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## REORGANIZATION OF NORTH EAST INDIA

V. VENKATA RAO\*

(1) **Political Geography**: North East India comprises the Darjeeling district in West Bengal, Assam, Meghalaya,<sup>1</sup> Nagaland, Manipur, Tripura and Arunachal Pradesh. It has natural boundaries on three sides. It has common frontier with four political communities, China in the North, Bhutan in the west, Bangladesh in the East and Burma in the in South. No other part of India occupies such a strategic position as the North East.

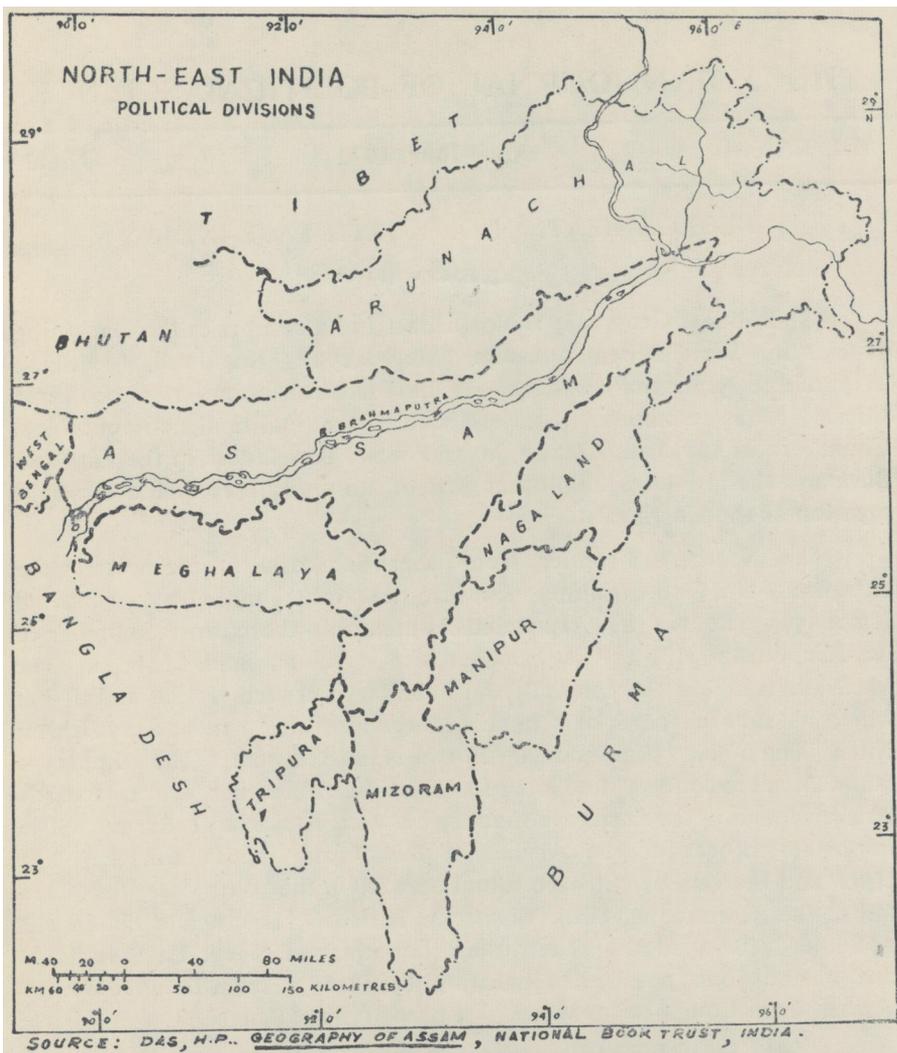
The Northern Frontier from river Samkosh on the west to the entrance of the Great Brahmaputra into Assam is guarded by Arunachal Himalayas. Below the Arunachal Himalayas, there are a number of sub-Himalayan Hills, Aka, Daffa, Miri, Abhor, and Mishimi. The MacMahan Line is the International boundary between India and Tibet which is now a part of China. In the North East there are Mishimi Hills. The highest peak Namcha Burwa is located here. The Himalayas make an acute bend at the North East and extend further south towards Arakan forming the Eastern boundary between Assam and Burma. The important ranges of the Arunachal Himalayas, the Patkai, the Naga Hills, and the Lushai Hills are found here. On the south, are the Chin Hills, the Chittagong Hill Tracts, the Hills of Tripura and the district of Sylhet in Bangladesh. The western boundary of North East India is not natural but political, separating Meghalaya from Bangladesh and Assam from Cooch Behar which is a part of West Bengal.<sup>2</sup>

North East India has no direct access to the sea but she is connected with the Bay of Bengal at a distance of 476 miles by the mighty Brahmaputra. During the Indo-Pakistan conflict of 1965, this connection was cut off. Efforts are now being made to revive this trade route between Calcutta and Gauhati in Assam. Before partition the rail connection between Gauhati and Calcutta was through East Bengal. After Partition

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1. Political Meghalaya and not geographical. Geographical Meghalaya includes the State of Meghalaya and the district of Mikir Hills and north-western part of the North Cachar Hills district of Assam. See Singh; *India: A Regional Geography*, p. 676.

2. Singh *Ibid*, p. 480-82.



The above map was drawn up by Prof. D.K. Singh of the Geography Department, Guhati University. The writer expresses his gratefulness to Prof. Singh for drawing the map showing the present position of North East India.

this connection was cut off. There was no direct rail link between India and North East India immediately after Partition. This obvious difficulty was got over by the construction of the famous rail-link from Takiragram to Silguri through the foot hills of the Himalayas in 1950. At present the rail connection between North East India and Bengal has been greatly improved by the construction of a bridge over Ganga at Barauni and another at Farakka. Now there is direct train service between Gauhati and New Delhi and Gauhati and Howrah. There is also direct air service between North East and Dum Dum.

