor[20] to alter district boundaries, create new districts or modify existing ones, subject to prescribed constitutional conditions.

For each autonomous districts, the schedule provides for the establishment of Autonomous District Council. District Councils are comprised of not more than thirty members, of whom not more than four may be nominated by the Governor, while the rest are elected through adult suffrage. And for each autonomous regions, Regional Councils. Both the Councils enjoy corporate legal personality, perpetual succession and the capacity to sue and be sued.[21] Their respective administrative jurisdictions are constitutionally recognised, with Regional Councils exercising authority over their designated territories. This institutional arrangement seeks to combine representative democracy with decentralized tribal administration.

Legislative, Judicial, Executive, and Financial Powers

The Sixth Schedule confers several powers upon the Autonomous District and Regional Councils. These legislative, judicial, executive and financial powers facilitate tribal self-governance.

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[16] Such as Shri Brajeswar Prasad, Shri Kuladhar Chaliha, and Shri Rohini Kumar Chaudhuri. Kuladhar Chaliha had also gone to the extent of saying that "this schedule has been conceived in a way the background of which is to keep them away from us (the non-tribals) and to create a Tribalstan." *See* Constituent Assembly Debates On 6 September, 1949 Part I, <https://indiankanoon.org/doc/54719/> accessed 24 January 2020.

[17] Prominent one on the list being Dr. Ambedkar himself.

[18] Established under the Sixth Schedule.

[19] This is relevant as it accommodates internal tribal diversity.

[20] Although the framework institutionalizes local autonomy, the Governor's powers over territorial reorganization and nomination indicate that autonomous self-governance operates within constitutionally supervised arrangements.

[21] Constitution of India 1950, Sixth Sch para 2(3).

District and Regional Councils are empowered to make laws[22] on specific matters, including land (other than reserved forests), non-reserved forests, shifting cultivation, village administration, inheritance, marriage, divorce and social customs. These laws require the Governor's assent before having that legal effect. Law making power recognizes customary practices and enable local communities to regulate matters effecting their social and economic life.

The Councils are also empowered to constitute village councils[23] and courts for adjudicating specified disputes and cases involving parties belonging to Scheduled Tribes within their jurisdiction. They may also establish appellate arrangements.[24] The jurisdiction of High Court and Supreme Court however, remains constitutionally recognised.[25]

Specified administrative responsibilities have also been given to the councils.[26] These includes the management of primary schools, dispensaries, markets, roads, fisheries and other local facilities. They may also be entrusted with additional functions by the Governor, subject to constitutional conditions.

There are also provisions to establish financial foundation for autonomous administration. Such provisions provides for District and Regional Funds,[27] taxation,[28] assessment and collection of land revenue,[29] and a share in mineral royalties.[30] The Council accounts however, are subject to audit by the Comptroller and Auditor-General.

III. CONSTITUTIONAL LIMITATIONS AND IMPLEMENTATION CONCERNS: A CONUNDRUM

Although the above discussed powers provide a constitutional foundation for decentralized tribal governance, their exercise remains subject to limitations such as the oversight by the Governor, statutory conditions and financial constraints.

Several functions of the Councils depends on the approval or assent of the Governor. As discussed, laws enacted require the Governor's assent.[31] Further, paragraph 16 empowers the Governor to

[22] Constitution of India 1950, Sixth Sch para 3.
[23] Constitution of India 1950, Sixth Sch para 2(1).
[24] Constitution of India 1950, Sixth Sch para 2(2).
[25] *Ibid.*
[26] Constitution of India 1950, Sixth Sch para 6.
[27] Constitution of India 1950, Sixth Sch para 7.
[28] Constitution of India 1950, Sixth Sch para 8.
[29] *Ibid.*
[30] Constitution of India 1950, Sixth Sch para 9.
[31] Constitution of India 1950, Sixth Sch para 3(3).

