CHAPTER - V

POWERS AND FUNCTIONS
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Powers and Functions

The District Council of an autonomous district has been endowed with a large variety of powers. Those powers may be broadly classified as legislative, executive, judicial and financial powers. Let us examine the powers and functions one by one.

Legislative Powers

The District Council has the powers to make laws in respect of the allotment, occupation or use, or the setting apart of land, other than any land which is reserved forest, for the purpose of agriculture or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interest of the inhabitants of any village or town, the management of any forest not being a reserved forest; the use of any canal or water course for the purpose of agriculture; the establishment of village or town committees including village or town police and public health and sanitation; the appointment of succession of chiefs or headman; the inheritance of property, marriage and
divorce and social customs.\(^1\) The council has also the power to make (a) regulation and control of trade or money lending by non-tribals within limits of their administrative jurisdiction,\(^2\) (b) regulation and control of primary education, dispensaries, markets, cattle pounds, ferries, fisheries, roads, road transport and water ways within its own territorial jurisdictions\(^3\); (c) for the levy and collection of any of the taxes entrusted to them.\(^4\)

It is to be carefully noted that no legislation of the State legislature shall apply to the autonomous district unless otherwise directed by the District Council concerned and with such exceptions and modifications as the latter may determine.\(^5\) Thus it is observed that the council has been given large variety of powers affecting almost every aspect of the life of an autonomous district.

The District Councils, on the other hand, were not satisfied with the existing arrangement of the Sixth Schedule

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1. The powers relating to 'marriage and divorce' had been substituted by the Act 55 of 1969 and the rest are covered by para 3 of the Sixth Schedule.
2. Sub para 2 of para 10 of the Sixth Schedule.
3. Sub para 1 of para 6 of the Sixth Schedule.
4. Sub para 4 of para 8 of the Sixth Schedule.
5. Sub para 1 of para 12 of the Sixth Schedule.
and demanded legislative authority before the Pataskar Commis-
sion in respect of acquisition of land also which was presently
enjoyed by the State Legislature. The Commission, however,
turned down the request of the councils as there was a common
law on land acquisition for the whole country. 6

The commission was also requested to extend
legislative authority of the council in respect of
(a) registration of documents, (b) fixation of rates in
respect of court fees and stamps, (c) betting and gambling,
(d) manufacture and sale of liquor, settlement of liquor
shops, grant of licences, regulation and prescription of
fees, (e) management, construction and establishment of
primary schools, markets, fisheries, cattle pounds, fairs,
grazing, cattle trespass and burial and burial grounds.
But the commission did not agree with the council as the
powers demanded were in no way related to the traditional
mode of tribal life. The preparation and consumption of
non distilled alcoholic liquor, the commission opined, was
no doubt associated with the tribal mode of life but the
Sixth Schedule already provided that no Act of the State
Legislature prohibiting or restricting the consumption of

6. Report of the Commission on the Hill Areas of Assam,
any non distilled alcoholic liquor will extend to the hill district. 7

Thus most of the demands relating to the legislative powers of the council placed before the commission by the councils were rejected.

It is to be noted that all laws passed by a District Council must require Governor's assent. No law can become effective unless it is assented to by the Governor. 8 It is interesting to note that some of the District Councils being aggrieved with the delay in giving assent to Bills by the Governor suggested that if the Governor did not assent to Bills within three months from the date on which the Bill was submitted it should be sent back to the council for reconsideration. If the Bill was again passed by the council by a two-third majority of the members present and voting with or without amendment the Governor shall not withhold his assent from that Bill. The Patashkar Commission, however, did not accept the suggestion as it was assured by the State Government not to delay the same in future. 9

8. Sub para 3 of para 3 of the Sixth Schedule.
Now let us see to what extent the powers entrusted were exercised by the District Council of Karbi Anglong. The trading by non tribals and the money lending by non tribals were the first two legislations brought into existence in 1953. The rules framed under the trading by non tribals Act had to face certain objections from the Government when it was placed before it for approval. The Government mainly raised objections in respect of application fee, renewal fee and the absence of appeal against refusal to grant a licence and many other minor issues.\(^{10}\) Although most of the suggestions were accepted the Government again referred to the absence of recording the reasons of refusal to grant license which too was accepted by the council.\(^{11}\) There were, however, some allegations made by the members of the council that in the name of trading licenses large number of irregularities were noticed. The CEM assured the members to make a thorough enquiry on the issue of trading licenses granted to the non tribals. It is not known whether the council authorities made such enquiries or not. The records made available did not give evidence of strong

\(^{10}\) TAD/R/23/55/9 dated 8.6.55.

\(^{11}\) (a) TAD/R/23/35 dated 26.7.56

(b) Council's letter No.4788 dated 25.8.56.
action taken by the council authorities on those traders who had been doing trade without license. Till 1979, practically speaking, the authorities probably did not take up the matter seriously as there were a very few cases of unauthorised traders prosecuted. In 1980 a large number of such unauthorised traders were detected by the council. But most of the traders were not prosecuted as they paid the license fee and the penalty within the stipulated period. The money lending by non-tribals Act was almost a defunct as the council authorities could not take appropriate steps against the money lenders concerned. Some unauthorised money-lenders were detected by the council authorities and placed before the District Magistrate for appropriate action but what action was taken against them is not known. The council authorities themselves admitted that out of the 25 Paktoon and Afgan nationals only one was issued trading license during 1962. But the same was not renewed in the subsequent years. 13 The next comes the Market (Management and Control) Act of 1954. This Act provided for management of private markets, Government markets, sale of markets etc. All markets had been brought under the control of the council under the provisions of the Act. There had been certain

