INDIAN FEDERALISM AND POLITICS OF AUTONOMY ARRANGEMENTS: A STUDY OF INSTITUTIONALIZATION OF BODOLAND TERRITORIAL COUNCIL

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DECLARATION

I declare that the dissertation entitled *"Indian Federalism and Politics of Autonomy Arrangements: A Study of Institutionalization of Bodoland Territorial Council (BTC)"* submitted by me for the award of the degree of **Master of Philosophy** of Jawaharlal Nehru University is my own work. The dissertation has not been submitted for any other degree of this University or any other university.

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CERTIFICATE

We recommend that this dissertation be placed before the examiners for evaluation.

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LIST OF ABBREVIATIONS

All Assam Students Union (AASU)

All Assam Gorkha Students' Union (AAGSU)

All Assam Koch Rajbanshi Students ' Union (AAKRSU)

All Assam Minority Students ' Union (AAMSU)

All Assam Tea Tribes Students' Association (AATTSA)

Ana- Bodo Surakhya Samity (ABSS)

All Bodo Students Union (ABSU)

Autonomous District Council (ADC)

Assam Gana Parishad (AGP)

Bengali Youth Students' Federation (BYSF)

Bodoland Autonomous Council (BAC)

Bodo Liberation Tigers (BLT)

Bodo Peoples' Action Committee (BPAC)

Bodoland Territorial Area District (BTAD).

Bodoland Territorial Council (BTC)

Bodoland Territorial Areas District (BTAD)

Bodoland Territorial Council (BTC)

Bodo State Movement Council (BSMC)

Memorandum of Settlement (MoS)

National Democratic Front of Bodoland – Songbijit (NDFB)

Peoples Coordination for Democratic Rights (PCDR)

People's Democratic Front (PDF)

Plain Tribals Council of Assam (PTCA)

Sanmilita Janagosthiya Sangram Samiti (SJSS)

United Liberation Front of Assam (ULFA)

INTRODUCTION

Introduction

The phenomena of growing conflict over ethnic homeland rule, demand for territorial autonomy as well as nation statehood characterized most of the countries throughout Asia. India is no exception to it. The post - independent Indian state has been subjected to continuous threat to its avowed goal of unity and integrity with growing demand for creation of new state on the basis of language, religion, ethnic diversity etc. While some of these assertions revolve around developmental issues as evident in the demand of separate state for Jharkhand, Chhattisgarh and Uttarakhand, others are based on language, distinct community culture and ethnicity etc. In north east India, most of such assertions are based on ethnicity. Dissenting forms of nationalism continue to threat India's unity with communities like Naga, Mizo claiming that they are not a part of India.

Since the 1980s the relentless concern for states' rights, regional and local identities as well as the demand for decentralization has become foreground. It was during this period only, the sub regional demand for self- governance become more intense as evident in the case of Gorkha and Bodos. It was in this context federalism as a political idea becomes increasingly significant as a means to peacefully reconcile unity in a diverse socio- economic and political system. By employing necessary institutional and procedural flexibility as well as autonomy arrangement, India's federalism could accommodate ethno - regional diversity within the larger framework.

The demand for a separate land of Bodos has its root as back as 1930s when Gurudev Kalicharan Brahma, the leader of the Bodos submitted memorandum to Simon Commission demanding for a separate political set up for the indigenous and tribal people of Assam. This demand was met neither by British India nor by independent India. The second wave of demands came up in 1960s in the context of imposition of Assamese as the official language that was compulsory for getting education and government service. And the third wave of demand appeared in 1980s. This time, demand for Bodoland began on 2 March 1987 under the leadership of Upendranath Brahma of the All Bodo Students Union (ABSU). The political organization of the ABSU was Bodo Peoples' Action Committee (BPAC). The objective of the ABSU/BPAC movement was to get Assam divided equally between Bodoland and Assam. The

movement became violent and in 1993, the Assam Government entered into a bipartite Bodo accord with ABSU to form a Bodoland Autonomous Council (BAC) to fulfill socio-economic aspirations of the Bodos. (Basumatary, 2014)

However, due to difficulty in terms of drawing up the territorial boundary in the area, inhabited by mix of both Bodo and non- Bodo population; the inability to held election, the 1993 experiment that provided for an elected body called Bodoland Autonomous Council (BAC) failed. The boundary was drawn unilaterally. The 1993 Memorandum of Settlement provided insufficient financial power to the BAC as well as it kept overwhelming domination of the state government intact over most of the transferred subjects. The experiment was collapsed within a year. The statehood demand was again revived by ABSU in 1996. The revival of statehood agitation coincided with the emergence of a separate brand of militancy. Around 1996 a section of the Bodo youth dissatisfied with the functioning of the BAC raised itself as an armed organization called Bodo Liberation Tigers (BLT), solely to secure a separate Bodoland state through armed struggle. (Nath, 2003)

In response to such an armed assertion, in 2003 under the National Democratic Alliance Government, a second tripartite Bodo Accord was signed between the Bodo Liberation Tiger (BLT), (a militant outfit), the Central Government and the Assam Government. Under this accord the Bodos were granted the Bodoland Territorial Council (BTC), within the State of Assam and provided constitutional protection under Sixth Schedule to the said autonomous body. The objective of BTC was to fulfill economic, educational and linguistic aspirations and the preservation of land-rights, socio-cultural and ethnic identity of the Bodos; and speed up the infrastructure development in BTC area. The districts of Kokrajhar, Chirang, Udalguri and Baksa came under the BTC administrative area territorially known as Bodoland Territorial Areas District (BTAD). (Memorandum of Settlement on Bodoland Territorial Council (BTC), 10 February, 2003).

Despite the creation of BTAD, the Bodo militants, demanding for the creation of separate homeland has still been engaging in large scale killing, looting and forcible eviction of the migrant population. In fact from 2008 onwards the militant activities

became more intense. In May, 2014 more than thirty Bengali Muslims were gunned down by the Bodo militants in BTAD. Six months after the incident, in December, they targeted the Adivasis, killing nearly seventy persons – including twenty women and eighteen children dead, and forcing more than seventy thousand people to take shelter in relief camps. Various political parties, students and youth organizations, and non-governmental organizations in the state criticized the deadly attacks on unarmed Adivasis and demanded that the government take action against the Songbijit faction of the National Democratic Front of Bodoland (NDFB-S) indulging in terrorist activities. (Srikanth, January 31, 2015)

Various interpretations of the present crisis have been going on in the political and academic discourse. Scholars like Nani Gopal Mahanta (2013), Sripad Motiram and Nayantara Sarma (2014) acknowledged that the increasing conflict has been polarizing along religious line between Hindus and Muslims. However such religious polarization cannot be termed as the root reason behind the present violent scenario. The above mentioned scholars eventually argue that it is the outcome of wrong policies pursued since independence that has resulted in the marginalization of the plains tribal communities and the dispossession of their rights to land.

Research Questions:

1. What are the reasons behind the sub- regional movement for Bodoland?
2. How does the demand for autonomy get institutionalized over the years?
3. Despite being creation of the Bodoland Territorial Council (BTC) that was assumed to resolve the problem, why has been the Bodo movement for separate homeland still going on?
4. What are the challenges faced by BTC in proper implementation of the autonomy arrangements?
5. Is there any problem in the design of autonomy arrangements for the Bodoland Territorial Areas District (BTAD)? How can we analyse the autonomy arrangement in BTAD within the larger federal structure of India?

Review of Literature

In the theoretical discourse, 'institutions' have been theorized and analyzed in different ways. In reviewing existing literature on institutions this work focuses mainly on different theories relating to the origin, management, transformation and survival of institutions. There has been a rich literature on the creation and redesign of institutions. In studying about the institutions in a diverse country, our understanding of them will remain incomplete without looking into the multicultural debate. In Indian case, looking into the Constituent Assembly debate with regard to the creation of Sixth Schedule will further enrich our knowledge in this regard. As a case study creation of the BTC will be looked at, outcome of which is subjected to different interpretations. It's creation and working is analyzed within the broader federal politics of India that sets both the scope as well as limits of their working.

Institutions

The term 'institutionalism' has occupied a central position in the disciplines of social sciences. It connotes a general approach to understanding and studies political institutions, a set of theoretical ideas, hypothesis and practices concerning the relation between institutions and political actors, its creation, performance, survival, and transformation. An institution is defined as a relatively enduring set of rules and organized practices with a structure of a meaning system as well as resources. In studying about institutions, institutionalism focuses on two forces or factors that are endogenous and exogenous factors that influence the working of the institution (Johan, 2005)

Douglas North viewed institutions as the rules of the game in the society devised by a human that regulate and constrain human interactions. Institutions give a structure to the daily life of a community in particular and the humanity in general. It entailed both formal rules like laws and constitution as well as informal rules like conventions, norms (Christopher, 2008).

Claude argues that institutions are embedded in social environment. Therefore it cannot work in isolation from the society. On the contrary, it has to make its pace in accordance with the societal change while at the same time it do retain certain fundamental precepts without which the whole edifice will collapse. Thus we can see a correlation between administrative and political changes on one hand and institutional change on the other hand. Claude talks about four streams of thought on institutions. They are: Historical institutionalism, sociological institutionalism, new institutionalism, and local order or actor institutionalism. (Thoenig, 2011)

Lawrence distinguished between 'creating, maintaining, and disrupting institutions' and 'creation, maintenance, and disruption of institutions'. The former describes a set of activities while the later describe a set of accomplishment. But recognition of such distinction has great value because such approach will help us to know the processes and practices involved in the creation, maintenance and disruption of the institutions rather merely explaining their accomplishments. Institutions are the compromised product of episode of conflict and contradiction.

James (2007) discusses about the reasons behind institutional reproduction and institutional redesign. He is of the view that institutions are more likely to be continued in their original form in homogenous society while in a heterogeneous and diverse society it will be subjected to constant redesign. B. Gye Peters and Jon Pierre dealt with the design of institutions. To understand the redesigning of institutions it is necessary to understand the relation between institutions and power. Institutions make governance easier. The rationality of governance through institutions will become easy and legitimate only when the governed will give their consent to these institutions. (Jon, 2007)

In interpreting the institutional changes, Gonzalo (2008) talk about three theories of institutional change. These are collective choice theory that interprets formation and change of institution as a deliberate collective choice on the part of political actors of a state through a process of bargaining and debate over a set of established rules. Second is the evolutionary theory that viewed creation and recreation of institutions as a result of deliberation. Last one is the blending design and evolution theory of institution which is a combination of the other two theories. (Christopher, 2008)

In a diverse, multicultural and democratic country like India, institutions are designed and redesigned in a way that it will recognize and accommodate the existing diversity. It is more apparent in a country where the nation building project is a contesting one. To maintain unity, the institutions have to be deliberately designed to reflect diversity. To realize this aspect the framers of the institution must recognize and accommodate community identity. In this regard Will Kymlicka's work is referred who finds limitation in Liberal theory to accommodate community identity. Kymlicka argue that if liberals care about equality, then they should recognize importance of cultural identity to the individual autonomy. Liberals should therefore support the existence of group specific rights. Multicultural thinkers like Bhikhu Parekh (2000) in his writing talk about the value of preserving culture. Mahajan is of the view that multiculturalism is distinct from pluralism in the sense that while the former emphasizes upon the existence of equality among different communities, the later emphasize upon the fact of their mere existence (Mahajan, 2002).

However reviewing of the existing literature on multiculturalism has shown that there is lack of consensus over what kind of community identity and rights to be recognized and accommodated. Concern for national unity, integrity, assimilation, tendency for secession has guided these differences. Kymlicka (1996) pointed out the difference between the national minority and ethnic minority as well as internal restriction and external protection while Mahajan (2011) pointed out the possibility that protection of a particular minority culture may come at the cost of undermining the concern of other members within the same community. Iris Marion Young and Taylor talk about the politics of recognition where the politics of difference play a key role.

David Stuligross have viewed the increasing phenomenon of power sharing between national and sub- national spheres in a multicultural country like India through the lens of integration and assimilation. Integration of communities into a multicultural Indian nation in contrast to assimilation of individual into the liberal state is the central theme. The clearest recognition of integration occurs in the third level of India's federal structure that is the Autonomous District Council (ADC). (Stuligross, 1999)

Pyakure discuss about the appointment of a sub- committee of the Constituent Assembly, called the North East Frontier (Assam) Tribal and Excluded Areas Sub-Committee under the chairmanship of Assamese political leader Gopinath Bordoloi by the interim Government of India for the integration of the north- eastern region. The committee suggested for granting of substantial autonomy arrangements at the district level that will work as a compromise on the part of those who demanded complete independence from the country and thereby help them to assimilate with the integrated whole (Pyakure, 2013)

This was followed by the debate in the Constituent Assembly which is interpreted by Stuligross as the reflection of an earlier policy debate that dated back as 1920 between the two central ideas: integration and assimilation of tribal. G. S. Ghurye advocated assimilation of all individuals into a single political identity in a single representative body. On the other hand, Verrier Elwin propounded for integration of distinct tribal communities with the Center by providing political and administrative autonomy (Stuligross, 1999).

Hansaria explained three shades of opinion that prevailed in the Constituent Assembly debate. One shed of opinion was put forward by leaders like Shri Brajeswar Prasad, who articulated that governance of such areas that is excluded areas should not be entrusted with the authority of provincial Government or the Governor. They were in favour of bestowing the power to govern these areas in the hand of Central Government. Another shed of opinions was lead by two Honorable Members from Assam, Shri Kuladhar Chaliha, and Shri Rohini Kumar Chaudhuri. They made efforts to enhance the jurisdiction of the Provincial Governments and State Legislature by giving greater voice to the respective authority in dealing with the tribals. They were not in support of giving greater autonomy to the tribals. In between these two extremities the third shed of opinion was represented by leaders like Gopinath Bordoloi who articulate that it was more desirable to win the willing cooperation of the tribals by integrating them in a way that respects their traditional and distinct customary set up. (Hansaria, 2011)

The Bodo Movement

In reviewing the literature on historical background of the Bodo movement Sanjib Barua (1999) in his book "India against Itself: Assam and the Politics of Nationality" discussed the context within which distinct Bodo identity develop. He discussed the development of identity through the process of 'self' and 'other'. It is an insightful work that breaks the prevailing consensus on India's 'nation building' as a successful model. The way in which Indian state responded to the 'ethnic' or 'sub national' dissent put a question mark over the well manageability of the nation building project. The main contention of the author is that "sub- nationalism in India stands in a dialogical relationship with pan-Indian politics". He argues that the teleology of nation- building has to some extent enabled political scientists to avoid the issue of how to accommodate the logic of sub nationalism into political institutions.

Udayon Misra's (2012 "Bodoland: The Burden of History"; Motiram Sripad and Nayantara Sarma's (2014) "The Tragedy of Identity Reflections on Violent Social Conflict in Western Assam" along with Sanjib Barua (1999) discussed about the development of economic deprivation as well the Britishers policy in governing the tribal land. Barua bring out the centrality of Assam movement in the development of a sense of alienation among the Bodos. Bodos were not satisfied with the results of the Assam movement. He also discussed the cultural politics of Bodo sub- nationalism based on reverse assimilation as well as the different policies followed by the state Government that make them insecure. He also discussed the complexities involved such as diverse demographic composition of the area, absence of geographical contiguity etc in granting the self governing right to the Bodos. Mahanta's (2013) "Politics of Space and Violence in Bodoland" along with Barua's book trace the militant phase of the movement followed by ceasefire declaration by the Bodoland Liberation Tiger (BLT) that paved the way for signing of 2003 Accord after the unsuccessful 1993 Accord.

Regarding the peace accord, S. K. Das (2005) in his "Where Do the Autonomous Institutions Come From?" viewed peace accord as a sort of agreement between the state governments and its adversaries that involved in some form of discord with the purpose of achieving peace between them. Accords are also seen as "strategically deployed"

means through which the state deploys a mixture of force and coercion to dominate the adversaries. While Mochahari (2014) in his article "State Hegemony, Identity Politics and Resistance in Bodoland" argue that although we generally expect a peace accord to result in peace, conflict generally follows these agreements.

Nani Gopal Mahanta (2013) in the article "Politics of Space and Violence" articulates that ethnic conflicts in Assam have occurred often but the Bodoland conflict of 2012 has polarized the local community and immigrant Muslims more sharply than before. Bodos and the non-Bodo indigenous people, who were fighting with each other for space and identity till 1998, have arrived at a tactical alliance. The crisis in Bodoland is a reflection of the abdication of responsibility by the Indian state. It has failed to address the structural issues that confront the indigenous tribes (the Bodos), like the encroachment of their land. It has also failed to address the multicultural, multi-linguistic and multi-ethnic composite culture of the region.

In "Ethnic Violence in Bodoland", Suryasikha Pathak (2012) articulates that ethnicity and identity have been the key issues of mobilization in all of north-east India. The region has had a long history of being marginalised; its inclusion in the Indian nation is seriously challenged by communities; and identity politics has shaped the politics of resistance. The struggle for power, both political and economic, has thus become bloodied. The reason behind recent violence in Assam lied in the failure of the Sixth Schedule to deliver; the contest over land and resources, the lack of development, and the fear of disempowered smaller groups are all tangled in the web of electoral politics of the ruling classes.

