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## **UNIT 6 REGIONAL AND DISTRICT COUNCILS\***

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### **6.0 OBJECTIVES**

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After reading this unit, you will be able to:

- Explain the features of Regional and District councils;
- Discuss the need to introduce them;
- Identify the features of the regions which have got regional and district councils; and
- Elaborate upon their functions and challenges.

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### **6.1 INTRODUCTION**

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In Units 4 and 5 you have read that there are special provisions in the Indian Constitution about protecting land and forest rights and preserving the cultural identities of the tribal people in Northeast India. These provisions are enshrined in the VI Schedule of the Constitution (Article 244), Articles 371- A-371 C, and Articles 371 F-371H. And all states of the region enjoy special status, which entitles them to tax rebates and central assistance. In this unit, you will read about regional and district councils.

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\* This unit is largely based on unit 12, BPSC-102 and Unit 15, BPSC-212.

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## 6.2 CONCEPTS: REGIONAL AND DISTRICT COUNCILS

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The VI Schedule of the Constitution provides for the creation of the district and regional councils in Northeast India. These are constitutional devices to protect the economic interests and cultural identities of the tribal communities. Autonomous District Councils are constitutional devices that cover an entire tribal district, which may consist of more tribes than one. An Autonomous Regional Council covers a specific tribe within (a region) of such a district. An Autonomous Regional Council within a District can be elevated to an Autonomous District Council. The Constitutional (One Hundred and Twenty-fifth Amendment) Bill 2019 provided for the village and municipal councils and District and Regional Councils in the VI Schedule areas. It suggested that the district councils will make rules regarding the powers of village and village councils. The tribal areas in Northeast India having such devices are known as “Scheduled Areas”. Prior to the inclusion of the VI Schedule in the Constitution, such areas were identified as excluded and partially excluded areas (backward areas). As you have read in Unit 5, the Bardoloi Committee recommended that provisions be made in India’s constitution for creating constitutional devices to give autonomy to the tribal areas in Northeast India. Such autonomy would enable the tribal people in the region to preserve their identities and natural resources. The VI Schedule, which provides for the creation of the district and regional councils, resulted from the Bardoloi Committee’s recommendations (Article 244). The power to identify a district or region to introduce Autonomous District Council or Autonomous Regional Councils rests with the Governor. He also has the power to alter the territorial jurisdictions of ADCs and ARCs.

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## 6.3 AUTONOMOUS DISTRICT COUNCILS (ADCs)

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### 6.3.1 States with ADCs

According to the VI Schedule, as you have read in Unit 5, four states of Northeast India, i.e., Assam, Meghalaya, Tripura, and Mizoram, have in all ten Autonomous District Councils. Their state-wise names are given below:

#### **Assam**

1. The North-Cachar Hills District (Dima Hasao)
2. The Karbi-Anglong District
3. The Bodoland Territorial Area District

#### **Meghalaya**

In 1952, elections to the district councils were held in United Khasi-Jaintia Hills Districts, Garo Hills District, Mikir Hills (the hill districts became constituents of Meghalaya state).

1. The Khasi Hills District

2. The Jaintia Hills District
3. The Garo Hills District

### **Tripura**

1. The Tripura Tribal Areas District

### **Mizoram**

1. The Chakma District (Chakma Autonomous District Council: CADC)
2. The Mara District (Mara Autonomous District Council: MADC)
3. The Lai District (Lai Autonomous District Council: LADC)

The areas which now constitute the state of Mizoram were earlier part of Assam, which became a full-fledged state in 1986. As part of Assam, the former known was known as Mizo Hills District (earlier known as Lushai Hills). The Mizo Hills district in Assam had a Regional Council, which was known as Pawi-Lakhar Regional Council. It was constituted in 1953. The Mizo Hills district was upgraded to a Union Territory in 1972. With Mizoram having become a Union Territory, the Pawi-Lakher Regional Council was reorganized and trifurcated into three regional councils, i.e, Pawi, Lakher and Chakma regional Councils. These regional councils were elevated to ADCs in 1972 according to Mizoram District Councils (Miscellaneous Provisions) Order, 1972. They were renamed: Pawi regional Council as Lai Autonomous District Council (LADC); Mara Autonomous District Council (MADC), and Chakma as Chakma Autonomous District Council (CADC). (Valalchhawna 2021).