13. Proceedings of the 54th session of the council.
allegations that most of the important markets of the autonomous district had not been properly managed by the council. The next legislation done by the council is the Jhumming Regulation of 1954. It is important to note that most of the provisions laid down in the Act could not be properly implemented. One of the most important provisions of the regulation was to prohibit shifting of villages without the previous permission of the Executive Committee. But unfortunately, this provision had not been adhered to and the result is that the council played the role of a helpless spectator. The amendment to the regulation done in 1966 did not serve the purpose for which it was amended although it seemed to be quite liberal than the provisions referred to in the original regulation. It is important to note that no rules were framed under the above regulation. Thus it may be concluded that the Jhumming Regulation could not be properly made use of by the Council. The next is the Grazing Regulation of 1954. This regulation was also not taken up by the council seriously. Although the regulation was done in 1954 the necessary rules under the regulation were not drafted. The Executive Committee appointed a drafting committee sometime in 1973 to submit the rules before 1st June, 1973. But the rules had never been

submitted. On several occasions the members of the council expressed their disapproval of the continuance of the regulation as it had damaged cultivation by the cattle heads of the graziers. But the authorities of the council ignoring all defects of the regulation were reluctant to abolish the Khuties as it had earned a good revenue to the council. The motion No. 21 moved by L.W. Durang was intended to abolish the Khuties from the Karbi Anglong District. But in reply to the motion the Executive Member (EM) (revenue) commented that the existing system was of great advantage to the council. The present system helped the administration to make an approach to a correct assessment of grazing tax. The existing graziers or khutiwallas would derive a right to carry on their profession in the absence of the present arrangement. The abolition of the Khuties would deprive the society of nutritious food in the form of milk and milk products, and hence the Khuties need not be abolished.15

It is significant to note that the council abolished the grazing permit system in 1966 but the same order had to be revoked in 1970. In 1976, the council decided to abolish Khuties altogether and to make necessary enactments for the purpose. A Bill drafted in the light of the above

15. Proceedings of the 81st session of the council.
decision was placed before the Government for approval. But the Government raised certain objections and questioned the legislative authority of the council in respect of the proposed Act. The council accepted all suggestions put forward by the Government. Thus the Act under the name and style of the Karbi Anglong District (Control and Taxation of Khuties and Khutiwallas) Regulation, 1983 came into effect accordingly. The old regulation of 1954 had become a defunct on the introduction of new legislation. An assessment on the role played by the council in respect of the above regulation is yet to be made.

The next legislation done by the council was the Administration of Town Committee Act of 1954. The rules framed thereunder had, however, been done in 1958. Under the provisions of the Act two Town Committees had been brought into being, one at Diphu and the other at Howraghat. The move to constitute a Town Committee for Hamren, the headquarters of Hamren subdivision had been made but a notification to that effect had not yet been done. Let us first take up the Diphu Town Committee. The first election to the Diphu Town Committee was held in the year 1970. That was the only election took place in its long history. Every year the term

of the council was extended since 1974 till its supercession in 1979. The term of the superseded committee was being extended annually till it was reconstituted in 1981. In 1982 it was again reconstituted for a period of one year or till holding/general election whichever was earlier. Up till now no election took place to the Diphu Town Committee and hence it may be presumed that the council authorities were not very much interested in seeing an elected Town Committee.

Let us take up the Howraghat Town Committee. This Town Committee also had not witnessed any elected body since its inception, i.e. 1974. Numerous committees were constituted on ad hoc basis and elections were not held till now. Thus from the above it may be observed that the District Council of Karbi Anglong were reluctant to constitute Town Committees through election which, in fact, was not in conformity with the spirit of the Town Committee Act.

The next legislation is the Karbi Anglong (Forest) Act of 1957. The Act provided for constitution of reserved forest by the council, inspection of the area proposed to be constituted a reserved forest by the EM (forest) and notification thereof, appointment of the council Forest Officer, Survey and demarcation of the area proposed to constitute a reserved forest and enquiry into existing rights, formation of the council Forest Board to dispose of claims and
objections, penalties for trespass or damage in reserved forest and many other relevant provisions pertaining to forest administration. It is important to note that this Act had been a subject of judicial review and therefore the council had been prevented from exercising powers in respect of certain provisions of the Act. It is significant to note that no rules have been framed under the provisions of the Act.

The Pataskar Commission in its report observed that the unclassed state forest administration by the District Councils were not under systematic and planned management. The commission was told that the areas covered by such forest were jhummed extensively and deforested by the shifting cultivations and such uncontrolled exploitation of the forest had led to their rapid denudation. The commission went to the extent of suggesting the transfer of forest administration to the State Government by giving due compensation for the loss of revenue caused by the transfer of its forests. Although the commission did not refer to the District Council of Karbi Anglong it is presumed that this council would not be exempted from the application of the recommendation.

It is important to note that the District Council had initiated a forest legislation under the name and style
of the Karbi Anglong Forest (Application and Amendment) Regulation of 1980 which related to the 'reserved forest' constituted under the Assam Forest Regulation of 1891 or under any other law for the time being in the area in question. The proposed legislation intended to regulate the management of any forest within the district and also to provide by law for the levy and collection of land revenue and to frame rules for eviction of trespassers, encroachers etc. from the reserved forest. The special Secretary to the Government of Assam reminded the council of its limited powers in respect of 'forests' as it had become a subject of concurrent list in the Seventh Schedule.\textsuperscript{17} Thus the council did not realise the limitations of its powers under the provisions of the Sixth Schedule.

The next legislation by the council was the Transfer of Land Act of 1959. Initially the Government raised a number of objections to the provisions of the Bill and returned the same to the council for reconsideration.\textsuperscript{18} The council on the other hand, referred to similar Act passed by the Khasi Hills District Council sometime in 1953 and requested the Government to examine the matter afresh. The Government

\textsuperscript{17} HAD.183/80/27 dated 10.3.81 .
\textsuperscript{18} TAD/R/84/56 dated 8.12.56 .
accordingly communicated its approval. The bill became the Act of 1959. Although the Act prohibited transfer from tribal to non-tribal large number of such transfer had taken place without any reference to the council. This was admitted by the council authorities themselves. The authorities hinted that some steps should be taken to prevent such illegal transfer of land. But the steps taken were ineffective in most cases and illegal transfer went on breaking almost all provisions of the Act. The Land Settlement Advisory Board of the Council discussed this problem and suggested to the E.C. to amend the Act of 1959 so that the person who transfers land against the provisions of the Act is also penalised in the same way as the man to whom the land is transferred. The council authorities did not amend the Act in the light of the Board's suggestions. Thus it is observed that the power to regulate the transfer of land which is an important power had not been properly exercised by the council in some of the cases.