In the article, "The Liberation of Bodoland: Tea, Forestry and Tribal Entrapment in Western Assam", Nel Vandekerckhove and Bert Suykens (2008) articulates that migration in itself is insufficient to understand the problems in Bodoland. Instead, the focus should be on forestry and tea estates, and contend that they, forming important restrictive structures, caused tribal entrapment, leading to violence. Moreover, they claim that during the conflict a shift in control over these structures occurred, changing the livelihood arithmetic of the involved communities. Finally, they discuss both the restraints and opportunities of the BTC/BTAD (Bodoland Territorial Council/Bodoland

Territorial Areas District)—the result of the peace process—and warn that the escape from entrapment for the Bodo could lead to the entrapment of other communities in the area.

Federalism

Baogang He (2007) in "Democratization and federalization in Asia", talk about the adoption of federalism as the best workable political situation to resolve growing conflict for ethnic homeland. Federalism has significance in nation building project especially in a multicultural country. Kincaid in "Building on and Accommodating Diversities" (2008) have differentiated between economic diversity and socio- cultural diversity.

Watts (2005) in his article "A Comparative Perspective on Asymmetry In Federations" distinguish between classical federations from the later federation in the sense that the former entail more symmetrical arrangement while the later adopt asymmetrical arrangement as well. Watts along with Baogang make a distinction between de jure and de facto federalism asymmetry. To establish and maintain federalism, Watts argue that a country has to achieve 'relative balance' or 'approximate equilibrium' between the desire for union and the desire for regional autonomy. In trying to achieve this balance Gagnon (2012) in the article titled "Introduction: Multinational Federalism: Questions and Queries" talk about two forms of the federal ideal: territorial and multinational federalism and their impact upon the unity and stability of the country. In this regard Baogang (2007) talk about the 'Hybrid federalism' an Asian model which according to him is successful in case of India. Hybrid federalism is an amalgamation of both territorial and multinational federalism.

With regard to federalism of India Mahajan (2007) in article "Federal accommodation of ethnocultural identities in India" articulates that it is more of practical consideration rather than the concern for democracy that worked upon in entailing federal arrangement by the framers of the Constitution. Baogang (2007) pointed out the 'hold

together federalism' rather than 'bring together model' that can be fit into the top- down federal model of India.

In the article titled "Federalism and Regionalism in India Institutional Strategies and Political Accommodation of Identity", Bhattacharya (2005) well articulated the evolution of Indian federalism staring from the British India period to the post 1990 period. From such evolution it become clear that along with de jure arrangement that have been entailed in the Constitution, the emergence of federal coalition in the Centre have influenced development of Indi's federalism. The incorporation of asymmetrical arrangement has helped India to resolve ethnic homeland demands and thus ensure India's unity. Rekha Saxena (2012) in the article "Is India a Case of Asymmetrical Federalism?", talk about post modern potential of Indian federalism as it incorporate both de facto and de jure asymmetries in its construction. She argues that the gradual experiment of asymmetrical arrangement with the North eastern states has shown that such asymmetrical arrangement in reality can accommodate multiple identities within a single state. However there are considerable reservations on such assertion from other thinkers like Tillin, Watts etc.

Adeney (2007) in the article "Comment: The "Necessity" of Asymmetrical Federalism?" argue that in a diverse country like India, federal form of government has been tilted towards asymmetrical arrangements. We can call it as asymmetrical because it bestows more powers and responsibilities to some federal units than others. He is concerned with asymmetrical arrangement for the territorially concentrated minority communities. According to Manor, the existence of extreme heterogeneity in the north east is the reason behind inability of asymmetrical federal arrangement to contain the ethnic conflict. An important part of the plurinational states is to ensure that the non-dominant section feel secure. One of the ways to ensure security is through the division of the dominant and larger community into several smaller communities. The need for adequate representation and protection at the central level can work as an important complementary element of ethnic conflict regulation.

Scope and Rationale of the Study

In the context of above background, this research work attempts to understand the creation and working of sub regional autonomy institution, BTC in the region. With this intent, the work focuses on the Constituent Assembly debate that led to the framing of Sixth Schedule which lies in the heart of the creation of such institutions. The Sixth Schedule of the Constitution comprised of articles 244 (2) and 275 (1) that deals with creation of District Council and Regional Council for administering the tribal areas of Assam, Meghalaya, Tripura and Mizoram. In doing this the debate of integration versus assimilation will come into light. As a corollary to it multicultural debate on the creation, recreation and survival of different institutions will be drawn.

The present work investigates the question, why despite the creation of BTC which was assumed to address the concern of Bodos, the movement for separate homeland is still going on? Why does peace has not been restored? In addressing this question the work looks into certain issues like implementation of the autonomy arrangement as provided in the Sixth Schedule of the Constitution, the way autonomy arrangements have been designed in the Bodoland Territorial Areas District, arrangements for protecting the rights and security of the non- Bodos in the region that constitute numerical majority. At the macro level the study analyses the autonomy arrangement in BTAD within the larger federal polity of India.

In order to make a fuller appraisal, the present work starts with the Constituent Assembly debate. It then traces the history of the Bodo movement and it's different stages followed by the Accord of 1993 and then 2003 Peace Accord that paved the way for creation of BTAD. It then draws the post 2003 scenario in terms of status of peace in the region and the growing assertion of the non- Bodos that found culmination in the 2014 Lok Sabha election with the victory of non- Bodo candidate from the Kokrajhar constituency. It then tries to understand the creation and working of such institution within the larger federal framework of Indian polity.

The rationale of the study is to make some contribution to the continuum of literature and policy analysis dealing with ethnic movements in the light of creation and

working of the BTC. The relevance of the study lies in the fact that the demand for distinct ethnic identity and self governance has been continued like demand for Kukiland in Manipur, Gorkhaland in West Bengal etc.

Methodology and Sources

The present work basically follows a qualitative and descriptive analytical approach with little focus on quantitative data. It has also used historical chronology in dealing with the Bodo movement. Both primary and secondary data have been used in the present work while it left behind any oral sources as well as field study. Primary sources include Government documents such as acts, laws, bills, office memoranda, reports, regulations etc. Secondary sources include books, articles in journals, editorials, newspaper items, etc.

The Structure

The first chapter deals with the conceptualization of the term 'institution' in various theoretical discourses. It focuses on the multicultural debate on institutions that view institutions as a mechanism for accommodating the diversity of a nation with certain broader goals that are to protect and to maintain the unity and integrity of the nation state.

In this regard certain key questions are raised like what are the factors that influence the creation of institutions. Whether institutions change and if it does, how can we understand these change. Why does the need for redesigning of institutions emerge at all? What is the process involved in the creation of institutions? Whether we can draw any relation between institution and power? An understanding of these questions will follow by three theories of institutional changes: collective choice theory, evolutionary theory and the blend of design and evolutionary theory.

It is followed by the Constituent Assembly debate in India regarding the creation of District and Regional Council in the excluded areas of North East India. The basic reason behind focusing on such debate is to bring to light the kind of ideas and principles that guided the creation of such institutions in post- independence India.

The second chapter draws the genealogy and evolution of the Bodoland movement and the creation of the institution of Bodoland Territorial Council. A deep level of historical understanding is essential given the existence of different perspectives in interpreting the recurrent violence which in turn help us to unravel certain ambiguities. The chapter provides an account of the long drawn Bodo movement with different phases and different stakeholders whose demand have been ranging from separate homeland to more autonomy that ultimately found a solution with the creation of BTC in 2003. Such an account is followed by the description of the autonomy arrangement for Bodoland as provided under the Sixth Schedule of the Constitution and the role of peace accords as well as the post 2003 status of stability and peace in the region.

The third chapter introspect the present crisis situation in the BTAD. The cause of concern is why despite the creation of the autonomous institution that was designed and purported to resolve the issues raised by the Bodo movement, the region has time and again subjected to violent experience. The demand for separate homeland has still been emerging. The outbreak of violence cannot be interpreted as a result of some singular fault line. It has to be analyzed in multiple levels that will help us to understand the long term process that is at work in the region. First of all, an analysis of the Sixth schedule of the Indian Constitution is done that will help us to assess the working of such sub- state institution at the ground level. Special focus is given on understanding the constitutional arrangement of the Sixth Schedule dealing with the security and safeguard of the non- Bodo population of the area. Such arrangement bears immense significance in the governance of BTAD. This is because the Bodos constitute merely about thirty percent of the area while the rest of the population is non- Bodos. In this context if protection and recognition of one identity comes at the expense of the other equally important, in fact numerically majority identity, then we cannot expect smooth running of governance in

any area. The recent controversy over the victory of a non- Bodo candidate, Hira Soronia in the BTAD election is important in this regard.

Secondly, this chapter looks at the broader picture of Indian federal system that sets the scope of power as well as limitations, within which such sub- state level institutions are working. Federal political system has worked as a medium throughout the world in addressing various autonomy questions. Federal process of India is not static. It has been undergoing through long term evolution with emergence of new concepts as well as reinvigoration of old ideas. In the course of its journey, Indian federalism has taken the characteristics of 'hybrid federalism'. Such evolution have been guided by the utmost necessity to keep the nation together by maintaining unity while not abandoning diversity in the democratic, multicultural society of India.

The conclusion will be a summary of the dissertation.

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CHAPTER ONE

INSTITUTION AND ACCOMODATION OF DIVERSITY: A THEORETICAL PERSPECTIVE

Introduction

Institutions work as a mirror of the socio- political structure of a nation state. It is with the help of the prevailing institutions that we can properly understand the nature of a political system. The theoretical conceptualization of the term 'institution' occupies a central position in the various disciplines of social sciences. The concept of institutions can be understood from different perspectives and on the basis of different aspects. While not ignoring the centrality of other prevailing theories and perspective, in this chapter an adoption of a multicultural approach will view institutions as a mechanism for accommodating diversity of a nation with certain broader goals that are to protect and to maintain the unity and integrity of the nation state. Three are four sections in this chapter:

The section one emphasizes on understanding the concept of institutions as interpreted by various theorists. The second section entails how multicultural theorists will interpret the creation, recreation and survival of different institutions. An understanding of multicultural perspective will help us to understand the debate revolving around institutions in a multicultural democratic society like India. It will help us to understand the value of institutions in protecting and preserving various diversity; particularly the cultural diversity in such societies.

The third section focuses on the Constituent Assembly debate in India regarding the creation of Regional and District Autonomous Council in the excluded areas of North East India. The basic reason behind focusing on such debate is to bring to light the kind of ideas and principles that guided the creation of such institutions in post- independence India. The chapter is concluded with a brief description of the development that began to emerge in front of the Indian state after decades of working of such autonomous institutions.

I

Defining Institutions

'Institutionalism' has occupied a central position in the disciplines of social sciences. Institutionalism refers to a general approach to understand and study of the political institutions, a set of theoretical ideas, assumptions and practices pertaining to the relation between institutions and political actors, its formation, workings, continued existence and transformation. An institution is a relatively enduring set of rules and organized practices with a structure of a meaning system as well as resources. It is relatively invariant in its existence to the swift changes in individual's preferences as well as relatively resilient to the fast changing external circumstances. (Johan, 2005, pp. 3-4)

In studying about institutions, institutionalism focuses on two forces or factors that are endogenous and exogenous factors that influence the working of the institution. Endogenous factors are those that are inherent within the institution. There are certain universal fundamental principles organically associated with all the institutions irrespective of different socio- economic and political contexts. Exogenous factors are those that exist outside the institutions. These factors emerge out of the particular socio- economic and political environment within which an institution work. For example, an educational institution with the official language of the state as a medium of instruction may have to incorporate the particular regional language while working in a particular region. Otherwise, the institution may subject to constant pressure from that particular socio- cultural group of the region. It may work as disadvantage for that group by undermining their mother tongue that plays a significant role in their life. An institution cannot work in isolation from these outside forces but in association with these forces. It is only in association with these factors that an institution can sustain and fulfill its purpose that is creating an ordered socio- economic and political life that caters to the common good of the society. Thus, an institution is not merely an arrangement that emerge out of equilibrium contract between self- seeking, calculating individual actors or arenas for contending social forces (Johan, 2005, p. 3). Rather, institutions reflect an amalgamation of structures, rules, and procedures with its meaning system that can partly

act autonomously from the political life. We have to take into consideration both of these factors to get a complete understanding of institutions.

Douglas North viewed institutions as the rules of the game in the society devised by a human that regulate and constrain human interactions. Institutions give a structure to the daily life of a community in particular and the humanity in general. It entailed both formal rules like laws and constitution as well as informal rules like conventions, norms (Christopher, 2008). The use of the word 'game' has a literal meaning in this definition. We cannot play any game without determining a set of rules and regulations. These rules and regulations are made by a definite mechanism that ultimately manifest societal consensus behind them. Likewise, a society also cannot exist without certain rules and regulations. And it is the institutions that retain these rules and regulation. The legitimacy of these rules has been validated by the consensus given by the greater society to such institution created by human agency. For example, the members of the Constituent Assembly of India, who have framed the Constitution, have to be guided by both the society of a newly independent nation which is merged in the ideals of national movement as well as in amalgamation with the best practices and ideas enshrined in the Constitutions of other countries. Secondly, we can interpret formal rules in his definition as something that are explicit and written one. These rules are enacted with a set of clear objectives in mind. While informal rules are something that is implicit, evolved within the institution indigenously and are enforced by the members of that institution knowingly or unknowingly.

Certain Key Questions Regarding Institutions

There is no consensus on the kind of rules and regulations that constitute institutions. Also, different theories have interpreted the origin, management, transformation and survival of institutions differently. One of the major questions that underlie these theories is whether institutions change and if it does how we can understand these changes. There can be two views on it. On the one hand, the more traditional theorist of institutions will opine that institutions by definition do not change.

The institutional changes are obstructed by both actors working inside and outside of the institutions. On the other hand, another section of institutional theorist will opine that institutions do change. Some of these changes are inherently linked with the gradual development of the organization that may not be manifested in a very explicit manner. While there are other changes that are the outcome of conscious deliberation and certain clear purposes. The process of formation of institution has mainly been understood in organizational terms (Jon, 2007). According to Selznick, institutionalization has both structural and normative dimensions. The working of an institution is determined by both factors working inside the organization as well as factors outside of the organization. It is relatively easy to form an organization with the development of the necessary internal ingredients. But an organization will not evolve into an institution until and unless it draws legitimacy from the outside forces. The durability of institutional regularity depends upon the capability of the concerned institution to draw compliance and acceptability from the outside environment within which the organization exists.

Taking of the second viewpoint from above, the next question that can come to one's mind is why the need for redesigning of institutions emerges at all. In other words, what are the reasons behind institutional reproduction and institutional redesign? In the absence of any exogenous forces, institutional reproduction or continuity is most likely to happen when there are certain factors. These include: a) the institutional statements are nondiscretionary and substantive; b) when the society is characterized by homogeneity that is the same kind of groups, ideas, culture coexist throughout the society; and c) when social interaction will be denser among various groups as well as the interaction between the political set up, and the society are very close and rapid. Adding to it the extent of the particular territory can also determine institutional reproduction. It means institutions catering to the need of a relatively small territory have the potentiality to endure for more time compared to a large and diverse landscape. Conversely, the possibility of the institutional redesign is highest with the existence of certain factors. These include: a) models of action are conceived to be discretionary; b) when society is diverse in terms of class, caste, community, ethnicity, etc.; c) when there has been lack of interaction across different groups. In other words when the interaction between the political set up and

society is fragmented and slow (James C. S., 2007, p. 10). Also, the wide territorial limit and diversity have added to the possibility of intense institutional design.

Given certain conditions under which institutions have a propensity to change, the next question that B. Gye Peters and Jon Pierre dealt with is related to the design of institutions. Whenever the need for institutional changes emerges, the consequent redesigning of the institutions cannot be done automatically. It cannot be developed by mere evaluation of the existing alternative choices if some of them exist at all. Institutional redesigning is constrained by the previous institutional choices, practices, and norms, etc. For example, in a country like India where secularism, federalism, democracy are well - established norms and practices that have been ingrained in the already existence institutions, we cannot model or design a new institutional set up without taking into consideration of the existence of these norms and practices. In India's case, the legacy of two hundred years of British rule also plays a significant role in designing the institutions of post- independence India. The new institutional set up cannot be developed merely by the consensus or some balance of preferences among different agents of institutions acting within the institution and forces that are acting outside the institutions.

In understanding the process of redesigning of institutions, we have to understand the relation between institutions and power. We cannot think of human survival without the existence of certain common institutions and regulations. Even the survival of human in the primitive age in the 'jungle' was governed by certain institutions in a broader sense of the term. Although not formal rules and regulations, we can find certain pattern or practices that regulate the activities of primitive life, for example, the practice of collective hunting. Once they moved into the settled life, the need for norms, practices, rules and regulations become more necessary. Gradually these practices were institutionalized that become the basis for governing their life later on. The governing of people by institutions does not mean the imposition of certain rules and principles over the people. However, they do manifest certain kind of power that regulates the behavior of the people. Thereby institutions will ensure that they will not deviate from the settled norms and practices, and will ensure that they will work in a way that will maintain unity

and integrity of the society. In this way, institutions make governance easier. The rationality of governance through institutions will become easy and legitimate only when the governed will give their consent to these institutions.

From this sub- section, we can conclude that institutions do change in order to adjust with the changing context so that it can sustain itself. But such changes are enacted only after taking into consideration various complex issues that are involved in these changes without deviating from the path of its desired objectives and goals.