(a) *Hill Areas*: No where in India are there such a large number of Hill tribes as in the North East. No where in India so many languages are spoken as in the North East India. And no where in India is the contrast between the life and outlook of the hill men and the totally distinct civilization of the plains more manifest. The races inhabiting these areas must be the most picturesque in the whole world.

The Hill Area which surround Assam on the North and North East is known as Arunachal Pradesh (NEFA—North East Frontier Agency). It was a part of Assam constitutionally. Because of its backwardness and geographical location, its administration was vested in the Ministry of Home Affairs. The Governor of Assam as the Agent to the President of the Indian Union, administered it. It is divided into five districts, Kameng, Subansiri, Siang, Lohit, and Tirap, and was known as NEFA. In 1972, it was formally separated from Assam and converted into a Union Territory and designated as Arunachal Pradesh.

Nagaland has three districts, Kohima, Mokokchung and Tuensang. The Hill areas of Manipur are the sub-divisions of Mao, Ukhrul, Tengou-pal, Churachandapur, Tamenglong and Jiribam. They cover eighty percent of the area of Manipur State. In Tripura sixty percent of the area is covered by Hills. Meghalaya has two Hill districts, the Garo Hills and the Khasi and Jaintia Hills. The Union Territory of Mizoram is a hill area. In Assam there are two Hill districts, the United Mikir and North Cachar Hills.

These Hill areas are located along the international boundary. Kameng, Subansiri and Siang districts of Arunachal Pradesh have a common boundary with Tibet, now a part of China. Lohit has a common boundary with Tibet and Burma. Tirap and Manipur have a common boundary with Burma. The Mizoram has a common boundary with Bangladesh. The Garo Hills and the United Khasi and Jaintia Hills have a common boundary with Bangladesh. Nagaland has a common boundary with Burma. The Mikir Hills and the North Cachar Hills alone do not have an international boundary.

The information<sup>3</sup> about the area, population, number of Scheduled Tribes and the number of languages spoken in the Hill areas is contained in the following Table.

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3. *Census Report India 1961*. Vol. 3, Part V. A. and B. See also *Census of India, 1971*. Series 3. Assam. Paper I 1971. Provisional Population Tables. See Roy Burman: *Demographic and Socio-Economic Profiles of North East India*, p. 72 to 89. (in mimeo) I must express my gratefulness to Professor D. K. Singh of the Geography Department, Gauhati University for checking the facts in this portion of the article.

Name of the Area	Area Miles Sq	Population 1961 Census	No. of Tribes	No. of Languages spoken
Meghalaya	8,706	7,69,380	20	18
Mizoram	8,143	3,77,758	11	13
Arunachal Pradesh	31,438	3,21,686	15	7
Nagaland	6,366	3,69,200	13	10
Manipur	8,628	7,80,037	28	54
Tripura	4,116	1,1,42,005	19	16
Mikir Hills North Cachar Hills	} 5,883	2,79,726	8	19

The Hill areas are covered with dense forests because of heavy rainfall. The ridges rise one after another, the valleys are deep, narrow and steep sided and the streams are deepening and cutting the valleys. As a consequence communications between one hill and another is practically impossible. The rugged physiographic features of the region render the tribes to live in splendid isolation. The isolated conditions of the different tribes induces them to suspect the people of the plains and demand independent or semi-independent political system. The Mizo Hills and the Naga Hills demanded independence because they enjoyed more or less semi-independent status before Independence. There was very little interference in their daily life. If the Khasi and the Garos did not demand independence this must be attributed to their close contact with the plains.

The geopolitical position, the racial and linguistic diversity and the individualistic character of the people were some of the factors responsible for the constant reorganization of the area since 1874. During the period 1874 to 1905, there were various proposals for the reorganization of Assam. In 1898, South Lushai Hills which was a part of Bengal was transferred to Assam.<sup>4</sup> In 1905, the whole of Assam was added to East Bengal. In 1912, Partition was annulled and Assam was restored to its former position, as a Chief Commissioner's Province. In 1947, by a plebiscite, Sylhet went over to East Pakistan. In 1954, a very small part of Assam was claimed by Bhutan as it was inhabited predominantly by Bhutanese and contiguous to Bhutan. Parliament with the consent of the Assam Legislative Assembly ceded that small tract of land to Bhutan.<sup>5</sup> In 1957, Tuensang Areas Frontier Division of NEFA was separated from Assam and constituted into an administrative unit

4. *Papers Relating to Reconstitution of Bengal and Assam (1912)*. p. 8.

5. Assam Legislative Assembly Proceedings, 1954 p. 68.

and added to the Naga Hills district. In 1960, the Naga Hills District was separated from Assam and constituted into a separate State, Nagaland. Ten years later, the Garo Hills and the Khasi and Jaintia Hills were separated from Assam and constituted into an Autonomous State—Meghalaya.<sup>6</sup>

In 1971, the Reorganization of North East India Bill was framed and passed into law in 1972. This Act converted the Autonomous State of Meghalaya into a full-fledged State, the Union Territories of Manipur and Tripura into States, and the Mizo Hills district and NEFA<sup>7</sup> into Union Territories, Mizoram and Arunachal Pradesh. Thus, instead of two States, Assam and Nagaland and two Union Territories, Manipur and Tripura, there are at present five States, Assam, Nagaland, Meghalaya, Manipur and Tripura and two Union Territories, Mizoram and Arunachal Pradesh. As a consequence of these changes, the area of Assam has been reduced from 47,091 square miles in 1947 to 30,342 square miles in 1972, and the population by more than one million. The area that is lost to Assam is rich in forest wealth and mineral resources.