The next legislation was the Land Reforms Act of 1979. This Act was passed for the regulation and control of use of agricultural land owned by the settlement holder.

19. CEM's reply to question No.6 put during the 97th session of the council
20. Proceedings of the Land Settlement Advisory Board meeting dated 7.5.75.
within the autonomous district. The Act has gone into the details of Adhi, Chuki, Paikas etc. prevalent within the district. The rules under the Act had also been framed in 1981. The performance of this Act is yet to be assessed. But it is important to note that this Act had become the subject of judicial review and hence most of the important provisions had not been properly implemented.

The next legislation is the Christian Marriage Act of 1962. Under this Act, license is issued to clergyman to solemnise the Christian marriage. Normally, the Christian institutions recommend the names of the clergyman and the CEM after making an enquiry issues license to them. Till the date of enquiry the licenses were issued to 25 clergyman for solemnisation of Christian marriage. As there is no District Council court all Christian marriages are to be administered by the Magistrate of the State Government posted at Karbi Anglong.

Thus it may be observed that the District Council had been exercising a large number of powers provided in the Sixth Schedule to the constitution. The District Council, however, have not exercised powers relating to village or town administration including village or town police and public health and sanitation. It had not brought into existance legislations pertaining to inheritance of property,
social customs, marriage and divorce. Moreover, the council authorities had not taken any initiative in respect of appointment or succession of chiefs or headman etc. The United Karbi National Liberation Organisation, the organisation which is not in existence now, adopted resolutions requesting the council authorities to create Village Councils in the rural areas and also village and Town Police so as to provide jobs to the Karbi youths as well as to revive the race their traditional 'martial spirit' in accordance with the provisions of the constitution. The organisation also laid stress on the preservation and modernization of Karbi customs and traditions by enhancing the prestige and dignity of the institutions of 'Pinpo' and 'Hima-a-sor'. The organisation suggested to the council to provide a separate hillock within the Diphu Town for the construction of Pinpo Artu (Karbi Monastery) within a very short time. But all these suggestions were deliberately ignored and no step had been taken by the council so far.

The District Council had adopted a few State Acts till now. The Assam Embankment and Drainage Act of 1959 and the Assam Town and Country Planning Act were the only Acts

adopted by the council so far. There were, however, attempts by the Government for the application of Assam Panchayat Act, 1959 and the Assam Excise (Amendment) Act of 1952, to the autonomous district of Karbi Anglong with a view to maintain maximum efficiency and uniformity in procedure all over the State. But the District Council was not at all interested in its introduction. It did not reply to most of the letters. When the Government pressed the council for a reply the CEM stated that there was no need for the introduction of the Act for obvious reasons. First, the villages shift themselves frequently because of jhuming. Second, some villages having not more than seven to eight families. The Government again referred to the report of the Patakar Commission which recommended the creation of councils at the block and circle levels. The CEM in reply stated that the recommendations of the Patakar Commission were general in nature. Therefore, the Commission's report may not be suitable for Karbi Anglong.


23. (a) Assistant Development Commissioner's letter No.P.19/16/1 dated 6.7.60.
(b) TAD/GA/67/63/81 dated 8.5.64.
(c) D.O. No.PDA 285/63/22 dated 23.9.64.
24. CEM's letter No.D.0.4514 dated 29.3.66.
Second, the recommendations were still under scrutiny. Third the present revenue could not afford to spend for extra administrative staff. Fourth, the council would not object to the setting up of such elective bodies such as, Block Advisory Council or Village Advisory Council for the execution of development works. In short, the council did not accept the application of the Assam Panchayat Act, 1959 to the autonomous district. On similar reasons, the council did not accept the Assam Excise (Amendment) Act, 1952.

Thus from the above it may be observed that the District Council was reluctant to part with certain powers.

**Executive Powers**

The District Council has certain executive powers under the provisions of the Sixth Schedule. The most important power the council exercise is the power to establish, construct or manage primary schools, dispensaries, markets, cattle pounds, ferries, roads, road transport and water ways within the district. Of the powers noted above

27. (i) TAD/GA/180/66 dated 12.10.66.
   (iii) TAD/GA/180/66/42 dated 26.3.69.
   (v) MHC/Misc/XIX/125/72-73 dated 19.10.73.
28. Sub para 1 of para 6 of the Sixth Schedule.
The District Council have not yet exercised in respect of the establishment of dispensaries, ferries and water ways within the district. The rivers of the district are not suitable for management of ferries and water ways. The road transport has recently been managed on experimental basis.

The council had been given the most important power of prescribing the language and the manner in which primary education shall be imparted in its schools. But the District Council could not take positive steps in that direction. The E.C. did not make a firm decision. It is important to note that Karbi was introduced in 1974 as a medium in Assamese script in those schools where there were eighty per cent Karbi boys and girls. There were altogether 371 such schools in 1974-75. The number gradually increased from 371 to 405 and the strength of the students had gone up to 10,300. Thus the pupils were taught in Karbi medium in Assamese script up to 1978. In 1979 the E.C. changed its earlier decision of Karbi medium and Karbi was recognised as a language subject in those schools where it was used as medium. In the last part of the same year it was decided to

29. Sub-para 1 of para 6 of the Sixth Schedule.
introduce Karbi as medium in Roman script. In 1981 the E.C. examined the matter afresh and decided to introduce Karbi as language subject in Roman script but not as medium. All those decisions were taken on the recommendations of the Primary Education Board and Karbi Text Book Committee. The council authorities themselves admitted that due to the derth of competent writers of text books, financial stringency, non-introduction of Karbi as medium or language in the secondary stage, change of script, printing of text books, lack of experienced teachers to teach in Roman script as the teachers were conversant with the Assamese script and the lack of definite decision were the main reasons which stood in the way of proper implementation of the language policy of the council. Thus the views of the council authorities were not definite and precise. Moreover, the authorities themselves admitted that due to lack of definite decision it was impossible to implement the language policy of the council properly. The decisions pertaining to language were whimsical without considering the pros and cons of the issues involved.

