

## CHAPTER- III

### 3. Historical Background of Local Self Government in India:

The “Local government” and the “Local Self Government” are two different concepts. The confusion in meaning of the two concept- “local government” and “local self government” arises from their synonymous use for local authority. It is to be noted that both the concept differ on certain ground. Their distinction can be drawn from its three essential characteristic: i) their territorial administration within State or nation ii) election system or selection iii) the degree of their autonomy including taxation.

Thus, when a local authority are chosen by the higher authority like State and Central Government to administer a particular area but having a limited autonomy to exercise taxation and decision taking on subject matter falling within its administrative ambit is a clear case of local government. On the contrary, whose members are elected directly or indirectly which enjoy considerable autonomy within its jurisdiction in matter of decisions making including the taxation is a case of local-self government. In this sense a local self- government is therefore a democratic government whose members are democratically elected by the people to administer their local area having endowed with certain autonomy- executive, administrative, legislative and financial.<sup>49</sup>

#### 3.1 Origin of Local Self Government in India: Ancient and Medieval Era

Prior to British rule, India had its own traditional system of local Government (1757). However, over the course of year it withered and the British rulers had

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<sup>49</sup> V. Ramachandran, Local Governments and Poverty Alleviation, Abhijeet Publication, P-41

replaced it by setting up statutory urban and rural bodies. It was further democratised and expanded during the first decade after Independence (1947 onwards). During the course of the next decade rural local government was organised to play an active role in rural development as well.<sup>50</sup>

The local self government is called “*Panchayat*” in India. Literally, this assembly is constituted by five noble persons. They are nominated by the countryman to administer the village affairs. This assembly was entrusted with sacred authority. They used to exercise executive and judicial powers too. The Panchayats or the village Assembly acts as a local administration. It can be rightly claimed as a guardian of village having authority and responsibility to maintain social harmony.<sup>51</sup> This village Assembly basically draw their authority to take decision from the religious precepts, traditional conventions and customs in respect to matters like maintenance of law and order, village defence from threat, utilization and maintenance of assets, settlement of any disputes and other matters. They had also the responsibility to levy taxes on behalf of central government or the Kingdom or any other principality and to perform any duty assign by the latter to them. Such system or pattern of local self governance prevailed in ancient which underwent adoption over different period of time ad places. However, the basic functional and administrative autonomy continued to be its distinctive characteristics. Besides, there were also caste panchayat which were actively regulating the activities as well as social life of a particular community.

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<sup>50</sup> Bhim Sen Khanna; Rural Local Government in India and South Asia, pp. 5-6,

<sup>51</sup> V.N Alok, Role of Panchayat Bodies in Rural Development Since 1959,P-2

In medieval era especially during Mughal rule, India had predominantly witnessed the emergence of feudal system. During this period almost all the major roles like maintenance of law and order, judicial functions, tax administration and local defence were exercised by the central government. This era had witnessed the emergence of new class “Zaminders” (Revenue Collectors) or “feudal lords” in between the rulers and the people of village. This erode the village self government gradually. However, with the end of Mughal rule in the 18<sup>th</sup> century the feudal system also gradually withered.<sup>52</sup>

There are many evidence of having existence of local self government or the village communities in India since ancient and medieval period. The Panchayats or the local government has its root since the Vedic period dated back to 1200 BC. However, the Panchayat system of modern India visibly had inherited very little from those old and traditional values predominantly characterised by rural of mediaeval era.

### **Meaning of Village:**

Indian village as described by the Royal Commission was that- The typical Indian village have an open space for pond and cattle stand. However, the Commission have argued that the villages in certain part of India like greater part of Assam, Eastern Bengal and in the western coast of Madras Presidency are different from the village described here as people living in a small collection of houses or in separate homesteads.

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<sup>52</sup> Bhim Sen Khanna, Op.Cit, pp-6,7

### **Meaning of Panchayat:**

As described by Royal Commission the term Panchayat came from “Panch” literally means five in Hindi. However, the member in Panchayat body is not limited to this number. Besides, Panchayat was practised by different castes living in many villages and towns to deals with the business, and their social, and religious matters. (Royal Commission 1909, p-236)<sup>53</sup>

Drummond (1937) observed that in early era each village had a society having their own laws because of large open areas and the geographical isolation of one village with other neighbouring village. Again, the external threats from invader, robber and the atrocities from landlords etc. might have compelled them to organise village organisation such as Panchayats.

Another, observation by Mookerji (1958, p.4) in this context had attempted to draw ideas through linking with that of ancient Indian Monarchism. For him, King was not the head of society though he may be a sovereign of State. Although, the king hold significant position in social hierarchy but he did not probably had hold the highest place. He was a symbol of state that might have appeared more or less a remote abstraction to the people having no direct contact with their day today life, which the social organisation had with them.

### **3.2 Evolution of Local Self Government in British Era:**

The British Raj in India left many legacies. And, one such legacy is modern institution for a system of government. Such modern institutions still sustained even after British had left India more than half centuries ago. In fact, in later period it

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<sup>53</sup> Ibid, P-2

formed a base for the government to build upon such institutions. The British were the pioneer of modern administrative institutions in India. And, the first such institution formed by the British in India was the Municipal body. It was formed in Madras on 30 December 1687 through a Royal Charter issued by King James II. The charter had authorised the Governor of East India Company to mobilise resources through local taxes. Another, significant event was that through this charter the power of Madras Governor was ceased by the Company. The first of its kind of experiment with such municipal institutions failed to bring adequate dividends to the Company.

In 1726, the Second Municipal Charter was introduced. Through this charter the other municipalities were established in Calcutta and Bombay; Madras Municipality was also reconstituted.<sup>54</sup> Meanwhile, in the British rule there was a transformation of a few trading posts from management into the government of India. With this end, the needs of carrying out administrative functions, the local bodies were created randomly without proper legislative order. The 'local agencies' as required were appointed in North-Western Provinces of big towns to assist the District Magistrate to mobilize resources for the police, conservancy and road repairs. This new local government system had no linked with the old panchayats system. The District Magistrate became the key institution of local governance and was made the central unit of revenue system. However, the British rulers somewhat concerned for panchayat can be traced from the remarks of Sir Charles Metcalfe, based on his experience as provisional governor general of India from 1835 to 1836.