## II. Institutional Arrangement

(a) *The Governor*: The North Eastern Council Act, 1970, contemplated a common Governor for Assam, Meghalaya and NEFA.<sup>8</sup> *The Proposals for the Reorganization of the Units in the North Eastern Region* (hereafter called 'The Proposals'), provided one Governor for all the States in the Region, Assam, Meghalaya, Manipur and Tripura.<sup>9</sup> The same Governor would also be the administrator for the two Union Territories of Mizoram and Arunachal Pradesh.<sup>10</sup> But *the North Eastern Areas Reorganization Bill* is silent on this point. So also *the Proposals for the Establishment of the North Eastern Council* (hereafter called Revised Proposals). It is, however, implied that there shall be a common Governor for the whole of North East India, comprising Assam, Meghalaya, Manipur and Tripura and the Union Territories of Arunachal Pradesh and Mizoram. Article 153 of the Constitution no doubt says that every State shall have a Governor. But the Proviso to the Article makes it possible to appoint the same person to be the Governor of two or more States.<sup>11</sup>

6. The Assam Reorganization (Meghalaya) Act, 1964.

7. NEFA: The Agency was formed in 1954 out of the former Balipara frontier tract, Abor and Mishimi hills and Tirap frontier Tract of Assam State, Singh, *India: A Regional Geography*. p. 481.

8. Section 3.

9. Para 9

10. *Ibid.*

11. Art 153. No Governor has jurisdiction over more than one State except Shri B. K. Nehru who has been sworn as the Governor of Meghalaya, Manipur and Tripura on 20 Jan. 1972. But he is not the administrator of the Union Territories of Mizoram and Arunachal Pradesh. The Union Territories are under the control of Chief Commissioners. Sri B. K. Nehru is the only Governor in the country who is the head of five States.

Is it desirable that one and the same person should be the Governor for all the States and Union Territories in the region? In 1964, Sri Mahendra Mohan Choudhury, Speaker of the the Assam Legislative Assembly, informed the present writer that the same person should not be the Governor for all States and Union Territories in the North East Region.

Let us now discuss this question of common governorship. There is no constitutional difficulty in having a common governor for all the States. As a matter of fact, common governorship is the first step in having an integrated administration for the whole region. The common governor would bind the diverse administrative units together so that they may pursue common aims. Further, since the Governor is the constitutional head and therefore must act, at all times, on the advice of his council of Ministers, there ought not to be any difficulty in having a common governor.

It has been contended that if one and the same person happens to be the Governor for two or more States, he may prove ineffective in case of a conflict between them. For instance, there is border dispute between Nagaland and Assam. The Nagas and Assamese are complaining that their Governor is not effective because he is not able to fight for them.<sup>12</sup> This is not a valid argument. Supposing there are separate Governors for Nagaland and Assam, will both of them be able to fight effectively? There is a border dispute between Mysore and Maharashtra. The dispute was referred to a third party for report. Should we not say that the Governors of Maharashtra and Mysore are ineffective.? Interstate disputes should not be referred to the Governors but to an impartial Judge.

The critics have also forgotten the cost of Governorship. Will it be possible for small States like Meghalaya, Manipur and Nagaland to maintain a Governor.? Therefore, it is desirable to have a common governor for all the states in North East India.

(b) *Representation in the Legislature*: The Act for the Reorganization of North East India provides for the representation of the units in Parliament and in the Legislative Assemblies. Excepting Assam which will have seven representatives in the Rajya Sabha, all other units will have one seat each in it.<sup>13</sup> The sitting members of the Rajya Sabha from the Union Territories of Manipur and Tripura will be deemed to have been elected duly. As regards the seats allotted to Mizoram and Arunachal Pradesh they will be filled up by nomination by the President. On the question of representation of Meghalaya, the Act is silent. Perhaps the member will be elected by the Meghalaya Legislative Assembly. Here is a delicate

12. Assam Legislative Assembly Debates, 28 Oct. 1971 (ALAD)

13. The North East Areas (Reorganization) Act, Cl. 10.

point. One of the seats allotted to Assam, is at present occupied by a Garo, Emansingh Sangma. It has been suggested that he should be removed since he does not belong to Assam and in his place an Assamese should be elected.<sup>14</sup> Is this a proper proposal? Constitutional propriety requires that he should be allowed to continue to complete his term of office.

Let us now consider the representation of these areas in Lok Sabha. Assam's representation in Lok Sabha will be reduced from 16 to 14 and two seats, one each, were at first allotted to Meghalaya and Mizoram. Meghalaya did not agree to this. She claimed two seats one for the Garo Hills and another for the Khasi and Jaintia Hills. This Government of India conceded this demand. Thus, Assam, has 14 seats in Lok Sabha, Manipur, Tripura and Meghalaya two each and Mizoram and Arunachal Pradesh one each.<sup>15</sup> Thus the Reorganization Act benefitted Meghalaya and Mizoram. Arunachal Pradesh has already a nominated member in Lok Sabha and he will be considered as having been elected to Lok Sabha.

Let us now consider the composition of the Legislative Assemblies of the units. The Assam Legislative Assembly had 126 members before the formation of Meghalaya State. Since the formation of Meghalaya State and Mizoram Union Territory, the Assam Legislative Assembly has 114 members.<sup>16</sup>

The Manipur Legislative Assembly has 32 seats including the nominated members. The reconstituted Legislative Assembly will have sixty seats. Of them one is reserved for the Scheduled Castes and 19 for the Scheduled Tribes.<sup>17</sup>

The Tripura Legislative Assembly will have sixty seats. Of them six seats have been reserved for the Scheduled Castes and 19 for the Scheduled Tribes.<sup>18</sup>

The Meghalaya Legislative Assembly also will have sixty seats. Originally, it had forty one seats, three of them were nominated to secure the representation of the minority communities, Bengalis, Nepalis, and Assamese.<sup>19</sup> Of the sixty seats in the Assembly, curiously enough fifty seats are reserved for the tribals.<sup>20</sup> The Proposals stated clearly that as Meghalaya and Mizo Hills are predominantly tribal areas, there is no need for any reservation of seats in respect of the Scheduled tribes.<sup>21</sup>

14. *ALAD*, 28 Oct. 1971

15. The North East Area (Reorganization) Act, 1972 Cl. 14.

16. *Ibid*, Cl. 20.