32. This was in reply to motion No. 3 moved during the 127th session of the council. The reply was given by the EM (Education).
Another most important executive power the council exercise was the appointment of officers necessary for the administration of laws made by it under para 3 of the Sixth Schedule. The council is also empowered to appoint officers for the constitution of village councils or courts for the trial of suits and cases between the parties all of whom belong to Scheduled Tribes within the district with certain important exceptions. The council did not exercise this power.

The District Council had another most important executive power of making rules subject to the approval of the Governor on all matters relating to the transaction of business pertaining to the administration of the district.

Judicial Powers

It is significant to note that the District Council had not made use of judicial powers under para 4,5 of the Sixth Schedule. There were certain moves from the side of the members of the council but all those moves were turned down by the authorities either on the grounds of financial stringency or on the grounds of 'ineffective' provisions being laid down in the Sixth Schedule. The provisions were

33. Sub para 1 of para 4 of the Sixth Schedule.
34. Sub para 7 of para 2 of the Sixth Schedule.
stated to be ineffective because disputes between a tribal and non-tribal could not be decided by the District Council court. Therefore, the council authorities did not like to exercise this power as that would practically carry no meaning. Moreover, the exercise of such powers will keep the Magistrates of the State Government idle which, in turn, will be a wastage of public money. Thus, from the economic point of view also it is good if the courts are not created by the council.

**Financial powers**

The Sixth Schedule have also empowered the council in respect of collection of some taxes. Those powers are as follows:

(i) **Taxes on professions, trades, calling and employment.**

(ii) **Taxes on animals, vehicles and boats.**

(iii) **Taxes on entry of goods into a market for sale therein and tolls on passengers and goods carried in ferries and**

(iv) **Taxes for the maintenance of schools, dispensaries or roads.**

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35. Sub para 3 of para 8 of the Sixth Schedule.
The District Council also have the power to assess and collect land revenue within the district in accordance with the principles for the time being followed by the Government of the State in assessing lands for the purpose of land revenue in the State of Assam generally. 36

The District Council have also the power to share royalties from mines and minerals. 37

Now let us examine to what extent those powers were exercised by the council under the provisions of the Sixth Schedule. The Karbi Anglong District (Revenue Assessment) Regulation of 1952 was the first of the regulations of this kind which enabled the council to levy and collect taxes under sub para 2 and 3 of para 8 of the Sixth Schedule. The regulation further provided that all taxes and tolls which were collected by the Deputy Commissioner and other agencies of the Government of Assam previously shall be collected by the same agencies and the taxes so collected shall be credited to the District Fund of Karbi Anglong District constituted under sub para 1 of para 7 of the said Sixth Schedule. Thus the taxes were collected accordingly and deposited to the District Fund after the collection was made. There were, however, some

36. Sub para 1 of para 8 of the Sixth Schedule.
37. Sub para 1 of para 9 of the Sixth Schedule.
complaints made by the council to the Government that the amount so collected by the different agencies of the Government were not deposited to the District Fund promptly. That is why, the council could not make correct assessment on its revenue position from time to time. But gradually this had been eased when the council authorities themselves took over the responsibility of collecting taxes and tolls under different regulations.

The next financial legislation done by the council was the Local Rates Regulation of 1953. This regulation intended to impose house tax on each holdings according to the rules and orders made under the Assam Land and Revenue Regulation of 1866 relating to assessment and collection of local rates till the E.C. framed its own rules. It is important to note that no rules had been framed so far and the provisions of the Assam Regulation had been mutatis mutandis applied to Karbi Anglong also in respect of assessment and collection of local rates even now.

The next financial legislation was the Land and Revenue Act of 1953. This Act intended to provide for the recognition of rights over land, settlement and assessment of land by the District Council and also the collection of

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The Act further provided that the Assam Land Revenue Regulation of 1886 and the amendments done from time to time shall apply to the autonomous district also. It is important to note that this Act was amended five times. Barring the second amendment all amendments were of technical nature. The second amendment provided that the appeal against the orders of the Revenue officer shall lie to the OEM within 60 days of the date of orders excluding the time needed for obtaining a copy of the order. Although there was the provision of framing rules under the Act no rules had yet been framed and the provisions of the Assam Regulation had been strictly followed.

The next legislation was cart, cycles and Boat (Taxation) Act of 1954. This Act provided for the imposition of tax, payment of tax, declaration of person keeping cart, cycle or boat, grant of license, exhibition of token, production of license on demand, renewal of license, penalties, taxes to be realised, appeal, exemption etc. The Act provided for the framing of rules to carry out its purposes. It is to be noted that no rules have been framed under the Act so far. It is important to observe that no taxes had been levied by the District Council for the maintenance of schools, dispensaries and roads. The question of imposing taxes for
dispensaries does not arise as the council do not manage any
dispensaries within the district.

It is interesting to note that with a view to
follow a systematic procedure of the assessment of the land
cadestrally surveyed the council authorities drafted a Bill
under the name and style of Karbi Anglong (Land Revenue
Re-assessment) Bill in 1966 for the consideration of Government. The Government on the other hand, reminded the council
of its limited powers under the provisions of the Sixth
Schedule. It further stated that sub para 3 of para 8 of the
Sixth Schedule conferred powers to make regulations for the
levy and collection of taxes on land etc. but not for the
levy and collection of land revenue. In the absence of such
specific provisions the council was not authorised to enact
any law under para 8(1) of the schedule. The Government
further stated that the council could make executive orders
in respect of the same without resorting to enactment.\textsuperscript{39}
The council, curiously enough, placed another Bill under the
same title in 1980 for Governor's approval. The Government
replied that the legislative jurisdiction of the council was
under scrutiny and requested the council to go ahead with
the assessment pending decision on the issue. In 1983, the
Government told the council that the Union Law Ministry had
been consulted and the Ministry was of the view that the

\textsuperscript{39. TAD/R/43/65 dated 13.5.68}
council was not authorised to make legislation in respect of the above subject but could issue notification for the information of the general public that they were assessing and collecting land revenue in accordance with the principles for the time being followed by the State Government. The council accordingly issued a notification which was published in the Assam Gazettee for the information of all concerned. A copy of the notification had been forwarded to all A.R.O's, B.D.O's, the Settlement Officer and the Mauzadars for information and necessary action.