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<sup>54</sup> Ibid, P-3

*“The village communities are little republics, having nearly everything they can want within themselves, and almost independent of any foreign relations. They seem to last where nothing else lasts. Dynasty after dynasty tumbles down; revolution succeeds to revolution; ... but the village community remains the same.... This union of the village communities, each one forming a separate little state in itself, has, I conceive, contributed more than any other cause to the preservation of the peoples of India, through all the revolutions and changes which they have suffered, and is in a high degree conducive to their happiness, and to the enjoyment of a great portion of freedom and independence”. (Mookerji,1958, p.2)*

After 1857 revolt, the British rule suffered a major setback as the imperial administration was severely hit by financial crisis. This resulted James Wilson led delegation to come India from Britain to review the financial crises and to resolve grim financial conditions. Considering, the grim financial conditions of Central authority of British rule, the additional responsibilities like maintenance of road and construction work were handover to municipal bodies. Further, the needs for fiscal decentralization were also suggested for the solutions. Thus, the concern for financial and administrative devolution came into light for the first time. This is reflected in his budget speech of 1861,

*“It is of the first importance to break through the habit of keeping everything in dependence on Calcutta and to teach people not to look to Government for things which they can do far better themselves”*

The new proposals were placed before the newly created provincial legislature and it was left to be decided by them. Eventually, the Municipal Act were also passed in all the major provinces viz. Bombay, Bengal, Punjab, Madras, Central Provinces, and North West Provinces and thus every major town came under municipality. As a result, as many as Forty nine municipal committees were constituted in which the

trade and caste panchayat elected the twenty eight members.<sup>55</sup> In subsequent period, Lord Lawrence decided to give a share to local communities in administering their own local affairs and decided that the responsibility to meet the maintenance cost of town police would be borne by the inhabitant themselves. As such he made the following declaration in his resolution:

*The people of this country are perfectly capable of administrating their own local affairs. The municipal feeling is deeply rooted in them. The village communities...are the most abiding of Indian institutions. They maintained the framework of society while successive swarms of invaders swept over the country. In the cities also, the people cluster in their wards, trade guilds and panchayats and show much capacity for corporate action... Holding the position we do in India, every view of duty and policy should induce us to leave as much as possible of the business of the country to be done by the people... and to confine ourselves to ... influencing and directing in a general way all the movements of the social machine (Gazette of India 14 September 1864, as in Tinker 1954, p.36).*

By then, during the post Mutiny period, the panchayats also started receiving a stimulus in rural areas. The legislation was adopted in many provinces of India to generate revenue through taxes on education, road, land etc. In response to this, the legislation called Bombay Local Fund Act, 1869 was adopted and to respond it, the principle of representation system was floored in rural areas. Further, several District level Committee and Taluk Local Fund Committees were also constituted as advisory bodies. District Magistrate was appointed as chairman of District Committees and was assigned with responsibility to administer the cesses on land revenue that are largely to be utilized for road construction. However, it has been flawed by many that despite of the statutory provision for election the members were hardly elected. Again, many believed that funds raised from the cesses were too small to be utilise in the public

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<sup>55</sup> Ibid, P-4

services. It was in 1870-71, the Lord Mayo government assigned various provinces with a financial responsibility for the administration and to meet the maintenance of each department. Many believed that it was a great step in the direction of fiscal as well as administrative devolution. This fiscal scheme of Lord Mayo had a great intention towards decisive development of local self government by means of local boards and municipalities. Meanwhile, in 1870 the Bengal Village Chaukidari Act, was passed and 'unions' comprising about ten or twelve square miles was created. Panchayats were charge with responsibility to raise funds so to meet the maintenance of village police in these 'unions'. This led people to tag panchayats as an agent of British Government. Thereafter, Lord Ripon on 18 May 1882 passed one of the most landmark resolutions in the field of Local Self Government in India that has enduring influence even in the subsequent years. Lord Ripon was very keen to assigned political education, and administrative efficiency as the principal aim of local self-governments. These two objectives are clearly enunciated in the following paragraphs of the Resolution:

1. In Para-5 he stressed a great importance on political education. It was quite clear from his intention when he laid a primary role to the local government.<sup>56</sup> In fact, he gave greater importance to political education over administrative efficiency. "As education advances there is rapidly growing up all over the country an intelligent class of public spirited men who it is not only bad policy but sheer waste of power to fail to utilize."(Paragraph-6)

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<sup>56</sup> Ibid P- 5



2. In Para-10 he laid emphasis on setting up Rural Boards similar to Municipal Boards having small units of administration -- the subdivision, *tehsil* or *taluka*.

However, that proved to be futile as Tinker (1954, p.43) observed that, “all his intellect and experience were accompanied by a “lack of stamina, an inner uncertainty”. He argued that it has created roadblocks for Ripon to make his ambitious schemes productive.” Further, Tinker (1954, p.43) observed Englishmen’s assumption and argued that Ripon’s idea of political education should “*evolve out of local circumstances; if it has to be created artificially, at least it should be planned in detail by local administrators, and not be imposed ready-made by the central government*”. On the other hand, Wolf in his work on ‘Life of Ripon’ wrote that Ripon had later realized that the freedom of Panchayat would come at the cost of efficiency in a short run. According to Wolf, (1921, p.100) Ripon was not the great votary of ballot box; he wanted “to revive and extend the indigenous system of the country and to make use of what remains of the village system”.