assume certain council functions in specified circumstances.[32] Such provisions raise questions about the extent of institutional autonomy that the councils have. It was observed by the National Commission to Review the Working of the Constitution[33] (NCRWC) that "the delay in the passing and assent given to the Bills passed by the Governor has been a great hurdle on the law-making function of the ADCs." Therefore, the Committee suggested that "passing of the proposed legislation should be made mandatory if the Governor gives no reply within 6 months."[34]

A major difficulty arises from the overlapping jurisdiction of autonomous councils and State governments. The relationship between State legislatures and autonomous councils is not always clearly demarcated in relation to law making and administrative powers.[35] The Xaxa Committee, 2014[36] highlighted "that autonomy of the ADCs is also further curtailed due to the very structure of the Sixth Schedule." Particularly if we consider the case of Meghalaya where Para 12B that has been the focus constant debate in relation to the effectiveness of the schedule in the state and is unique to Meghalaya provides that "if any law or regulation is made under any of the subjects under Para 3, 8 or 10 is repugnant to the law made by the State Legislature, then the law or regulation made by the District Council to the extent of such repugnancy would be void and the State law shall prevail." Another matter of concern has been financial dependence. Despite having taxation and revenue-raising powers, many councils remain substantially dependent on grants and financial assistance from State and Central Governments. Inadequate and irregular funding restricts their capacity to undertake developmental activities and discharge assigned responsibilities. The NCRWC also observed that "one of the reason of ineffective functioning of the ADCs is due to the lack of financial autonomy and their dependence on the State Government." It also suggested that "devolution of

[32] Also on the recommendation of a Commission appointed under Para 14, by public notification order the dissolution of a District or Regional Council.

[33] In its general suggestions, it stated that "…the Governor of a State where ADCs are functional cannot delay the passage of proposed legislation for more than six months; currently, these can be held up for years." *See* National Commission to Review the Working of the Constitution, Advisory Panel on Decentralisation and Devolution, *Consultation Paper on Empowering and Strengthening of Panchayati Raj Institutions/Autonomous District Councils/Traditional Tribal Governing Institutions in North East India* (21 December 2001) para 2.2.98(x) < https://www.legalaffairs.gov.in/static/uploads/2025/11/aa82e719e683a76e8f1c09e3c55e8fbb.pdf> accessed 1 April 2022.

[34] *Ibid* para 2.2.45.

[35] "It has been a common finding of several Commissions and Committees which have examined the functioning of Autonomous Councils that there is considerable disaffection between the State Government and the Councils." Second Administrative Reforms Commission, *State and District Administration*, Fifteenth Report (Government of India, April 2009) 248 < https://delhihighcourt.nic.in/files/reports/second_administrative_reforms_commission_fifteenth_report_state_and_district_administration.pdf> accessed 16 January 2026.

[36] Virginius Xaxa (Chair), *Report of the High Level Committee on Socio-Economic, Health and Educational Status of Tribal Communities of India* (Ministry of Tribal Affairs, Government of India, May 2014).

powers be effectively carried out in the financial segment through an independent state finance commission"[37] The Xaxa Committee[38] was of the opinion that:

> *"One of the serious limitations of the Sixth Schedule has been the fact that the powers given to the Councils to make legislation and implement development programmes have not been matched with the financial autonomy to follow this through. As a result, ADCs often have to depend on funds from the Central and State Governments (routed through the State Government) which are often antagonistic toward the work of the ADC. Apart from government sources, the Autonomous District Councils receive a small amount from the collection of taxes and land revenue."*[39]

Despite the limitations and the need for reform, it is to be understood that autonomy cannot be equated with unrestricted institutional discretion. Therefore, the functioning of Autonomous District and Regional Councils must be accompanied by transparency, financial discipline and accountability to the communities they represent. The legitimacy of these institutions can be undermined if its administrative capacity is weak, public disclosure is inadequate, and irregular and expenditure and citizen participation is limited. At the same time, excessive supervision of the Governor and the State-level supervision may also defeat the very purpose of constitutional autonomy.

