

The Legend IAS

6th Schedule- Traps

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

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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).

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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

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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).

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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.