A network of rural local bodies was part of Ripon’s proposal. He proposed to set up a ‘two tier’ system; district boards at district level and sub-division or the tehsil at the local level. The district board would functions as supervisor and coordinating authority while the sub-division, ‘taluk’ or ‘tehsil’ would cover the maximum area under a local board.<sup>57</sup> In this regard Tinker (1954, p.55) observed that Lord Ripon’s attempt to create the local self-government based on the ancient foundation of village system however could not work exactly as local self-government since the above imposed over the bottom and the bottom or the village was the last place to feel its

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<sup>57</sup> Ibid, P-6

influence. “However, Gokhale, the former Congress President in 1906 also observed that *“the local self-government still remains all over the country where it was placed by Lord Ripon a quarter of a century ago and in some places it has even been pushed back.”*<sup>58</sup>

In 1907 the “Royal Commission upon Decentralization in India” was set up to examine the effectiveness of decentralised system or the administrative devolution of the government into local units or bodies. This Commission enquired into the financial and administrative relations between all three levels of government organs; Government of India, Provincial governments and Subordinate Statutory bodies. This Commission was presided over by Sir Henry William Primrose with five other members and the Commission reported their findings in 1909. The findings of enquiry Commission once again, claimed that local self-government is a sub set of administrative devolution. The Royal Commission (1909, p.239) by dismissing the popular demand expressed the least possibility of restoration of ancient village system however; the Commission advocate the needs to constitute and develop village Panchayats for the administrations of village affairs. Hence, the Commission expressed the needs of new system that ought to be introduced ‘gradually and cautiously’.

The Royal Commission (1909, p.240) expressed the needs of keeping the Panchayats under tight vigilance of the district authorities. The Commission thus recommended that “the movement and the activities of Panchayats should be

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<sup>58</sup> *ibid*, P-7 (Collected speeches of the Hon. G.K Gokhale (Madras, n.d.) Appendix, p-49 in Tinker 1954)

completely under the strict eye and hand of district authorities particularly those sub-divisional officers and the tehsilders. The local officers were authorised to guide and supervise the Panchayat bodies. The Sub-District Boards were entrusted with responsibility to provide financial assistance to Panchayats for the works like village sanitation, management of village schools, constructions of minor public works, and petty civil and criminal jurisdiction.

Like the Royal Commission (1909), the reports and legislation passed and recommendations made in the subsequent years, particularly the Montagu Report and Constitutional Reforms of Chelmsford (1918) and the Government of India Act (1918) all are seen prioritizing the needs of district level administration with least attention towards village level government. All this legislation emphasized on the needs of monitoring, controlling and strengthening the administrative structure at the district level. In this light these developments was a sheer mockery to Ripon's Resolution of political education.

The above assessment gives a clear account of inadequate provisions of local self government due to poor drafting of legislations particularly in the early days of Dyarchy. The powers of taxation and the areas of authority and jurisdiction were in particular not well defined. It has created the confusion about the level of administration.<sup>59</sup> Again, the powers and functions of the board officers and staff and their relationship as well as the local officers have never been precisely defined. In addition, many amendments and reforms in the legislation further proved to be patchwork and made the matter more complicated and confusing. Chandra (1997,p.12)

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<sup>59</sup> Ibid, P- 7

in this light has observed that, it has resulted the local self government found itself in difficulties to hire technically qualified staff and provide efficient services to its citizens. The freedom movement dominated the first half of twentieth century had witnessed a little progress in administrative devolution and the economy.

### **3.3 Debate in the Constituent Assembly:**

The rationale of the Panchayat reached to Constituent Assembly debate with the dawn of freedom. The Panchayat during pre Independence was able to entertain many Indian leaders and it was successful in grabbing a constant and firm supports from the leader like Gandhiji but its realisation during the immediate post-independence remain largely uncertain. However, the rationale for setting a “village swaraj” or “an independent republic” never perished from Gandhiji’s vision even after Independence. Gandhiji (Gandhi 1962, p.31) remarked “My idea of village swaraj is that it is a complete republic, independent of its neighbours for its own vital wants, and yet interdependent for many others in which dependence is a necessity”

Perhaps, Gandhi’s arguments and vision of “Village Swaraj” had the most profound and enduring influence on the subsequent discussions and debates on Panchayats. In the immediate post independence period, there was a sharp difference of arguments among the leaders on Panchayats during the debates while drafting our Constitution. In the Constituent Assembly debate Dr. B. R. Ambedkar, (Malaviya 1956, p-97) the Drafting Committee Chairman on November 4, 1948, went on to extent in his argument that the village community is a sink of localism, narrow-mindedness, a den of ignorance, and communalism”. Following the sharp reactions the provisions for Panchayats even failed to make it in the first draft of Indian

Constitution. However, it was due to repeated insistence of a few Gandhian's like- A. K. Aiyar, N. G Ranga, K. Santhanam, S. Saxena and others, it was enshrined in the non-justiciable part of the Indian Constitution under the Directive Principles of State Policy (DPSP), as enumerated in Article 40, which thus reads, "The state shall take steps to organize village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government." The term local government may also be found mentioned in item five of the State List of the constitution without any reference to Panchayat. These provisions appear at its best are only a discretionary. However, over the course of years, with our nation evolving into mature democracy and demand for greater decentralisation to make administration more pro-people have resulted into administrative devolution thereby manifesting the Panchayat into its present form through 73<sup>rd</sup> amendment of the constitution in 1992. Today, Panchayat assumed a significant position as a local institution in the field of local government.<sup>60</sup>

### **3.4 Rationale for Local Self Government in India:**

The first generation political leaders of Independent India had a great desire for self government. These leaders were known for their firm faith in democratic principles and values. They were firm supporter of the philosophy of self government. Thus their rationale for local self government manifested during immediate post independent period when they sought to act upon their belief is ethically unquestionable.

