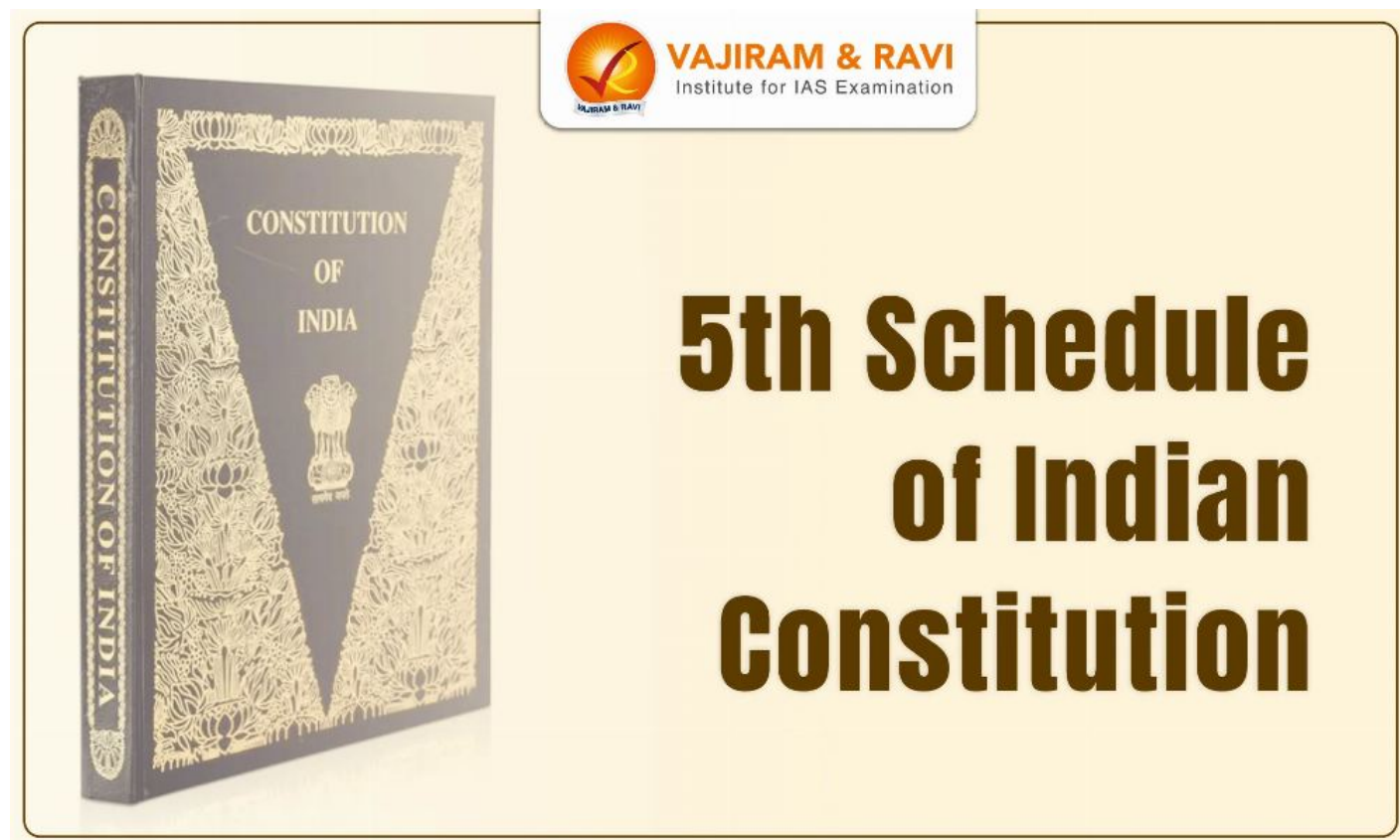


5th Schedule of Indian Constitution, Provisions, States, UPSC Notes

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5th Schedule of Indian Constitution

The Fifth Schedule of the Indian constitution deals with provisions related to the **Administration and control of Scheduled Areas and Scheduled Tribes**.

5th Schedule of Indian Constitution Criteria

The **Dhebar Commission (1960-61)**, laid down the following criteria for declaring any area as a '**Scheduled Area**' under the Fifth Schedule:

- Preponderance of tribal population, which should not be **less than 50 percent**.
- Compactness and reasonable size of the area.
- Underdeveloped nature of the area.
- Marked disparity in the economic standard of the people as compared to the neighboring Areas.

Later, a viable administrative entity, such as a district, block, or taluk, has been also identified as an important additional criterion. According to the Ministry of Tribal Affairs, these criteria are not spelt out in the Constitution of India but have become well established.

5th Schedule of Indian Constitution Provisions

The Fifth Schedule of the constitution deals with the management and administration of Scheduled Areas and Scheduled tribes where tribal groups predominate.