Theories of Institutional Changes

There are diverse interpretations regarding the causes, processes, and outcomes of institutional changes. As articulated by Gonzalo (2008) there are three theories of institutional change. These are as follows:

1. *Collective Choice Theory of Institutional Change*

Here institutional changes are interpreted as a deliberate collective choice on the part of political actors of a state through a process of bargaining and debate over a set of established rules. It is over these already determined rules that deliberation occur followed by a consensus resulted in institutional change. In this regard, Ostrom talks about a multilevel hierarchy of rules that plays a determining role in the collective decision - making process (Christopher, 2008, p. 4). These are 'operational rules' that regulate day to day activities. Then there is 'collective choice rules' that determine these operational rules followed by 'constitutional rules' that determine these collective choice rules. At the top of the hierarchy lies the 'meta- constitutional rules' that determine the formulation of constitutional rules. Context for making such rules is provided by a distinct history of a state, the nature of the society, etc. For example, in India's context the ideas and inspirations that guide the nationalist movement against the Britishers as well as the societal, economic and political diversity based on class, caste, religion, ethnicity, tribe, culture etc occupied a significant role in drawing the blueprint for institutions for

post- colonial, independent India. In redesigning the existing institutions, we can see that the directive to change in the lower hierarchy of rules will come from the rules in the upper hierarchy. For example, the need to make institutional change in the collective choice rule will find its reference from constitutional rules. It is the law of the land that will guide us to redesign institutions in most instances although sometimes we may require amending certain procedures written our constitution.

In the process of institutional changes, two forces are involved: demand and support forces. The demand forces are composed of the constituents and the support forces composed of the government. Institutional changes will be an outcome of bargaining between these two forces. The question is how does the support forces that is political actors from the government side will engage in the bargaining process. A section of the theorist is of the view that political actors have to replicate the interests of a particular section. It means they are dependent on the constituents and that they are driven by the interests of these sections. While on the other extreme, another section of the theorist is of the view that the political actors are autonomous. Although they do have the incentive to respond to the interest of the constituents, ultimately it is the objectives enshrined in the foundational law of the land that they tend to adhere to in determining institutional change. Given the dual positions that political actors may subject to in dealing with changes in formal rules, we cannot predetermine or fix their activities to a particular side. It will be determined by the distinctiveness of political structure of a state. Moreover, there are certainly other factors also that can impact upon the choice of political actors. These include the role of informal rules like norms, practices, ethical conduct of a particular socio- economic and political set up. These factors may be internalized by the political actors which in turn may influence the kind of preferences that they make. The role of informal rules may not be explicit or apparent, but they do play an important role. Perhaps, it is due to the undermining of this aspect by the collective choice theory of institutional change that it has not been able to interpret the process behind institutional change conclusively and effectively. (Alston, 1996, pp. 26-27)

2. Evolutionary Theory of Institutional Changes

In many of the literatures, institutional changes are conceived to be evolutionary. It involve Darwinian principles of variation that is a source of mutation, selection process that involve choosing the best and the inheritance process that involve the replication of the best successful model. However it does not mean that the evolutionary process has left out rational decisions. The difference of this theory with earlier collective choice theory lies in the way the selection process happened. In the former case, it is done by a coordinated, centralized authority for example legislation while in the case of evolution it is the uncoordinated, decentralized authority that determined randomized or deliberative changing rules in the process of which the successful models are ruled in and the unsuccessful ones are ruled out.

Veblen's theory of institutional change is based on the idea of 'habits of thought'. According to him there are two kinds of habit of thought that are working simultaneously in the mind of the individual. One is the shared habit of thought that is owned commonly, and the other is the individual habit of thought that is his own. In thinking about evolutionary change of institutions we need to think about these both factors that influence the institutions.

Hayek conceptualized evolutionary institutional change at the stage of social group. Certain rules of conduct may evolve out of the rules that are practiced by certain social groups that seem to be more successful than others. Hayek is of the view that although rules of just conduct may evolve spontaneously, but better and gradual perfection will come only with the deliberate redesigning of those rules by experts. Thinking in these terms will signify that there is an imminent contradiction between evolution and design in the sense that finally rules are an outcome of deliberate design. Hayek reconcile the two by articulating that deliberate designing ideally seems to upheld those rules of conduct that evolved in the social group rather than to go for inventing new rules.

Levi emphasized upon the 'power' that formal rule bestow upon a certain group. Sometimes such rules may create disadvantage for another section of group. In that case

they may withdraw their consent and support from the prevailing institutional arrangements. Such withdrawal of support can happen in two ways: one through coordinated effort and another through uncoordinated way at the individual level for example. However such activities will force the originator of the prevailing institutions to change the institutions in a way that will meet the demands of the disadvantaged group.

In the above variants of evolutionary as well as the collective choice theories, we find that exogenous forces play an important role in inducing institutional changes.

3. *Blending Design and Evolution theory of Institution*

From the above discussion, it appears that theory of collective choice design tend to undermine the informal practices that influence institution design and transformation while the evolutionary theory of institution has undermined the formal practices and the political process involved in the making and remaking of institutions. Such interpretations on the part of both theories can be taken as natural outcome of their theorizing different context and processes. But we may have to confront a situation in which both the processes are involved simultaneously. Indeed in the practical world institutions are influenced by both collective and coordinated design as well as decentralized uncoordinated decentralized process. In this sense, we have to blend both the theories.

Williamson interprets informal rules in a way in which they provide the required background to initiate the design and redesign in the formal law. For him, formal institutions are embedded in the informal rules and practices. Institutions are always influenced by the particular societal context in which they work. North articulates that the impetus to change the formal rules of an institution come from the exogenous forces that are largely informal forces. Informal norms and practices develop simultaneously along with the formal rules. They acted upon and influence the formal rules in a way that the institution makers redesign certain institutions which in turn help the informal rules to sustain. In this way 'equilibrium' developed gradually between the two that help to

sustain both the formal and informal rules with changing requirements and transformation in the society.

In this equilibrium theory of institutional changes both formal and informal rules will play equally important role that will help the participant in the equilibrium process to coordinate on an ideal issue of equilibrium. As Calvert has articulated institutions are not a different set of animals. It is the rational behavior conditioned on the belief of collective actions that is enacted in the form of institutions.

From the above three theories of institutional changes it become apparent that both endogenous and exogenous forces work simultaneously in the design and redesign of the institutions. However the most important thing to keep in mind is that not each and every factor will be successful in influencing upon the working of institutions. Irrespective of whatever definition of institutions we may choose to take, for creation and protection of an effective order in the society, certain level of sustainability and stability requires in the working of the institutions. Thus institutions are also characterized by a certain degree of inertia. There are many factors that contribute to such inertia as already mentioned. These include rationality, Governmentality, role of history etc. The history of a particular society and country plays significant role in the creation and maintenance of a set of institutions.

II

Institutions and Multiculturalism

In this section, the focus will be to analyse how in a multicultural and diverse society, institutions are designed in a way that that it manifest the diverse composition of the society. However within the multicultural theories there are lot of debate regarding the kind of community identities and the extent of their rights that can be accommodated within the institutions.

A political system of a country is determined by the kind of society that the country inherits. In India, diversity is the keystone of society. So we cannot think of

Indian political system in isolation from diversity. It can either accommodate diversity by incorporating a democratic and multicultural federal set up or it can neglect the existence of diversity and thereby become an authoritarian, centralized system; but it cannot deny the very existence of diversity in terms of geographical characteristics, class, caste, religion, region, ethnicity etc. The undermining of such diversity will create disorder and instability throughout nation. The inclusion of such diversity in India is natural given the peaceful coexistence of diverse groups from time immemorial that characterize great Indian civilization as well as the experience of collective struggle against colonialism. In order to retain the unity of the country amid diverse existence, the framers of the Constitution have engaged in deep level of debate and discussion on this issue and come up with different kinds of engagements. Among the different kinds of engagements, there were attempts to accommodate diversity especially cultural diversity through different set of institutions.

Before engaging with the specific debate and discussion that happened in the Constituent Assembly, it is necessary understand the arguments propounded by multicultural theorists on the question of accommodating diversity specifically the cultural diversity. Although there has been universal agreement on the necessity to accommodate diversity, but diverse voices exists on the questions of why should we concern about the preservation of diversity? How much diversity should we accommodate? Whether all kinds of diversity should be taken into account and be recognized? What are the mechanisms through which diversity can be manifested?

In responding to the question of why we should value diversity, we can begin with the argument propounded by liberalism. First of all, liberals would argue that the absence of difference and diversity would lead to tyranny and totalitarianism. Secondly, on a more positive note, liberalism would argue that we should value diversity because it will give creative agency and vitality to diverse sections (Mahajan, "Introduction", 2011, p. 1). The recognition of diversity will help us to find the truth because it will enrich us with alternative conceptions of good. In allowing for the free articulation of diverse conception of good in the public sphere, it will create the space for development of a

democratic society where the state will restrain from imposing a predominant conception of good.

However the limitation of liberal thinking lies in the fact that it allows for autonomy and diverse existence merely on individual level. Will Kymlicka in his book on "Liberalism, Community and Culture" (1989) argues that if liberals care about equality, they should identify the fact that to achieve the same level of goods and recognition the members from the minority community have to fight more than the members of the majority and dominant group. For Kymlicka the existence of a stable cultural structure is essential. It refers to a hereditary set of values and mores that help an individual to develop personal autonomy as well the ability to build meaningful choices. Given this fact liberals should support group based rights. Kymlicka's claim is supported by Raz also who argue that freedom does not mean unlimited freedom but ability to make meaningful choices. It is one's culture that provides a person with conceptions of what is honourable and shameful and thus enables to make meaningful choice. (Mookherjee, 2008) Although liberalism proposed to be neutral, but sometimes it ended up with imposition of a particular conception of good. It does not recognize certain distinct ways of community life on the pretext that the individuals within that community have not chosen those principles freely. By setting up a universalistic set of rights and duties, it will help the continuance of one major dominant group's distinct practices to be imposed over another. In the process minority community may be disadvantaged. For example, when the state chooses the official language or the medium of language in education, it may choose the one used by the large section without making adequate arrangement for protecting other languages speak by small section of the society. Such policy will disadvantage the minority communities because they will not have enough mechanism to transmit their language through successive generation which in turn will threat the preservation of their distinct culture.

In this context the community that do not share the liberal way of life will be placed in disadvantageous position. Multiculturalism seeks protect such distinct community life or culture. Protecting them will require preservation of their distinct and diverse culture at community level and not merely on individual level. Multiculturalism

will go beyond the universal model of citizenship propounded by liberalism where citizens will enjoy universal set of rights and duties. On the contrary it will propound differential citizenship whereby citizens will enjoy certain community rights and duties along with the universal ones. Universal citizenship makes citizens as member of a single political community that is nation state. While differentiated citizenship provides the space for membership of distinct communities along with the nation states. Multiculturalism advocate for the recognition of rights and entitlement of distinct cultural group not on the mere pretext that the denial of the same will lead to cultural discrimination. The protection of distinct cultural group in this sense will work as a dependent variable, because here the ultimate end is to reduce cultural discrimination. On the contrary, multiculturalists will argue that the very need to protect and preserve distinct cultural group through certain special arrangement have an independent value in the sense that each culture has its own attributes and meaning system that is worthy of preservation. The coexistence of different cultures in the public domain can work as correcting mechanism of one over another. It will create a culture of deliberation that will be more accommodative and sensitive to the prevailing other views. Bhikhu Parekh articulates that every culture is worthy of respect because no single culture can ever exhaust the full range of man's possibilities. The presence of different cultures will attribute to overall richness of society. It will also enhance critical self- understanding as well as enhance our choices and options. Parekh argue that if culture is an indispensable source for a good life, then no one including a migrant could have discarded their right to it any longer than their right to life and freedom. (Parekh, 2000)

Multiculturalism is distinct from pluralism in the sense that while the former emphasizes upon the existence of equality among different communities, the later emphasize upon the fact of their mere existence (Mahajan, 2002). Multiculturalism will require recognizing the existence of diverse communities on equal term in the public domain as well as it will require a greater degree of tolerance of diversity. In contrast to multiculturalism, pluralism can coexist in a deeply divided hierarchical society. Once the community from the subordinate hierarchy challenges the community in top hierarchy, there will be lack of tolerance for the former. It shows that pluralism leave the scope for inequality even after assuring certain basic civil and political rights. We can think of

multiculturalism only in a democracy which ensure non- discrimination. It is in a democratic country where we find that one's caste, creed, religion, ethnicity do not become the base for discriminatory treatment. Multiculturalism extends the principle of democratic non- discrimination to a wider extent. Multiculturalism speaks for the fair and equal treatment for the minority culture. It uses the language of right in speaking for the preservation of the existence of diverse communities and cultures. And thereby does not restrict the domain into mere tolerance.

In the light of the value attached to the preservation of cultural diversity, it appears that we can defend universal accommodation of distinct minority communities. But in reality, we cannot. We have to look whether the protection of a particular minority culture has come at the cost of undermining the concern of other members within the same community. In doing this we will neglect one of the central aspects that is intra-group inequality or the relationship of domination- subordination within the group. For example, we may give protection and accommodation to such customs and practices where patriarchal practices like dowry taking are prevalent widely. In protecting that particular group we may end up doing discrimination and injustice to the women within that group. It is because of this aspect we have to be cautious in extending our ideas in support of protecting diverse culture. Our demand for accommodating minority cultures has to be qualitative and not universal. Before providing recognition and accommodation we have to see whether non- recognition of their distinct culture has worked as the sole reason for their discrimination. It is only when the existing norms impose unacceptable costs over the particular community that special arrangements need to make for them (Mahajan, "Introduction", 2011, p. 16).

There are diverse ways through which minority community can be accommodated. Following Will Kymlicka (1996)**,** we can think of three kinds of rights as follows:

1. Cultural rights in different shapes like exemptions, assistance and recognition,
2. Self government rights that will require internal autonomy within a federal arrangement and

3. Special representation rights.

Among the above three variants, the self- government rights is most complex. It is in order to protect the self government rights of distinct minority cultures that require creation of certain institutions within the nation state. Self- government rights are different from mere recognition of cultural rights in the sense that the former is associated with territorial demand. It means self- government rights are demanded by a minority community settled in a geographically contiguous area who claimed to be the indigenous community of that particular region. While recognition rights can be demanded by a community whose existence are scattered throughout a large geographical area. Also the recognition rights are not associated with territorial demands. The granting of self-government rights will be resulted in a dual jurisdiction within a polity. It will bestow the particular community with the right to govern them in a particular region by granting certain political and administrative autonomy.

Kymlicka make a distinction between two kinds of multiculturalism. One is "multinational states" constitutive of "national minority". It refers to a discreet national group that has a separate and distinct language, customs and inhabits a particular geographical area etc. The second one is the "polyethnic states" that inhabited by immigrant groups. They are termed as "ethnic groups" and not "national groups". It is because even if they have their own culture and language, they do not possess a distinct area. They generally assimilate with the larger society as their immigration is a matter of their own preference. On the other hand national groups in general continue to exist as a distinct group. It is the state that approaches them either through invasion or accord. Kymlicka argues that while it is justified to bestow self governing right to the national minority but not to the ethnic group. However there is concern that granting of such right may threaten the development of a universal citizenship and nationalism the existence of which are central to liberal democracy. At the same time, it is equally true that forcing national minorities to assimilate may lead to secession and violence. He also makes a distinction between internal restriction and external protection. The former involves a group's claim against its own members while the later involves group's claim against the larger society. The critics of cultural rights are apprehensive about internal restriction in

male dominated or otherwise traditional cultures in which women, minors or homosexuals are denied their basic rights. On the other hand, an external safeguard aimed at defending the collective from policies of the state relating to education, health, education that might adversely impact the existence of the minority group. (Kymlicka, 1996)

The multicultural framework will interpret recognition of such right in the form of autonomy institutions as desirable because it will give the minority community opportunity to govern over themselves which in turn consolidate the territorial integrity of the nation as a whole. However there is a possibility as articulated by Mahajan (2011) that mapping a certain territory and granting autonomy institution to a particular community in that territory may be seen with suspicion by other communities of the region. Such phenomena will be more evident in a region whose demographic composition is diverse. The opponents of self - government rights argue that such arrangement will threaten the existence of a unified nation-state. It will create fragmentation in the political structure with the accommodation of different levels of institutions within the federal system. It will divide the loyalty of the people as well as the sovereignty of the nation - state will require to be shared.

However the advocates of multicultural theory argue that devolution of political power may be the only viable solution to the integrity and unity in a nation characterized by many internal cleavages. They argue that the model of universal citizenship cannot always ensure unity of a nation. They also challenge the assumption that the sovereignty must be held only by a sole authority that is the state and that individual must be the member of a single political community. Once we incorporate the differentiated citizenship and shared sovereignty, we may not have a problem in accommodating the devolution of power to the community level. It will eliminate the fear of being discriminated from other communities.

Central to the debate of multiculturalism is the 'politics of recognition' related with the politics of difference propounded by Iris Marion Young. Defenders of politics of recognition make a distinction between economic inequalities and cultural inequalities. While by ensuring proper redistribution economic inequality can be bridged, this is not

the case with cultural inequalities. The principle of sameness cannot ensure equal dignity of the cultural identity. Charles Taylor argues that recognition of cultural difference is essentially related to the politics of equal dignity. Rather than understanding equality as sameness, he contends that treating people with dignity might involve recognizing their different needs, identities, symbols, goals.

The accommodation of multiple identities in a single state through different institutional arrangement does not mean that it will always guide by dialogical or either-or approach. We cannot take it for granted that when a minority community enjoys self-government right, they will be loyal to that government only and not to the national government. And that this in turn will create disunity in the society that will threaten the integrity of the nation. Or that incorporation of differential rights will result in a challenge to the identity of the people of a state as a member of the nation as a whole. On the contrary, they may be guided by the mutual relation in the sense that while enjoying self- government rights their loyalty to the nation state as a whole will not diminish. The sovereignty may be shared, but this does not mean a threat to the sovereignty of the state as a whole. Thus, it can be said that granting of devolution of power by creating self-government institution will not work as a challenge to the unity and integrity of the nation- state.