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<sup>60</sup>Ibid, P-9

For Mahatma Gandhi, Panchayat represented Gram Swaraj- self-rule in village. Endowed with the virtues of self reliance, self-regulation, co-operation and non-violence as its essentials, Swaraj meaning self-rule and self-restraint and not freedom from all restraints which independence means, promotes individual autonomy for self-realisation and creativity.” Gandhiji wrote:

*“Independence must begin at the bottom. Thus every village will be a Republic or Panchayat having full powers. It follows, therefore, that every village has to be self sustained and capable of managing its affairs even to the extent of defending itself against the whole world.”*

For Gandhiji, Swaraj was a scheme of Political and Economic decentralisation.<sup>61</sup> Jawaharlal Nehru saw the rationale for self-government in the democratic value and in the need for empowerment of the people and their participation to resolve India’s utmost problem of poverty eradication. J.P Narayan, was of the view that “It is a matter of great satisfaction that in our country a beginning has already been made in laying the foundation of participatory democracy in the shape of Panchayati Raj or what was called at first democratic decentralisation.” S.K Dey, the first Union Cabinet Minister for Community Development is credited with the view that in Panchayati Raj system, the people of India would govern themselves through their representatives in institutions from the Panchayat to Parliament and thus democracy would travel from Lok Sabha to Gram Sabha.”<sup>62</sup>

Over the course of years, the debates and thoughts on decentralisation and the rationale of local self government in academic discourses especially in social science domain has incredibly gained to culmination with the world reaching into the era of

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<sup>61</sup> V. Ramachandran, Op. Cit. P-42

<sup>62</sup> Ibid, P-43

liberation, privatisation and globalisation (LPG). It is in this backdrop, the decentralisation in simply can be said as the devolution of administrative autonomy into various level of government organ having its main objectives to ensure participation of people in the decision making process at the base. In other words, the term “decentralisation” in simple suggests the opposite meaning of centralisation or the concentration of power to a single person or institution. Thus, decentralisation as the term refers to the distribution of power or authority to various levels of institution or persons.

Decentralisation and development are both inter-linked. Off late, the strong urge for development more especially among the third world countries have demanded the government to be more precise in the power distribution at various level of government institution. Indeed, the realisation of welfare state in reality is largely relay on the degree of authority assigned to local level government institutions. In connection to rural development the distribution of authority to the local bodies is essentially preferred to involve the local people in the decision making process at the grass root level. Since, two-third of India’s population lives in wide spread rural areas under great variations and extremely poor socio-economic conditions; it has become highly desirable to set up decentralised local self government at various level not only from the point of view to reach out in rural areas merely to carry out the developmental projects through a handful of government officials; instead productive solutions of local problems were sought through involvement of local people in local

government mechanism.<sup>63</sup> This will ensure not only the development of the rural areas but also it will help to empower them through their involvement in the process of governance.

### **3.5 History of Local Self-Government in Assam:**

Prior to embark on the positions and constitutional arrangement of Autonomous Districts and its local government bodies under Sixth Scheduled it would be relevant to look into the history of local self government in Assam. The practice of local self government in Assam is an old practice. It can be traced back to the pre-British period. The present system of local self-government in Assam is a legacy of British System of administration. However, some distinct forms of village government were in existence in Assam even during pre-British period. The noted historian SK Bhuyan, termed “the Namghars established by Sankardeva as village parliaments where decision making and rule making were once taking place.” As described by Bhuyan Namgahar was a social institution which used to held moral and spiritual superior which exercised control over all its community members purely based on democratic principles and in an egalitarian manner. It was entrusted with judicial power. Since, it also functions as village court. The judgement of village elders was obeyed by the people without disregards. Similarly, the Khel also acted a significant role as a local government agency. S.K Bhuyan, in his “Anglo Assamese Relations” further claimed that, Mr Scott, the first Commissioner of Assam, instituted in populous Parganas and villages in his famous report of Assam Moffat Mills also suggested reconstruction of the village and appointment of an influential class of man as

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<sup>63</sup> G. Palanithurai (ed): Op. Cit, Vol. I. P- xiii, xvi



gaonburas for management of affairs and thereby eliminate<sup>64</sup> the constant interference of Government in the affairs of the villages. (1967:21; Govt. of Assam 1990:593-595)

Likewise, the Bodo Kacharis living in certain District like Darrang, North Kamrup and Kokrajhar Sub-Division traditionally had a similar type of practice. They elect Deuri in each village which acted a sort of judicial functions. It settles the disputes arising among the villagers. This institution may also be recognised as some sort of local self government prevailing amongst a community inhabiting the areas within the district (Govt. of Assam-1990:595). There were also other social organisations acted in a manner of local self government body i.e Panchayat System. These Panchayats were literally known by the name “Mels” in Kampup. These panchayat had acted as local courts. These panchayat had a social and political recognised authority to punish an offender.<sup>65</sup>

Panchayati Raj began in Assam as early as 1870 with the introduction of Bengal Chowkidari Panchayati Raj Act. It was in 1948 that Assam Rural Panchayati Raj Act was introduced. Accordingly, this Act provided for two-tier panchayat called “Primary Panchayat” at Village level and “Rural Panchayat” at Mauza level. However, this rural panchayat failed to function adequately. In this response, in July 1953, the Panchayati Enquiry Committee under the chairman of Hitendra Chandra Chakravarty was appointed to examine the working of the Panchayats and to make recommendations. During that period certain significant incident took place-

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<sup>64</sup> Jogendra Kr. Das, Social Bases of Grassroots Politics in Assam; PP-26

<sup>65</sup> Ibid, P- 27

Firstly, the Community Development Programme was engaged in the attention of the whole nation. It was the first comprehensive plan after Independence which was directed towards development of rural areas as well as to organise rural people in India. Secondly, by the time the US government also offered a financial aid to India to initiate rural development programme.

And, thirdly in January 1957 Planning Commission was set up under the Chairmanship of Balwanta Rai Mehta to review the working of the Community Development Programme. The Committee was entrusted to examine possibility of reorganisation of the District Administration by providing popular organisation in between the State and village level.<sup>66</sup> The Mehta Committee made a significant study and came with important reports.