### **6.3.2 Demands for Councils or Extension of the VI Schedule Provisions**

After the passage of the Manipur (Hill Areas) District Council Act, 1971, and the Tripura Tribal Areas Autonomous District Council Act, 1979, district councils were created in Manipur and Tripura. But the provisions of the VI Schedule were not extended to these states. The VI Schedule did not include all regions of Northeast India for the introduction of the district or regional councils. In fact, demands for the extension of its provisions arose in the states of Manipur from 1978 and in Tripura from the 1980s. In response to persistent demands, the Tripura Autonomous Council District Council was brought under the VI Schedule on 1<sup>st</sup> April 1987. Demands for autonomous councils are often raised in those areas of the Northeast where they do not exist (Valalchhawna 2021). Some examples of such demands include demand for Kuki Regional Council in Kuki areas of Karbi Anglong district of Assam and the demand for Regional Council for Hmars within the North Cachar Autonomous District Council in Assam. The existence of ADCs in Northeast India has also inspired the autonomy movements in some other parts of India. In response to such demands, councils based on the ADC model were created for Indian Nepalese (also known as Gorkha) in West Bengal (1989), “tribals” in southern Bihar (which became Jharkhand state in 2000) in 1989, Tibetan Indians in the Ladakh region (Stuligross 1999), which became a Union Territory in 2019.

### 6.3.3 Powers of District and Regional Councils

The VI Schedule Defines powers of both the Autonomous District Councils and Autonomous Regional Councils. The Governor will make rules about the ADC and ARC in consultation with the tribal council or representatives of the tribal organizations within the concerned ACD or the ARC. The ADCs and ARCs are endowed with certain legislative, executive, judicial and financial powers. If an autonomous district has a regional council, The ACD will have jurisdiction only over such matters on which the Autonomous Regional Council has delegated power to the ADC. The ADC will have such powers in addition to the powers conferred on it by the VI Schedule. However, the administrative powers and functions of these District Council and Regional Council differ from State to State. The Sixth Schedule lays down the different administrative provisions for each state's District Councils and Regional Councils in Para 12, 12A, 12AA and 12B for the State of Assam, Meghalaya, Tripura and Mizoram, respectively. The power and functions of District Councils and Regional Councils as given in the Sixth Schedule can be summarised as:

#### **Legislative Powers**

The ADCs and ARCs have powers to legislate on certain issues. However, such laws cannot have validity unless they have the assent of the Governor. Among the subjects on which ADCs and ARCs can make rules include:

- (a) Allotment, occupation or use of land (other than reserved for forest) for the purpose of agriculture or grazing, for residential or other non-agricultural purposes, for residential or other purposes;
- (b) Management of forest which is not reserved;
- (c) Use of canal or watercourse for the purpose of agriculture;
- (d) Regulation of *jhum* or another form of shifting cultivation
- (e) Establishment of village or town committees or councils and their powers;
- (f) Appointment or succession of chiefs or headmen;
- (g) Inheritance of property, marriage and divorce; and,
- (h) Social customs.

These subjects are mentioned in Para 3 of the VI Schedule. Besides the Para 10 of this Schedule, the District Council of an Autonomous District has the power to make laws for the regulation and control of money-lending or trading by any person other than Scheduled Tribe residents in the Scheduled District.

#### **Executive Powers**

The Sixth Schedule also endowed the District Councils and Regional Councils with extensive executive powers. The District Councils and Regional Councils are given the power to establish, construct or manage primary schools, dispensaries, markets, ferries, cattle ponds, fisheries, roads, road transport and waterways in the districts. With the approval of the Governor, Councils are also authorized to prescribe the language and manner of instruction in the primary schools. The district councils may be entrusted with other works such as

agriculture, animal husbandry, community projects, cooperative societies, social welfare, village planning or any other matter which falls under the executive powers of the state.

