

Autonomy and Tribal Governance under the Sixth Schedule: A Study of the TTAADC. (Tripura Tribal Areas Autonomous District Council)

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Abstract

The Sixth Schedule of the Indian Constitution is a significant constitutional provision for addressing the special political, social and cultural, conditions of tribal people in the North-East of India. It gives legislative, administrative, financial and limited judicial powers to Autonomous District Councils and Regional Councils on matters specified in the law. Tripura Tribal Areas Autonomous District Council (TTAADC) is one significant institutional setup towards tribal autonomy and safeguard of tribal interest in Tripura. This paper explores the autonomy nature and scope of TTAADC under the Sixth Schedule and the analysis of its role in tribal governance, protection of their culture and socio-economic development. The study is conducted using a qualitative analytical approach by studying constitutional provisions, government documents, statutory rules and existing academic literature. The paper looks at how TTAADC has established an institutional arena for political representation, local decision-making and maintenance of tribal culture and identity. But financial constraints, administrative hurdles, overlapping jurisdictions, reliance on State Government and problems of the ability to make the constitutional powers effective affect the efficacy of autonomy. The paper argues that financial and institutional strengthening, institutional needs clarification, greater democratic accountability and meaningful engagement of tribal communities are prerequisites to the effectiveness of autonomy. Thus the Sixth Schedule is looked at not as a simple administrative provision but as an important constitutional tool of democratic accommodation and tribal self-governance.

Keywords: Sixth Schedule, TTAADC, Tribal Governance, Autonomy, Indigenous Identity, Tripura, Decentralization, Autonomous District Council.

1. Introduction

India is a diverse country with a lot of social, cultural, linguistic and geographical differences. The North-Eastern region has a large number of indigenous and tribal groups and unique customary laws, evolution of social organisation and is of special importance in this regard. The Constitution of India takes due cognizance of such cases and the elements of institutional structures for administration and governance of the tribal areas are different. The Sixth Schedule is one of the most crucial constitutional provisions. It constitutes Autonomous District Councils and Regional Councils in certain tribal areas of Assam's state, Meghalaya, Tripura and Mizoram. The purposes of these institutions are to give a certain degree of

autonomy to the tribal communities without separating them from the overall constitutional and administrative framework of the Indian Union. Thus, the Sixth Schedule is an asymmetrical decentralization, which is geared towards balancing national constitutional integration with local autonomy. The Tripura Tribal Areas Autonomous District Council (TTAADC) plays an important role in this institutional structure in Tripura. The Council was born from the political demand for the protection of the interests of the Tribes and later got constitutional recognition under the Sixth Schedule. According to academic research, TTAADC is an institution set up to offer political representation and space for the governance of the tribes and to help with tribal development. In addition to the powers vested upon them otherwise by the constitution, the District Councils have powers over certain matters such as land, forests (excluding reserved forests), village administration, inheritance, marriage and social customs, as detailed in the provisions and limitations of the Sixth Schedule. The Constitution has also set out the specific framework for the applicability of Acts of Parliament and the Tripura Legislature on the autonomous district in paragraph 12AA. TTAADC has more meaning than administrative decentralization. It is closely tied to issues related to tribal identity, political engagement, cultural maintenance, development and governance over local affairs. Constitutional autonomy, however, does not necessarily imply political or administrative independence. The Council is bound within a constitutional relationship with the Governor and the State Government and other bodies of governance. The central question explored in this paper is how effective the Sixth Schedule is to ensure autonomy for tribal governance through TTAADC.

India is a diverse society with social, cultural, linguistic and geographical differences. The North-Eastern region is particularly significant in this context with regard to the presence of numerous indigenous and tribal groups, the quite special customary system and the historically developed social structures. The Constitution of India has recognized these special conditions and has provided for the various constitutional systems of governance and administration in the tribal region. One of the most significant in the constitutional arrangements is the Sixth Schedule. It allows for the formation of Autonomous District Councils and Regional Councils in certain tribal regions of Assam, Meghalaya, Tripura and Mizoram. The role of these institutions is to provide some degree of autonomy to the tribal community, and to keep it within the broader framework of the Indian Union's constitutional and administrative system. In this context, the Sixth Schedule is asymmetrical decentralization and is intended to strike an equilibrium between the national constitutional integration and local autonomy. The Tripura Tribal Areas Autonomous District Council (TTAADC) plays an important role in this institutional set up in Tripura. The Council was created due to the political demand for the protection of tribal interests and was provided constitutional protection under Sixth Schedule. TTAADC has been called an institution that provides political representation and space for tribal self-governance, in addition to tribal development, in the academic literature.