Keeping in mind the recommendations of the Enquiry Committee of Assam, B.R Mehta Committee reports and after prolong discussion the Assam Panchayat Act was passed in 1959. This Act had brought into existence of a three-tier organisation of Panchayat Raj System i.e “Gaon Panchayat” at the village level, the “Anchalik Panchayat” at the Block level and “Mahakuma Parishad” at the sub-divisional level.<sup>67</sup> Another, legislation was enacted in 1972 by the Govt. of Assam in a direction to promote Rural Self-Government under the name “The Assam Panchayati Raj Act 1972”. It replaced the former Assam Panchayat Act 1959. This new Act provided a two tier Panchayati Raj system with Mahkuma Parishad in sub-division and Gaon Panchayat at Village level. This new Panchayat system also suffered from deficiency

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<sup>66</sup> Narayan Konwar, Society and Politics in Assam, BOOK LAND Panbazar Guwahati-1, P-124

<sup>67</sup> Jogendra Kr. Das, Op.Cit, P-28

which again led Assam Government to enact the Panchayati Raj Act in 1986, with few modifications. This Act again restored three-tier local self government in the rural areas- Gaon Panchayat at village level, Anchalik Panchayat at Block level and Mahkuma Parishad at sub divisional level. This Act was again amended in 1991 by an ordinance which came into effect from 2 November 1991. In the mean time, the 73<sup>rd</sup> Amendment Act of the Constitution was passed to rectify the loopholes in the system of grassroots governance in the country. The Assam government, in response to 73<sup>rd</sup> Amendment Act had passed the Assam Panchayat Act, in 1994 to incorporate the changes made thereof.<sup>68</sup> This Act, extended to whole of Assam except the Sixth Schedule Areas. This new Act has retain the three-tier local self government in rural areas, such as Gaon Panchayat at village level Anchalik Panchayat at Block level and Zilla Parisad at District level.<sup>69</sup>

### **3.6 Rationale of Tribal for Self Rule in North East:**

The North-Eastern regions are surrounded by the international borders with China, Bhutan, Bangladesh and Myanmar. Its tribal population constitute 12 percent of total 8.4 tribal populations of the country. Over the decades, this region has undergone much ethnic unrest, arms fight and separatist demand. Almost, all the States of North East are affected by insurgent activities. In addition, the issues like identity, land control, language, and immigrations and demographic change fuel up different ethnic groups to confrontations from time to time. Further, the region is compounded with multiple issues like infrastructural and economic backwardness, lack of employment

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<sup>68</sup> Ibid, 29

<sup>69</sup>ibid,30

opportunities, corruption, miss-governance and geographical isolation from rest of India. The prolonged turmoil in these regions basically arises from two sources: (i) ethnic identity and cultural identity, and (ii) the issues of economic backwardness.<sup>70</sup>

The tribal aspiration for self rule was an old issue. Historically, all the hill tribes were not a part of Assam nor all the hill tracts of North Eastern region are claimed to be a part of British India till the colonial rule spread over the region after the “Treaty of Yandabo” 1826. The tribal movement in the hills initially appeared as a Socio-religious movement but soon it assumed political overtones due to defiant reaction of the tribal towards local rulers, even before the British rule spread in the North Eastern region in the year 1832.”<sup>71</sup> Historically, the tribal dominated regions in the North East during colonial rules can be classified into three categories- i) Undisputed tribal region i.e. this areas remained almost untouched by the British Administration, eg- Arunachal Pradesh ii) Areas which were in conflicts with the British, eg- Naga territory, and iii) Areas brought forcefully under British fold. These include like Khasi Hills, the Jaintia Hills, the Garo Hills, the Mikir Hills and the Mizo Hills.”

The existence and practice had its form in the tribal region even before British arrived. The traditional political organisation practice among the tribal varies from the system of simple village council to a two tier or a three tier system of organisation. In a two tier system the decision making process are performed at village and inter-

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<sup>70</sup> North East India: Status of Governance in Sixth Schedule Areas, <http://socialissuesindia.wordpress.com> PP- 3

<sup>71</sup> A.R.N Srivastava “Tribal Freedom Fighters of India, P-25

village level, while in a three tier-level it functions at the village, tribal and inter-tribal level. But the traditional chiefs had a share in the decision making process.

Until 1937 the hill areas of North East India were administered as “Backward Tracts” under the British Chief Commissioner. However, the bifurcation of administrative system in 1937, led to creation of two Tracts “Excluded Areas” popularly known as NEFA and Partially Excluded Areas.” As a result, these hills district developed a special identity among hills tribal which took the form of political aspiration later on.<sup>72</sup>

### **3.6.1 Origin of Sixth Schedule Administration: Experience in BTAD:**

Sixth Schedule is also considered as a mini constitution within Indian constitution which guarantees the constitutional provisions for administration in tribal areas by the tribal people themselves in their own traditional ways. During the framework of Indian constitution, the founding father of our constitution, “Dr. B.R Ambedkar had firmly justified the rationale of Sixth Schedule for North East. He remarked that large portions of tribal people of outside Assam have already assimilated with other cultures which they are living with. They have deviated from their ancestor root and accepted the “Hinduism”. But, the tribal people of Assam had preserved their own distinct culture. They continue to uphold the roots of their old cultures and civilisations. They have not assimilated with the “Hindus” and the laws, customs, mirage which they have inherited from their ancestor still continued to be practised by the tribal people of North East. Considering, this he stressed on giving a

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<sup>72</sup> ibid. P-26

separate administrative set up under Sixth Schedule to the tribal people of North East. (Tillin “2007”, P.56-57)<sup>73</sup>

The movement for tribal autonomy in North East India is not new. It can be traced as early as dated back to 1918, when conscious Naga leaders formed a Club which soon assumed political dimension. In 1940s a traditional Angami leader, A. Z. Phizo, successfully organised several tribes under the Naga umbrella. Such, efforts lead the foundations of nationalist struggles not only among the Hill tribal but also among other plain tribal living in Assam. The tribal autonomy movement in North East had its root primarily in their conservative nature and their strong urge for preservation of traditional culture and identity of tribal. The struggle for tribal autonomy basically rose from the apprehension of being marginalisation and losing of identity if assimilated into the mainstream.<sup>74</sup> In this backdrop, the language politics in Assam also had contributed towards split between the hill tribal and the people of plain. The language chauvinism of Assamese did not go well with tribal leaders is quite evident from the fact that the move to declare Assamese as official language brought not only discontent among hill tribal but also met a stiff resistant. This reflected from the speech of hill tribe leader Captain William Sangma while opposing on official language Bill he said- “ As you personally know Sir, ever since 1918, when the move for declaring Assamese as the state language the Hill leaders including myself expressed our strong opposition to the proposal. Further, he said that, Hill people are not prepared to accept Assamese as State language and expressed his