17. *Ibid*, Cl. 20(2)

18. *Ibid*, Cl. 20(3)

19. *Ibid*, Cl. 20(4)

20. *Ibid*.

21. Para 17.

There is no reservation of seats in the Nagaland Legislative Assembly. Yet, eighty per cent of the seats are reserved for the tribals in the Meghalaya Legislative Assembly. The idea behind the reservation of seats is to secure representation for the recognised minorities because they will not be in a position to contest general seats. It is rather strange that the principle intended for the protection of minorities is being utilised for the protection of a majority. This is an anachronism which ought not to be allowed.

(c) *Constituencies*: The Act<sup>22</sup> lays down that all constituencies shall be single member constituencies. While forming constituencies regard shall be paid to such factors as geographical compactness, physical features, existing boundaries of the administrative units, facilities for communication and public convenience. Each Assembly constituency must be within a parliamentary constituency. The reserved seats for the Scheduled Castes and the Scheduled Tribes must be allotted to areas where they are larger in number. In order to prevent gerrymandering in the formation of constituencies, this business has been entrusted to the Election Commission which shall be assisted by Associate Members who shall not have the right to vote. The Associate members shall be the Members of Parliament from the Area concerned and six members of the Legislative Assembly concerned.<sup>22a</sup>

(d) *The Hill Area Committee*: The Proposals suggest that there should be a Hill Area Committee in Manipur consisting of the members of the State Legislature from these areas. Legislature regarding matters of prime importance to tribals, tribal customs and land utilization should be referred to this committee before it is passed by the legislature.<sup>23</sup> Neither the Bill on the North Eastern Areas Reorganization nor the Act mention this. But provision should be made for such a committee and it must be like the Scottish Affairs Committee in the House of Commons.

(e) *The Sixth Schedule*: The Proposals suggested that the Sixth Schedule should be abolished in Meghalaya except for a limited period. But it would continue to exist in certain areas in the Mizo Hills and in the Mikir Hills and North Cachar Hills of Assam. It would be extended to the Hill Areas of Manipur. The Proposals also said that the Sixth Schedule would be amended in certain respects.<sup>24</sup> The proposal for the

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22. Act means the North East Areas (Reorganization) Act 1972.

22(a) The North East Areas (Reorganization) Act 1972, Cl. 22.

23. Para. 14

24. Para. 15

abolition of the Sixth Schedule seems to have been opposed by the Government of Meghalaya. Therefore the Bill for the Reorganization of the Areas in the North East is silent on this point. Since the Meghalaya Legislative Assembly contains sixty members and the Mizo Legislative Assembly thirty, there is no need for the continuance of the Sixth Schedule—the District Councils. So far, the District Councils with one notable exception have not functioned effectively. The continuance of the District Councils after the establishment of the Legislative Assemblies in these areas will only result in wasteful expenditure of public funds.

We shall now consider some of the institutions proposed to be established in the North East to serve more than one State. The first is Civil Service. The proposals provided a single cadre for each of the services and for the region comprising Assam, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh.<sup>25</sup> What is meant by the phrase “for each of the services”? This was not specified in the proposals. Perhaps the Proposal referred to I.A.S., I.P.S., and I.F.S. Further the Proposals also said that there would be a common authority for each cadre which would allocate officers to the unit concerned and transfer them from one unit to another as and when necessary.<sup>26</sup>

The proposal to have a single cadre for the whole region is an ideal one. Common civil service is the second step in bringing about the integration of the area under consideration. Efficient civil service is the spinal column of civilized government. Addressing a group of civil servants, Nevell Chamberlain, the Prime Minister of England said “I have a suspicion that you can get along without us (Ministers) but we cannot get along without you.” If political stability was maintained in India after Partition, this must be attributed to the Indian Civil Service and the Indian Police Service who are generally free from parochialism, regionalism, linguism and communalism. Their higher intellectual ability and moral code are unquestionable. I honestly think that we should have some more all India services for the administration of such essential services as education, public health and engineering.

The proposal to have a single cadre for each of the services for the entire region seems to have met with opposition from the parties concerned on the ground that the Common Authority would interfere in the personnel administration of the State. Assam was perhaps afraid that if there was single cadre for the whole region for each of the services, more non-Assamese might be transferred to Assam. Because of this and other reasons the bill provided specifically and in greater detail the services for which Joint cadres would be constituted and the jurisdiction of each

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25. Para. 13

26. *Ibid.*

cadre. Instead of one cadre for the whole region, there would be a joint cadre for Assam and Meghalaya, another for Manipur and Tripura.<sup>27</sup> Perhaps there may be a third for the Union Territories of Arunachal Pradesh and Mizoram.

The services for which joint cadres will be constituted will be the I.A.S., I.P.S. I.F.S. The initial strength and composition of each joint cadre shall be determined by the Central Government. The members of each of the said services on Assam Cadre shall be allotted to the joint cadre. Those of the Assam Civil Service selected for promotion to the Assam Cadre of an All India Service shall be included in the joint list for promotion to the joint cadre of the same service.<sup>28</sup>

The Bill<sup>29</sup> omitted the provision of a common authority for each cadre to allocate these officers to the units and transfer them from one unit to another as and when necessary. Who would perform this function? The Governments concerned cannot be entrusted with this function for there would be conflict between them. Perhaps this function would be performed by the Government of India.