### **Judicial Powers**

Judicial powers of the District Councils and Regional Councils relate to the constitution of the Village and District Council Courts for a trial of suits and cases where all parties to the dispute belong to Scheduled Tribes within the district. Power of court of appeal can be exercised only by the courts established by the District Council. A District Council or Regional Council may make rules relating to village councils and courts and their powers. Moreover, no other courts except the High Court and the Supreme Court have jurisdiction over such suits. However, the District Councils and the Regional Councils do not have powers to decide cases involving death or imprisonment for five years or more.

### **Financial Powers**

District Councils and the Regional Councils have financial powers to prepare the budget for the related council; to assess and impose taxes on lands and buildings, professions, trades, employment, animals, vehicles, taxes on entry of goods into the market for sale, the toll on passengers and goods carried in ferries and taxes for the maintenance of schools, dispensaries or roads within their respective jurisdiction. The District Councils have powers to grant licenses or leases for the extraction of minerals within their jurisdiction. The councils are also entitled to royalties on the extraction of minerals each year.

The VI Schedule also provides for the constitution of a District Fund for the Autonomous District Councils (ACDs). All money received by an ACD in the course of its administration is credited to its District Fund. The district fund includes grant-in-aid received from the government, taxes levied or other revenues received by the ACDs under the laws framed by the ACDs (Vanlalchhawna 2021, p. 339).

Unlike ADCs under the VI Schedule, the Tribes Advisory Councils established under the provision of the Fifth Schedule are not given the financial power for preparing the budget for themselves. There is no mentioning of sources of income or grant-in-aid in the Fifth Schedule provisions. However, since The State Government creates district Councils or Tribe Advisory Councils, it is the moral duty of the State Governments to give financial assistance to the Councils. Again, regarding delegation of power, the Sixth Schedule provides a long list of items on which the District and Regional Councils could exercise their power. Whereas the powers and functions to be delegated to the Tribes Advisory Councils in the Fifth Scheduled Areas are minimal and primarily decided by the State Cabinet. Therefore, the Autonomous District Councils established under the Sixth Schedule have relatively much more power than the Tribes Advisory Council under the Fifth Schedule. The Sixth Schedule is sometimes referred to as a “mini-constitution” and District and Regional Councils as ‘mini-state or state within a state since they have extensive

legislative, executive, financial, and judicial powers. District Councils under the Sixth Schedule derive their powers from the Constitution.

Nevertheless, under the Fifth Schedule, the Tribes Advisory Councils being the creation of the Legislative Assembly of the States, have limited powers that are mostly executive in nature. Unlike the provisions of the Sixth Schedule, legislative, judicial, and financial powers are denied to the Fifth Scheduled Areas. The executive power of the State also extends to the Scheduled Areas.

### **Check Your Progress 1**

**Note:** i) Use space given below for your answers.

ii) Check your answers with the model answers given at the end of the unit.

1) What are Autonomous District Councils and Autonomous Regional Councils?

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2) Identify Autonomous District Councils states where they have been recommended under the VI Schedule.

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3) Discuss legislative powers of the Autonomous District Councils.

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## **6.4 COMPOSITION OF THE DISTRICT AND REGIONAL COUNCILS**

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District council and regional councils are constituted of elected and nominated members. The elected members are elected through the universal adult franchise, and the Governor nominates the nominated members. The number of members of each district council and regional council will not be more than 30. Of these, – twenty-six members are elected, and four are nominated. The Bodoland Territorial Council is an exception. It can have 46 members. Of which forty (40) are elected, six (6) are nominated by the Governor. The nominated members belong to the unrepresented communities who are not adequately represented in the opinion of the Governor.

The regions identified for the creation of Autonomous Regions will have separate Autonomous Regional Councils. Such Autonomous Regional Councils are named after the region where they are introduced. Elected members of the District Council shall hold office for five years.