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<sup>73</sup> Vle.du.ac.in > mod > book > print

<sup>74</sup> <http://socialissuesindia.wordpress.com>, Op. Cit. P-10

apprehension by stating that accepting Assamese as official language would handicap the linguistic minorities (Assam Legislative Assembly Debate 1960: 57).”<sup>75</sup> In the debate on official language Bill, A. Tonglura said- “...now the Assamese brethren are speaking about their apprehension that they might be wiped off by the Bengali. If the Assamese people who are quite advanced and who have got facilities and security entertain such apprehension, then what about the tribes who have less security and facility. At least in the constitution, there is provision for the Assamese language, but so far as the Tribal are concerned there is no such provision. There is no security for their language like the Assamese language. But if the Assamese people insist by dint of their majority then Assamese should be the official language and press the passing of this bill, then don’t blame us. Personally I am not fascinated with the terms of separation. But when the aspiration of the Assamese people can’t stop then we shall move for separation.” Assam Legislative Assembly Debate: 1960 42-43) H.K Barpujari (1999:15) observed that “the declaration of Assamese as official language widen to gap in relation to the tribal. They develop an apprehension that their cultural identity is going to be eliminated and submerged.”<sup>76</sup> It is clearly evident from the speech that the tribal leaders had expressed their apprehension upon a tendency of domination and exploitation over linguistic minorities since pre-Independence period by the dominant linguistic groups.

Considering, the rationale of tribal demand for self determination, the Constituent Assembly of India in May 1946 constituted an advisory committee on

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<sup>75</sup> Narayan Konwar , Op. Cit, P-80

<sup>76</sup> *ibid*, P-86

Fundamental Rights of Minorities in the Tribal Areas. Following, that event, under the leadership of Assam Premier, Gopinath Bordoloi, the sub-committee for North East Frontier (Assam) Tribal and Excluded Areas was constituted by the Advisory Committee. The Sub-Committee during its interaction with the tribal leaders of the hills observed that:

- i. Tribal people are sensitive towards protection and safeguard their land, culture identity, language, and age old traditional system of justice and life style; hence needed the protections so as to preserve their traditional way of life and
- ii. The tribal people had their own traditional self-governing system that functions democratically and settle issues in accordance to their traditional way of belief.

The Bordoloi Sub-Committee building upon these observations came up with recommendation and policies which provided a substance for the foundation of Sixth Schedule.<sup>77</sup> The Sixth Schedule has its origin in the “Excluded Areas”. In this connection “UG Brahma an ex-MP Rajya Sabha in his article “Constitution and Sixth Schedule: Questions and Remedies” observed that the chronological terminology used for such system was first “Backward Track” then “Non Regulated System” then “Excluded Area” and at present it is popularly known by the term “Sixth Schedule”. The popular vocabulary used for identifying that system was Tribal Area Administration.”<sup>78</sup> Under Sixth Schedule the Bordoloi Committee came up with the

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<sup>77</sup> <http://socialissuesindia.wordpress.com>, Op. Cit. P- 12

<sup>78</sup> UG Brahma, Constitution and Sixth Schedule: Questions and Remedies, (Source: 47<sup>th</sup> Annual Magazine “Mugani Saki”, ABSU, 2015). P- 8



concept of Autonomous District Councils (ADCs). In response to that the Bordoloi Committee recommended a provision for political and administrative arrangement under Regional Council for the tribal. Following, this recommendation the Committee proposed to set up Autonomous Administration through the District Council and the Regional Councils in the six hill-areas of Assam so as to provide autonomy to the tribal people to manage their affairs in their own traditional ways. These areas include Garo Hills District, United Khasi-Jaintia Hills District, Lushai Hills District, North Cachar Hills District, Naga Hills District, and Mikir Hills District. Thus, the constitution for District Council called “Assam Autonomous District Rules, 1951” and the constitution for Regional Council called “Pawi-Lakher Rules 1952 was framed under Sixth Schedule. Thus, with effect to the Sixth Schedule ADCs were created in hills districts except Naga hill in 1952, and Regional Council was created in the Lusai Hills District in 1953. However, the re-organisation of state in North East during 1970s and 1980s and assertion for separate states in Assam brought certain changes and amendment in the Sixth Schedule.<sup>79</sup> During early 1980s, its application extended to the plain tribal areas with the creation of Tripura Tribal Area District Council in 1985 by 49<sup>th</sup> amendment to the constitution of India.<sup>80</sup>

So far as similar demand placed for self administration by plain tribal of Assam is concern, it started in 1928 when several tribal leader submitted memorandum to Simon Commission. The Kachari Yuba Sanmilani representing Plain Tribal submitted a memorandum placing their demand- to preserve the integrity and

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<sup>79</sup> <http://socialissuesindia.wordpress.com>, Op.cit, P-3

<sup>80</sup> UG Brahma, Op.Cit, P-8

independence, ii) reservation of seats in the Assembly, iii) reservation in the Government and Administration iv) Creation of Administrative Unit within tribal areas.<sup>81</sup> In 1933, the tribal leaders created Tribal League to give a common political platform for assertion. Though, their basic aim was to fight the socio-economic problems of the tribal but it can be stated that it was the first institutionalisation of political endeavour of plain tribal. The Tribal League demanded reservation of seats and got five seats reserved in the State Assembly. Their demand for protection of tribal league was also conceded with the creation of Line system or Tribal Belt and Block. The Plain Tribal autonomy movement got its impetus with the creation of Plain Tribal Councils of Assam (PTCA). PTCA was a political organisation of amalgamation of different plain tribal. This political organisation on 20<sup>th</sup> May 1967, submitted a memorandum to the President of India demanding separate political setup for the plain tribal of Assam called “Udayachal”. The proposed areas for Udayachal includes plain tribal areas of northern tracts of Goalpara, Darrang, Kamrup, Lakhimpur and Sibsagar districts including the Tribal Belts and Blocks of these areas. However, the demand for Udayachal could not succeed because on the other end the Bodo Sahitya Sabha had started its script movement which eventually led the imposition of the president rule from 1975 to 1977. The collective movement of plain tribal further weaken when the ABSU and Bodo Sahitya Sabha started a parallel movement demanding separate State Bodoland. This movement with taking violent turn had compelled the State Government to setup Autonomous Council and