- **Article 244(1):** The provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State other than the States of Assam, Meghalaya, Tripura, and Mizoram.
- **Declaration of Scheduled Areas:**
 - The President of India is empowered to declare an area a Scheduled Area. He can direct that the whole or any specified part of a Scheduled Area shall cease to be a Scheduled Area.
 - The President can **increase or decrease** the area of any Scheduled Area in a State after consultation with the Governor of that State and also alter its boundary lines but only by way of rectification of boundaries.
- **Executive power of State and Centre:**
 - The executive power of a State extends to the Scheduled Areas therein.
 - The Governor of each State having Scheduled Areas shall make a report to the President regarding the administration of the Scheduled Areas in that State.
 - The executive power of the centre extends to giving directions to the State regarding the administration of such Areas.
- **Tribes Advisory Council (TAC):**
 - A Tribes Advisory Council has to be established in each State, having Scheduled Areas to deal with the welfare and advancement of Scheduled tribes in states.
 - A similar council can be established in any State having Scheduled Tribes but not Scheduled Areas if the President directs.
 - It consists of a **maximum of 20 members**. Three-fourths of the members should be representatives of Scheduled tribes in the State legislative assembly.
 - The Governor may make rules
 - Regarding the number of members of the Council.
 - The mode of their appointment and the appointment of the Chairman of the Council and of the officers and servants thereof.
 - The conduct of its meetings and its procedure in general, all other incidental matters.
- **Law applicable to Scheduled Areas:**
 - The Governor is empowered to direct that any particular act of Parliament or of the State legislature does not apply to a Scheduled Area or any part or shall apply with specified modifications and exceptions.
 - The **Governor is empowered to make regulations for the peace and good government** of a Scheduled Area after consulting the Tribes Advisory Council. Such regulations may

- Prohibit or restrict the transfer of land by or among members of the Scheduled Tribes in such Areas.
- Regulate the allotment of land to members of the Scheduled Tribes in such Areas.
- Regulate the carrying on of business as money-lender by persons who lend money to members of the Scheduled Tribes in such Areas.

Other Provisions

Panchayat (Extension to Scheduled Areas) Act, 1996:

- The Fifth Schedule Areas are exempt from the Panchayat-related requirements of Part IX of the constitution. **The Panchayat (Extension to Scheduled Areas) Act, 1996**, was passed by Parliament **to extend the provisions of Part IX to the fifth Scheduled area** with certain modifications.

5th Schedule of Indian Constitution States

The Fifth Schedule provides for the administration of tribal Areas in **ten states in India**, including Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, and Telangana.

What are the issues and challenges pertaining to the Scheduled Areas?

There are several issues pertaining to the Fifth Schedule:

- Tribes Advisory Councils **do not have much powers** as Autonomous District Councils (provided under the Sixth Schedule).
- There is no clarity on the composition of TAC, especially the remaining one-fourth of the membership.
- **Discretionary power of the Governor under the provisions of the Fifth Schedule:**
 - There is no clarity on whether the Governor can make any referral on his own discretion or only on the advice of the Council of Ministers.
- **Encroachment of tribal lands:** It does not provide adequate protection against the encroachment of tribal lands by non-tribals.
- Sometimes, the regulations governing functions of TAC are framed by State governments rather than the Governor, which has allowed the political parties in power to take over these bodies.

What steps could be taken for the effective implementation of the Fifth Schedule?

Effective implementation of the Fifth Schedule of the Indian Constitution is crucial for the social, economic, and political development of the Scheduled Tribes (STs) in India. The following steps could be taken for the effective implementation of the Fifth schedule:

- **Strengthening of institutional mechanisms:** The institutional mechanisms responsible for the implementation of the Fifth Schedule, such as Tribes Advisory Councils, need to be strengthened.

- **Inclusive development:** The development process in the Scheduled Areas should be inclusive and should address the specific needs and concerns of the tribal communities.
 - There should be provisions for social protection and welfare measures for the vulnerable sections of the population.
- **Allocation of resources:** The government should allocate sufficient resources to local bodies for the development of infrastructure, education, health, and other basic amenities in Scheduled Areas.
- **Capacity building of the ST communities:** To enable them to participate effectively in the decision-making process, the provisions of training and education for the ST community members should be implemented at the earliest.
- **Devolution of powers:** The government needs to promote tribal self-governance by devolving powers to local tribal councils and empowering them to make decisions on matters that affect their communities.
- **Attitudinal change:** The Union and state governments need to change their attitude and perception towards the welfare of the Scheduled Areas. Additional text to be added here.

Fifth Schedule UPSC PYQs

Q1: Consider the following statements: **(UPSC Prelims 2025)**

With reference to the Constitution of India, if an area in a State is declared as Scheduled Area under the Fifth Schedule

1. the State Government loses its executive power in such areas and a local body assumes total administration
2. the Union Government can take over the total administration of such areas under certain circumstances on the recommendations of the Governor

Which of the statements given above is/are correct?

- a) 1 only
- b) 2 only
- c) Both 1 and 2
- d) Neither 1 nor 2

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