Also, equally important is the protection of individual rights within autonomous areas. Constitutional guarantees cannot be compromised at any cost and therefore, is to be taken into consideration in community-based decisions. Autonomy is intended to protect communities from external domination; it should not become a justification for exclusion or discrimination against women, vulnerable groups or internal minorities. Finally, shortages of technical personnel, inadequate institutional infrastructure, and inconsistencies in the implementation of customary laws further constrain effective governance. These limitations demonstrate that constitutional recognition of autonomy does not automatically translate into effective self-governance. The success of the Sixth Schedule ultimately depends on meaningful devolution of authority, financial independence, institutional accountability and constructive coordination between autonomous councils and State governments. Thus, the central challenge lies in bridging the gap between constitutionally guaranteed autonomy and its practical implementation.

[37] National Commission to Review the Working of the Constitution (n 33) para 2.2.55.
[38] Xaxa Committee Report (n 36).
[39] *Ibid,* 88.

IV. ARTICLE 371 AND DIFFERENTIATED CONSTITUTIONAL PROTECTIONS

Unlike the Sixth Schedule, Article 371 is not a uniform framework of tribal protection, Its provisions address different constitutional concerns, ranging from customary autonomy and political representation to regional development and administrative integration.[40]

Evolution and Objectives of the Article 371 Framework

The special provisions under Article 371-371J was included to accommodate diverse historical, political and socio-cultural circumstances. While the original Article 371 underwent changes following the reorganization of States in 1956, subsequent constitutional amendments[41] introduced region-specific safeguards. These arrangements emerged from demands for political accommodation, protection of customary laws and cultural identity, regional representation, and equitable socio-economic development. For instance, Articles 371A[42] and 371G[43] protect specified customary practices, while Articles 371B and 371C provide special representative mechanisms for tribal areas in Assam and Manipur respectively. The framework therefore does not establish a uniform model of autonomy. Collectively, these provisions demonstrate an attempt to reconcile constitutional unity with regional identity, political accommodation and equitable development.

Cultural and Customary Autonomy

Such autonomy is most explicitly expressed through Article 371A and 371G.[44] Parliamentary legislation concerning these matters does not automatically apply unless the respective State Legislative Assembly resolves to adopt it. This represents a form of protective constitutional asymmetry, preserving customary autonomy primarily at the State level. In contrast, the Sixth Schedule establishes Autonomous District and Regional Councils with affirmative legislative and administrative powers over specified customary and local matters. The comparison therefore reveals two distinct constitutional approaches: protection of customary autonomy from external legislation

[40] As noted in *Government of NCT of Delhi v Union of India* Civil Appeal No 2357 of 2017, "The marginal notes to various articles composed under the rubric of Article 371 provide an overview of a number of States for which arrangements in the nature of asymmetric federalism are made in the spirit of accommodating the differences and the specific requirements of regions across the nation."

[41] The States Reorganisation Act 1956 (Act No 37 of 1956) and The Constitution (Seventh Amendment) Act 1956 (Act No 8 of 1956).

[42] Special provision with regard to the state of Nagaland.

[43] Special provision with regard to the state of Mizoram.

[44] These provisions protect specified Naga and Mizo religious and social practices, customary law and procedure, and the administration of civil and criminal justice involving customary law.

and institutionalized local self-government through autonomous representative bodies. This difference provides an important foundation for comparing the two constitutional models.

State and Region-Specific Administrative and Institutional Arrangements under Articles 371A-371J

As discussed earlier, Articles 371A-371J do not create a uniform system of autonomy; rather they establish state-and region-specific institutional arrangements reflecting India's model of asymmetrical federalism.[45] Article 371A and 371G provide Nagaland and Mizoram with significant protection for customary institutions and specified matters concerning land, resources and customary justice. Articles 371B and 371C, by contrast, require institutional mechanisms within the Assam and Manipur Legislative Assemblies[46] to ensure attention to the interests of particular tribal and hill areas. Article 371D addresses regional disparities [47] through arrangements concerning local opportunities in public employment and education, while Article 371F incorporates special constitutional arrangements relating to Sikkim's integration and representation. Articles 371H and 371I contain provisions reflecting the distinctive administrative circumstances of Arunachal Pradesh and Goa respectively, whereas 371J establishes special measures [48] for the development and advancement of the Hyderabad-Karnataka region. The Sixth Schedule in comparison, adopts a more institutionally uniform approach by establishing Autonomous District and Regional Councils with specified legislative, executive and judicial powers.