2. Historical Background of the Sixth Schedule:

A unique feature of the Indian Constitution was the development of safeguards around tribal communities which arose from specific societal and administrative contexts. During the colonial period, many tribal regions were governed by special administrative arrangements due to existing customary systems and geographical peculiarities that could not be covered under generic administration.

The framers of the Indian Constitution confronted the challenge of incorporating the various tribal communities within the framework of a democratic model while preserving their customary practices and

local interests. The Sixth Schedule was an innovative response to this challenge in the context of tribes in the North-Eastern region of the country.

The Sixth Schedule lays down the framework for Autonomous District Councils and, in some instances, Regional Councils as organs of governance which have powers over certain legislative, administrative, financial and judicial functions. This reflects the notion of democratic governance in which community participation is key, in order to allow communities to participate in decision-making on matters which directly affect them.

The Sixth Schedule may therefore be viewed as a constitutional mechanism that embodies a certain degree of asymmetry in the federal structure, which goes beyond a generic local government framework.

Current Status: It administers 10 Autonomous District Councils (ADCs) in Assam, Meghalaya, Tripura and Mizoram, providing them with varying degrees of legislative, executive, judicial and financial autonomy over land tenure, forest produce and social customs.

3. Evolution of TTAADC:

The evolution of TTAADC (Tripura Tribal Areas Autonomous District Council) must be viewed in the context of the larger political historical development in Tripura, and the changing relationship between the tribal population and the state administration.

TTAADC (Tripura Tribal Areas Autonomous District Council) was originally constituted by a state legislative act, while the sixth schedule became applicable to the tribal areas of Tripura on a constitutional plane.

The move aimed to give the Council a better legal and institutional position, as well as provide greater representation to tribal communities and protect their social, cultural and economic interests.

The evolution of TTAADC (Tripura Tribal Areas Autonomous District Council) can be broadly divided into three phases:

3.1 a phase of political demands for tribal protection and autonomy;

3.2 setting up of an autonomous institutional framework; and.

3.3 its incorporation in the Constitution under the sixth schedule.

The evolution of autonomy in Tripura, therefore, reflects a gradual process of political negotiation and constitutional adaptation and not merely administrative decentralization.

4. Demographic & Geographic profile of TTAADC:

4.1 The geographical extent and territorial coverage of the region or region for which the data is applicable.

The territorial dimension of TTAADC is significant in the context of the dimensions of tribal governance in Tripura. The geographical area under the control of the TTAADC is around 7,132.56 km², constituting about 68% of the total geographical area of Tripura which is estimated as around 10,491 km². Many parts of the TTAADC area have hilly and forested areas. The data adopted for this study shows that about 70 percent of the area of TTAADC is hilly forest. The Council does not have jurisdiction over most of the plain and cultivable area, which includes most of the district and sub-divisional headquarters. The geographical distribution suggests governance and development implications. The predominance of hilly and forested areas can create difficulties relating to transportation, infrastructure, public-service delivery and economic activities. Concurrently, the position/distance of key plain/Administration centers outside the Council's control has implications regarding access to economic resources and institutional

infrastructure. Hence, territoriality is one of the aspects of tribal autonomy in TTAADC. Geographical, ecological and socio-economic conditions are also related to constitutional autonomy, in addition to legislative and administrative authorities.