Autonomous District Council: The Constituent Assembly Debate

The idea of an autonomous district council and an autonomous region was an innovation of independent India though it's genesis lie in the British administration of India. Once the British East India Company got the opportunity to enter North East India after the treaty of Yandaboo, they were exposed to the natural resources like coal, cotton, etc. available in that area. They started governing the area through 'inner line permits' system as well as 'the Scheduled Districts Act of 1874 which in a way means governance in isolation. Various factors worked together behind the creation of such arrangement. First of all, it was to protect the tribal land, primitive life and distinct culture of the tribe that the Britishers restricted the entry of outsiders, various business activities and prohibit outsiders' settlement in the area. Because it was the land, that constitute the base of the tribal culture. Secondly, the Britishers felt it necessary to keep the tribal in isolation from the outside forces because of the prevalence of certain practices like 'head hunting (Hmingthazuala, 1996, p. 306) among some of the tribal communities. Third and the most important reason although not proclaimed was the need of the Britishers to fulfill their business interest. Such arrangements ultimately find inclusion in the Government of India Act of 1935 in the expression 'excluded' and 'partially excluded' areas act. As the Government of India Act of 1935 plays the most important role in the making of post-independent India's constitution, so it is natural that the kind of arrangement that Britishers designed in order to govern the tribal people of North East India worked as a legacy in the minds of the constitution makers.

Once India attained independence, the biggest challenge that emerged before the newly born country was how to consolidate and integrate the vast country into a single governing unit. Consequently, there were large debate and discussions that underwent in the Constituent Assembly. Various committees were formed to investigate on the existing scenario that came up with different inputs that in turn were widely debated in the floor of the constituent assembly. In integrating the north- eastern region, the provisional

Government of India appointed a sub- committee, the North East Frontier (Assam) Tribal and Excluded Areas Sub- Committee chaired by the Assamese political leader Gopinath Bordoloi (Pyakure, 2013). Later Bordoloi became the Chief Minister of Assam. Other full members of the Committee were: Shri J. J. M. Nichols Roy, Shri Rup Nath Brahma, Shri A. V. Thakkar and Shri Mayang Nokcha, who was later replaced by Shri Aliba Imti (Hansaria, 2011, p. 8). The sub- committee well known as Gopinath Bordoloi committee wanted to settle the ambition of the hill people for political autonomy with the Assam Government's effort to incorporate them with the majority community. With this in mind, the committee undertook extensive tour and interviews throughout the North Eastern region.

The prevailing mood was that while it was necessary for inclusion of all the people and region of the country into a single representative whole, but it cannot be achieved by sudden breakdown from the already inherited ideas and administrative institutional set up among the tribal community. The focus was not on imposition but on evolution that may take longer time. The committee felt that the granting of substantial autonomy arrangements at the district level will also work as a compromise on the part of those who demanded complete independence from the country. The committee was of the view that by allowing the tribal people to rule themselves by the district level autonomous institutions with sufficient financial autonomy; it will provide them protection from outside interference. This in turn will create a sense of security in the minds of the tribal population that will in turn help them to assimilate with the integrated whole. Given these ideas and fact, Bordoloi Committee formulates detailed arrangement of Autonomous District Council in the formerly excluded areas of Assam. The committee submitted its report for debate on 5th of September 1949. The debate in the Constituent Assembly can be interpreted as the reflection of an earlier policy debate that dated back as 1920 between the two central ideas: integration and assimilation of tribal. G. S. Ghurye advocated assimilation of all individuals into a single political identity in a single representative body. On the other hand, Verrier Elwin propounded for integration of distinct tribal communities with the center by providing political and administrative autonomy. (Stuligross, 1999)

Ghurye rejected the then prevailing assumptions that tribal communities are indigenous or that they are the people that come and settled in their respective regions before the Hindus. He also argued against the concept of distinctiveness of tribal culture. He was of the view that there was no distinct and clear - cut distinction between the culture, languages, practices and norms followed by tribal on one hand and non- tribal people on the other hand. People from the tribal communities seem to assimilate with the non- tribal people not only in terms of individual level but at the community level also. Lower caste Hindus seems to integrate with the tribal communities almost in all aspects. Similarly socially and economically mobile tribal group assimilate with the non- tribal group without any hesitation. By arguing in this line, Ghurye refutes both the prevailing assumption that tribal communities exist prior to the non- tribal along with the uniqueness of tribal culture. On the basis of these arguments, Ghurye argues that the Indian state should not give any special status to a particular community. Government ought to govern through a common set of political institutions that will provide a similar set of rights to all groups irrespective of caste, religion, ethnicity, etc. While not avoiding the existence of cultural distinctiveness, he was of the view that every possible institutional incentive should be taken to ensure the assimilation of such distinctiveness with the mainstream. Such assimilation will lead to better integrated India as well as the development of a better culture.

Verrier Elwin is known as the official spokesperson of Jawaharlal Nehru's tribal policy. Elwin propounded integrationist approach. More than Ghurye, he preferred assimilation in the level of social power but not at the institutional level. Assimilation in institutional level will result in the demolition of tribal institutions. Moreover, Elwin was of the opinion that women enjoy more freedom in tribal society than in Hindu and Muslim society. Also, he propounded that justice is more transparent, effective and honest when transmit by the community institutions than others. Given the existence of these facts, Elwin argues that distinct tribal institutions are worthy of getting preservation and legal recognition by the Indian state. However, preservation of their institutions does not mean that tribal people will be totally disconnected from the rest of the society. Such isolation and separation from the rest of the society according to Stuligross will lead to 'museumification' (Stuligross, 1999, p. 501) of tribal society that in turn will stifle the

development of the tribal society. On the other hand, he called for the integration of tribals as communities whereby they will take pride in their old institutions as well as retain their faith in the state resulting in the development of the both.

In the light of the two different perspectives, it appears that if we value multiculturalism, we may refuse to accept Ghurye's assertion in which he does not see any problem in the assimilation of tribal communities with the non- tribal communities. While there is no doubt that the tribal communities do assimilate with the non- tribal group. But the problem is that in Ghurye's formulation, the assimilation of tribal communities may not occur in equal level. It may be the mere instrumental value like the prospect of getting a better education, better job opportunity for which the tribal communities submerge themselves with the non- tribal communities. But from such assimilation, the tribal people may disadvantage greatly in the sense that their present and the next generation may not able to carry forward their distinctive cultures. Thus, it will work as a threat to the very existence of the tribal culture. In the process, we will lose a distinct value system that would have enriched our society by widening space for alternate thinking and a more tolerant society.

The ideas from these above two perspectives became apparent in the debates in the Constituent Assembly. Three shades of opinion dominated the debate. One shed of opinion was put forward by leaders like Shri Brajeswar Prasad, who articulated that governance of such areas that is excluded areas should not be entrusted with the authority of provincial Government or the Governor. In other words given the complex situation of the area in terms of its geographical contiguity to many foreign nations as well as growing conflict among different communities like Ahom, Muslim and Bengalis, the authority should be bestowed upon the centre. The administration of the area had to come under central jurisdiction under the authority of the President. Prasad was of the view that it is the country as a whole that is more important than provincial autonomy. In asserting all these arguments, he was guided by European context. For him, the granting of self-determination to the tribal people will lead to vivisection of the country as already started happening in Europe. Shri Prasad has tabled amendments to various provisions of the

draft constitution in this matter in the light of the above thinking, but his views were not taken into consideration by the Constituent Assembly.

Another shed of opinions was lead by two Honorable Members from Assam, Kuladhar Chaliha and Rohini Kumar Chaudhuri. They tried to enhance the jurisdiction of the Provincial Governments and State Legislature by giving greater voice to the respective authority in dealing with the tribals. They were of the opinion that giving greater autonomy to the tribals will lead the country towards creation of 'tribalstan' just as Pakistan has been created (Hansaria, 2011, p. 26). They were of the view that keeping the tribals and non- tribal in separate existence rather than in assimilation will lead to a situation where the tribal will no more join the Indian state in future. Rather they will like to join foreign country like Burma (today's Myanmar). They were very critical of the provision that the implementation of an Act of Parliament will require first of all the consent from the tribals.

In interpreting the above two opinions, it appears that a certain kind of extremism underlies in part of both the opinions. In the former case, an extreme situation of centralized authority is demanded while, in the second case, an extreme situation of provincial autonomy in the level of the state is demanded. What is common in both the cases is that tribal communities have to assimilate in every aspect with the majority communities. The idea of protecting and preserving distinctness of tribal communities is totally neglected in the fear that it would result in the creation of tribalstan, or they would join a foreign country. But these opinions were not found to be receptive on the floor of the Constituent Assembly. Such ideas could have been accommodated but at a great cost. The acceptance of such ideas would have lead India in the direction of authoritarianism by crushing the deep sense of diversity that characterize our social existence from time immemorial. There will be undermining of democracy where diversity is protected and valued.

The views of the then Premier of Assam, Gopinath Bordoloi that represent the third shed of opinion was given more weight in the Constituent Assembly, not merely because of the fact that he was the Chairman of the Sub- Committee, but Bordoloi was known to be the great sympathizer of the tribal people as Shri Nichols Roy stated. It was

Bordoloi who undertook extensive field surveys and closely examined the context of the tribal people, engaged with them to the extent possible. He was also a much - respected person among the tribals. Bordoloi explained the background in which the Constituent Assembly had prepared the draft. He referred to the problem of inaccessibility of certain regions as nobody from the plain area could visit those places in order to interact with them. Since the period of British colonialism the excluded areas were developing a sense of separation and isolation. Some of these excluded areas were war zones. And the Britishers promised them independence once the war got to the end. Given this practical taste of separate existence, it was not desirable to assimilate these people through forceful means, by the deployment of military force or Assam rifles. Rather it was more desirable to win their willing cooperation by integrating them in a way that respects their traditional and distinct customary set up. Bordoloi also brings to light the existence of distinct village administration in some of these excluded areas that were so efficient and good in imparting justice among the tribal people. So it was not desirable to destroy these institutions.

A.V. Thakkar, a member of the Bordoloi committee mentioned that village administration was the only aspect that got support from both the Committee as well as the tribal people. Thakkar admits that he himself have never heard of the term District Council earlier but at the same time convinced by the arguments from the fellow members that it was the only possible way. However he was not in favour of giving a permanency to such arrangement. To quote Thakkar "all constitutions are changeable, all laws are changeable, and we can change the law, change the constitution, when you think the time is ripe for it." ("Constituent Assembly Debate Relating to the 6th Schedule")

Members like Nichols Roy were off the opinion that the measure of self-government is the most efficient means for integrating the excluded areas. Such arrangement will give an opportunity to tribal people to develop in their way and thereby satisfy them. Otherwise, any feeling of disadvantage among the tribal people will lead to the greater problem before the country because of the strategic importance of the frontier area where these tribal has lived. Thus, India's security question is also associated with it. Shri Jaipal Singh approached the issue with the help of two approaches that are 'power

solution' and 'knowledge solution' (Hansaria, 2011). The following of the first approach will lead to further disintegration of India while the following of later will help Indian state to win the confidence and trust of the tribal people. Such confidence and trust will work in the longer time towards the mutual development of both the tribal people as well the country as a whole within a multicultural, federal and democratic setup. The final touch to the debate came from the legal luminary, the father of Indian Constitution Dr. B.R. Ambedkar. Ambedkar opined that tribals from the excluded areas of North East were somewhat different from tribal in the rest of India. The tribal from the rest of India have more or less assimilate with the non- tribals communities. But the tribal communities from North- East India still maintained their separateness in terms of their practice of inheritance, marriage system, etc. He felt that the situation of the tribals from these areas was similar to the position of Red Indians of United States of America, who regarded themselves as a republic as well as a self- governing and distinct people. He agreed that the Regional and the District Councils were created on the lines adopted by United Sates for the purpose of Red Indian.

In the constituent assembly debate, it is the third shade of opinion that received wider acceptance and vitality. Finally, the administration of the tribal communities of North East India was ingrained in the foundational law of the country in the Sixth Schedule of the Constitution containing articles 244 (2) and 275 (1). It created autonomous districts and autonomous regions in governing the tribal communities in the excluded areas of North East India with the devolution of significant autonomy in the executive, legislative and judicial spheres (Bakshi, "The Constitution of India", 2011). The constituent assembly debate finally took a midway approach from the already mentioned two extreme opinions. It became apparent in the provision where Governor will act as the agent of the center. Government has the authority to include, exclude, create, increase, decrease, diminish, uniting two or more autonomous districts and determine the borders of any autonomous district. It signifies that whatever strategic importance the frontier area may have, the centre would have ample jurisdiction over it to eliminate any perturbing force.

Conclusion

Throughout the above discussion, we come to know the way institutions have been defined by different institutional theorist and the reasons behind their creation as well as recreation to redress the changing circumstances. We have understood the multicultural debate in understanding the way institutions accommodate various diversity, particularly the cultural diversity. In the context of India, we have seen the way Constituent Assembly debated in the creation of Regional and Autonomous District Council in post – independence. It shows the way India's multicultural polity developed without any conscious engagement with multicultural theoretical tenets.

This chapter can be concluded with a brief thought on the development that emerges gradually after decades of the existence of this particular institutional setup in India. It will help us to set the background for understanding the topic of the next chapter. The accommodation of distinct tribal communities through different Autonomous District Council that were ingrained in our Constitution was not the ending point in dealing with the issue of diversity in India's context. Newer and multiple challenges have been emerging gradually in front of the Indian state from different new communities from different parts of the country that demanded inclusion of their governance through such local level institutions. In some cases, these demands have been accommodated and recognized while in others these are suppressed. In the process there occur modifications in the already existent institutions while sometimes it requires amendment in the provisions of the Constitution itself. In the process, peace accords have been innovated as an important instrument of the state in the project of nation – building (Das, 2005) by which it accommodates and gives institutional recognition to distinct communities within the constitutional and legal framework. In this regard, an understanding of the creation of Bodoland Territorial Autonomous District Council in the western part of Assam can guide us with future insight on the prospect of protecting India's cultural diversity through distinct local level institutions within the larger federal set up.

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CHAPTER TWO

BODO MOVEMENT AND CREATION OF BTC

Introduction

"The Government of India and the Government of Assam have been making concerted efforts to fulfil the aspirations of the Bodo people relating to their cultural identity, language, education and economic development. Towards this end, a series of talks were held between Government of India, Government of Assam and Bodo Liberation Tigers (BLT) since March, 2000. As a result, it is agreed to create a self-governing body for the Bodo Areas in the State of Assam as follows…"

---- Memorandum of Settlement on Bodoland Territorial Council (BTC), New Delhi, 10 February 2003.

The signing of the 2003 Memorandum of Settlement (MoS) that provided for the creation of sub- regional autonomy institution that is Bodoland Territorial Council in the western part of the state of Assam is a result of long term movement of the Bodos for a separate homeland. Mobilization and the movement to reclaim lost space and identity or to carve out new one have been an integral part of human civilization. No region in the world is immune from such occurring. In other words, mobilization is a universal phenomenon. However, the root causes of these movements are different and context specific. The very prevalence and recognition of such phenomena signify the existence of democratic way of functioning in a nation. At the same time we have to take into cognizance of the fact that in certain historical point of time such mobilization may stand as a hindrance in the peace and democratic functioning of a state. In North Eastern part of India ethnicity and identity are the root causes behind such mobilization. In western part of Assam, the Bodos are fighting for the cause of a separate Bodoland. In the course of its journey, the movement has taken different turns: from moderate to militant phases out of its interplay with different factors. The intensity of the movement manifested in the violent upsurge and killing in the post 1990s that compelled the state to come into terms with them. The response from the state is visible in different forms; sometimes through the means of suppression while on other times through political as well as constitutional solutions.

The recent urgency to relook the Bodoland region emerged in the context of two violent conflicts of 2014 that can be included as part of recurrent conflicts erupted over the last few decades. In the context of such growing incidence, first section of this chapter deals with the demographic composition and areas comprising Bodoland Territorial Areas District (BTAD) followed by defining ethnicity and ethnic movement. The second section provides an account of the long drawn Bodo movement with different phases and different stakeholders whose demand have been ranging from separate homeland to more autonomy that ultimately found a solution with the creation of BTC in 2003. The third section provides a description of the peace accord followed by a understanding of 1993 Accord, 2003 Accord and post 2003 scenario followed by conclusion.

I

Demographic Composition and Areas of the BTAD

Within Assam, the Bodos have historically been a marginalized community. The Bodos are a Tibeto-Burman speaking, Indo-Mongoloid ethnic group and they migrated from South West China to North East India through Tibet and Bhutan centuries ago (Nath, 2003). They were also known as Kacharis in the pre-colonial historiography of Assam and are considered as aborigines of the Brahmaputra valley. They had a glorious history of royal kingdom, rich ancestry and distinct culture of their own in the past (Basumatary, 2014, p. 10). As per the classification given by Robert Snafer, in the Linguistic Survey of India the Boros or Boro Kacharis are described as a member of the Bodo (Boro) sub- section under the Assam Burma group of the Tibeto- Burman branch of the Sino-Tibeto-Chinese speech family (www. Bodosahityasabha.org). Bodos are one of the most important plain tribal group of mongoloid origin constitute around 37.5% of the total tribal populations in the state of Assam. Since the colonial time, the Bodos have been defining themselves as a community distinct from other communities. Gradually, a sense of discrimination and injustice has been perpetrated on the part of Bodos from long period due to threat to their identity from dominant Assamese society and polity, land

alienation, discriminatory clauses of Assam accord and social and economic backwardness fuelled by illegal migration (Sanjib, 1999). It is against such injustices that the frustrated educated Bodo elites and intellectuals have been putting forward their demand for more autonomy from the Assamese society and polity. Over the years the Bodo movement took militant forms and the demand for autonomy gradually moved towards the demand for a separate state.