Anticipating that some injustice might be done in the constitution of joint cadre, the Central Government is authorised to appoint one or more advisory committees for the purpose of assisting it in the discharge of any of its functions in regard to this matter and for ensuring fair and equitable treatment to all persons affected by the provision of this part of the Act.<sup>30</sup>

The Act also authorised the Central Government to give such directions to the State Governments and the Administrators of the Union Territories as may appear to be necessary to give effect to the foregoing provisions. The State Governments and the administrators of the Union Territories must carry out directions.<sup>31</sup> This is a very necessary provision for the protection of the interests of the services. Such a provision creates confidence in the services and provides continuity in the observance of rules. Both the Government of Assam and Meghalaya have agreed to have a joint cadre because their interests are inextricably involved. However, the present writer thinks that there should have been a single cadre for the whole region—the North East India, for the eventual establishment of a single government for the whole area which is extremely polyglot and sensitive.

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27. The North East Areas (Reorganization) Act 1971, cl. 61.

28. *Ibid*, cl. 61(4)

29. *Ibid*, cl. 61. (5)

30. *Ibid*, cl. 68.

31. *Ibid*, cl. 69.

(f) *High Court*: Another institution brought into existence for the whole region is the common High Court. Before 1971, there was a common high court for the entire region except Manipur and Tripura. The Proposals provided for the first time a common high court for the entire region.<sup>32</sup> The Act has specifically stated that there shall be a common high court for the entire region. The Judicial Commissioners for Manipur and Tripura would be abolished. The common High Court would be known as the Gauhati High Court and not as the High Court for Assam and Nagaland. Its headquarters would be at Gauhati and the importance of Gauhati would be increased.<sup>33</sup>

The Act also contemplates the establishment of permanent Benches of the common High Court at one or more places within the jurisdiction of the Gauhati High Court. The Act also provides for the sitting of the High Court at other places within its jurisdiction with the approval of the Governor. The jurisdiction of the Gauhati High Court would extend to the Union Territories of Mizoram and Arunachal Pradesh. The expenditure on the Gauhati High Court shall be met by the States concerned and the Union Government.<sup>34</sup>

The establishment of a common High Court is an essential step for the integration of the territories with immense diversities in the North East. In the medieval ages, the absence of Kings court and King's Justice was primarily responsible for the disintegration of the State. But where there was a strong Bench the members of the legal profession played a notable part for the promotion of understanding among the different sections of the people. The Madras, Bombay and Calcutta Bars made notable Contribution to the political and social life of the country. Common High Court, it may be remembered, will result in the concentration of best legal talent in Gauhati and Gauhati may become a seat of legal learning. Again, the existence of a strong and enlightened Bar is very necessary for the protection of the rights of the individual enshrined in the Constitution. Otherwise there may be abuse of power by the executive.

Critics, however, pointed out that common High Court would hamper the progress of Assamese language;<sup>35</sup> that it would create difficulties in regard to the control of judicial officers in the region<sup>36</sup> and that it would not be possible for the people of Manipur and Tripura

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32. Para 12.

33. NEA(R) Bill, cl. 29.

34. *Ibid*, cl. 31.

35. *ALAD*, 29. Oct. 1971.

36. *ALAD*, 5 Nov. 1971.

to come to Gauhati to get their grievances redressed.<sup>37</sup> All these objections are not valid. They seem to have been made with the general elections of 1972 in mind.

Let us consider the first objection. The language of the High Court is determined by Article 348 of the Constitution. The Article says that until Parliament, by law otherwise provides, all proceedings in the Supreme Court and in every High Court shall be in English language. No other language can be used in the High Court unless authorised by the President. It must also be realised that a number of difficulties may arise by the use of regional language in the High Court. The first difficulty is which regional language should be used by the High Court, Assamese or Bengali? If Assamese is made the language of the High Court, the people of Cachar may demand the establishment of separate Bench in Cachar with Bengali as the language of the High Court. Some of the sub-divisions of the Goalpara district are predominantly Bengali speaking areas. They may protest against Assamese being the Court Language. Second, if the judgment is delivered in Assamese in the High Court, and if the aggrieved party wishes to prefer an appeal to the Supreme Court in which language the appeal should be preferred? Again, the Judges of the Supreme Court are not expected to know all the regional languages. In such a situation an appeal against the judgment of the High Court cannot be taken to the Supreme Court. In that case the entire system of fundamental rights break down. The Supreme Court would not be able to function at all. And the Indian Constitution breaks down. Above all, the assumption that the development of the Assamese language would be hampered if English continues to be the language of the High Court is an unwarranted one. The development of the Assamese language does not depend upon the High Court. And the number of people that seek the help of the High Court for the redress of their grievance is infinitesimally small.

Let us consider the second objection. There need not be any difficulty in regard to the posting, transfer and control of judicial officers. Already there is a common High Court for Assam and Nagaland and NEFA. So far no difficulties have been experienced in regard to this matter. Each region will have its own cadre of judicial officers. The posting, transfer, promotion and control of these officers will be limited to the region concerned. I have discussed this question with the present Advocate General, Dr. J.C. Medhi and he agrees with me that there will be no difficulty at all, so long as separate cadres are provided.

As regards the third difficulty, provision has been made for the

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37. *Ibid.*

establishment of Benches. Above all provision has been made for the sitting of the High Court in places other than Gauhati.

(g) *Public Service Commission*: The proposals provided for the establishment of a common Public Service Commission for the whole of North East India.<sup>38</sup> This is not a new proposal. It was made as early as 1937. But the proposal was opposed. It was again made by the States Reorganization Commission but it was pooh-poohed by the Assamese. Since there was strong public criticism against a common Public Service Commission, the Bill for the Reorganization of the North Eastern Region omitted it. The Assam and Meghalaya Governments feared that sons of the soil may not get a fair deal in the hands of the Joint Public Service Commission. The fear is unfounded. If the recruitment of services is to be absolutely impartial, efficient and economical, there should be a joint Public Service Commission for the entire region. It is true that the Government will have no opportunities to exercise patronage—the appointment of the members of the Commission.