#### **6.4.1 Administrative Structure of Autonomous District Councils**

The administrative structure of the Autonomous District Council consists of a Council of Secretariat and an executive wing. The Council Secretariat has a chairman of the Council, a secretary appointed by the chairman, and other officials and staff needed to function the office. The rules about regulating and service conditions of the staff and officers of the secretariat may be made by the District Council. The Executive committee of the District Council includes chief executive members and other members. The other members are appointed by are appointed on the recommendation of the chief executive members. The executive committee has powers to execute functions of the District Council. The members of the executive committee have a collective responsibility to execute functions of the District Council. (See Vanlalchawna 2021: p. 336). At the village level, there exist village councils that work as institutions of governance at the grassroots level. The members of the village council are elected by eligible voters in the council. A village council consists of a president, a vice-president, elected and nominated members, and the secretary. The secretary should not be an elected member. The village council has the power to mobilise local funds and efforts for community works, distribute land for *jhum* cultivation, impose fines on individuals who refuse to participate in community work. It also implements centrally sponsored schemes and acts as village court competent to try civil cases of petty nature relating to tribal laws and customs, etc. (Vanlalchawna 2021: pp. 336-37).

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### **6.5 CHALLENGES BEFORE THE AUTONOMOUS DISTRICT COUNCILS**

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The ADCs face multiple challenges. These challenges range from their criticism for failing to address the tribal aspirations, for being inefficient and anachronistic, and thus unnecessary, from criticism by the non-tribals for being discriminatory to conflict between the ADCs as modern and tribal chief as traditional institutions. The tribal population is critical of the ADCs for failing to meet the aspirations of the local population. The ADCs are modern institutions largely composed of the elected representatives. The representatives in the ADCs belong to a new generation, which has benefited from modern education. They are the new elites. The introduction of the ADCs in the tribal areas has placed the new elite in confrontation with the traditional elite, the tribal chiefs or kings. The latter view the ADCs as their competitors. Some argue that ADCs have become the centre of corruption, “state within the state,” and breeding ground for politicians. In the 1950s-1960s, leaders in Mizo/Lushai hills and the Khasi, Jaintia and Garo hills underlined that ADCs were unable to meet the aspirations

of tribal people. They had demanded the formation of a hill state to meet the aspirations, in which the ADCs failed.

The non-tribal people in the areas under the ADCs complain of discrimination by the ADCs in issuing trade licenses. A section of the non – tribals also has been seeking the removal of the ADCs. They argue that the VI Schedule was introduced to protect the interests of the tribals while the tribal districts would be constituents of Assam. But with the formation of separate states out of Assam, there was no need for the Autonomous District Councils. Besides, there is no clear demarcation of the jurisdiction of the ADCs, which result in overlapping the jurisdiction of the ADCs, state legislature and the village councils. This causes inconvenience to the people. In fact, as you have read in Unit 4, apprehensions were raised by some non-tribal members in the Constituent Assembly Debates about discrimination by the proposed constitutional devises in the VI Schedule, which resulted in the constitution of ADCs. They also suffer from inadequacy of funds. Stugligross (1999) observes that the ability of ADCs to legislate is restricted. All ADC bills must receive the assent of the Governor before they become laws. The Governor can not independently give assent to the bills. He is bound by the aid advice of the Council of Ministers. It means that the autonomy is the ADCs is restricted by the condition of aid and advice to the Governor. Vanlalchhawna’s study (2021) on ACDs in Mizoram shows that the ACDs could not meet the requirements of people because of lack of financial autonomy, political corruption and inefficient administration. In the state, they have brought about only limited development.

### **Check Your Progress 2**

- Note:** i) Use space given below for your answers.  
ii) Check your answers with the model answers given at the end of the unit.

1) Discuss the composition of the Autonomous District Councils.

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2) Discuss the challenges before the Autonomous District Councils.