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<sup>81</sup> Dipen Basumatary; Contemporary Bodo Movement and its solution, P-230 (Source: 46<sup>th</sup> Annual Magazine “Mugani Saki”, ABSU 2014)

accordingly Bodoland Autonomous Council was created in 1993. In subsequent years, the failure of BAC resurge the old movement for separate state ‘‘Bodoland’’ in lower part of Brahmaputra Valley. These, led the government to extend the Sixth Schedule to plain tribal region of Assam with the creation of BTAD in 2003 by an amendment Act- 43 comprising of four districts viz- Kokrajhar, Chirang, Baksa and Udalguri.<sup>82</sup> The Sixth Schedule also covers two Hill Districts of Assam namely- Karbi Anglong Autonomous Council (KAAC) and North Cachar Hills Autonomous Council (NCHAC). The Sixth Schedule at present applies only in four North Eastern states – Meghalaya almost fully covers under Sixth Schedule and partly the states of Assam, Tripura and Mizoram. The Mizo Hills was upgraded to the Union Territory status in 1972 and three new autonomous councils were created. Mizoram attained its statehood in 1986 and its areas are now partly covered under Sixth Schedule.

Presently there are fifteen District Councils administration in North East India – three in Meghalaya, three in Mizoram, two in Assam, one in Tripura and six in Manipur. It is to be noted that, the Government of Manipur have created six Autonomous District Councils for the hill tribal of Manipur and wanted its inclusion in the Sixth Schedule though, it is yet to be approved by the Central government. Similarly, in 2003 a bill was passed by Arunachal Pradesh Assembly to create four Autonomous District Councils under Sixth Schedule which is yet to be approved by the Parliament.

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<sup>82</sup> Narayan Kowar, Op. Cit. PP- 90,

### **3.6.2 The Sixth Schedule Areas in North East:**

Para-1 of the Sixth Schedule have specified the tribal areas as Autonomous District Council under Parts I, II, IIA, and III respectively, within the State of Assam, Meghalaya, Tripura and Mizoram.

#### **PART I (Assam)**

1. The North Cachar Hills District
2. The Karbi Anglong District
3. The Bodoland Territorial Area District  
(or The Bodoland Territorial Council)

#### **PART II (Meghalaya)**

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

#### **PART IIA (Tripura)**

1. Tripura Tribal Areas District

#### **Part III (Mizoram)**

1. The Chakma District
2. The Mara District
3. The Lai District<sup>83</sup>

### **3.6.3 Autonomous District Councils (ADCs)**

The Sixth Schedule is a mini-Constitution within the main Constitution. The Sixth Schedule of the constitution from Art 244 (2) and 275 (1) enumerates in details about District Councils (ADCs). It envisages on establishment of ADC under the provisions of Sixth schedule. The ADC is vested with certain Legislative, Administrative and Judicial powers within its administrative jurisdiction under Sixth Schedule. It is also entrusted with a power to approve or disapprove any Union and State laws which is not concurrent to District Councils. The District Councils can constitute Village level council for its functioning at the grass root level. However, the nature of District Councils may vary from place to place. For example, the District Council in Meghalaya and Assam operates in District level whereas in Mizoram, the

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<sup>83</sup> <http://socialissuesindia.wordpress.com>, Op.cit, P-13

District Council is created at both the sub-divisional levels and district level. Under this Schedule the Governor is empowered to determine the administrative areas of the councils. He is vested with enormous authority to create new autonomous districts, redefine the boundaries, include and exclude the area of existing districts, and changes the names of autonomous districts.

#### **3.6.4 BTAD: And it's Experience:**

Bodoland Territorial Area District (BTAD/BTC) was created under Sixth Schedule of the constitution by an amendment Act 44 of 2003. The tripartite agreement between the Govt. of India, Govt. of Assam and the Bodo Liberation Tiger (BLT) led to sign the Memorandum of Settlement (MoS) dated 10.02.2003 resulting the creation of BTAD. BTAD covers a geographical area of 8790 sq.km spread over four districts viz, Kokrajhar, Chirang, Baksa Udalguri. The BTC was set up as a self governing body to administer the Bodo Tribal dominated areas covering large part of Brahmaputra Valley. The main aim of BTC is-

- i. To fulfil the economic, educational and linguistic aspirations and preservation of land rights, socio cultural and ethnic identity of the Bodos.
- ii. To speed up the infrastructure development in BTC area.

At the time of its inception an Interim Executive Council was formed through an amendment to Para 19 for administering BTAD. The leaders amongst Bodo movement, the signatories to the Memorandum of Settlement and other representatives from the non-tribal communities were appointed to form an Interim Government till the Council election was conducted. The areas cover under BTAD Administrative jurisdiction has been defined in Annexure-I to MOS (P: 93). A tripartite Committee

was also constituted to decide (by consensus) the inclusion of additional villages (Annexure-II to MOS, P: 94).<sup>84</sup> The Administrative jurisdiction of BTAD at present spread over 25 Development Blocks, 19 Revenue Circles, 408 VDCs and 3082 villages. The BTAD is bounded by the Brahmaputra River in the South, Himalayan Kingdom of Bhutan in the North, Sankosh River in the West and Pasnoi River in the East. The geographical boundary of BTAD lies between 26°7' N to 26°47'50 N Latitude and 89°47'49 E to 92° 18' 30 E Longitude. As per 2011 census BTAD constitute with around 3151047 total populations. The majority of population around 30,10,953 lives in rural areas and just an over of lakh population lives in Urban. The Decadal Growth rate between the years 2001-11 in both rural and urban areas are respectively 9.34% and 9.25% as against the Annual Exponential Growth rate of 1.45% in between 2001-11. The Sex ratio in BTAD per 1000 male is 959 with density of population 374.75 per sq.km. The literacy rate as per Census 2011 is 64.71% and the BPL population as per 2009-10 was 37% in BTAD. BTAD has 2 Lok Sabha Constituency, 1 Rajya Sabha seat and 24 Vidhan Sabha Constituency. The principal languages are Bodo and Assamese where both the languages are used as official language in the area. The Bodo population constitute dominant group among all other groups like Garo, Rabha, tea tribes and other SC and OBC population in the areas.<sup>85</sup>