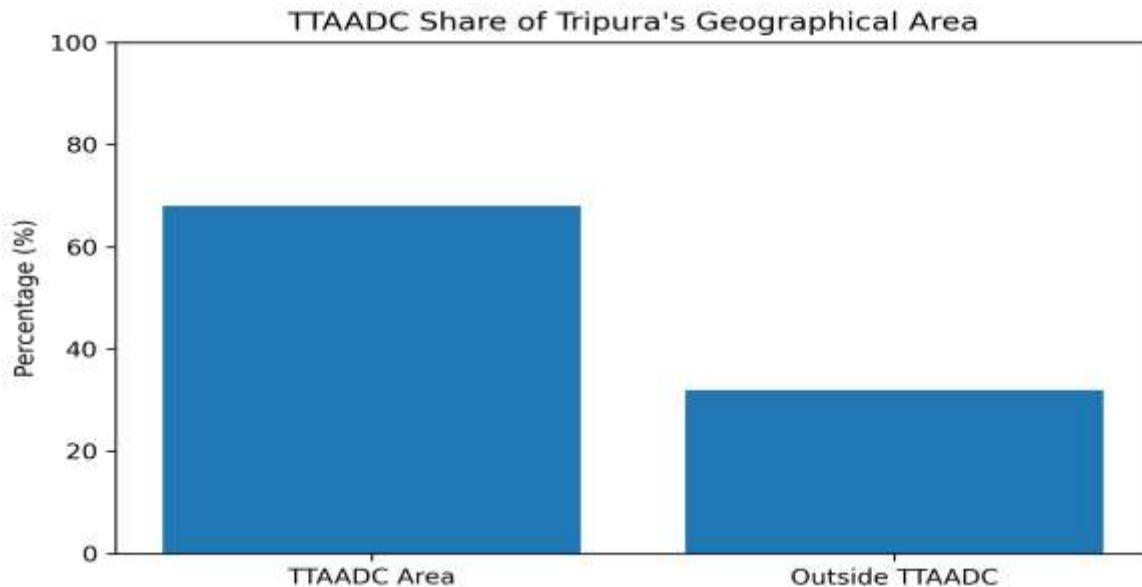


Figure 1. TTAADC Share of Tripura's Geographical Area The area falling outside the TTAADC is about 32% while the area under TTAADC is about 68% of the total geographical area of Tripura. Data compiled from the geographical data referenced in the study.

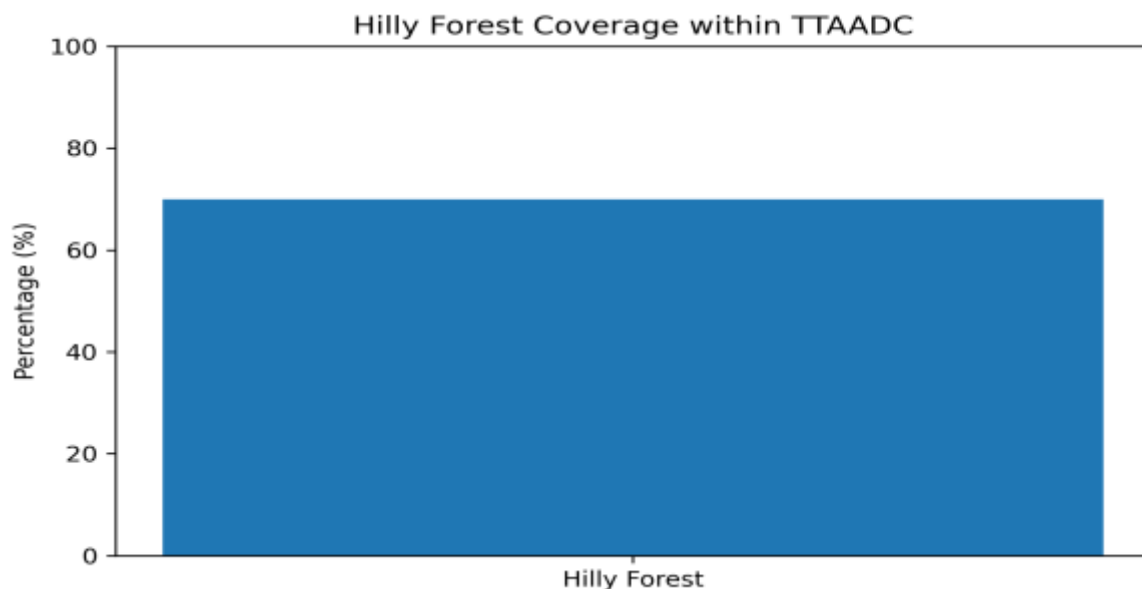


Figure 2. The Hilly Forest Area is part of TTAADC. The area covered by hilly forest in TTAADC is around 70%. Source: Data from the geographical sources cited in the study.

4.2 Demographic Profile:

It is important to note that the composition of the TTAADC is significant to the understanding of the purpose of the autonomy of the tribe in Tripura. The population of TTAADC area was 1216465 of which 1021560 were Scheduled Tribes (STs) which means that 83.4 per cent of the population of the autonomous council area was of STs population.