Conclusions

Thus after making a detail review of the powers exercised by the council the following conclusions may be drawn:

(1) A noticeable feature is the fact that the District Council did not know the limits of its powers enshrined under the provisions of the constitution. The council wanted to make legislation in respect of 'reserved forest' which was not within its competence. The council drafted another Bill on land revenue reassessment which was not within the competence of the council. The council

40. HAD.64/80/119 dated 9.6.83.
41. The Assam Gazette, supplement October 12, 1983.
had to be reminded of this by the State Government on a number of occasions.

(2) Although there were provisions for framing rules under the provisions of various Acts and regulations this power was not exercised in most cases. This had obviously caused certain amount of lacuna in the proper implementation of the policies of the council.

(3) The judicial powers enshrined under the provisions of the Sixth Schedule had not been made use of by the District Council.

(4) No legislation had been undertaken by the council to protect and preserve social customs of the tribals of the district although there was a constitutional provision to that effect.

(5) Another noticeable feature is that the District Council was reluctant to part with certain powers. The legislations relating to the formation of town committee is an instance in point. Of the two town committees elections were held in one and the other contains nominated members.

(6) The next important feature is that the council on certain occasions did not take correct decisions on some of the most important issues. The decisions were whimsical
The language policy is the best example in this context. On the abolition of the Khutis also the decisions of the council were quite confusing. The council could not take positive steps in that direction.

(7) Lastly, some of the legislations of the council had been challenged in the High Court and the council was prevented from exercising its powers under the provisions. The most important legislation on land reforms had been the victim of such review and therefore most of the land reform measures could not be adopted by the council. The Forest Act of 1957 did not escape from judicial review.

Transfer of Functions under the Provisions of the Assam Reorganisation Act, 1969.

The Pataskar Commission while reviewing the working of the District Councils recommended that the executive powers of the council needed a thorough revision. The commission commented that except for a few items mainly in the nature of "local development works" the whole field of national extension service and rural development was outside the purview of a District Council. The commission, therefore, recommended that in addition to the functions contained in the Sixth Schedule the following executive functions might be added.
(a) land and revenue administration,
(b) establishment, construction management and administration of primary schools and educational institutions upto the higher secondary stage and in particular the prescription of the language and the manner in which education in the primary, middle English and middle language schools was to be imparted,
(c) establishment, construction management and administration of roads and waterways within the district,
(d) community project national extension service and tribal development blocks,
(e) agriculture and minor irrigation,
(f) animal husbandry veterinary service and diary farming,
(g) co-operatives,
(h) fisheries,
(i) small scale and rural industries, sericulture and weaving,
(j) rural water supply,
(k) public health,
(l) works programme for rural manpower utilization,
(m) social welfare,
(n) village planning and rural housing,
(o) publicity and information,
(p) any commercial business or other enterprises including means of transport and industries authorised by the Governor.\textsuperscript{42}

With a view to implement the schemes proposed to be handed over to the council the commission suggested that the District Council might recruit their own clerical and subordinate staff but the higher posts should invariably be filled up by officers on deputation from the State Government.\textsuperscript{43} The technical advice of the senior officers should also be made available to the District Council whenever necessary.\textsuperscript{44}

To review the working and implementation of the schemes to be transferred the commission suggested setting up of a District Development Board to be constituted as follows:

\begin{center}
Chairman \quad - \quad Deputy Commissioner \\
Vice-Chairman \quad - \quad Chief Executive Member
\end{center}


\textsuperscript{43.} Ibid para 190 PP 76,77.

\textsuperscript{44.} Ibid para 194 PP 77,78.
Members - (a) all Members of Parliament and Members of Legislative Assembly of the district
(b) all Executive Members of the council
(c) all Chairmen of the subordinate councils to be set up.
(d) Executive Engineer or any other officer of the P.W.D. posted in the district.

Secretary - Secretary of the District Council

The officers of the various departments whether serving under the Government or the District Council might also be invited to attend the meetings of the Board as and when necessary.45

The recommendations of the Patakar Commission were accepted in principle both by the State and Central Government and provision was made in the Sixth Schedule to the constitution. The provisions ran as follows, "the Governor may, with the consent of any District Council entrust e.ther conditionally or unconditionally to that council or to its officers, functions in relation to agriculture, animal

husbandry, community projects, co-operative societies, social welfare, village planning and any other matter to which the executive power of the state extends". On the basis of the above provisions the State Government decided to entrust to the District Council of Karbi Anglong with effect from 1st June, 1970 functions in relation to agriculture, minor irrigation, soil conservation, animal husbandry, dairying and milk supply, forest, fisheries, roads and buildings, general education including cultural programme, water supply, health and family planning, social welfare, cottage industries and community development programme including panchayat with the consent of the council with certain terms and conditions. The schemes under the above functions which were highly technical in nature and the schemes requiring centralized control owing to their being common to more than one district or for other valid reasons had, however, not been transferred to the council, the notification stated. The terms and conditions were as follows:

(1) The District Council was to ensure that monthly accounts with supporting vouchers were submitted to the Accountant General regularly.

46. Sub para 2 of para 6 of the Sixth Schedule.
(2) The council was to see that the existing rules and instructions governing implementation of the schemes were strictly followed and no deviation should be made without prior approval of the Government.