### **3.6.5 Compositions of BTC Legislative Assembly:**

The Sixth Schedule of the Constitution through an Amendment Act 44 of 2003, discuss in details about compositions of BTC Legislative Assembly in Para-

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<sup>84</sup> Some Important Acts and Amendment of Indian Constitution concerning Bodoland Territorial Council; P-1

<sup>85</sup> BTC at a glance 2014-15, Department of Economics & Statistics BTC, Kokrajhar

2(1). BTC consist of forty-six members, of whom thirty seats are reserved for ST, five seats to non-tribal communities, five seats are open for all communities and the remaining six shall be nominated by the Governor from amongst un-represented communities of BTAD resident, of which at least two seats are reserved for women. The nominated members also enjoy same rights and privileges as other members including voting rights. The forty members are directly elected by the people through adult suffrage. The Council comprise of 12 Executive Members including Chief and Deputy Chief of the Council. They enjoy equal status of the Cabinet Minister of Assam and the other Executive Members enjoy equal status of the Minister of State of Assam.<sup>86</sup> The basic statistics relating BTAD is given below:

Table: 3.6.5 Basic statistics relating to BTAD

Council		Population			Districts	Details of Elected Body
Sl. No	Name	Rural	Urban	Total		
1	BTC	841823	63941	905764	Kokrajhar	46 (40 Elected + 6 Nominated) CEM+ 11 EM
		343626	0	343626	Chirang	
		717642	0	717642	Baksa	
		671030	0	671030	Udalguri	

Source: Decentralised Planning in Sixth Schedule and other areas of Assam

The Governor is entrusted with the power to make rules for the district council in consultant with the existing tribal Council for the region concerned and such rules shall provide for- i) the compositions of District Council, ii) delimitation of territorial constituencies for the purpose of elections, iii) the qualifications for voting at such elections and the preparation of electoral role there for; iv) qualifications to be

<sup>86</sup> BTC, MoS. Op.Cit-112

members of council; term of the members of Council; v) any other matter related to elections or nomination to the council vi) the procedure and the conduct of business and vii) the appointment of officers and staff to the district.<sup>87</sup>

### **3.6.6 Powers and Functions of the BTC:**

The Amendment of 2003 to the Sixth Schedule laid out in detail the powers of the BTC. Under this amendment, “3B, additional powers were conferred upon the Bodoland Territorial Council to make laws with respect to the 40 subjects, with the prior assent of the President. The legislative power over these subjects transferred to BTC is enumerated at Annexure III. The BTC shall have the executive, administrative and financial power in respect to these subjects.

The Council conduct their administrative activities and functioning through the Executive Council (EC) which consists of 12 Executive Members including the Chief Executive Member (CEM) and the Deputy Chief Executive Member. The non-Tribals are also given a fair representation to the Executive Council. The Chief and the Deputy Chief enjoys the status equivalent to the Cabinet Ministers and other Executive Members equivalent to the Minister of the State of Assam. The Executive Council is empowered with authority to control over officers & staffs connected with the delegated subjects working in the BTC area. It has also the power to transfer these officers and staff within the area.

BTC is competent to make appointment for all the post under its control except the recruitment or appointment to be made by the APSC. And, for the purpose the Council may constitute a Selection Board for appointments to be made by it and may

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<sup>87</sup> Ibid, P-113



also make rules with the approval of the Governor of Assam to regulate appointments and to ensure adequate representation for all communities living in the Council area. BTC can create posts with the concurrence of the State Govt. and make appointments to posts other than those to be filled up through the Assam Public Service Commission. There is a separate Inspector General of Police for the BTC area. However, Deputy Commissioners and Superintendent of Police remain outside BTC control.

BTC is also entrusted with the development functions and development bodies or agencies are also transferred to BTC. However, in respect of DRDA concurrence of Govt. of India is required or should be obtained. Though, the provision in Para-8 of Sixth Schedule provides the power to assess and collect land revenue and impose taxes shall be applicable to BTC. Despite of such provisions the Council in financial matter depends on the State Government The state government provides the grant-in-aid on the population basis in two equal instalments to the BTC for executing development works. The amount may be reduced proportionately if the State plan allocation is reduced or there is plan cut due to resource problem.

BTC has the power to make plan with the available amount allocated to it for development works, both under State share and Central share, covering any or all the activities of the departments under their control. The Council has full discretion for selecting developmental activities and choosing amount for investment under the same in any year covering all groups of people.<sup>88</sup>

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<sup>88</sup> BTC, MoS; Op. Cit, P-4

The executive functions of BTC are exercised by the Principal Secretary whose rank is equivalent to the Commissioner of Secretary to the Govt. of Assam. The sanctioning power of Assam Govt. is vested with Principal Secretary of BTC and the sanctioning power of the head of the department is conferred with the senior most officer of the department not below the rank of Additional Director.<sup>89</sup>

The above discussion on the historical background of local self government gives a clear account that the rationale for local self government in India has its root in the ancient period. During British Era it became a statutory body. And, with the dawn of Independence the spirit of our visionary leaders of the first generation haven't faded for local self government. As a result, Panchayat System was introduced throughout India except Sixth Schedule areas of North East India. As an alternative, the separate administrative setup has been arranged in this region under Sixth Schedule of the constitution. Under the Sixth Schedule, the local self government in the form of Autonomous District Council and Autonomous Council are in operation in North East. And, as such BTAD is one created in recent decades with an aim to provide political autonomy and to accelerate the socio-economic development of this Tribal dominated region of Assam. And, so far it has been believed to be an instrumental in promoting socio- economic development in this region. Despite of many limitations BTC as a decentralised government under Sixth Schedule Constitution has been working not only in the direction of Socio-Economic development but also towards appeasing political aspiration of the people of this region.

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<sup>89</sup>Ibid, P-5