The total population of Tripura according to the 2011 Census was 3,673,917 with 1,166,813 persons belonging to ST population in Tripura which is about 31.76 per cent of the total population of the state. The Scheduled Tribe population in the TTAADC area (1,021,560) represents about 87.55 per cent of the overall population of Scheduled Tribes in Tripura.

This demographic concentration underscores the significance of TTAADC as an institutional structure of tribal representation and governance and protection of indigenous interests. It also illustrates the significance of the effectiveness of the Council on a significant section of the population of Tripura who are STs.

But what is true is that the effectiveness of autonomy does not automatically follow from a concentration of the population. Effectiveness of the constitutional powers, financial resources, administrative capacity and involvement of local communities determine the impact of TTAADC.

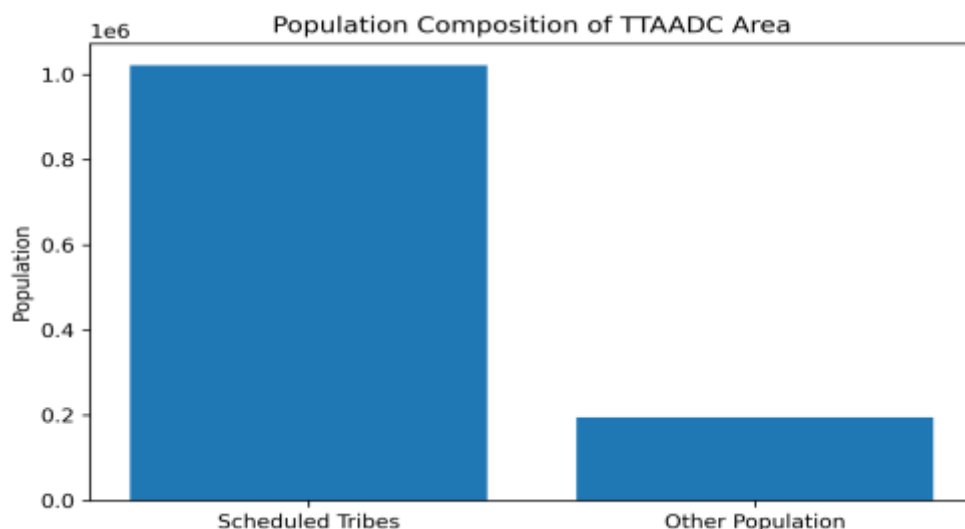


Figure 3. Population Composition of TTAADC Area:

The population of the Scheduled Tribes stands at 1,021,560, while that of other population groups is around 194,905.

Data compiled from the population data mentioned in the study.

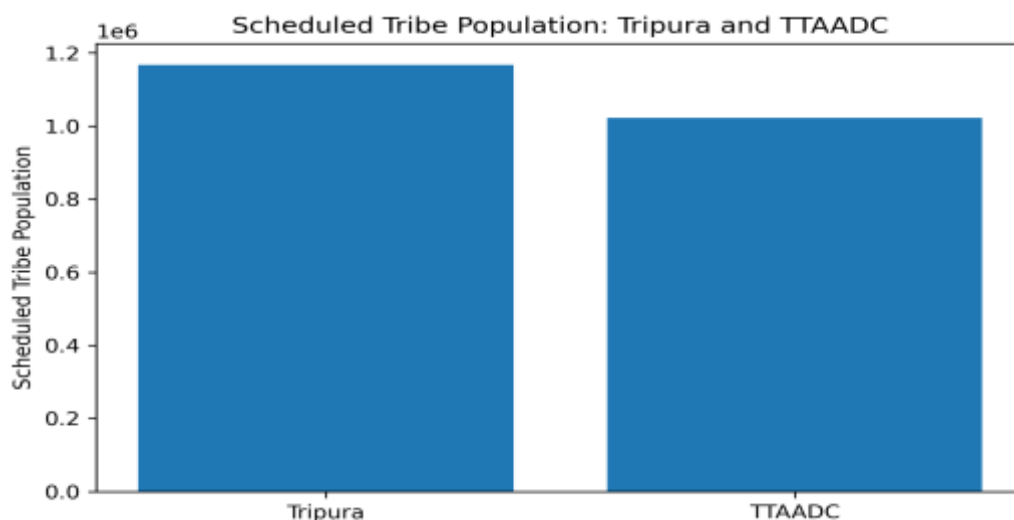


Figure 4. Tripura and TTAADC Census Population Scheduled Tribes:

Total population Tripura ST 1166813, Population of ST in TTAADC 1021560.