V. THE LIMITS OF ARTICLE 371 AS A MODEL OF AUTONOMY: A CONUNDRUM

In light of the discussion above, it is now understood that the scope of the provisions under Articles 371-371J varies considerably. Consequently, the degree of autonomy depends on the particular

[45] Louise Tillin, 'United in Diversity? Asymmetry in Indian Federalism' (2007) 37 (1) *Publius: The Journal of Federalism* 45, 45–67. The article provides a broader academic framework for understanding differentiated constitutional arrangements in Indian federalism.

[46] "the President may, by order made with respect to the State of Assam/Manipur, provide for the constitution and functions of a committee of the Legislative Assembly of the State…"

[47] "with respect to the State of Andhra Pradesh or the State of Telangana."

[48] Through the "establishment of a separate development board…; equitable allocation of funds for developmental expenditure…; equitable opportunities and facilities for the people belonging to the said region, in matters of public employment, education and vocational training…; reservation of a proportion of seats educational and vocational training institutions in the Hyderabad-Karnataka region for students who belong to that region by birth or by domicile…; identification of posts or classes of posts under the State Government and in any body or organisation under the control of the State Government in the Hyderabad-Karnataka region and reservation of a proportion of such posts for persons who belong to that region by birth or by domicile and for appointment thereto by direct recruitment or by promotion or in any other manner as may be specified in the order."

State-Specific provision and its political implementation. Their effectiveness therefore, depends on the State legislatures, Governors and executive authorities. Although these provisions do accommodate diversity through constitutionally guaranteed asymmetrical federalism, its distinct and uneven structure limit its capacity to provide institutional self-governance, which would serve as a consistent model. Scholars of asymmetric federalism have consequently questioned whether constitutional asymmetry necessarily translates into meaningful political autonomy or effective protection for territorially concentrated communities.[49] Its limitations (without saying that the Sixth Schedule framework serves the interests of communities better) can be understood better in comparison to the Sixth Schedule.

Nagaland and Mizoram enjoy comparatively stronger cultural and customary safeguards under Articles 371A and 371G. Parliamentary laws relating to specified matters do not automatically apply unless the respective State Legislative Assembly adopts them. However, these provisions primarily protect the State's legislative sphere rather than creating separate autonomous institutions at the sub-state level. The effectiveness of customary autonomy therefore remains dependent upon the State legislature and the broader constitutional and political framework.

Articles 371B and 371C which is applicable to Assam and Manipur respectively, reveal a different limitation. They provide mechanisms for representation through committees of the State Legislative Assembly rather than transferring substantial legislative or executive powers to autonomous territorial institutions. Their capacity to protect regional interests consequently depends considerably upon the functioning of the State legislature and executive.

Similarly, Articles 371 and 371J, concerning regional development in specified parts of Maharashtra, Gujarat and Karnataka, focus primarily on equitable development, public employment and educational opportunities. These provisions address intra-State disparities but do not establish a distinct system of political or legislative self-government. They therefore represent developmental asymmetry rather than territorial autonomy.[50]

Finally, provisions such as Articles 371F and 371H contain special institutional arrangements relating to Sikkim and Arunachal Pradesh, including enhanced responsibilities of the Governor in specified contexts. These kind of arrangements do accommodate particular historical or

[49] Tillin (n 47) 45; *See also* Louise Tillin, 'Asymmetric Federalism' in Sujit Choudhry, Madhav Khosla and Pratap Bhanu Mehta (eds), *The Oxford Handbook of the Indian Constitution* (Oxford University Press 2016) 540–559.