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## 6.6 LET US SUM UP

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Autonomous District Councils (ADCs) and Autonomous Regional Councils (ARCs) are constitutional devices created under the VI Schedule of the Constitution (Article 244) in Northeast India. Their purpose is to protect cultural identities and preservation of natural resources of the tribal people in the. The VI Schedule provides for the constitution of ADCs in four states of Northeast India. In the North-Cachar Hills District (Dima Haolang), the Karbi-Anglong District and the Bodoland Territorial Area District in Assam; in the Khasi Hills District, the Jaintia Hills District, and the Garo Hills District in Meghalaya; the Tripura Tribal Areas District in Tripura; and, the Chakma District (Chakma Autonomous District Council: CADC), the Mara District (Mara Autonomous District Council: MADC), and the Lai District (Lai Autonomous District Council: LADC) in Mizoram. There are some differences between ADCs and ARCs. The former cover all tribes residing in a district. The latter cover a particular tribe residing in a district under an ADC.

The ADCs and ARCs have legislative, executive, judicial and financial powers. Their legislative powers largely pertain to allotment of land for grazing and residential purposes; management of forest, allotment of land for *jhum* cultivation; appointment of headmen or succession of a chief. However, a law passed by the ADC or the ARCs can not become law without the consent of the Governor. Under their executive powers, the ADCs and ARCs can, among other activities, establish, construct or manage primary schools, dispensaries, markets, ferries, cattle ponds, fisheries, roads, road transport and waterways in the districts. The ADCs and ARCs have powers to constitute the Village and District Council Courts for a trial of suits and cases where all parties to the dispute belong to Scheduled Tribes within the district. Power of court of appeal can be exercised only by the courts established by the District Council. However, they do not have powers to decide cases involving death or imprisonment for five years or more. The financial power of the ADCs and ARCs relate to assess and impose taxes on lands and buildings, professions, trades, employment, animals, vehicles, taxes on entry of goods into the market for sale, the toll on passengers and goods carried in ferries and taxes for the maintenance of schools, dispensaries or roads within their respective jurisdiction. The ADCs face several challenges. They have a paucity of funds, indulge in corruption, and have become breeding ground for politicians. They are the focus of criticism both by the tribals and non-tribals. The former accuse them of failing to meet the aspiration of tribal people. The non-tribals accuse them of discriminating against them. Nevertheless, there are demands from several communities of extending the provisions of the VI Schedule into their regions or for constituting Councils for them.

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## 6.7 REFERENCES

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## 6.8 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

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### Check Your Progress 1

- 1) They are constitutional devices created under the VI Schedule of the Constitution for protection of cultural identities and preservation of natural resources of tribes in Northeast India.
- 2) Autonomous District Councils have been created in four districts: Assam, Meghalaya, Tripura and Mizoram. The District Councils are The North-Cachar Hills District (Dima Hasao), The Karbi-Anglong District, The Bodoland Territorial Area District in Assam; The Khasi Hills District, The Jaintia Hills District, and The Garo Hills District in Meghalaya; The Tripura Tribal Areas District in Tripura; and The Chakma District (Chakma Autonomous District Council: CADC), The Mara District (Mara Autonomous District Council: MADC), and The Lai District (Lai Autonomous District Council: LADC) in Mizoram.
- 3) Legislative powers of the ADCs relate to the allotment, occupation or use of land (other than reserved for forest) for the purpose of agriculture or grazing, for residential or other non-agricultural purposes, for residential or other purposes; management of forest which is not reserved; use of canal or watercourse for the purpose of agriculture; regulation of *jhum* or other forms of shifting cultivation; establishment of village or town committees or councils and their powers; appointment or succession of chiefs or headmen; inheritance of property, marriage and divorce; and, Social customs. However, any law passed by the ADCs can not become law without the assent of the Governor.

### Check Your Progress 2

- 1) The ADCs consist if not more than 30 members. Of these, 26 are elected through the universal adult franchise, and the Governor nominates four members. However, Bodoland Territorial Council is an exception. It has

46 members. Of them, 40 are elected, and the Governor nominates six members.

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- 2) The main challenges which the ADCs face include a lack of peoples' faith in their efficacy, transparency, and objectivity. The tribal communities criticize them for failing to meet their aspirations. The non-tribals accuse them of discriminating against them. They also indulge in corruption. The conflict between the new leadership represented by the ADCs and traditional leadership often harms the functioning of the ADCs. The ADCs also suffer from financial constraints as they do not have adequate funds to fulfil their obligation.