Source: downtoearth.org.in

Table1: An Approximate Figure of Demographic Composition of the BTAD

Sl No.	Name of the Districts	Area in Sq. km.	Total No. of Population in lakhs	No. of ST* Population in lakhs	No. of Bodos out of total ST population (in lakhs with '%' in Bracket)	No. of Non-Bodos out of ST population (in lakhs with '%' in Bracket)	No. of Bodos out of total population (in lakhs with '%' in Bracket)	No. of Non- ST** out of total Population (in lakhs with '%'in Bracket)
1	Baksa	3056.89	950075	331007	950158.8	105573.2	950158.8	2095315
2	Chirang	1069.96	482162	178688				
3	Kokrajhar	3169.2	887142	278665	(90%)	(10%)	(30.15)	(66.50%)
4	Udalguri	1673.93	831668	267372				
Total	BTAD	8969.98	3151047	1055732				

*Scheduled Tribes (STs) include Bodos, Rabhas, and Garos.

**Non STs include Ransbanhis, Sarania along with Tea and other ex-Tea tribes including Santhal, Orao.

Source: Census of India, 2011and Demographic Status of Scheduled Tribe Population of India, 2011

The BTAD composed of four districts namely Kokrajhar, Chirang, Baska and Udalguri in the western part of Assam. As per 2001 census the population of BTC area comprises around twenty nine lakhs out of which fifty two percent are Scheduled Tribe and only three percent of the total population live in urban areas. The average density of the population is 326 square kilometer compared to 340 per square kilometer of Assam. The tribal populations are comprised of Bodos, Rabhas and less quantity of Garos out of which Bodos comprise ninety percent. Other communities include Ransbanhis, Sarania along with Tea and other ex-Tea tribes including Santhal, Orao etc. Beside this the region is inhabited by other general communities like Bengali, Assamese, Nepali and few

numbers of Hindi speaking people are also found in the Council area. (www. bodoland.gov.in)

Ethnicity and Ethnic Conflict

In defining ethnicity, it will be useful to adopt Horowitz's definition who defined it as a sense of collective belonging based on common descent, language, history, culture, race or religion or an amalgamation of these factors (Ashutosh, 2009, p. 227). Smitana Saikia defined ethnicity as a common consciousness of collective origins and traditions. For Saikia, the ascriptive values of an ethnicity give the practitioners of these values a distinct social identity as well as to use it as a means to express distinct political identity and organization. Ethnic conflict can be defined as a form of conflict in which the goal of at least one conflict party are defined in exclusively ethnic terms and the primary dividing line of confrontation is one of ethnic distinctions (Smitana, 2015, pp. 4-5). Ethnic conflicts within a state refer to identity conflicts which is a sort of internal conflict. The principal aspect of identity clash includes ethnic, religious, tribal or linguistic differences. These clashes frequently involve a combination of identity and the search for protection where the primary debate concerns the devolution of power

Ethnic group or communities are characterized by certain features. These include according to Gursel G. Ismayilov firstly, the group must have a name for itself. Secondly, language is the dominant indicator of ethnic and national identity. The struggle over language politics and language rights are often a prime cause behind ethnic conflict. Thirdly, religion that historically had been an important indicator of ethnicity. Fourthly a defined geographical area is the basis of economic and political structures that are elemental for the ethnic and national identity. Therefore in most of the ethnic conflicts whether Kurds, Palestinians, Tamils of Sri Lanka, Bodos of Assam have been fighting for their acclaimed territorial space whether as a separate state or for more autonomy within that territory. They conjoined a sense of mythology and sacredness with such territory.

Coakley viewed that ethnic protest is a central political issue in many societies and in thinking about the means to manage/ curbed it, territorial consideration remain the most significant means. The problem with this lies in the fact that the persons of a same ethnic community may not occupy a precise territory; or in some cases it does not necessarily coincide with the territory of the state. The way the state responds depends upon the form of ethnic mobilization and the nature of the programmes put forward by the ethnic activists. The territorial context within which the movement takes place will determine the way state will respond. (Coakley, 2005)

Robert Tuolor pointed out two types of autonomy movements that characterize the political discourse in North East India. These are:

1. Movement for more autonomy within the existing arrangement.
2. Militant, secessionist scheme of political and geographical delimitation of territory (Tuolor, 2013)

The history of Bodo movement has shown evolution through a successive period in which both of these demands are raised in its course time and again.

II

Growth of Distinct 'Bodo' Identity

Historically the Bodos consider themselves as part of the composite indigenous population of Assam. The question is why after a point of time they developed a sense of separateness and distinctiveness with reference to the Assamese people, so that they could move out of the Assamese sub national formation even going to the extent of seeking separate territory. Assam movement worked as a catalyzing factor in igniting the Bodo people because of the adoption of exclusionary historical and cultural symbols by the former as well as ill considered policy consequences. Bodo student leaders accused the Assamese leaders because of their anti tribal prejudices and equalize the first AGP Government in Assam as 'Assamese Government' means a narrowly based government of the Assamese that cannot speak for the Assam as a whole (Sanjib, 1999, pp. 173- 175).

It is the long term process of experiencing and perceiving deprivation and exclusion that led to the gradual development of a sense of 'self' and 'other' among the Bodos. Gradually, lack of communication and mistrust widened the gap. Initially this was not the case. There had been wide prevalence of Assamese language among Bodos. In terms of culture also they followed more or less same practices whether in terms of agricultural festival, death ceremony. Bodos were intermingled and assimilated with the Assamese to such an extent that till now it is not fully clear among the historians and academicians whether Bodos are Assamese or Assamese are Bodos. Given the deep level of belongingness, the question arises why the Bodo's need for separating or distancing themselves from others emerged at all. Perhaps, an outsider would not find any difficulties in condemning the Bodos for their felt need. But the things are not simple. It is the insider, who actually is a part of the process and have been experiencing it by being a member of it can felt that the terms on which they are assimilated with the greater Assamese society are not equal. The assimilation comes at the cost of subjugation of distinctive culture of the Bodos. In other words the acceptance of the Bodos by the Assamese comes at the cost of subjugation of Bodos' own distinctive culture and acceptance of Hinduism along with the language, culture etc. It is this unequal term on the basis of which the assimilation has taken place is a source of contention for the Bodos. To understand the long drawn movement of Bodos whether for separate homeland or for greater autonomy, we have to understand its historical background.

Economic Deprivation

In interpreting the recent conflict in Bodoland, some analysis has been ended by equalizing the incident with Hindu- Muslim communal conflict. However adoption of such approach will be narrower that will undermine it's historical context. We can start in a different note by referring to arguments put forward by Udayon Misra (2012) who pointed out the issue of 'land' as the core behind such conflict.

In the sphere of economic life agriculture occupy the central position among the Bodos although in present time their presence in other sectors like service, trade,

commerce etc can be seen (Goswami D. , 2012, p. 91). However their agricultural practice in the pre- colonial and colonial time was different from the most commonly prevalent settled agriculture. They were basically practicing shifting cultivation on a community basis for which they did not require to possess a settled piece of land. Such agricultural practice was shifting in nature. Due to this fact they were not popular with the concept of private ownership to the land. Given the small size of the population they could practice community cultivation which requires a large tract of land for periodic shifting. Along with the small size of population, the simple way of their living enabled them to well fulfill their basic needs with whatever harvest they could get from such agricultural practice. Therefore they could live peacefully without any conflict.

They practiced largely self sufficient agriculture. They are not commodity producers and their economy is minimally connected with the market. Historically they lived closer to the forested areas along the foothills of the lower Himalayan range. Here the quality of soil is not suitable for paddy production. They could not produce surplus crop. They often involved in exchange of dry fish for rice with Bhutias and other communities. Their dependence on forest based products enabled them to play the role of mediator between the hilly and the valley based communities (Saikia A. , 2012, pp. 15-16)

The Muslim peasantry who were occupying the low lying sedentary area on the other hand practiced largely cash crops like jute. Their economic conditions were determined by fluctuation of prices in the market. Throughout the major part of the twentieth century these two communities were hardly interdependent given their distinct economic practices. This also facilitate distinct settlement pattern in rural geography. However, post 1930s, as jute prices started falling; the Muslim peasantry began to turn to paddy cultivation. It pushed them towards the upper reaches of the valley where paddy could be grown. They often purchased such tracts of land from the Bodos. Over the years the reclaimable areas in the valley, Western Assam in particular started declining. Throughout the 20th century the Government also reaffirmed its control over the forest land. Also the transition of the Bodos to the permanent settlement is a slow phenomenon, most recent one. Like many other tribal group the Bodos hardly get any land available for

agriculture. Added to this, the increasing peasant immigration had accentuated the process of demographic pressure. This has strained the pattern of geographical distribution and ecological dependence between the two communities. It means the two agrarian communities producing differently came to share similar natural resources (Saikia A. , 2012) .

After being a part of Ahom kingdom for more than six hundred years Assam came into the ambit of British colonial rule at the end of the first Anglo- Burmese war in 1826. With British rule there came first of all redrawing of the boundaries of Assam for administrative convenience without paying any heed for cultural and historical contexts. Many new initiatives and policies were taken for the governance of the areas whose hidden purpose was to serve British commercial interests. They created division between hill and plain people and brought radical socio- economic transformation of the Assamese society by setting up a particular kind of primitive capitalism on the basis of tea plantations, allow migrant workers from different states, new form of land rights etc. All these initiatives have the effect of changing the prevailing social meaning of land and property (Motiram Sripad, 2014)

Under the colonial regime of recorded land rights some of the tribal peoples were ended up being illegal in their own land because they did not hand proper land documents. Moreover the plantation economy of British resulted in large number of outsiders coming to the hilly terrain and finally settled there. Later on the available waste lands were opened up for settlement by the cultivators from East Bengal. When these large scale land alienation of the tribals began to manifest itself in large scale political unrest, the Britishers initiated policies like Line System that was supposed to protect tribal lands from settlement by outsiders and the immigrants. But such system was not effective to a large extent. Gradually such policies were found to be instrumental in the growth of exclusive homeland consciousness among the tribal people (Sanjib, 1999, p. 190).

Towards the late 1940s, following the Hockenhull report the Congress Ministry headed by Gopinath Bordoloi had initiated certain measures aimed at protecting the land rights of the tribal people. But these measures did not restrain permission for new

settlement to both Assamese and the immigrants (Misra, September 15, 2012)). Once Gopinath Bordoloi government resigned in order to launch civil disobedience movement, Mohammad Saadulla entered into an agreement with All India Tribal League that was formed by Rupnath Brahma and Bhimbar Deuri to demand for separate representation for the Bodos. But later on Saadulla Government's pro- immigration policy created mistrust and miscommunication between the Government and the tribal groups. Under the 'grow more food' campaign and the development scheme, the forests and the grazing lands were virtually opened up for resettlement to the immigrants from East Bengal in the post 1942. It created great panic among the Bodos and other communities in the state. Further, as Sanjib Barua pointed out the inadequate share of the Bodo populace in the modern occupation has added to the economic deprivation of the people. Bodo activists have attributed the cause behind such conditions to the discrimination by the ethnic Assamese (Sanjib, 1999, p. 191).

Assam Movement: 1979- 1985

Despite being the perceived discrimination from the ethnic Assamese, the organized representative of the Bodo student politics that is All Bodo Students Union (ABSU) have actively participated with the All Assam Students Union (AASU) led Assam movement during 1979- 1985. They supported it because one of the central issues of the anti foreigner movement was recovery of land occupied by the illegal immigrants. But at the end of the day when Assam Accord was signed by the leaders of the Assam movement with the Indian government, certain clauses of the accord became the root of contention between the Bodo people and the Ethnic Assamese. Sanjib Barua in this regard has pointed out two such clauses of the accord:

First one was clause six of the accord that promised to defend and protect the interests of 'the Assamese people'. This term was not clearly defined and therefore subjected to different interpretations. Although there was every possibility that the term symbolize composite indigenous population of Assam but given the context in which Bodos suffered deprivation in their land and their concern for differentiating themselves

from the ethnic Assamese; they were apprehensive of such clause. This clause did not explicitly mention the protection of the 'Bodo' people as such. They were fearful of the fact that acceptance of this clause will give legitimacy to the imposition of Assamese language and culture over the Bodo people. Another clause that Bodo leaders objected was the promised evictions from the public spaces. In this case also the leaders of the Assam movement could merely think about the illegal immigrants that might settle in such spaces. They could hardly think about the Bodo people who were the worst sufferers of British introduced permanent land system. As already mentioned, being habituated with community oriented agricultural practice; they could not produce proper land records of their land. During the first Asom Gana Parishad (AGP) regime that come to power with the pledge to implement Assam accord, attempted to evict illegal settlers from the protected forest land. It had resulted in the eviction of some Bodos and this inturn provided spark to the movement for Bodoland.

The Cultural Politics of Bodo Sub Nationalism

The central theme that drives Bodo cultural politics is to repudiate the unequal terms of assimilation into the Assamese sub national formation and to assert their differentiation from and equality with the 'ethnic Assamese'. This term as articulated by Sanjib Barua that became popular since the Assam movement. The emergence of the term reflects a process of culturally invisible elite group's conscious and deliberate attempt to become culturally visible. Such necessity emerged in the context of growing challenge to their authority from other groups in speaking for Assam and its people. Two contextual factors that hasten the Bodos assertion for differentiation from this group are:

1. The division of Assam into separate states that has been happening time and again might have influenced the imagination of the Bodo leaders in projecting a political separation.

2. The experience of socio- economic and political transition during the period of British colonialism. The tribal people of North East were attracted more towards the activities and propaganda of Christian missionaries. Therefore the urge for

mobility to the Assamese socio- economic system had been declining. They were no more influenced by Assamese Vaishnavite institution like Xotra. (Sanjib, 1999)

Because of the feeling of unequal assimilation, the consciousness of being a distinct and separate cultural entity started developing among the Bodos. They started reviving and asserting their traditional cultural practices. They stared giving new meanings to their socio- cultural practices that were already in existence. They revived the worship of 'Bathou' as the supreme god and the cactus as the emblem of that god. They preferred burial over cremation which works as a symbol of differentiation from the Hindus who practiced cremation.

The politics of cultural differentiation was sharply visible in the politics of language. The Bodos were demanding for Roman script instead of the Assamese. However, Sarat Chandra Sinha Government opposed it. Moreover All Assam Students Union (AASU) demanded for terminating the policy of reservation for Scheduled Caste and Schedule Tribe during the time of anti alien movement. Such responses have resulted in the complete loss of faith of Bodos in the Assamese Government as well as majority Assamese community (Nath, 2003, p. 536). However the Bodo Xahitya Sabha (Bodo Literary Society), a cultural organization have again raise the demand for Roman script for the Bodo language in 1974- 75. Earlier they were using Assamese script, as Bodo was not a written language. Ultimately in 1998, Assam government accepted the demand for Roman script to be used for writing Bodo in officially sponsored publications.

Finally, the Bodo assert their distinctiveness in the domain of food and dress. Their traditional dress is "dokhona" for Bodo women instead of the Assamese "mekhela-chador" or the Indian sari; and for men they use traditional Bodo scarf, the "arunai". This last point needs a further clarification in the sense that it may give the impression that mere practice of a distinct culture has been equalized as the assertion of distinctiveness on the part of the practitioners. But this is not the case. The Indian constitution has provided the basis for a multicultural and diverse society where cultural distinctiveness is respected and recognized provided they are not harming the national unity and integrity. However in this case the need to preserve the community cultural practices are linked

with assertion because of the attempt on the part of one practitioner to suppress and revolt against the other and thereby bring into light their own distinctness. There have been deliberate and forceful attempt on the part of the Bodo activists to propagate their traditional dresses among the Bodos, particularly the women against the Assamese or the Indian dresses. In fact in certain cases their propagation and imposition of cultural distinctiveness has ended up by constraining the autonomy and freedom of its own members. It compromised the wide range of freedom that a citizen enjoys in a liberal, democratic state.

The Demand for Bodoland: A Beginning

The demand for a separate homeland for the plain tribals of Assam by the name 'Udayachal' began in 1967. It was an organized demand by the Plain Tribals Council of Assam (PTCA). However the PTCA withdrew its demand for a separate homeland once it joined the Janata government in 1978-79. This period was followed by the Assam movement from 1979 to 1985. The AGP Government that was formed by ex- AASU leaders after signing the Assam Accord (1985) could not bring Bodo leaders like Upendranath Brahma to a consensus. Brahma also realized the difficulty of mobilizing the tribal people of Assam for the cause of a tribal homeland that is 'Udayachal'. Brahma gave up that demand in favour of a more concrete and well defined demand for a full fledged state of 'Bodoland' for the plains tribals that was to be realized through division of Assam into 50- 50 as the slogan went (Nath, 2003, pp. 534- 536).