[50] Kham Khan Suan Hausing and Balveer Arora, 'Dynamics of Constitutional Asymmetry in Indian Federalism: The Case of the National Capital Territory of Delhi, Nagaland, and Manipur' (2025) 34 South Asia Multidisciplinary Academic Journal 1–24 .

administrative circumstances. However, rather than directly devolving power to locally autonomous representative institutions, they can also concentrate authority in constitutionally designated offices. Constitutional text alone do not guarantee effectiveness. It consequently also depends on political implementation and willingness of the State and Union institutions to give substantive effect to these differentiated protections.

VI. SIXTH SCHEDULE AND ARTICLES 371-371J: A COMPARATIVE ANALYSIS

Both the sixth schedule and the provisions contained in Articles 371-371J represent distinct assertion of asymmetrical federalism under the constitution of India. They recognize that uniformity in constitutional protection may be inadequate to address the different historical, cultural, political and development circumstances of particular communities and regions. Their constitutional design, institutional structure and understanding of autonomy however, differs. Their comparison reveals not only different degrees of autonomy, but also different constitutional technique of accommodating diversity.

The most significant distinction lies in the institutional form through which autonomy is exercised. The Sixth Schedule establishes Autonomous District and Regional Councils as constitutionally recognised institutions of local self-government, with law-making, judicial, executive and financial powers. Article 371-371J however, does not do so. They operate through different constitutional mechanisms within the existing state administrative and legislative framework, as discussed earlier. Both the frameworks recognize the importance of protecting tribal identity, customary institutions and community interests, but adopt different approaches. Sixth Schedule protects customary practices partly through the legislative and administrative authority of autonomous councils. It allows local institutions to regulate aspects of community life in accordance with customary practices, subject to constitutional limitations and oversight of the Governor. On the other hand Article 371-371J adopt a protective approach by restricting the application of certain Parliamentary laws to Nagaland and Mizoram.

The elected council under the Sixth Schedule provides a formal structure for democratic participation at the sub-state level. Their autonomy however, is qualified by the powers exercised by Governor and State Government. This creates a constitutional tension in the state.[51] The

[51] Several Commission and Committee Reports raises this concern. *See* Second Administrative Reforms Commission (n 35); Xaxa Committee Report (n 36); National Commission for Scheduled Tribes, Special Report Good Governance for

effectiveness of autonomy therefore depends not only on the powers formally conferred upon councils but also on the manner in which supervisory authority is exercised. The effective implementation of Articles 371-371J also experience accountability challenge, but not the same as that under the sixth schedule. Legislative committees established under Articles 371B and 371C operate within State legislatures and do not possess the independent law-making and financial powers of autonomous councils. Similarly, special power of the Governor under Articles 371F and 371H introduce constitutionally recognised administrative discretion. Even though these arrangements protect regional interests, only transparent exercise of authority, institutional consultation and accountability to affected communities will result to its effective implementation.

The two framework ultimately reflect the constitutional principle that equality does not always require identical treatment.[52] Different historical experiences, political aspirations and socio-cultural conditions may justify differentiated constitutional arrangements. The Sixth Schedule responds principally to the need for territorial self-governance in specified tribal areas, while Article 371 accommodates a wider range of concerns, including customary identity, political representation, administrative arrangements and regional development. For instance, Articles 371 and 371J provide mechanisms for addressing regional developmental disparities in Maharashtra and Gujarat, and the Hyderabad-Karnataka region respectively.

However, Autonomous councils may possess substantial constitutional powers but remain constrained by inadequate finances, administrative capacity and overlapping jurisdiction. Conversely, certain Article 371 provisions provide important safeguards without creating equivalent institutions of local self-government.