Data was sourced from Census 2011 and TTAADC demographic data, as reported in the study.

5. Constitutional and Legal Framework of TTAADC:

The basis of the governance of Sixth Schedule is constitutional, as connected with Article 244 of the Constitution read with Sixth Schedule. The Sixth Schedule is significant for Tripura as paragraph 12AA of the Sixth Schedule is related to the application of Acts of Parliament and Acts of the Tripura Legislature on the autonomous district and autonomous regions.

The constitution provides the District Council with legislator powers over certain issues. They cover elements of land, forest management outside the reserved forests, village administration, inheritance, marriage and divorce and social practices, within the constitutional framework of the Sixth Schedule. The Council thus has some degree of autonomy but not total. It has authority under the Constitution and the Indian law system as a whole. The autonomy of TTAADC must therefore be seen as constitutional and functional autonomy, but not sovereign autonomy.

6. The concept of autonomy and tribal governance:

6.1 Meaning of Autonomy

The ability of an institution (or community) to make decisions about some of its affairs, generally through its own decision-making institutions is called autonomy.

In tribal governance, autonomy can come in the form of:

- Political autonomy;
- Administrative autonomy;
- Legislative autonomy;
- Cultural autonomy;
- Restriction in financial independence; and

Support for the recognition of customary practices. Autonomy, in the Sixth Schedule, is thus multi-faceted.

6.2 Tribal Governance

Tribal governance is the way in which tribal communities are engaged in the decision-making process and how they govern themselves over local social, cultural, administrative and developmental issues.

The Sixth Schedule is an attempt to bring local customary institutions into the constitutional democracy. TTAADC is therefore an institutional nexus between the modern democratic governance and indigenous social organisation.

7. Structure and composition of TTAADC.

The institutional framework of TTAADC is provided for in the constitution and regulations. The Council is composed mainly of elected members and has provisions with regard to representation and nomination in the Constitution.

The Council operates by the elected members and the Council Officers. The Chief Executive Member and Executive Members are crucial to the business of Council.

The institutional structure envisages establishing a representative form of governance within the autonomous district and affording opportunities for political engagement of tribal communities.

8. Legislative powers of TTAADC:

Some of the key features of Sixth Schedule autonomy is that District Councils have the power to legislate

on specific matters.

The legislative field comprises issues related to:

- Land;
- Management of forests other than Reserved forests;
- Utilization of land in agriculture;
- Control of shifting cultivation;
- Village administration;
- Inheritance of property;
- Weddings, divorces; and
- Social customs.

These powers are not unlimited and are viewed as a privilege to be respected and honored. They are exercised under the regime of the sixth schedule of the constitution and continue to be governed by the general provisions of the constitution. The power of legislation is still very important in that it allows local institutions to enact rules or laws that reflect local circumstances and practices.

9. To develop executive and administrative abilities:

TTAADC further carries out administrative and developmental tasks in its area.

The Council's administrative structure consists of departments and wings which carry out the Council's work. The responsibilities of the department shall be delegated to the Executive Members by the Administration rules with the Chief Executive Member being the head of the department.

The administrative aspect of autonomy is significant since there is no self-governance possible without law. The Council needs institutional capacity, staff, resources and administrative coordination to institute policies. Thus, the success of TTAADC is not only dependent on constitutional authority but also on administrative capabilities.

10. Judicial Functions and Customary Justice:

The Sixth Schedule offers opportunities for District Councils to acknowledge elements of customary resolution and customary justice.

These are valuable in tribal societies where customary law has a long history of being a significant force in shaping social relations. But customary justice is in the constitutional and legal framework of India. It should not be treated as an independent legal order, apart from the constitutional rights and judicial review. The challenge thus lies in sustaining the balance between the customary institutions and constitutional values that include equality, dignity and the fundamental rights.

11. Financial Autonomy

One of the most significant factors that will help to achieve effective decentralization is financial autonomy.

A council can have a very wide range of legal duties and a relatively low level of funds. Under such conditions, formal autonomy can prove challenging to deliver in the form of governance. There is a need for sufficient financial resources for TTAADC's developmental and administrative needs. It is therefore important to build financial capability and to ensure that resources are available and can be predicted if autonomy is to be effective. The Council's capacity to fulfil its duties can be improved by increasing financial predictability and enhancing institutional arrangements for the mobilization of resources.

