

## Scheduled Tribes & Scheduled Areas in India

By IASToppers | 2023-09-10 15:30:00



### Scheduled Tribes & Scheduled Areas in India

The 705 Scheduled Tribe (ST) communities of India, which account for 8.6% of the country's population, are spread across 26 states and six union territories.



[Ref: The Hindu]

### **Article 244 of the Constitution:**

- Article 244 is crucial for the administration of **Scheduled and Tribal Areas**.
- Article 244(1) applies the **Fifth Schedule provisions** to **Scheduled Areas** in states excluding **Assam, Meghalaya, Tripura, and Mizoram**.
- The **Sixth Schedule**, as per Article 244(2), is applicable to the **mentioned states**.

### **Scheduled Areas: Coverage and Challenges:**

- **Scheduled Areas** cover **11.3%** of India's land area.
- These areas are notified in **10 States**: Andhra Pradesh, Telangana, Odisha, Jharkhand, Chhattisgarh, Madhya Pradesh, Rajasthan, Gujarat, Maharashtra, and Himachal Pradesh.
- **Kerala** proposed to notify certain habitations in **2015**, awaiting the Indian government's approval.
- Despite demands, many villages with ST populations have been excluded from **Scheduled Areas**.
- Consequently, **59%** of STs are not under **Article 244's purview**.
- These STs don't benefit from laws applicable to Scheduled Areas, such as the **Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013** and the **Biological Diversity Act 2002**.

### **Scheduled Area Governance:**

- The **President of India** notifies **Scheduled Areas**.
- States with **Scheduled Areas** must form a **Tribal Advisory Council** with up to **20 ST members**.
- This council advises the Governor on **ST welfare**.
- The Governor reports annually to the President about the administration of **Scheduled Areas**.
- The national government can guide the State on **Scheduled Areas' administration**.
- The Governor has the power to amend or repeal laws related to **Scheduled Areas**.
- Despite these provisions, the real intent of the Constitution was realized with the **Provisions of the Panchayats (Extension to Scheduled Areas) Act, or PESA, in 1996**.

## Identification of Scheduled Areas:

- The **President** has the exclusive power to declare any area as a **Scheduled Area**.
- The **Supreme Court** and the **Jharkhand High Court** have upheld the **President's discretion** in this matter.
- Neither the Constitution nor any law provides criteria for identifying **Scheduled Areas**.
  - However, the **Dhebar Commission Report of 1961** suggests some guiding norms.
- **PESA's** enactment clarified the definition of a '**village**'.
- The **Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006**, adopted this definition.
- The Act empowers **gram sabhas** to govern forests under their jurisdiction.

## Schedule 5 Areas vs. Schedule 6 Areas

Difference between Schedule 5 Areas and Schedule 6 Areas:

Aspect	Schedule 5 Areas	Schedule 6 Areas
<b>States Covered</b>	Andhra Pradesh, Telangana, Gujarat, Jharkhand, Chhattisgarh, Himachal Pradesh, Madhya Pradesh, Maharashtra, Odisha, Rajasthan	Assam, Meghalaya, Tripura, Mizoram
<b>Protection of Interests</b>	Protects tribal interests in the mentioned states	Protects tribal interests in Assam, Meghalaya, Tripura, Mizoram
<b>Governor's Role</b>	Governor has special responsibilities in these areas	The role of the Governor is subject to significant limitations
<b>Governor's Responsibilities</b>	Issuing directives to the state government	Limited role in Schedule 6 areas
	Limiting the effect of acts of the central or state legislature on the areas	
<b>Emphasis</b>	Protection of tribal interests	Emphasis on self-rule and autonomy
<b>Autonomy</b>	Limited autonomy for tribal communities	Considerable autonomy for tribal communities
<b>Powers</b>	Limited powers to make laws and receive central government funds	Powers to make laws and receive central government funds