(h) *Electricity Board and the Warehousing Corporation*: Other common institutions are the Electricity Board and Warehousing Corporation. They would continue to function in their respective areas under the direction of the Central Government for a period of two years. In the meanwhile, the successor states may constitute their own State Electricity Boards and Warehousing Corporations and take from the existing institutions their assets and liabilities.<sup>39</sup>

Besides these institutions there are twenty-four other institutions which shall be available for common use.<sup>40</sup>

(i) *The North Eastern Council*: To coordinate the activities of the various units in the North East, the North Eastern Council has been created by the North East Council Act, 1970. This act was not brought into force. In the meanwhile the affairs in the North East became more and more complex. Instead of two, four States came into existence. In addition, there are two Union territories. Again, the area is typically an undeveloped area. Above all, geopolitically the area is more important. The frontiers of this area are touched as we had already noted by four political communities, Bhutan, Burma, China and Bangladesh. Of the four, one is definitely hostile. To secure the two ends, defence and development, the constitutional structure of the North East Council was

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38. Para 12.

39. NEA(R) Act. cl. 54.

40. *Ibid*, cl. 60.

revised. The revised Proposals were vehemently opposed by all the States in the region. Since the Government of India did not like to wound the tender feelings of the States of Assam, Meghalaya and Nagaland, the Proposals were amended. The amendments were accepted by the Chief Ministers of Assam and Meghalaya and may also be accepted by the other Chief Ministers.

(j) *Chairmanship of the Council*: We shall now consider the details of the Scheme. The North Eastern Council Act, 1970, provided the Council with a chairman. The Governor of Assam was to be its chairman ex-officio.<sup>41</sup> This Act was not brought into force. In 1971, the Proposals suggested that a Union Cabinet Minister, to be nominated by the President, will be the Chairman of the Council and that the Governor would be the Vice-Chairman.<sup>42</sup> As we have already noted the Proposals were opposed. The Revised Proposals also provided the Council with a chairman.<sup>43</sup> But they went a step further. They said that the Cabinet Minister incharge of Home Affairs would be nominated by the President as a member of the Council and that he would be the chairman of the Council.<sup>44</sup> This proposal was made on the ground that a similar provision exists in respect of the Zonal Councils.

The North Eastern Council Act, 1970, did not provide for the appointment of a Vice-Chairman.<sup>44</sup> But the Proposals provided for the appointment of a Vice-Chairman and they specifically stated that the Governor would be the Vice-Chairman.<sup>45</sup> The Revised Proposals went a step further and said that the Vice-Chairman would also be nominated like the Chairman by the President and added that in the present circumstances it may be necessary to nominate the Governor as the Vice-Chairman.<sup>46</sup>

From the above it is clear that the Union Home Minister and the Governor are not ex-officio members of the Council. They would be nominated by the President. They are not ex-officio Chairman and Vice-Chairman of the Council. The President must specifically appoint them to the respective positions. If need arises the President may appoint any other member of the Union Cabinet to be the member and chairman of the Council. In case if there is more than one Governor in the region, he may nominate any one of them to be the member and vice-chairman of the council.

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41. cl: 3

42. Para 6.

43. Para 2.

44. Para 6.

45. Para 3.

46. cl. 3.

Who should be the Chairman of the Council? In 1970, the then Chief Minister of Assam, Bimala Prasad Chaliha and the Chief Minister of Meghalaya, Willianson Sangma agreed to the proposal that the Governor should be the chairman. Later Chaliha died. His successor does not seem to favour the idea of the Governor being the Chairman. The Chief Minister of Meghalaya seems to have changed his mind. Therefore they prefer someone else to be the chairman. Now the question is as to who should be the chairman? There are two schools. The first school advances several reasons in support of the Governor being the chairman of the council. First, since the Governor is the head of all States in the region he should be the chairman of the Council. Second, there is a constitutional difficulty in Union Home Minister being the Chairman of the Council. In the Order of Precedence, the Governor occupies a position next to the Prime Minister and the Home Minister occupies the eighth position. This constitutional difficulty was noted by the Government of India when it framed the Proposals and the Revised Proposals. The Governor will be perfectly justified in refusing to be the Vice-Chairman of the Council if the Union Home Minister happens to be the Chairman. Of course, he cannot claim as a matter of right the Chairmanship of the Council. In case the Governor refuses to be the Vice-Chairman then who should be the Chairman? This will create practical difficulties.

The third argument in favour of the Governor being the chairman is that he is a non-partyman and therefore neutral. If a Chief Minister is appointed chairman by turns, difficulties are likely to arise. For instance, there is a border dispute between Assam and Nagaland. This may be referred to the North East Council for discussion and decision. Who should preside over the meeting? If it is the turn of the Chief Minister of Assam, the Chief Minister of Nagaland may walk out. If the Governor happens to be the chairman of the Council he will see that all sides are given equal opportunities to place their point of view before the Council.

The fourth argument in favour of the Governor being the Chairman is that as Governor of all the States in the North East, he would have unrivalled experience and knowledge of the area and its problems than the Home Minister or any any Chief Minister. Further, he would be on the spot and would be able to deal with problems as they arise. Again if the Home Minister or the Prime Minister happens to be the Chairman he would not be available for frequent consultation by the members of the Council and would not be able to get things done expeditiously.

Fifth, if the Home Minister is the Chairman it would facilitate the centralization of power in the hands of Central Government. If the

Home Minister happens to be the Prime Minister or a powerful personality occupying key positions in Government or/and party hierarchy, the amount of influence that he may exercise would be enormous and as a consequence the autonomy of the States may be seriously affected. At present the Home Minister is the Prime Minister and the Prime Minister is a Lady—a willful woman. One can easily imagine the gentle pressure to which the male members of the council would be subjected by the powerful lady chairman.