12. TTAADC and Tribal Governance:

The main political dimension of TTAADC is in relation to tribal governance. The Council offers a forum of action for the representation of tribes in a representative government. It provides opportunities for local political leadership and decision making. TTAADC can thus be considered as an institution of political empowerment. But it relies on the linkages between constitutional institutions, administrative competence, financial means and community engagements.

13. TTAADC and Protection of Tribal Identity:

Language, traditional ways, social institutions, land use and ownership, religion, and collective memory are strongly linked to tribal identity. The Sixth Schedule provides institutionalization for the protection of certain customary and social practices. This is especially true in a fast-paced socio-economic environment where indigenous people are subjected to pressures of migration, urbanization, market expansion, and cultural change. TTAADC is thus not only an administrative body, but also a tool of cultural preservation. Cultural protection, however, is not cultural isolation. Protection of tribal identity and access to education, health services, employment, technology and modern public services must be provided concurrently to allow for the development of effective tribal governance.

14. TTAADC and Tribal Development:

Another significant aspect of TTAAC's activities is development. The Council can serve a role in tribal development in the following areas:

- Education; Health;
- Agriculture;
- Rural infrastructure;
- Drinking water;
- Employment;
- Social welfare;
- Cultural development; and
- Local economic development

Resources, administrative capacity, coordination with state institutions, effective implementation, are developmentally effective. Hence, political autonomy and socio-economic development are closely linked.

15. The Democratic Decentralization and TTAADC are closely linked:

Democratic Decentralization and TTAADC are closely related.

The TTAADC is a unique type of decentralization, since it incorporates two elements: representative government and constitutional autonomy. An Autonomous District Council exists in a unique constitutional setting as opposed to the normal local body. It is an important example of asymmetrical governance which makes TTAADC important.

It can be seen as having democratic significance in four ways:

1. Representation – tribes get institutional political representation.
2. Participation – local communities have opportunities to participate in decision making.
3. Responsiveness – the governance can potentially be more responsive to local needs.

4. Customary and social matters can be acknowledged in an institutional manner – cultural accommodation.

The Council can, therefore, play a role in strengthening democracy, if its institutions are sufficiently empowered and accountable.

16. Objectives of the Study

- To explore the Constitutional framework of autonomy of the tribes under Sixth Schedule.
- To investigate TTAADC's development and organizational framework.
- To analyze the role of TTAADC as a legislative, administrative and developmental body.
- To evaluate the contribution of TTAADC in tribal governance and protection of the tribal identity.
- To understand the key issues that impact the effectiveness of TTAADC.
- To recommend steps for enhancing the autonomy and democracy of Tripura tribes.

17. Research Questions

1. What is the constitutional principles of TTAADC?
2. What kind of autonomy is provided for TTAADC in the Sixth Schedule?
3. What are the roles and responsibilities of TTAADC in tribal governance?
4. What is the contribution of TTAADC in protecting the identity of the tribes?
5. What are some of the key institutional and financial obstacles for TTAADC?
6. What can be done to enhance TTAADC?

18. Research Gap

Previous research has explored the TTAADC in various ways such as decentralized governance, tribal development, institutional operation and tribal identity. But, there is still room for a coordinated study in political science which amalgamates the concepts of constitutional autonomy, tribal government, institutional capacity, cultural protection and developmental responsibilities. This paper attempts to fill that gap by a constitutional analysis of TTAADC as a constitutional institution of asymmetrical governance, instead of just one of its functions.

19. Findings and Discussion:

However, based on the analysis, there are several important findings. First of all, TTAADC is an important constitutional mechanism of tribal self-governance. The Sixth Schedule establishes institutional frameworks for tribal communities to engage in governance and to have control over certain local issues. Second, autonomy is an important, but not unconditioned, value. TTAADC functions under the Constitution and functions under an institutional relationship with the Governor and State Government. Third, TTAADC is of political and cultural importance. The Council represents and supports the tribal customs, social practices and identity in institutional recognition. Fourth, administrative and financial capacity is still a key issue. Constitutional powers must be formalized and backed by necessary resources and institutional capacity. Fifth, development and autonomy are related. The socio-economic development is inextricably linked to political autonomy. Sixthly, it is necessary to maintain mutual relations with the State Government. Strategies to enhance the effectiveness of autonomy are possible through clear institutional responsibilities and positive coordination.

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