

The Legend IAS

6th Schedule- Traps

A comprehensive guide distinguishing between common misconceptions (Trap X) and constitutional realities (Reality ✓) about India's Sixth Schedule provisions for tribal autonomous areas.

Basics & Scope

Trap 1

✗ **Sixth Schedule** applies to all **tribal areas** in India.

✓ It applies only to notified **tribal (autonomous) areas** in 4 NE states — **Assam, Meghalaya, Tripura & Mizoram**.

Trap 2

✗ **Sixth Schedule** areas are the same as **Fifth Schedule** areas.

✓ Different regimes: **Fifth** = mainland Scheduled Areas; **Sixth** = **Autonomous District/Regional Councils** in NE.

Trap 3

✗ **Sixth Schedule** was a temporary experiment.

✓ It is a **constitutional**, permanent **framework (Schedule VI / Art. 244(2))** for **tribal autonomy** unless amended.

Trap 4

✗ **Sixth Schedule** covers whole states (e.g., whole Assam).

✓ It applies only to specific **notified districts/regions** inside those states.

Trap 5

✗ **Sixth Schedule councils** are mere advisory bodies.

✓ Councils have **legislative, executive and judicial powers** on specified subjects.

Trap 6

✗ **ADCs** cannot levy taxes.

✓ **ADCs/Regional Councils** can **levy & collect specified taxes, tolls and fees** (land, professions, markets etc.).

Trap 7

✗ **Sixth Schedule** automatically gives full **law-making** to **councils** over everything in the area.

✓ Their **law-making** is limited to **subjects listed in the Schedule (land, forest, village administration, inheritance, social customs, etc.)**.

Trap 8

✗ **Sixth Schedule** is an island—no role for State/Centre.

✓ It works within the **State & Union framework (Governor, State Govt, Parliament retain roles)**.

The Legend IAS

Structure & Composition

Trap 9

Each ADC has a uniform size/composition across states.

Composition (elected + nominated members) and numerical strength vary by council & state rules; Constitution allows flexibility.

Trap 10

All members are directly elected only.

Councils include elected and nominated members (Governor-nominated).

Trap 11

Regional Councils = same as District Councils.

Regional Councils cover a larger area (autonomous region) while District Councils cover autonomous districts; powers may overlap but differ.

Trap 12

Councils can never appoint their own officers.

Councils can appoint some officers and entrust functions, but many executive staff remain state appointments.

Trap 13

The Governor cannot modify council composition.

Parliament/State laws and Governor orders have shaped composition historically — schedule allows modifications.

Trap 14

Every council follows same election rules as state assemblies.

Election procedures for ADCs are specified/regulated separately (state rules + Sixth Schedule).

Trap 15

Councils are subordinate municipal bodies.

They are constitutional autonomous bodies with special status under Schedule VI.

Trap 16

Councils automatically include district MPs/MLAs as members.

Councils consist of local representatives; MPs/MLAs are not automatic members, although state law can provide liaison.

Legislative Powers

Trap 17

✗ **ADC** laws need **Parliament's** prior approval.

✓ **ADCs** may make laws on Schedule subjects; such laws are published in the **State Gazette** and have force of law (subject to **Governor**/State rules).

Trap 18

✗ All **ADC** laws take effect immediately.

✓ Many regulations (esp. taxes) must be submitted to the **Governor** and have no effect until he assents.

Trap 19

✗ **ADCs** can legislate on defence, foreign affairs or currency.

✓ Their **legislative domain** is local: land, forest, water, agriculture, village administration, social customs, money-lending, markets, etc. — not **Union subjects**.

Trap 20

✗ **ADC** laws cannot modify state laws on the listed subjects.

✓ In specific pockets, **ADCs** can direct that certain **State Acts** shall not apply to their district unless the **District Council** so directs (subject to provisions).

Trap 21

✗ **ADC** can pass any regulation by simple majority.

✓ Some critical regulations (e.g., control of non-tribal trade/money-lending) require a **three-fourths majority**.

Trap 22

✗ **Council laws** are immune from **judicial review**.