(3) The council was not supposed to utilize funds sanctioned under one major head of development for another major head of development without prior concurrence of the State Government. The council was, however, authorised to sanction reappropriation from one scheme to another within the same major head. The council had also been authorised to issue financial sanctions, administrative approval etc. in respect of the schemes transferred to them provided there was budget provision. In the matter of scrutiny and acceptance of tenders, etc. of a technical nature which is at present submitted by the District level officers to their superior officers for decision the present procedure and rules prescribed in the Departmental manuals would continue to be followed. In the matter of allotment of work or acceptance of tenders of any nature at the District level, the existing instructions of the State Government regarding preference to local industries, local people etc. would be followed till the District Council framed its own policy in this regard.

(4) The District Council would be fully responsible to the State Legislature in all matters relating to the funds
transferred to them and for that purpose the Principal Secretary and the other Secretaries to the Executive Committee should be made available for examination by the Public Accounts Committee and other committees of the Legislature. The Principal Secretary and the other Secretaries should be the officers of the State Government.

(5) Any plan fund left unutilized at the close of the financial year should be refunded to the Treasury by the 15th March with intimation to the State Finance Department and could not be carried over to the next financial year.

(6) The council was not supposed to entertain new staff out of the funds placed at their disposal without specific prior approval of the State Government.

(7) Although all District level officers and their subordinates of the transferred departments were to be placed under the administrative control of the District Council these officers would not cease to be Government servants. They would, however, function primarily as officers and staff of the District Council and the council should be associated in the preparation of their annual confidential reports in accordance with the procedure to be prescribed by the State Government. These officers would nevertheless continue to be responsible to the State Government for implementing schemes which had not been transferred
to the council. The council would be competent to exercise powers in respect of the intra-district transfers of the officers under transferred schemes but so far as their inter-district transfers were concerned the State Government would have exclusive jurisdiction. The Heads of Departments would continue to exercise full power and responsibility in the matter of technical control and supervision over the officers placed at the disposal of the District Council even in respect of schemes transferred to the council. The Heads of Departments would also be available to the council for any assistance or guidance they might desire. The Heads of the Departments and the Regional Officers were to bring to the notice of the E.M. in charge any defect they might have noticed in the implementation of the schemes transferred to the council. The inspection notes of the Heads of Departments and Regional Officers must invariably be sent to the E.M. in charge for information. The services of the subject matter specialist or other officers whose jurisdiction was not confined to one district would not be placed at the disposal of the council. The council might take assistance and guidance from such officers.

(6) The salaries and allowances of the secretaries as well as the officers and staff placed at the disposal of the council should be paid by the council and necessary funds
would be made available for the purpose. In respect of provident fund, leave, increment and other related matters, however, these officers and staff would continue to be controlled by the concerned Administrative Departments.

(9) The council would be financed by the State Government for the implementation of the schemes and funds would be made available every month for the purpose.

(10) The council should not divert plan fund for non-plan purposes.

(11) The management of reserved forests would be entrusted to the District Council subject to the following conditions.

(a) The State Government would retain the powers regarding dereservation and settlement of forest villages.

(b) Forest Resource Survey and Forest Research would continue to be the responsibility of the State Forest Department.

(c) The working plan would be prescribed by the State Government.

(d) Long term loans for more than three years for industrial and semi-industrial or other purposes can be granted by the District Council only with the prior approval of the State Government.
Subject to the above conditions the council would be entitled to constitute mahal, coupes etc. settle them and derive revenue therefrom. The expenditures relating to the arrangement of Reserved Forest which were financed from the normal budget should be borne by the District Council themselves. The District Council would have full jurisdiction over wild life preservation excepting the sanctuaries, if any.

(12) The council should not be liable to pay any leave salary or pensionary contribution in respect of any government officer placed at their disposal for implementing the schemes. 47

Immediately after the transfer of powers on the above terms and conditions the District Council of Karbi Anglong had to experience certain difficulties for obvious reasons. First, the old District Fund Rules of 1952 were quite insufficient to cope with the changed circumstances. Hence the District Council had been pressing hard to frame the Fund Rules accordingly. The council felt that due to the stringent conditions being laid down in the old Fund Rules make-shift arrangements done were highly irregular from the standpoint of financial rules. Unless the Fund Rules were framed afresh or amended they would continue to

47. TAD/R/153/70 dated 1st June, 1970.
remain as real stumbling blocks for the smooth functioning of the administration. Second, the procedure of release of funds by different departments were stated to be defective. Because, the monthly release, the council complained, came as late as in the third week of the month whereas it should have come by the first week of every month. The transfer of funds stipulated that council should surrender the savings by 15th March every year. But it was an irony that the funds reached the council as late as on 3rd, 4th, 5th April during the financial year 1970-71. The council complained that it had to hurriedly draw some money and some could not be drawn due to the late receipt. The council, therefore, suggested the Government to release fund on quarterly basis. Third, the procedure of recruitment of staff laid down in the terms and conditions were the real hurdles in the smooth functioning of the entire administrative system. Due to the absence of sanction for new staff the council officers were overburdened and the result was the loss of efficiency. The council recruited a few hands to maintain the minimum required efficiency who were paid from council's own resources leading to a further depletion of the already meagre resources. The council, therefore, suggested that the power of retention of posts (grade IV), creation of new posts (grade IV) should be within its own
competence. The council further suggested revision of the entire personnel policy to cope with the changed circumstances. Many other issues were raised by the District Council on a number of occasions to remove the hurdles on the way to the smooth functioning of the council in the context of the transfer of functions. Considering the problems experienced by the council the Government of Assam on the recommendations of the Planning Board for Hill Areas constituted a committee under the chairmanship of C. S. Teron, Minister, T.A.D. in 1973. The terms of reference of the committee were (a) to review the procedure for the release of funds by the Government, (b) to suggest measures for scrutiny and technical approval for all schemes transferred, (c) to examine the feasibility of placing all district level officers and staff connected with the transferred schemes on deputation to council, (d) to prescribe the procedure of initiating confidential reports in respect of all district level officers and staff placed at the disposal of the council, (e) to set out the procedure for purchase of stores, materials and other equipments in connection with the transferred schemes, (f) to examine what more subjects could be handed over to the council, (g) to examine the feasibility

of transferring the headquarters of the Development Commissioner for Hill Areas to a Hill District and (h) to prescribe the procedure for selecting Grade III and Grade IV staff for appointment to Government service in the Hill District.