The movement that demanded for a tribal homeland got a turning point with the demand for Bodoland during AGP Government in 1987. It was because of the dissatisfaction created among the Bodo student leaders by the Assam movement. They were fully participated in the course of the movement, but found themselves to be insecure and cheated by the outcome of the movement that is Assam Accord. The Assam accord therefore gave momentum to the movement. The student led Assam movement was successful to a large extent. The Assam movement work like a reference point for other movements to follow as articulated by Monirul Hussain. Coming to the technique

of the movement, the Bodo leaders made use of socio- cultural and historical symbols to mobilize the popular support. The All Bodo Students Union (ABSU) came up with 92 point agreement that included various economic, social and cultural demands along with the justification for a separate state of Bodoland. The original Charter of demands can be divided into three political demands. These are as follows:

1. The setting up of separate state of Bodoland.
2. The setting up of District Council on the south bank of Brahmaputra River.
3. The incorporation of Bodo Kacharis of Karbi Anglong in the six schedule of the Constitution.

However it was not easy to accept such demands given different complex cities. Some of the difficulties in the formation of a separate state of Bodoland have been pointed out by Barua. These are:

1. Population: The demand for Bodoland is energized by the reminiscence of early Bodo kingdoms and of a remote history when Bodo culture was flourished purely without any contamination by the Assamese culture. To realize and regain that purity again, they are demanding for the creation of a separate Bodo homeland. However the populations that at present constitute Bodo speakers are only 1.1 million, or 11.5 percent of the population in the north bank of the Brahmaputra, where the Bodos want their homeland.
2. Territorial Contiguity: Even though there are Bodo majority villages and areas where they are more concentrated but they do not comprised a contiguous area that could be turned into a singular territory that is Bodoland without much difficulty.
3. Context: The Bodo demand has emerged in the background of resurgent Assamese sub nationalism that resents Assam's past divisions at the command of New Delhi and resist any further territorial dissection of Assam. Although constitutionally speaking our weak federalism would have permitted the same, but no Government would be imprudent enough to anticipate that Assam could be divided with the ease of the 1960s and early 1970s without the assent of the Assam state Assembly.

In the context of growing violence in the post 1990s the Indian Government was compelled to sign an accord with the Bodo activists in February 1993. It provided for the creation of an elected body called Bodoland Autonomous Council (BAC). The 1993 Memorandum of Settlement (MoS) entailed that the territorial boundary of the BAC will expand to the contiguous territories between river Sankosh and Mazbat. It granted maximum autonomy to the BAC within this territory for social, economic, educational, ethnic and cultural advancement of the Bodos residing therein. ('Memorandum of Settlement (Bodo Accord) signed in Guwahati, Assam") (For more detail refer Annexure I)

However this accord did not adequately address the question of territorial boundary. It was difficult to implement this accord as the areas between these two extremes were not necessarily inhabited by Bodo people exclusively. As already mentioned the region comprised of different communities along with Bodos. Non Bodo communities taken as a whole comprise equal majority. In order to carve out a contiguous area some of the villages with less than fifty percent of Bodo people were added to the proposed BTC. Government of Assam unilaterally demarcated and declared the boundary of the BAC in the later period of 1993. It created dissatisfaction among certain groups. The ABSU and BPAC (Bodo Peoples Action Committee) discarded the boundary. Although the proposed BTC was created with the nominated members but there was failure in holding the election. Therefore, the first Bodoland accord resulted in failure. It created the context for the rise of militant phase of Bodo politics. Two militant groups: the Bodoland Army and the Bodo Liberation Tiger Force (BLTF) emerged. They did not recognize the proposed Bodoland Autonomous Council.

Peace Accords

Peace accords have played a significant role in bringing the rebel groups to a workable consensus. Das defined peace accords as a sort of agreement between the state governments and its adversaries that involved in some form of discord with the purpose of achieving peace between them. It is a kind of balancing act that requires some form of compromise on the part of both the discordant group and the government (Das, 2005). The signing of the Memorandum of Settlement in 2003 become possible only because of the declaration of ceasefire by the terrorist outfit Bodoland Liberation Tiger Force (BLTF) in 1999 which have earlier been continuously engaged in indiscriminate killing and displacement of the people. Their action was facilitated by the consistent effort of the Government in power that showed willingness to come into terms with the rebel group by persuasive and procedural means and not by violence. At the same time Government was pressurized to take such course given the fact that the movement for Bodoland has taken a violent turn with its militant phase. In the context of democratic federal polity of India, it was not possible for the Government to use the most undemocratic means to suppress the movement given the fact that there are certain genuine concerns that Bodos have been raising from very long period.

However the fact that accords are mostly preceded by discords or a series of violence does not mean that every form of discord will result in the signing of accords. Accords are means by which the state gives legal and political recognition to the discordant group, the doing of which ensure some sort of autonomy on the part of the discordant group. These accords entailed the institutions and practices that will ensure some sort of autonomy on the side of discordant group and will help the state with adequate means to govern the discordant group after going through some compromises and conciliation on both sides.

Accords act as the instruments of the state in the project of nation building by which it accommodates and gives institutional recognition to difference within the constitutional and legal framework. It is a sort of renegotiation that the state sorted out

with the different discordant groups by making certain modifications and amendments in the constitutional and legal documents in a way that will ensure them legal entitlement of some sort; at the same time not deviating from the basic principles. The 2003 Accord was followed by the amendment of the Sixth Schedule of the Constitution of India by the passing of the Sixth Schedule to the Constitution (Amendment) Act, 2003 that provided for the extension of sixth schedule to grant autonomy arrangement for self- governance of Bodos in the BTAD through the creation of Bodoland Territorial Council. It required the amendment of the Constitution because Sixth Schedule was meant for the self governance of only the hill tribe while Bodos are plain tribe.

Accords are also seen as "strategically deployed" means through which the state deploys a mixture of force and coercion to dominate the adversaries. It involved use of both force and coercion on one hand and negotiation, consensus building on the other hand. According to Singh, the use of accords in both the ways has the objective of achieving stability in otherwise asymmetrical and diverse social framework. However we have to be cautious of the fact that a peace accord does not automatically lead to granting of autonomy. The peace accord will first of all disarm the discordant groups as well as the state that initially use force to suppress the group and by doing this it will establish peace. Also it entails certain provisions in the accord that will be a framework agreement for future, the implementation of which will result in the granting of autonomy. But most of the accord failed in the later sense of the term, because once peace is restored there is a tendency on the part of the state to relegate the issue to sidelines. In this way accord play a role in relegating autonomy into governmental technology. Governmentality refers to the modifications of norms and practices in a way that will make certain groups amenable to govern who involved in certain form of conflict. This is done through interplay of granting autonomy at some point of time and suppressing autonomy at some other point. (Das, 2005)

1993 Accord and Militant Phase of the Movement

The militant phase of the Bodo movement can be interpreted with the help of the term 'contentious politics' used by Baruah. It refers to sustained interaction between the authority and collective activity for the cause of particular populace that have been suffered unjustly over the years. The violent phase has been coexisted with piecemeal demands and activities on the parts of different political parties, student group and civil society movements. Violence emanate from the failure on the part of conventional groups to draw the attention from the concerned authorities and to fulfill their demands (Mahanta, 2013, p. 52). The failed 1993 Bodo Accord acted as a landmark in this regard with immense significance. One of the reasons behind the failure of the accord was inability to draw a Bodo majority contiguous geographical boundary. As a response to this, perhaps the militant section of the movement found it urgent to prove the Bodo majority in the demographically diverse land. They become more suspicious towards the growing settlement of groups such as Muslim of Bengali descent, Hindu Bengalis and Santhal immigration because of the contention that some of the immigrant groups with the Government officials' acquiescence have settled in those areas like tribal blocks or forest land where there is ambivalence regarding the legality of their right to settle.

It is because of this contention and in an effort to prove their majority; some of these groups become the target by the militant factions like NDFB and BLT. Apart from striking out at those groups of the Bodos who were not in favour of the division of Assam, they started sending quite notices to the non- Bodo people in order to carve out a homogenous Bodo inhabited area. Such ethnic cleansings were not one sided as there were also vengeance killings of Bodos by Santhals or the Bengalis. Moreover the undergoing activities of the militant outfit, United Liberation Front of Assam (ULFA) that for the secession of Assam act as a reference point for the Bodo militant outfits. For them, the political leaders in Dispur (capital of Assam) and New Delhi would not pay attention to the voice of non- violence. Moreover electoral politics also catalyzed the process of violence because of the fear among the rebel leaders that the people from the region, specially the immigrant communities would not vote in ethnic lines. Rather they

were suspected of voting for candidates not supported by the militant leaders. These fears and contentions ultimately ended up in major episodes of ethnic violence.

In analyzing the militant trend of the movement, the participation of militant faction in the democratic process becomes apparent. While on the one hand they are fighting for the secession of Bodoland from the Indian state; on the other hand they are increasingly participated in the electoral process in order to propagate their agenda by putting up candidates of their choice. In this way, they indirectly control the administration by entering their men in the administration. It is apparent in the creation of the Bodo State Movement Council (BSMC) by a number of Bodo groups with active support from the militant outfit BLT (Bodo Liberation Tigers Force or BLTF). It was followed by the creation of the People's Democratic Front (PDF) by the hardliners of ABSU and Bodo Security Force (popular as BrSF). Subsequently PDF and BSMC won seats. Since then the participation of the militant groups in the election process of Bodoland becomes a common phenomena (Mahanta, 2013, p. 52).

The militant's engagement in the electoral politics reflects the particularity of the movement with respect to the moderate versus extremist groups. There is a thin line that differentiates the non- violent political groups from the violent extremists group. The post 1985 period experienced the creation of new groups and reorganization of the existing ones. The BrSF was subsequently reorganized as the Bodoland Army and the National Democratic Front of Bodoland (NDFB) was established as a political wing in Udalguri (a district in Assam, now part of BTAD)) on 3rd of October 1986. Currently the NDFB has been divided into two factions: NDFB (progressive) and NDFB (Ranjan Daimary). Along with the NDFB, the Bodoland Liberation Tigers (BLT) emerged as the most violent and dangerous armed group with the objective of creating a separate state of Bodoland on the northern bank of the Brahmaputra. Gradually fratricidal fights started emerging between the NDFB factions and the BLT. Mahanta (2013) referred to Subhir Bhaumik in articulating that religious difference bears a significant reason behind such clashes with the adherents of Bathou faith and Hinduism largely among the BLTF and neo- convert Christians largely among the NDFB. Due to organizational strength and armed struggle, the BLT became the de facto guardian of the Bodo movement (Nath, 2003, p. 538). It

was after large scale violence that indiscriminately killed and displaced large sections of people that BLTF declared ceasefire on 14th July 1999 under the consistent effort of the BJP government.

The 2003 Accord

The BLTF's ceasefire was followed by the MoS for the creation of Bodoland Territorial Council (BTC). The tripartite meeting was held on 10th of February 2003 in New Delhi between the representative of the Union Government, Assam Government and a BLT delegation. It came to be known as the 2003 Accord. The goal of the accord was to formulate an autonomous self – governing body known as the Bodoland Territorial Council and to extend constitutional safeguard under the sixth schedule. Such self governing institution will work to accomplish the economic, educational and linguistic interest and the conservation of land rights, socio- cultural and the ethnic identity of the Bodos as well as the infrastructural improvement of the region. In order to fulfill such objectives, the institution was vested with the executive, legislative and judicial powers.

The accord of 2003 seemed to be more comprehensive than the failed accord of 1993. In terms of territorial boundary it delineates 3082 villages that will comprise Bodoland Territorial Council over which its jurisdiction will extend. These villages were to be carved out of four contiguous districts after the reorganization of the existing states is done. The BTAD was to comprise of four new districts, viz., Kokrajhar, Baska, Chirang and Udalguri. Most important part is that it provided for a definite time period of six months within which the process of territorial delineation has to be done. This manifests the intention of the Government to resolve the problem of territorial demarcation in a time bound manner. It is because territoriality is central to autonomy arrangement. The failure to do the same resulted in the inability to implement the 1993 Accord. In terms of composition of the Council, unlike the earlier accord, the new one has provided a clear idea of the Executive Council of the BTC. It has to be comprised of twelve members including a chief and a deputy chief with sufficient representation to the non- tribal people. In terms of legislative power also, the new accord has defined the

jurisdiction more clearly with forty subjects of legislation. The landmark change that characterized the new accord was the inclusion of BTC in the sixth schedule of the Constitution. Earlier this schedule was restricted only to the hill tribe people; while for the first time by constitutional amendment it has been extended to the plain tribe like Bodo. Thus the Bodos got autonomy arrangement under Articles 244(2) and 275 (1) of the sixth schedule. Another important modification of the new accord lies in its inclusion of a detailed arrangement for the non- tribal people in the multicultural demographic composition of Bodoland. Without such arrangement perhaps the process of creating sub national autonomous arrangement in this part of Assam would not have been possible, although later on many drawbacks started appearing. Some of the important provisions include: scope for relatively greater representation of the non- tribal people in the BTC; provide safeguard for the settlement right, transfer and inheritance of property rights etc. Although not specified, the new accord proposed for inclusion of non- tribal people in the Executive Council of the BTC. It also provided for two women to be nominated by the Governor from the unrepresented communities.

The Post 2003 Scenario in the BTAD

Despite being granting constitutional arrangement for exercising autonomy to address the sub national Bodo question, the situation in the post 2003 western part of Assam where BTAD exists have shown no remarkable difference with respect to peace and development compared to pre 2003. The first militant violence occurred in 1993- 94 directed against the Bengali Muslims. Later in 1996 and then in 1998 they targeted the Adivasis the descendents of tribals from east central India as laborers to work in tea garden that were killed and displaced to a large extent (Srikanth, January 31, 2015). Such trends have been continuing in recent period also. Since 20th July, 2012 the riots in the four districts of BTAD and neighboring Dhubri district have claimed about ninety lives and displaced over four lakhs people. In a situation of suspect and fear among different communities as developed throughout the history of the Bodoland movement, any small incidence can spark violence in the region. Such was the case in the 2012 incidence when killing of two Muslims on 6th July 2012 followed by retaliatory killing of four Bodo

tribals and then the incident took a larger shape with conflict between the two communities that led to such huge level of internal displacement and killing ("Assam Riots: Preventable but not prevented", 2012). It was followed by conflict and violence during the Lok Sabha election of 2014 where for the first time a non- Bodo independent candidate from the Kokrajhar constituency have won the election. Added to such mutual suspicion between different communities to each other, the absence of clear cut policy among the various ethnic militant outfits regarding the other groups have made the situation more complex and worse (Gohain, 29 March, 2014).

Monjib Mochahari (2004) pointed out four specific reasons behind the not so successful record of peace accord in bringing peace. These are:

1. Important stakeholders are often left out of the peace process, deliberately or accidently.
2. A signatory organization can spilt with dissenters forming other groups.
3. An accord may address the concerns of one group at the expense of another.

Conclusion

The historical analysis of the Bodo movement has shown the course in which the movement has found a settlement with the creation of an institution that is BTAD. The creation of the institution reflects first of all a bargaining and consensual process between the rebel groups, the Government of Assam and the Central government. In a country with deep level of diversity, such arrangement becomes possible due to the democratic, multicultural federal political system of the country. Such arrangements are driven by the mandate of the Preamble of the Constitution that incorporated unity and integrity as the basic principle. In this light, the creation of such self- governing autonomous institution have manifested accommodation of multicultural diversity within the nation with the larger goal of restoring unity and integrity of the nation state.

However, in the case of BTC such settlement is neither comprehensive nor an end. It is not comprehensive in the sense that such solution has not been worked out in

agreement with all the stakeholders involved in the movement. Many dissident groups have remained unrepresented the outcome of which are manifested in the growing violence even after the creation of the BTAD. The movement for the separate homeland has been continued, although in a dormant stage that sometimes burst out with heinous violence. Also the movement has not dead with the creation of autonomous institution. In other words, it has not taken a final shape. There has been growing sense of disaffection regarding the autonomy arrangement among the ruling body. Also neither Bodo nor non-Bodo people have been satisfied with the working of the present administrative set up. In the context of the evolving nature of the movement, it appears necessary to address certain other aspects like the working of the BTAD, certain structural issues of India's political system within which such system operate. Understanding of these issues will be a subject matter of the next chapter.

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CHAPTER THREE

CHALLENGES OF INSTITUTIONALIZATION OF BTC

Introduction

In the context of growing conflict and violence in BTAD area in the post 2003 scenario, this chapter is an endeavour to analyse some of the potential reasons behind such disturbance. The question is why despite being the creation of Bodoland Territorial Council that was given autonomous power to accomplish the economic, educational and linguistic aspirations and the settlement of land rights, socio- cultural and the ethnic identity of the Bodos as well as the infrastructural development of the BTAD, peace and stability remain a distance hope. Rather, time and again the region has been subjected to violent experience. The outbreak of violence cannot be interpreted as a result of some singular fault line. It has to be analyzed in multiple levels that will help us to understand the long term process that is at work in the region.

The chapter is divided into three sections. First section analyzes provisions of the Sixth schedule of the Indian Constitution that will help us to assess the working of such sub- state institution at the ground level. Special focus is given on provisions entailed in this schedule for the security and safeguard of the non- Bodo population inhabiting the area as well as the process through which the BTAD areas was demarcated. Such arrangement bears immense significance for governance in the BTAD. It is because the Bodos constitute merely about 30 percent of the total population in the region while the rest of the population is non- Bodos. Given such composition if protection and recognition of one identity comes at the expense of the other equally important, in fact numerically majority identity, then we cannot expect smooth governance in any area. The recent controversy over the victory of a non- Bodo candidate, Hira Soronia in the 2014 Lok Sabha election have signified the peak point of growing suspicion and conflict between the Bodos and non- Bodos that manifested in organized political form. Second section will looks at the broader picture of Indian federal system that sets the scope of both power as well as limitations, within which such sub- state level institutions are created and sustaining followed by conclusion.