Neither of the framework can be regarded as universally superior. The Sixth Schedule offers a more direct institutional model of territorial autonomy, while Article 371 provides greater flexibility through provision-specific constitutional accommodation. Their effectiveness, therefore should ultimately be measured or assessed not merely by their formal constitutional status but by whether they secure meaningful participation, protect community identity, promote equitable development and preserve accountability within India's federal structure.

Tribal Development and Administration, May (2012); and National Commission to Review the Working of the Constitution (n 33)

[52] Although in different contexts, but the Supreme Court has, time and again observed and given important decisions on substantive equality. For example *State of Kerala v N M Thomas* (1976) 2 SCC 310; *Indra Sawhney v Union of India* 1992 Supp (3) SCC 217; *M Nagaraj v Union of India* (2006) 8 SCC 212; *Janhit Abhiyan v Union of India* (2023) 5 SCC 1.

VII. TOWARDS A FRAMEWORK FOR MEANINGFUL CONSTITUTIONAL AUTONOMY: POSSIBLE REFORMS

Reforming asymmetrical federalism in India requires moving beyond a uniform approach to constitutional autonomy. However, without compromising their distinctive character, an effective framework of constitutional autonomy requires reforms that would strengthen institutions. Since the Sixth Schedule and Articles 371-371J address different community and regional concerns through distinct institutional mechanisms, reforms must be tailored to their respective constitutional objectives.

In doing so, the first possible reform with respect to the Sixth Schedule is to clearly delineate the legislative, executive and financial responsibilities of autonomous councils and the state government in order to avoid any form of overlapping. Strengthening the fiscal capacity of the institutions through predictable financial transfers, timely release of development funds will go a long way. For the same, there is also a need for regular independent audits, transparent budgeting and greater participation of local communities would further strengthen democratic accountability. The recommendations of the Second Administrative Reforms Commission[53] concerning the financial and electoral accountability of autonomous councils provide a useful basis for such institutional strengthening. Also, transparent procedures for resolving jurisdictional disputes and reasonable time limits for decisions concerning council legislation would reduce administrative uncertainty.

With regard to Article 371-371J, focus should be on ensuring the effective implementation of State-Specific constitutional safeguards. Since the mechanisms are not uniform under Article 371, it is state and region-specific, reforms required will also be different. Under Articles 371A and 371G, greater institutional consultation with customary and community-based institutions is necessary when legislative or administrative decisions affect protected customary practices, land and community interests. For Articles 371B and 371C, the functioning of the special legislative committees should be strengthened through regular deliberations, meaningful participation of representatives from the concerned areas and systematic consideration of their recommendations. Transparent allocation of funds, periodic assessment of regional disparities and effective monitoring of educational and employment opportunities is similarly required, in the developmental provisions under Articles 371, 371D and 371J. The responsibility given to the Governors under Articles 371F and 371H must be exercised cautiously, with transparency and democratic accountability.

[53] Second Administrative Reforms Commission (n 35).

Common to both the framework is institutional reforms that strengthen consultation with affected communities, including women, smaller tribal groups and other marginalised sections, so that autonomy does not become concentrated in dominant local interests.

Further, there must be periodic independent reviews to assess whether constitutional arrangements are achieving their objectives in practice. Such reviews should examine the exercise of legislative powers, financial devolution, administrative performance, protection of customary institutions and compliance with fundamental rights.

VIII. CONCLUSION

India's Constitutional commitment to accommodate regional diversity through asymmetrical federalism is reflected or fulfilled through Sixth Schedule and Articles 371-371J. It has been observed that both these framework seeks to protect distinct identities and address regional aspirations, they adopt different approaches. While the former provides for institutionalised territorial self-governance the later applies State-specific constitutional safeguards to achieve its objectives. These framework experience their own set of limitations and challenges. It is noteworthy though, that constitutional autonomy must be measured not merely by the powers conferred by the Constitution, but by the ability of communities to exercise those powers effectively, inclusively and accountably. The legitimacy of asymmetrical federalism depends upon reconciling collective self-governance with democratic accountability and constitutional rights.