All these arguments are brushed aside by the second school. They say that the constitutional difficulty can be got over by making the Prime Minister as the Chairman. Since the Prime Minister is also the Home Minister all the arguments against the Home Minister being the Chairman are no more valid. Second, if the Home Minister happens to be the chairman of the Council, the members of the Council can have direct access to the Central Government and would be able to get many boons for their respective areas without much effort. If the Home Minister happens to be the Prime Minister and if the Chief Ministers belong to the same party to which the Prime Minister belongs it would help in many ways. There would be perfect understanding between the two. Such an understanding will not be possible if the Governor happens to be the Chairman.

Second, the Home Minister will be a politician. He will understand the language of the politician. But the Governor, if he happens to be a seasoned civil servant will not understand local political dialect.

Third, as regards knowledge of the problems confronting the region, the Council would be assisted by a number of advisers who have expert knowledge and the Governor as the Vice-Chairman will be available for consultation.

Fourth, though the Governor will be the Vice-Chairman, for all practical purposes, he would be the Chairman since he happens to be the man on the spot. The Chairman would delegate his powers and functions to the Vice-Chairman who would virtually be the head of the council Secretariat.

Now let us discuss the powers and functions of the Chairman. He will be the head of the Secretariat. The North East Council Act, 1972 specifically states that the chairman shall not have the right to vote in the first instance but will have a casting vote in case of a tie.

(k) *Composition of the Council:* Under the North Eastern Council Act, 1970, the Council would consist of ten members, the Governor of

Assam, the Chief Minister of Assam and Meghalaya, one minister each from the States of Assam and Meghalaya to be appointed by the Governor on the recommendation of the Chief Minister, the Administrators of the Union Territories of Manipur and Tripura, the Chief Ministers of Manipur and Tripura and finally, the Adviser to Governor of Assam for Tribal Areas.<sup>47</sup>

From the above we come to the conclusion that Nagaland Government was not in favour of the formation of the North Eastern Council and therefore refused to be a member of the Council. It was afraid that its powers would be affected by being a member of the Council. This is an imaginary fear. However, provision was made in the Act, that if at any time the Government of Nagaland decided to join the Council the State would be represented by its Chief Minister and one of his colleagues in the Council of Ministers.<sup>48</sup> In case the Presidential Rule is imposed in any area the Act provided that the President shall nominate any one to represent that State so long as there was no Council of Ministers. This Act was not brought into force.<sup>49</sup>

The Proposals revised the composition of the Council. The Council would consist of only Chief Ministers of the States and of the Union Territories and one of the members of the Council of Advisers of Arunachal Pradesh.<sup>50</sup> Here is a difference between the Act and the Proposals. The Act provided for the appointment of a member of the Council of Ministers of the State concerned. This has been omitted in the Proposals. Perhaps the Chief Ministers must have informed the Prime Minister that there was no need for this provision because it might create delicate situations in which the Chief Minister and his colleague would be expressing divergent opinions and adopting contradictory attitudes. The Chief Minister must occupy an undisputed position in the Council. Each unit in the North Eastern Council must speak with one voice. Therefore, the provision that the Council should consist of Chief Minister alone is sound.

The Proposals also provided that the Council would also consist of officials, one each from the Ministries of Defence, Finance, Planning and Home. The official members, however, would attend and participate in the deliberations of the Council as Advisers. They will have no right to vote though this is not specifically stated in the Proposals. But this has been stated explicitly in the Revised Proposals.

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47. *Ibid.*

48. Para 7.

49. cl. 4.

50. Para 4.

The present writer thinks that the composition of the council is not satisfactory. Since, the Council is being constituted for twin purposes, defence and development, the Ministers of these departments must also be members of the Council. Then only the Council will become not only representative but also strong. At present if any matter relating to defence and development is raised at the time of discussions, it must be referred to the Minister concerned and await his opinion. The officers of the department concerned may not be in a position to give a final reply in policy matters. Therefore it is suggested that the membership of the North East Council should include the Union Ministers of Finance, Planning, Defence and Home.

(1) *Powers of the Council:* The Proposals suggested that the North Eastern Council should be endowed with executive powers and functions. In other words, the States and Union Territories participating in the regional plan should carry out the decisions of the North Eastern Council. The Government of India would be authorised to give directions to any State in the North East as might appear to be necessary for securing the purposes of the Council. The Proposals further stated that the Governor would be endowed with special responsibility to carry out the directions of the Government of India. He would also have special responsibility to ensure the proper functioning of the Hill Areas Committee and the District Councils. <sup>51</sup>

This is a new provision. It is not to be found in the North Eastern Council Act, 1970. The implications of this provision must be clear to any one. The Government of India would have the power to interfere in the internal affairs of the States and of the Union Territories, whenever it came to the conclusion that they did not carry out the directions given by the North Eastern Council. It would act through the Governor who has a special responsibility to see, that the direction given by the Union Government are carried out by the State Government. In other words, if any State Government adopts a rebellious attitude towards the Central Government, the Governor would have the power to bring such states to their senses. Thus, the Government of India would have a sledge hammer in its hands to enforce discipline among the member States of the North Eastern Council. The Governor would occupy a position similar to that of the Governor under the Government of India Act, 1935. This provision would no doubt affect the autonomy of the States in the North East and may reduce them to a lower status. Naturally, these proposals framed by the Home Ministry in consultation with the Law Ministry met with strong

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51. *Ibid.*

opposition. Both the Governments of Nagaland and Assam opposed the provision. They were afraid that their powers and functions and status would be curtailed, once the North Eastern was established. Assam whose territory would be reduced as a result of the formation of Meghalaya and Mizoram was opposed to any encroachment on its powers and jurisdiction. Nagaland made it clear that it would have nothing to do with the Council.

So the Proposals had to be drastically changed to meet the objections raised by the two States. The Revised Proposals dropped the obligatory provisions. The Council would not have any executive power. Its decisions would not be binding on the States in the North Eastern Region. Its role would be purely advisory.<sup>52</sup> In other words, the Council would perform the same functions performed by the Zonal Councils set up several years ago and which are now practically defunct.