A Critical Appraisal of the Sixth Schedule

One of the main reasons behind the failure of the 1993 Accord was that it could not ensure proper arrangements for the safety and security of the non- Bodos population inhabiting in that region. As Pathak (2012) argue it is not just the diversity but sustaining peace is also another fundamental concern. The question of sustaining peace in BTC depend upon the development of the region as well as taking account of non- Bodo peoples' concerns. In this regard, the 2003 MoS have taken certain steps that are incorporated in the amended version of Sixth Schedule of the Constitution of India for the autonomous arrangement of Bodos. Some of the provisions are mentioned below as given in the MoS (Memorandum of Settlement on Bodoland Territorial Council (BTC), 10 February, 2003):

1. Paragraph 4.2.of the MoS provided that para 2(1) of the Sixth Schedule will be amended to increase the number of members for BTC up to forty six. Out of this thirty will be reserved for Scheduled Tribes, five for non-tribal communities, five open for all communities and six to be nominated by Governor of Assam from the unrepresented communities of which at least two should be women. The rights and privileges of the nominated members will be same like the elected members including the voting right. The election of the forty members will be based on adult franchise with a time period of five years. The amended version has been included in the Sixth Schedule to the Constitution (Amendment) Act, 2003.

   Originally, the paragraph 2 provided that the District Council and Regional Councils will comprise of members not more than thirty in total of whom not more than four persons shall be nominated by the Governor and the rest shall be elected on the basis of adult suffrage.

2. Paragraph 4.3 entails that safeguards for the settlement rights, transfer and inheritance of property etc. of non- tribals will be properly included in para 3 of the Sixth Schedule. It has restricted BTC from making laws in these regards so that it will not incur the following things:

a. Extinguish the rights and privileges enjoyed by a citizen of India with regard to their land at the initiation of BTC, and

b. Prevent any citizen from acquiring land either by way of inheritance, allocation, resolution or by way of transfer if such citizens were entitled for such legitimate possession of land within the BTC area.

3. Paragraph 4.4. provided that provision will be included in para 6 of Sixth Schedule that in BTC area, language and medium of instruction in educational institutions will not be altered without consent of the State Government.

4. Paragraph 4.6. provided that paragraph 10 of the Sixth Schedule will not be relevant to BTC area. Paragraph 10 related to the power of District Council to make rules for the management of money lending and trading by non- tribals (Bakshi, "The Constitution of India", 2011, p. 351).

5. Paragraph 4.7 provided that Article 332(6) of the Constitution will be so modified that the present position of representation of BTC area in the State Assembly is kept intact. It required that after the creation of BTC, the Parliamentary and Assembly Constituencies shall be delimited by the Delimitation Commission in agreement with the provisions of the Constitution. (For further detail refer Annexure II)

Article 332 (6) provided that a person who is not a member of a Scheduled Tribe of any autonomous district of the state of Assam shall not be eligible for election to the Legislative Assembly of the State from any constituency of that district. However, the Constitution (Ninetieth Amendment) Act, 2003 entailed that for election to the Legislative Assembly of the state of Assam, the representation of the Scheduled Tribes and non- Scheduled Tribes in the constituencies included in the BTAD, so notified, and existing prior to the constitution of the BTAD, shall be maintained (Bakshi, "The Constitution of India", 2011, p. 279).

The 2003 MoS declared that amendments to the Sixth Schedule shall incorporate clauses in such a way that the commencement of BTC shall not deprive the non- tribals of the rights that they already have been enjoying along with the protection of land rights. While not denying such arrangement as a futile exercise, however certain grey areas remain that paved the way for conflict between the Bodos and the non- Bodo population in the region that threaten the existence of peace in the region.

With regard to the first provision, question arise why does the need for such special arrangement in case of BTAD area with regard to it's composition. It is due to the specificity of the case of Bodoland which entails:

- Although Bodos are the largest among the tribal group in the region, but not among the overall population of the region. They constitute merely thirty percent of the population while the rest are non- Bodos.
- Also they are not concentrated in territorially contiguous areas.

Thus the situation of BTAD is distinct compared to other sub- state level autonomy arrangement where the targeted distinct ethnic group occupies majority in terms of number. Therefore, it is apparent that the composition of BTAD on the basis of already existence provision in the Sixth Schedule could not ensure safety and security of all the people inhabited in the region equally.

However as pointed out by Nani Gopal Mahanta (2013), critics argued that the reserved constituencies have been drawn in such a way that the areas having minimum Bodo presence are reserved so that nobody from other community can contest in those areas, whereas the areas having Bodo majority are made open for all so that the non- Bodos have only a remote sense of being elected. The six nominated members from the unrepresented communities as appointed by Governor can hardly make any difference. Also there has been allegation that these nominated members are selected from those people who have close affiliation with the ruling elite of the Dispur (Capital of Assam).

On the provision regarding the protection of settlement rights, transfer and inheritance of property of non- tribals, the arguments are constructed in two extremes. On one hand the above provision is essential to ensure that the rights of the non- Bodo

population with regard to the land is secure in the region. On the other hand the same provision became a root cause for Bodo people's unhappiness and insecurity. They claimed that the Constitution has not protected the plains tribe from land alienation under the sixth schedule and hence customary law and community rights were not taken into cognizance. After the formation of BTC some of these rights have been granted. But in the BTC, unlike in the other six schedule areas, the non- Bodos and non- tribals can purchase and own land. Given the shrinking area affected by flood and high population density the issue of land and resource become a political issue. It is more critical if we define land right as the right of the sons of the soil. The state also admits the difficulty of distinguishing between the citizen and alien in a border region. (Pathak, August 25, 2012, p. 22)

The Recent Genesis of Conflict between Bodos and Non Bodos

The genesis of conflict between the Bodos and non Bodos cannot be traced to a single definite point. It has been developing gradually with the evolution of the movement in the long course of time. In the recent period there is no doubt that the 1993 Accord which has sown the seeds of discontentment between the two groups. In that Accord it was made clear that the areas with less than fifty percent of Bodos could not be included in the Council area. This inturn resulted in the Bodos endeavor of ethnic cleansing of non- Bodos so that the panic- stricken non- Bodos leave the area to make the Bodos a majority in the region. The resultant Bodo- Santhal and Bodo- non-Bodo conflict of the late 1990s was a part of this majority- building politics. Gradually the non- Bodos become assertive by way of political organization as well as militant politics determining to resist the Bodos.

The situation was no better in carving out of the regions to be included in the BTAD under the 2003 MoS. To quote the 2003 MoS, "The area of proposed BTC shall comprise all the 3082 villages and areas to be so notified by the State Government. The above mentioned villages and areas shall be divided into four contiguous districts after reorganization of the existing districts of Assam within a period of six months of the

signing of the agreement on the lines of the proposal given by BLT subject to clearance of the Delimitation Commission." As provided in the 2003 MoS a committee was to be formed comprising one representative each from Government of India and Assam and the ceasefire declared insurgent group Bodoland Liberation Tigers (BLT). This committee was to make a decision by consensus on the insertion of additional villages and areas in the BTAD from out of ninety five villages. The criterion for such insertion included the areas having tribal population of not less than fifty percent, contiguous area or any other agreed relevant criteria that was to be accomplished within a period of three months. (Memorandum of Settlement on Bodoland Territorial Council (BTC), 10 February, 2003).

This arrangement again left the scope for dissatisfaction among the non- Bodos because of the threat that their voice was not adequately represented in the drawing out of the areas as there was no representative from their side in the committee. This created apprehension and suspicion in their minds towards the newly proposed arrangement. In response to this, the Sanmilita Janagosthiya Sangram Samiti (SJSS: United Ethnic People's Struggle Committee) was formed by coming together of twenty non-Bodo organizations in order to oppose the proposed map of BTAD. The SJSS had led protests opposing the territorial demarcation and reorganization of the areas of lower Assam and the north bank of Brahmaputra before and after the signing of the 2003 Accord (Pathak, August 25, 2012, pp. 20-21). The SJSS has now mounted a stiff resistance movement against 'Bodo hegemony'. It has been maintaining that the terms of the BTC have taken away the political rights of the Koch Rajbanshis and other ethnic groups of the region and have reduced them to virtual non-citizens. (Misra, "Bodoland: The Burden of History", September 15, 2012)

The struggle of the non- Bodos have been intensified with the formation of another conglomerate comprised of twenty seven organizations in lower Assam named Ana- Bodo Surakhya Samity (ABSS: Non-Bodo Protection Forum). It is supported by many groups like All Assam Students' Union (AASU), the All Assam Minority Students' Union (AAMSU), the All Assam Koch Rajbanshi Students' Union (AAKRSU), the Bengali Youth Students' Federation (BYSF), the All Assam Gorkha Students' Union

(AAGSU) and the All Assam Tea Tribes Students' Association (AATTSA). The Koch-Rajbanshi and the adivasis, part of the SJSS are two major indigenous groups of Assam having a sizeable presence in the BTAD aspiring for the ST status with the former going a step forward and fighting for a separate Kamatapur state. The Kamatapur Liberation Organization (KLO), an extremist group, has been demanding a sovereign Kamatapur. However the proposed separate Bodo state contradicts the Kamatapur claim of the Koch-Rajbanshis (Mahanta, june 8, 2013). Along with this group, the emergence of the All India United Democratic Front (AIDUF) as the largest opposition party in the state assembly, a party that claims to represent the interest of Muslims in Assam and has called for the dissolution of BTC, adding to the skepticism of the Bodo leadership about the growing influence of AIDUF in the BTAD area (Hussain, 2012).

Issues Emerged at the Level of Implementation

With regard to the implementation of the BTC Accord there are diverse viewpoints. The non- Bodo population claimed that the benefits of the autonomous arrangements in terms of development like infrastructure, freedoms are not equally distributed. They found themselves to be discriminated. According to the leaders of the non- Bodo organizations, all important educational institutions including universities, colleges, schools, healthcare facilities, central as well as state government Departments are always set up in Bodo dominated areas with a heavy representation of the Bodos in the employment and managerial sector (Mahanta, june 8, 2013). Another section within the Bodos like ABSU has claimed to revive the separate homeland movement on the pretext of failure of the BTC Accord. At the same time, even the power holder section complained lack of power to implement the provisions as provided under the 2003 Accord. It is evident from the remarks of the chief of the BTC, Hagrama Mohilary in leading the Bodo National Conference delegation in 2013 who placed the demand for devolution of home that is law and order and financial power for better functioning of BTC towards a peaceful Bodoland. For them the lack of jurisdiction over law and order stand as a constraint in controlling the crisis situation in the region. Law and order is a

subject in the state list and there are allegations that the state Government has not taken prompt action in responding to the conflicting situation in the region.

David Stuligross have well described some of the problems face by the Autonomous Councils in North Eastern India in general that can be applied in case of BTAD as well. Some of these are listed as follows (Stuligross, 1999):

The Economic Front

It is argued that despite the provision for direct economic administration to the ADCs, they have encountered lot of problems with regard to fund allocation and execution of small scale projects. Their success as an agent of economic development is weak mainly on the following counts:

First, they are not much effective in lobbying the state government as well as in determining the state developmental budget. Their influence at the state level bears significance for two reasons: state governments have the largest development budgets along with the fact that the state government administers many centrally sponsored projects. Paragraph 13 of the sixth schedule entailed that the state government will put the share of spending bills applicable to the autonomous district in adequate time so that they get the opportunity to discuss the proposal before it takes the final shape. However this provision in most of the cases is not adequately implemented. The ADCs in practice receive the proposed budget much late. As Barbora pointed out the councils have complain that the state Government do not release the fund in full or release it after great delays, many times at the end of the financial year when they cannot be properly and gainfully spent. There are allegations that sometimes they receive the budget after the state legislative assembly votes on it. (Barbora, 2005)

Secondly, they are incapable of influencing the state budget process indirectly through the members of the legislature elected from the constituencies where ADCs are instituted. The MLAs are found to be in an adversarial rather than cooperative relation. Moreover the MLAs from the constituencies that inhabit the ADC have not seemed to be pressing and forefront in their demand. Rather they remained docile in their stand in

order to reap the benefit in political career. Their effort remains limited to their attempt to retain their seats as well as to strengthen the state government as it is state that work as the source of patronage opportunities.

Thirdly, the ADCs themselves have comparatively insignificant developmental budgets. Although the sixth schedule bestows them with an extensive list of developmental functions however such functions have not been supported by adequate funds. The schedule has not obliged either the state government or the central government to grant funds for such implementing such functions. The Central Government has directed the state government to distribute some share of the fund from the tribal development plan directly to the ADCs. However such directions lack any legal mandate resulted in lack of prompt implementation.

Fourthly, the ADCs are often face problems due to irregularity in the disbursements of funds from the state government. They are often subjected to criticisms from the state government that their budget estimates are inaccurate and the matter inturn invariably goes to court.

Fifthly, there has been inefficiency in the collection of taxes by the ADC themselves. Line items that would affect the ordinary residents, such as land revenue, market taxes etc. are often left unlegislated and uncontrolled. It is not uncommon that sometimes the administrator collects taxes from the non- tribal people while left the tribal people. Such discretion can definitely be interpreted as political choice rather than administrative hurdle that bring inefficiency to the system as a whole. They are heavily dependent upon forest and mineral royalties. Such dependence has been exacerbated by blocking of grants by the state and Central governments which inturn resulted in increasing pressure on the environment with increased timber felling.

Sixth and finally, there has been lack of proper implementation of the disbursed funds by the ADCs.

The Social Front

The idea was to integrate the tribal communities in to the Indian political system without undermining and subjugating the traditional communities. The main objective behind the creation of ADCs was not working of ADCs as the agent of economic development. With this broad aim in mind, the ADCs were given extensive powers in social field ranging from administration of primary education, trying cases in the district court and codification of customary law etc. The control over primary education has bestowed opportunity to the ADCs to exercise cultural socialization. However in reality such powers have been used as an opportunity to exercise political socialization through the means of schools. Teachers acting as a link between the villagers and modern society have started influencing the mind of the people. Their advice is sought by the people in many areas regarding legal, medical and most importantly political voting question.

Another aspect in this regard is the administration of justice. The relationship between the state, ADC and tribal courts as defined in the sixth schedule is ambiguous. Paragraph 4 of the sixth schedule authorizes ADCs and the regional councils to constitute district courts as well as village councils and provided the procedures to be followed by such courts. Paragraph 5 of the sixth schedule authorizes the Governor to extend the authority of ADC courts to try cases involving sentence of more than five years in prison including death sentence (Bakshi, "The Constitution of India", 2011). Thus in legal terms the ADC courts have jurisdiction over wide range of issues. However in practice this is not true. The provision entailed in paragraph 4 has rarely been followed. As the judge of the district council court presiding in 1996 remarked that not a single instance can be recalled where any north east India Governor had authorized a district council court to try any major crime. Rather the opposite is the case, where the Governor exercises paragraph 4(3) of the sixth schedule to empower the state high court to adjudicate the cases meant to be tried by the ADC courts. At the local level we can hardly see the constitution of village level courts.

The most important area in which ADCs have a social impact is through their capacity to legislate. ADCs have not passed many laws. Although they do frame legislation, only a portion of these has received constitutional status for which these

legislations required the assent of the Governor. Also it has been alleged that the ADC's right to legislate on customary law have shown contradiction. Such contradiction is in terms of inconsistency of crafted laws with the prevailing custom. This in turn defeat the very purpose of such power as envisaged in the Constituent Assembly debate and the Bordoloi committee that is codification of customary law in a manner that will be comprehensible to the modern Indian court. In matrilineal society of Meghalaya the Khasi ADC has often attempted to weaken the customary power of women in the society. Customarily Khasi lineage follows the woman where it is the husband who moves to the wife's family and the youngest female of the wife's family entitled to all the property. However, the Khasi ADC frame legislation labeled as 'Inheritance of Self –Acquired Property' that would have enabled every Khasi man to will possessions and property that are purchased with money he himself earn. In the same way, in 1997 a bill was framed with the effect of limiting the right of children of a Khasi woman who married a non-Khasi man to receive government benefits. The nature of these bills clearly manifests that it aimed at changing the customary relations between genders. Citing this reason the Governor refused to give his assent to the bill and thus the bills were devoid of constitutional status. However the important aspect is that framing of such legislation signify that ADCs sometimes try to change their customary law rather than to sustain them in their purity.

In the context of growing allegation by the power holder of these autonomy institutions it is important to refer Jawaharlal Nehru's concern regarding the Sixth Schedule of the Constitution. In contrary to what was envisaged in the Constituent Assembly debate, after experiencing the operationalisation of Sixth Schedule Nehru realized that no real autonomy was given to the District Council. Nehru had gone through many reports regarding working on the District Councils. He came to know the complaints of the tribal leaders and realized that although autonomy was given to the tribal through DC's but they lack any real power as they had no financial power. Although they had jurisdiction to collect taxes over a wide range of items but confronted with many problems on the ground. The tax collection was not smooth as the as tribal people were not used to taxes. Moreover, the land and forests that were under their jurisdiction were actually community owned and hence were not fit for taxation and

against the tribal ethos of taxation. It could raise money only from selling of forest products which amounted to very little. The District Councils also had no executive power for which they were dependent on the state police and state administration. Hence the concept of autonomy was just notional for them and they were heavily dependent on the state for their survival and sustenance. In this context, Nehru pressurized the State administration to make the DC's more empowered.