✓ **ADC laws** are subject to **judicial review** like any other **subordinate legislation**.

Trap 23

✗ **ADCs** can unilaterally legalise **customary practices** even if they breach **fundamental rights**.

✓ **ADC laws** must conform to **constitutional limits (FRs, Basic Structure)** and can be struck down if **ultra vires**.

Trap 24

✗ **Regional Councils** cannot make laws if a **District Council** already did.

✓ **Jurisdictional allocation** exists: **Regional Council's** authority covers region; **District Council** applies to districts not under **Regional Council**. Both can legislate within their domains.

Trap 25

✗ **ADC laws** are merely advisory unless published.

✓ On publication in **State Gazette** they have the force of law (**Sixth Schedule** procedure).

Trap 26

✗ There's uniformity in the list of **legislative subjects** across all **councils**.

✓ The Schedule lists subjects but **Parliament**/state amendments & local rules produce variations in application.

Executive, Administration & Judicial Powers

Executive Powers (Traps 27-34)

- ✗ **Councils** execute all laws on their own.
- ✓ **Councils** exercise **executive power** on delegated subjects but often coordinate with **State** departments for implementation.
- ✗ **ADCs** control police and public order fully.
- ✓ They may have limited local policing powers (village level); major police functions remain **State** subject.
- ✗ **ADCs** automatically take over administration of schools/health centres.
- ✓ They may establish/manage primary schools, dispensaries, markets but operational control often shared with **State**.
- ✗ **Councils** hire all local staff freely.
- ✓ **Councils** can appoint certain local officers but many functionaries are **state**-appointed; transfer of functionaries depends on **state** consent.

Administrative Oversight (Traps 31-34)

- ✗ The **State governor** has no supervisory role over **ADC** administration.
- ✓ **Governor** has powers to make rules for fund management and can direct in disputes — supervisory role exists.
- ✗ **ADCs** can enforce punishments exceeding ordinary criminal law limits.
- ✓ **Councils** can impose fines/penalties for breaches under **council** regulations, but punitive powers are limited & subject to **state/constitutional** limits.
- ✗ **ADCs** manage large infrastructure projects alone.
- ✓ For projects needing **state** resources or permissions (e.g., large roads, major irrigation), coordination with **State/Centre** is required.
- ✗ **Councils** have immunity from **state** audits.
- ✓ Accounts of **District/Regional Councils** are auditable by the **CAG** (with **President's** approval for form) and laid before **Governor/Councils**.

Judicial Powers (Traps 35-40)

- ✗ **Sixth Schedule** ends formal justice administration; only **customary justice** applies.
- ✓ **Councils** can constitute courts for trial of suits/cases between tribals and decide petty offences (within limits), but higher **judicial review** remains with regular courts.
- ✗ **ADC** courts can award any sentence they like.
- ✓ **Judicial powers** are limited (usually minor penalties/imprisonment thresholds) and subject to procedural safeguards and higher court oversight.
- ✗ **ADC** court decisions are final and cannot be appealed.
- ✓ Decisions are appealable to higher courts as per procedure and subject to review.

Constitutional Limits (Traps 38-40)

- ✗ **Councils** can replace statutory criminal procedure in their courts.
- ✓ **ADC** courts function within limits laid in **Schedule** & **state law**; they cannot substitute core criminal justice machinery.
- ✗ **Customary punishments** allowed by **councils** supersede **fundamental rights** protection.
- ✓ **Customary practices** cannot violate **constitutional rights**; **Councils'** judicial actions are reviewable.
- ✗ There is no requirement for fair trial in **ADC** courts.
- ✓ **ADC** judicial processes are subject to rules and **judicial scrutiny** to ensure fairness and legality.