The Teron Committee after examining the issues involved made a number of recommendations. On the release of funds by the Government departments the committee could not subscribe to the views of the council that the funds should be released on quarterly basis. It had, therefore, endorsed the present system of monthly release of funds. The non plan funds could, however, be released on quarterly basis. On the scrutiny and technical approval of schemes the committee recommended that the District Council should be authorised to give administrative approval to the construction of all buildings subject to certain reasonable conditions. The committee further recommended that the councils should be fully authorised to incur contingent expenditures subject to the ceilings, if any, fixed by the Administrative Departments. Regarding settlement of contracts, purchase of stores, the committee did not give any new suggestions as that would create more problems. On the feasibility of placing the district level officers and staff on deputation to District councils the committee endorsed the present
arrangement. The committee, however, recommended that the staff should be placed under the District Council for a period of 3 years in the first instance which could be modified by mutual consultation between the Government and the District Council. It further recommended that the council should initiate annual confidential reports and also suspend Government servants pending drawal of departmental proceedings by the Government. The power of suspending Government servants might be entrusted to CEM of the councils. On the appointment of Government staff the committee recommended that although this power could not be exercised by the council it should have a deciding voice in respect of appointments and promotions of L.D.A.'s and peons and corresponding staff in the technical department in the hill districts. The committee also recommended that certain subjects, such as, Sericulture and Weaving, Craftsman training, Co-operation, Civil Hospitals in the hill districts, the Diphu and Haflong water supply schemes, Urban development, Haflong Government girls' high school might be transferred to the respective District Councils. The committee considered the views whether Information and Publicity could be transferred to the councils. It recommended the transfer of this subject also provided there was no difficulty. The committee finally recommended that the offices of the various development departments including
the Development Commissioner could be shifted either to Diphu or to Haflong, subject to the availability of office accommodation.

On the recommendations of the Teron Committee the Government decided to take certain positive steps in that direction. Some schemes under Sericulture and Weaving were transferred to the District Council of Karbi Anglong in 1975. The Craftsmen Training Programme also followed suit in the same year. The Cooperatives had been handed over to the council in 1976. The Minor irrigation, Rural Drinking Water supply and the Rural Roads had been transferred in 1981 and finally certain schemes under the Industries Department had been transferred to the District Council in 1982. The subjects, such as, Diphu Civil Hospital, Urban Development and the Diphu Water Supply Scheme had, however, not yet been transferred to council due to certain reasons best known to the Government. The procedure of monthly release of funds had been changed to quarterly basis with effect from 1974 which however was not the recommendation of the committee.49 The Government accepted the committee's recommendation not to keep the district level officers and staff under deputation to the council. The other recommendation that the staff of the development departments should be placed under the council for a period of 3 years had, however, not

49. HPB 1/73/72 dated 6.10.70.
been accepted by the Government. Regarding disciplinary action to be taken by the council i.e. the power of suspension of Government officers by the council, the Government did not accept the recommendation due to obvious reasons as the same rules would have to be followed in respect of all Government servants. On the recommendation relating to initiation of A.C.R. the Government earlier issued a memorandum whereby it was stated that in respect of district level officers the immediate Superior officer of the department would initiate the proceedings which would be reviewed by the P.S. and the E.M. in-charge of the council and accepted finally by the Head of the Department. For example, in the case of the Executive Engineer, the Superintending Engineer would initiate proceedings which would be reviewed by the P.S. and the E.M. in-charge and accepted by the Chief Engineer. In the case of the subordinate officers the district level officers would initiate the proceedings which would be reviewed by the regional level officer and the E.M. I/C. and finally accepted by the Head of the Department concerned.\textsuperscript{50} It is gathered that the recommendations of the committee were not accepted by the Government and the procedure noted above had been followed till 1979.

Regarding the appointment, promotion of L.D.A etc. the Government did not make any comment and hence the council

\textsuperscript{50} AFB 102/70/12 dated 6.10.70.
have not been given the right as recommended by the Teron Committee. The last recommendation of the Committee had been accepted by the Government in principle as large number of offices of Directorates of transferred subjects had been shifted to the hill districts. The office of the Hill Development Commissioner, however, had not yet been shifted to either of the district headquarters.

The District Councils of both Karbi Anglong and N.C.Hills being dissatisfied with the present arrangement of the terms and conditions of the transfer of powers requested the Government to modify the terms in the light of the following suggestions.

(a) Funds should be placed to the District Councils in the form of grant for which the council would submit utilization certificates. The District Council should be allowed to charge 7½% of the amount placed at its disposal as administrative cost.

(b) In respect of government framed rules and instructions the councils should be given the right to modify the rules and instructions to suit local conditions with the approval of the Government.

(c) The councils did not agree about the acceptance of tenders of technical nature by the District level officers and suggested deletion of the provision. The councils did not
want the Principal Secretary and the other Secretaries to be examined by the Public Accounts Committee and other Committees of the State Legislature. It simply wanted the council to be responsible to the State Legislature in all matters relating to funds transferred to them.

(d) All appointments of non gazetted staff should be made by the State Government with the prior approval of the District Council. The council should be given the power to create temporary posts of Grade III and Grade IV whose pay and allowances are to be charged to approved schemes.

(e) The District Council should be given the right to initiate and review the A.C.R. of all officers and staff of the transferred subject. The Secretary should initiate and the CEM should review the A.C.R. of the officers and staff concerned.

(f) In order to enable the District Council to finance the expenditure on the schemes transferred to them without difficulty Government would make adequate grants available for every quarter in advance. The grant for the first quarter must be released to the District Council within the first seven days of April. Grants for subsequent quarter shall be made available within seven days of every quarter.

(g) The forest should be treated as a normal subject of the District Council.
(h) The District Council should have the power to initiate departmental proceedings against the defaulting officers and staff deputed to it.\(^51\)

On receipt of the proceedings of the joint meeting the Government constituted a committee with the following members to review the terms and conditions of transfer of functions of 1970 and to submit its recommendations.