The Central Government is obviously not happy as to the final shape of legislation. But it has no intention to do anything against the wishes of the State Governments in the North East. While Assam appears to have reconciled itself to the setting up of the Council, Nagaland refused to have anything to do with it. Of course, the Chief Minister of Assam, Mahendra Mohan Choudhury also openly stated that he would exercise his freedom to walk out of the Council if it is detrimental to the interests of the State.<sup>53</sup> The Chief Ministers are politicians. We should not look into the Oxford Dictionary to know the meaning of their language but into the Election Dictionary of 1972. It is expected that all the States would ultimately agree to be the members of the Council. The only Chief Minister who accepted the proposal without any mental reservation is the Chief Minister of Meghalaya. So long as the Council is advisory in character, Capt. W.A. Sangma would have no objection to be its member.<sup>54</sup>

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52. *Ibid.*

53. *The Assam Tribune*, 30 Nov. 1971. On 21 January 1972, Sri Mahendra Mohan Choudhury, the Assam Chief Minister welcomed the setting up of the North Eastern Council, which he said, is an important step towards strengthening the security of the entire North Eastern Frontier. *Ibid.*, 21 January 1972.

54. *The Assam Tribune*, 2 Dec. 1971. Welcoming the Prime Minister Indira Gandhi at a public meeting held for the inauguration of the Meghalaya State, Chief Minister Williamson Sangma pledged whole-hearted support to the constitution of the North Eastern Council. The Chief Minister said that he firmly believed that this advisory forum would provide adequate scope to the participating states for the coordinated development in matters of common interest, like the development of power, inter-state communications and the security of the entire region. He envisaged the North Eastern Council as a strong prosperous and a united bulwark of our country. *Ibid.*, 21 January 1972.

The North Eastern Council Act, 1970, clearly stated that the Council would be an advisory body and could discuss any matter in which some or all the members of the Council were interested and advise the Governments concerned as to the action to be taken on any such matter.

Apart from this general function, the Council had been entrusted with certain specific functions. First, it could formulate a unified and coordinate plan for the whole of North East India. The Plan might include schemes for inter-state communications, common irrigation, flood control, generation of electricity, development of agriculture with a view to make the region self-sufficient and attain balanced industrial development.<sup>55</sup>

The second function that the Act entrusted to the Council was to superwise the execution of plans and coordinate the activities of the State Governments concerned in regard to the implementation of the decisions of the Council.<sup>56</sup> Third, the Council could also discuss matters relating to the interstate transport and any other matter of common interest in the field of economic and social planning. The Proposals also endowed the Council with the same functions but they were somewhat more definite and precise. What are those functions entrusted to the Council by the Proposals? The Council would be responsible for drawing up a regional plan of common interest for the whole of North East India, supervise the implementation of the Plan by the participant States and Union Territories, provide assistance and consultancy service to these units, regulate the expenditure and recommend the amount of grant in aid to each Unit by the Government of India.<sup>57</sup>

The Revised Proposals are far better than the Proposals in the enumeration of the functions of the Council. One of the functions of the Council is to make a recommendation with regard to any matter of common interest in the field of economic and social planning, interstate transport and communications, flood control and power generation, formulation of a unified and coordinated regional plan which will be in addition to the State plan in regard to matters of common importance to the whole of North East India, for securing the balanced development of the area, determine the priorities and recommend the stages in which

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55. cl. 4.

56. *Ibid.*

57. Para 9.

the regional plan may be executed, recommend the location of the projects and schemes included in the regional plan, and recommend measures for coordinating the activities of the Governments in implementing the projects and schemes included in the regional plan. If a project or scheme is intended to benefit two or more States, the Council may determine the share of expenditure by the beneficiary States and the machinery to be devised for the management of the completed scheme. The Council will also determine the amount of financial assistance that may be given to the States entrusted with the execution of the schemes included in the regional plan. The Council shall also review the progress made in the expenditure of money allotted for the execution of schemes, recommend surveys and investigations of projects for inclusion in the regional plan and finally review from time to time the measures taken by the member States to maintain internal security and public order and also such measures as may be necessary for the purpose.<sup>58</sup>

From the above it is clear that the functions of the Council have been enumerated in greater detail in the Revised Proposals. They also indicate the character of the Council as only an advisory body. It is not responsible for the execution of schemes nor for the maintenance of internal order and security. These Proposals have been embodied in the North Eastern Council Act 1972.

The North Eastern Council will have a Secretariat, consisting of a Secretary, a Planning Adviser, a Financial Adviser, and a Security Adviser with necessary supporting staff. The Secretariat will also provide the consultancy service to the States in the Region in the matter of drawing up of State Plans and their execution.<sup>59</sup>

Besides the Secretariat there will be a coordination committee to review from time to time the measures taken by the States for the maintenance of security and public order in their areas and recommend to the Government of the States concerned further measures necessary in this regard.<sup>60</sup>

Now the question is whether the machinery devised for the coordination of the activities of the units in the North East India is adequate and effective. It must frankly be admitted that it is not. The situation in the North East India is complex. Of all the areas in the country, as we had already noted, it is the most polyglot, the like of which we do not find in any part of the world. Some political scientists may, therefore, question the

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58. Para 4.

59. Para 11.

60. Para 10.

adequacy of the institutions brought into existence to solve the problems. It may be suggested that instead of an advisory council like the North Eastern Council, there should be a common head, a Deputy President, appointed and removed by the President. There should be a common legislature elected on the basis of adult franchise, with clear division of functions between the units and the sub-federation. The sub-federation shall be responsible for the preparation and execution of schemes of common importance. Is this an example laid in heaven? Not at all. The political, social and economic conditions of North East India demand such an arrangement.