Finance, Taxation & State-Centre Relations

Financial Framework (Traps 41-48)

- ✗ **ADC** funds come only from local taxes.
- ✓ Funds include local levies, **royalties** share, **State** grants and **Centre** grants (**Art. 275**).
- ✗ **ADCs** have unlimited **taxing power**.
- ✓ **Sixth Schedule** lists specific taxes **ADCs** may levy (land, professions, markets, ferries, certain tolls); they must follow prescribed procedures.
- ✗ **ADC** budgets are private; no audit.
- ✓ **CAG** audits **ADC** accounts in a manner approved by President; reports presented to **Governor/Councils**.
- ✗ Share of mineral **royalties** to **ADC** is automatic & unregulated.
- ✓ Paragraph 9 provides for sharing of **royalties** subject to agreements and **Governor** determinations; **Governor's** decision is final.

Financial Reality (Traps 45-48)

- ✗ **ADCs** cannot borrow or take loans.
- ✓ **Sixth Schedule** allows financial arrangements, subject to rules and approvals; **councils** manage **District/Regional Funds**.
- ✗ **Centre** gives no special grants to **Sixth Schedule** areas.
- ✓ **Article 275** authorises grants-in-aid to **states** for **tribal** welfare and administration of **autonomous areas**.
- ✗ **Councils** can divert **CAG**-audited funds freely.
- ✓ Fund management rules (**Governor's** rules + **CAG** oversight) regulate withdrawals & use.
- ✗ **ADCs** are financially self-sufficient by design.
- ✓ Many **ADCs** depend on **State/Centre** grants; financial autonomy is partial in practice.

State-Centre Relations (Traps 49-54)

- ✗ **Sixth Schedule removes State's legislative competence**.
- ✓ It co-exists with **State legislature**; **ADC** laws apply in their domain and **State Acts** may be excluded in pockets per **Schedule** provisions.
- ✗ **Governor's power under Sixth Schedule** is identical to **Fifth Schedule Governor** powers.
- ✓ Similar supervisory role exists but procedures & consents differ for **District/Regional Councils** under **Sixth Schedule**.
- ✗ **Parliament** has no role after creation of **ADCs**.
- ✓ **Parliament** can legislate/amend **Schedule VI** and overall **tribal** policy; **ADCs** remain within **constitutional frame**.

Intervention Powers (Traps 52-54)

- ✗ **Centre** cannot intervene in **ADC** affairs.
- ✓ **Centre/President** may intervene on national interest grounds and via **Article 275** grants — **Centre** has levers.
- ✗ **State laws** conflicting with **ADC laws** are automatically void.
- ✓ Conflict resolution runs through **Schedule** procedures, **Governor** notifications and **judicial review**.
- ✗ **ADCs** make **State governors** redundant.
- ✓ **Governors** retain important roles (notifications, rules, resolving **royalty** disputes, fund rules).

Land, Customs & Implementation Reality

Land, Customs & Resource Control (Traps 55-58)

- ✖ Sixth Schedule strips tribal communities of customary rights.
- ✓ It recognises & protects local customs, land rights, inheritance and tribal institutions within constitutional limits.
- ✖ Major mining/leasing rights in Sixth Schedule areas are solely ADC's domain.
- ✓ ADCs may share royalties/issue leases per the Schedule, but major mineral policy still involves State/Centre and Governor can determine royalties share.
- ✖ Sixth Schedule prevents any regulation of money-lending or trade.
- ✓ Councils may regulate/control money-lending & non-tribal trade (special 3/4th majority rule for stronger measures).
- ✖ Customary practices in land/ marriage invoked by ADCs trump national laws.
- ✓ Customary laws are protected to an extent, but they cannot override constitutional guarantees (e.g., equality, fundamental rights).

Implementation, Case Law & Practice (Traps 59-60)

- ✖ Sixth Schedule worked uniformly well across NE.
- ✓ Implementation varies widely (Bodoland, Karbi Anglong, Garo Hills, Khasi Jaintia differ greatly); success depends on state policy and capacity.
- ✖ Sixth Schedule areas have no judicial remedies.
- ✓ Courts (HC/SC) review ADC actions; litigants can challenge ultra vires acts — Sixth Schedule does not remove judicial protections.

The Sixth Schedule represents a unique constitutional experiment in tribal autonomy, balancing local self-governance with national integration. Understanding these 60 traps helps distinguish between constitutional theory and ground reality in India's northeastern autonomous districts.