1. Development Commissioner for Hill Areas
   - Chairman
2. CEM, Karbi Anglong District Council.
3. CEM, North Cachar Hills District Council.
4. Principal Secretary, Karbi Anglong District Council.
5. Secretary in-charge transferred subjects North Cachar Hills District Council
6. One representative from Personnel Department.
7. One representative from Finance Department.
8. Under Secretary, H.A.D. - Secretary\(^52\)

On receipt of the committee's recommendation the Government changed and modified the terms and conditions of the transfer of powers originally contemplated to the council

\(^{51}\) Proceedings at the joint meeting of the representatives of Karbi Anglong and N.C. Hill District Council dated 15.11.77 held at Member's Hostel, Diphu.

\(^{52}\) HAD.218/77/23 dated 23.11.77
in 1970. The notification was done in 1979.\(^5\) It is important to observe that most of the views expressed by the two District Councils were not accepted by the Government and therefore most of the terms and conditions laid down in the original notification of 1970 were kept in tact. Let us examine the changes made under the notification of 1979.

(1) The Government accepted the District Council's demand of administrative charge in principle for meeting the expenditure incurred by the District Councils for implementation of the entrusted functions. But the Government would pay a fixed amount on the basis of actual expenditure incurred by the two District Councils for the past five years on a year-wise basis on administering the entrusted functions. Further, the District Council should not create any new post emoluments of which were liable to be met out of the administrative charges to be paid by the Government without its prior approval. The procedure of making payment would be determined by the Government.

(2) The District Council should not entertain new staff out of the funds placed at their disposal without specific prior approval of the State Government. Whenever appointments were made after such approval in regard to posts

\(^{53}\) HAD 218/77/155 dated 14.11.79.
carrying a salary up to ₹800.00 per month preference would be given to candidates who were registered in the local employment exchange.

(3) In respect of officers and staff of the State Government placed at the disposal of the council the Secretary I/C. should initiate the A.C.R. and the E.M. I/C. of the respective entrusted subjects should review the same which would finally be accepted by respective Heads of concerned departments.

(4) In order to enable the District Council to finance the expenditure on the schemes transferred to them it was proposed to make adequate funds available under the heads specified by the Government.

Thus barring a few important issues raised by the councils all were turned down by the Government. An objective analysis on the issues raised is necessary in this context.

Let us first take up the issue of framing of District Fund Rules. The District Council of Karbi Anglong had been pressing the Government hard since the transfer of functions in 1970 to frame or amend the Rules as the same seemed to be outdated in the present context. The very provision that Government of Assam was the authority to frame the
Rules seemed to be defective and therefore the Rules always remained as stumbling block in the smooth functioning of the council administration. The make shift arrangements done by the council were, in fact, not in conformity with the financial rules. It is important to observe that the new Fund Rules have not come to the light up till now.

It is an irony that the council which was entrusted with almost all subjects to which the executive power of the state extends have not been given the power to appoint Grade III and Grade IV personnel for the purpose of proper implementation of the schemes. The council, as a matter of fact, should not await for approval of sanction of posts or retention of posts etc. In fairness to the Government it must be admitted that the present arrangement made available in the provisions of the Sixth Schedule do not allow the State Government to go beyond its limits. But for proper entrustment of functions it may be suggested that such powers should be made available to the District Council.

Another issue was the release of funds by the respective departments of the Government. The present arrangement of six monthly release has greatly relieved the District Council. The transfer of functions stipulated that the council should surrender the savings by 15th March every year. But when the funds were pouring in as late as 5th April it would
not be possible for the council to surrender surplus funds by the 15th March. Only last year i.e. 1983–84 there had been some improvement in the situation.

The next issue which had been frequently raised by the Government that the accounts in respect of entrusted functions were not rendered regularly every month by the District Council with relevant vouchers which was one of the most important terms and conditions. The District Council admitted this lapse on its part and assured the Government to regularise the same accordingly. In fairness to the council it is to be observed that the Government did not approve the creation of additional posts in the Accounts Branch and hence the existing accounts staff could not deliver goods properly. That aspect of the issues had not been examined by the State Government since the transfer of functions in 1970.

The next issue was the writing of A.C.R. of the officers and staff of the schemes transferred to the District Council. The terms and conditions of 1979 stipulated that the Secretary I/C shall initiate the A.C.R. and the E.M. I/C shall review the same which will be finally adopted by the Heads of Departments. This is, however, an improvement of the earlier procedure laid down by the Government. But the terms and conditions of 1979 did not give a very clear picture because the officers and staff of both transferred and nontransferred
schemes seemed to be the victims of the same yardstick. The detailed procedure, however, would follow, in due course, the terms and conditions of 1979 stated.

It was further stated that the Heads of Departments would continue to exercise full power and responsibility in the matter of technical control and supervision over the officers placed at the disposal of the District Council even in respect of schemes entrusted to the council. It is a fact that the District Council do not possess technical knowhow and therefore the Heads of Departments must have full control over the officers of the scheme transferred to District Council also. But this apparently will create certain amount of confusion as that would lead to certain administrative problems. Because, the officers of this category would have two masters, the Heads of Departments and the District Council. The position could have been eased if the council was provided with some technical personnel deputed to it to control the officers of the transferred schemes.

Thus from the above it may be concluded that the executive powers extended to the District Council were not the powers in the strict sense. The word 'Power' had not been referred to in the notifications issued by the Government to from time/time. The word 'function' had frequently been mentioned in the notifications of the Government. It was really
the 'function' which the council had limited resources at its disposal. Except the diversion of funds from one scheme to another within the same major head the District Council, practically speaking, had not major power to exercise. No officer can be suspended by the council. No post even of grade IV could be created by the council. The council had no say in case of promotions etc. even in respect of grade III and grade IV staff of entrusted functions. Writing A.C.R. is not an important power entrusted to the council. Above all, the transfer of functions had given certain amount of burden and responsibility on the council. The real powers are still retained in the hands of the State Government.