These factors taken together have created much disturbance in the region. It is true that the extension of the sub- regional autonomy has been successful in pacifying one section of the rebel groups by bringing them into the fold of Indian nation and helps them to leave apart dissenting form of nationalism that challenge the unity of the nation. However it is not successful in redressing the concerns of different stakeholders. The revival of the demand for separate statehood has pointed out such failure. On the 43rd Annual Conference of All Bodo Students Union (ABSU) in Banargaon in February 2011, President Promod Boro announced the revival of the movement for a separate state on the ground of state government's failure to implement the BTC Accord. In May 2012, People's Joint Action Committee for Bodoland movement, an umbrella body of 47 organizations, renewed its demand for Bodoland comprising more areas of the North Banks. Such initiatives in turn have made the non- Bodos more aware and politically assertive. (Pathak, August 25, 2012, p. 21)

Electoral Politics

The disagreement between the Bodos and non- Bodos have attained a peak point as manifested in the Lok Sabha election of 2014. As Sanjoy Hazarika (2014) pointed out, the 2014 Parliamentary election have created fear in the mind of Bodo people that for the first time in twenty years, a Bodo may not win the local seat. In 2014 Lok Sabha election, it was for the first time a non- Bodo candidate own with a remarkable fifty one percent of the vote share from the Kokrajhar constituency which is clearly manifested in the following table:

Table 2: The Member of Parliament from Kokrajhar Constituency of Assam in the Lok Sabha.

Year of Election	Name of the Winning Candidate	Party Name Independent	Bodo/ Non-Bodo	Vote Share of the winning candidate
1998	Sansuma Khunggur Bwiswmuthiary	Independent	Bodo	25.55%
1999	Sansuma Khunggur Bwiswmuthiary	Independent	Bodo	37.57%
2004	Sansuma Khunggur Bwiswmuthiary	Independent	Bodo	71.32%
2009	Sansuma Khunggur Bwiswmuthiary	*BOPF	Bodo	48.80%
2014	Naba Kumar Sarania (Hira)	Independent	Non- Bodo	51.82%

*Bodoland Peoples Front

Source: Election Commission of India, New Delhi.

The electoral outcome can be clearly interpreted as a further schism of the existing cleavages between the Bodos and non- Bodos. It marked the emerging political assertion of the non- Bodos. In such region the electoral outcome is not decided by the larger national issue but by the local issues. The electoral politics in Bodoland is dominated by support for a separate state on one hand and for political representation and safeguard of minorities within the Council area. Smitana Saikia has analyzed the electoral outcome through the framework of ethnic outbidding. Through outbidding parties representing an ethnic group seek to represent themselves as the true protector of the group position against another ethnic group. The brutality and insecurity due to the outbidding effect is not a result of some inherent nature of ethnic divisions. Such outcomes are concretized by the historical institutional framework in which a singular and specific fault line was bestowed political salience as opposed to cross cutting social cleavages. (Smitana, 2015)

The success of Naba Sarania, an independent candidate signifies the directive against the persistence hostility in the name of separate homeland. Many communities have taken it as an opportunity to reject the normalization of violence and impunity that characterized the region for last several decades. A twenty three non- Bodo groups formed an umbrella group Janagosthiyo Oikyo Mancho under an ex- United Liberation Front of Assam commander to support Sarania and they reject the Bodos demand for a separate homeland. Saikia has used theory of ethnic mobilization and violence to interpret the polarized atmosphere. The theory of ethnic mobilization based on the premise that politicization of ethnic identities result in two or more ethnic parties that eventually threaten the democratic stability. Ethnic demands are mostly exclusive and non- negotiable. The claims and counter claims among these groups have made inter group rapprochement unattainable by intra group accusations and betrayal. It is probable that the ethnic conflicts in Bodoland are linked to the outbidding effect in the context of competitive politics of the region. In Assam similar outbidding effect has been seen earlier as well in the context of contestation over language that culminated in the violent riot between Assamese and Bengalis in 1960 -61 and later on in 1971. Thus in the case of Assam where a singular fault line developed either around language or indigeneity, the political competition along these terms have spiraled into violent riots. (Smitana, 2015)

The winning of the election by a non- Bodo in the 2014 was followed by discovery of forty bodies in Baska and Kokrajhar districts. The non-Bodos, including migrant Muslims, who comprise the majority population, suspected that their failure to vote for the Bodo People's Front (BPF) candidate, Chandan Brahma, a former Minister in the Assam Government, resulted in the deadly retribution. Probably such accusation was made in the context of remarks made by a BPF leader, Pramila Rani Brahma, who had commented on April 30 that the Muslim migrants had not voted for Chandan Brahma. Instead, they had chosen their own independent candidate, Naba Kumar Sarania alias Hira Sarania, a former United Liberation Front of Asom (ULFA) rebel from Kokrajhar. This inturn led to the triumph of a non- Bodo in a constituency that always represented by a Bodo parliamentarian. (Goswami N. , 2014)

Table 3: Electoral Performance of Political Parties in BTC Election

Political parties	Seats Contested in 2010	Seats Won in 2010	Seats Contested in 2015	Seats Won in 2015	Gain/Loss Since 2010
BPF	40	31	40	20	-11
INC	23	03	40	0	-3
AIUDF	--	--	08	04	+4
BJP	08	--	40	01	+1
IND	40	06	40	15	+9
CPI(M)	05	0	07	0	Nil
AGP	09	0	06	0	Nil
AITC	03	0	--	--	--

Source: A compilation of data from Assam State Election Commission and Siddiqui (2015)

Till now the BTAD has experienced three rounds of elections from 2005 onwards. The electoral process in the BTAD has shown a remarkable shift from being a single party domination to the emergence of multiparty and multi- cornered contest. Though the Bodoland Peoples Front (BPF) have won twenty seats in the 2015 BTAD election, but the vote share that it polled have reduced to 28.5 percent. In most seats the party had to confront stiff competition from the non- Bodo candidates. That means the non- Bodos have become more assertive. The Peoples Coordination for Democratic Rights (PCDR) came out of the Bodo community as a response to the widespread corruption by the BPF and its dictatorship in the governing process. Moreover the margin between the winners of the BPF and the runners –up candidate were very less, the lowest being only thirteen votes. The PCDR that fought election on the issues of development and corruption have come up with massive results. This signifies that the concern of the people has been transformed from being restricted to the identity issue to include issues related with development. (Siddiqui, 2015)

II

Thus the experience of working of the BTC and the status of peace in the BTAD region manifests a mix kind of result. On one hand recognition and accommodation of ethnic minority community by giving them autonomy in the form of District Council have enriched India's diversity while maintaining unity. At the same time, the experience of their working has proved that they have not been able to enjoy substantial autonomy in the ground due to interference from the state. Most importantly, the working of such institution has failed to bring peace to the region due to lack of proper realization of the given power. Their existence as well as working can be situated within federal process of India as follows

Federalism as a Solution to Resolve Ethnic Conflict

In the first few decades following decolonization, states attempted to build strong, homogenizing and unitary nation states. They distrust and discourage federalism as an aberrant phenomenon. However gradually thinking in this line has been altered. In the later period federalism has been conceived as an advanced form of government, even as an ideal one both at the regional and global level. The voice of federalism is much stronger in countries where they face a question of national identity. The pursuit of federalism in it's varied form has been experimented in countries like Philippines, Indonesia, China, Sri Lanka and India to name a few that have been subjected to growing assertion from the ethnic and religious minorities, secessionist movements and even civil wars. (He, 2007)

The importance of federalism as a political idea becomes increasingly significant as a means to peacefully reconcile unity in a diverse socio- economic and political system. It has grown in its significance in part due to modern developments in communications in terms of technology, globalization as well as development of knowledge based societies that have contributed to the simultaneous need for both larger and smaller political units. This inturn resulted in two motives for federating. One is the aspiration to construct an energetic, competent and modern nation state like India and United States or supranational political systems like European Union. The other is the

aspiration for expressing distinctive identities through smaller, directly accountable self governing bodies capable of representing historical, social, linguistic or cultural diversity (Kincaid, 2008, pp. 12-13).

Federalism played an important role in the nation building project, most importantly in the context of a diverse and multicultural country. In this regard concepts like equality and identity are not contradictory. Constitutional guarantee of equality do not demand submergence of distinct identity. Nations can be built not on the basis of exclusion of distinct identities but sharing and accommodation of distinct identities. Different layers of loyality can coexist with a wider national loyality. India's principle of secularism does not signify anti- religion but is linked with respect for all religions. Historically federalism has been designed to restrict governmental powers by sharing sovereignty between the federal and the state powers. The constitution of USA is based on the principle of least governance as the best government. Contrary to this, in India that government is considered as the best when it brings about social renovation and development for all the citizens. Moreover, unlike economic diversity, diversity based on religion, ethnicity, language cannot be erased. Economic diversity is quantitative and therefore it can be merged by following proper policy guidelines approved by the majority. On the other hand socio- cultural diversity is qualitative that bears huge significance in the life of the community members. They cannot be merged; on the other hand these diversities have to be lived with. (Kincaid, 2008, pp. 21-23)

In these contexts, federalism provides a suitable solution by entailing both shared rule and self rule within the same political system. Shared governance provided for a large political unit for certain common purpose while self governance provided for autonomous arrangement in a smaller constituent units which is directly responsible to its own electorates. Thus federal political system represents closest institutional approximation to the multiple existences of economic, social and cultural reality of the society. It is for this reason that the world has entailed federal political system to a large extent.

Evolution of Federalism in General

To meet the growing challenges, the federal system throughout the world has undergone evolution. Classical federations like United States, Switzerland and Australia have incorporated symmetrical arrangements for the constituent unit. The literature on federal systems also has traditionally assumed such symmetry to be the norm within federations. However scholars like Charles D. Tarlton some forty years ago have wrote an insightful essay in which he turned our attention away from the formal legal constitutional relationship to the cultural, economic, social, political factors that collectively taken into consideration have made a strong case for asymmetrical arrangements. These variable power and influence that are bestowed to different constituents in turn affect the degree and harmony within the federal system. (Watts, 2005)

'Federal symmetry' signifies uniformity among member states with regard to their relationship in a federal system; while 'asymmetry' signifies differentiation in the extent of independence and power among the constituent units. Watts distinguished between different concepts relating to federalism that will be relevant. First of all, he made a distinction between the conditions that have led to asymmetrical arrangement in a number of federations, especially multiethnic ones and the actual relations between the governments that is the outcome. Such conditions include historical, social, economic, ethnic and cultural.

Watts also made a distinction between de jure and de facto asymmetry that has been followed by other scholars like Baogang He (2007). The former relates to the constitutional and legal arrangement that treated different constituent units differently while the later refers to the actual practices or relationship that emerge out of different impacts on cultural, social and economic fronts. De jure asymmetry can be manifested in different sectors like different range of autonomy, jurisdictions and powers; allocation of fiscal resources and financial transfers; representation of members in the federal institutions such as the federal second legislative chamber; the extent to which minority rights are granted within the constituent units etc. However Ricker is of the view that the de facto arrangement in political, administrative fronts can have both positive as well as

negative repercussions. De facto asymmetry based on transparency may contribute to the nation building. At the same time special arrangement that are instituted to meet political or administrative expediency may result in instability and disharmony for the federation in the longer run. (Singh, 2004, p. 7)

Autonomy is not equivalent to federalism, but constitutionally defined and guaranteed autonomy can be seen as a component in federal structure, or a feature of asymmetric federalism or at least as a quasi federal practice. It is essential to maintain a balance between unity and diversity or autonomy in any move towards federalism. There are two things that federalism presupposes: the maintenance of unity and the satisfaction of the minorities. Without proper balance between the two, federal solution will be unsuccessful. To establish and maintain federalism, one has to achieve what Watts call 'relative balance' or 'approximate equilibrium' between the desire for union and the desire for regional autonomy. The success of India's federation lies in its achievement of this balance through accomodationist measures whether with regard to Punjab secession or North Eastern states.

Now the question is how to achieve this relative balance or approximate equilibrium. What kind of federalism can successfully grant autonomy and thereby promote diversity, control and diminish ethnic conflicts and facilitate and encourage democracy. Seymour and Gagnon talk about two forms of the federal ideal: territorial and multinational federalism. Territorial federalism reflects federal ideal without its concern for national diversity. It provides equal treatment to every region without entailing different treatment to any specific region. For example the federalism of USA and Australia can be seen as the example of region based federalism. On the contrary, multinational federalism tends to go beyond territorial federalism. (Gagnon, 2012, p. 4). In multinational federations like Spain, Canada and Belgium can be seen multinational federation federal constitutions accommodate concentrated ethnic groups. It draws internal boundaries and gives recognition to the ethnic minorities to exercise distinct group rights and autonomy as well as to attain an ethno national homeland. Kymlicka define 'multinational federalism' as a federal or quasi-federal subunit in which the minority group comprise a local majority which in turn enable them to exercise

meaningful forms of self- government as well as give recognition to the group's language as an official state language, at least within their federal subunit.

In the light of the above two models, the question is which model can be applied in case of Asia. Can we apply the multinational federal model of America which brings stability? But David Brown argues that multinational federalism is unsteady and challenging. It solicits problem, it supports more controversial hostility and is likely to rupture the nation state. He argues that multinational federalism by bestowing minorities with majority power creates problems for the working of democracy whereas regional federalism can coexist with and uphold democracy. But in countries with ethno national challenges, it is equally true that the following of merely region based federalism cannot bring stability. Without any special arrangement for the distinct ethnic minorities it will not able to deal with the challenges of ethnic conflicts.

The success story of India reveals that it incorporate a model that has blended characteristics of both regional and multinational elements of federalism. The success was neither primarily from the singular following of multinational federalism nor regional or territorial federalism. It is amalgamation of both. It is rather hybrid federalism. Hybrid federalism signify a type of special mixed institutional measures wherein the centre and the main body of polity continue as a unitary system, while certain regions or units have been decentralized or bestowed the status of regional autonomy. Constitutionally defined and guaranteed regional autonomy that are designed to satisfy the desires and aspirations of one nationality or ethnic group constitute the building block of hybrid federalism. William Riker's definition of federalism can well describe this model that entails (He, 2007, pp. 12-14):

1. Two echelons of government ruled the same land and people.
2. Each echelon has at least one area of action in its own sphere where it enjoy autonomy and
3. There are constitutionally guaranteed autonomy of each government in its own sphere.

In searching for this hybrid federalism, countries like India, China and Indonesia have attempted to combine and recombine elements of both unitary and federal elements in different forms with their distinctive characteristics.

The hybrid federalism is oriented towards stability and to achieve the same it incorporate many asymmetric arrangements. While political equality as one principle of democracy must be defended, it may need to be modified or even sacrificed in the federal institutional design in Asia. The equal number of senators in the USA and Australia despite the different population sizes is a good example of political equality in practice. Asymmetric federalism has long been followed in case of Malaysia where indigenous groups are favoured at the sacrifice of political equality for the Chinese and Indian communities. Federal institutions have to be asymmetric in order to preserve diversity and difference. To attain such diversity and difference it must integrate different degree of treatment that will treat certain constituent units more favourably than others by taking into cognizance specific circumstances based on socio- political history, distinct culture etc. Asymmetric federalism can be adopted as a conflict resolution mechanism to redress the problems of secession and ethnic conflict. The driving force for Asian federalism come from within that is the threat to existing nation states posed by the internal groups.

India's Federal System and Accommodation of Ethnic Diversity

To understand the mixed model that is in working in India, we have to go through the background within which India incorporated federal principle as well as the gradual de jure and de facto arrangement that have been deliberated upon and evolved. While in a democratic country like India the existence of wide range of diversity in terms of religion, language, ethnicity, region etc have made the incorporation of federal principle as natural phenomena, but it is more of practical consideration rather than the concern for democracy that worked upon. There were more than 500 princely states during the time of India's independence most of which joined the Union. In this situation it was politically expedient to treat some of these states as new provinces or to merge them with

the adjoining territories. The federal arrangement provided space for their incorporation and offered a way of holding different territories with diverse histories as a single unit. (Mahajan, 2007, pp. 86-87)

As He (2007) articulates it is the presence of national identity question in most of the Asian federalism that require the adoption of 'hold together federalism' rather than 'bring together federalism'. India's nation building project has undergone contestation in the absence of any singular, homogenized national identity. In this context the hold together federalism maintain that retaining unity of the nation is the first priority. It must adopt asymmetrical characteristics in order to hold the country together by making special deal with one sub- group or the other if require by proving preferential distribution of rights and powers. By contrast bring together federalism is symmetric.

Indian federation was not a result of compact among its constituent units. The mode of federation making was a top- down process rather than bottom- up. The Constituent Assembly that frame the federal constitution was comprised of members elected on the basis of limited franchise and they were not representative of the states. The Constituent Assembly did not manifest deep seated conflict of interests as reflected in the Philadelphia in 1787. While presenting the Draft Constitution, Dr B. R. Ambedkar, the Chairman of the Drafting Committee, remarks that unlike the Constitution of America, the Indian Constitution avoided the "tight mold of federation" and embraced "both unitary as well as federal according to the requirements of time and circumstances" (Bhattacharyya, 2005, p. 14). Administrative convenience and political expediency guided the organization of the new units rather than cultural identities. Although the framers of the Constitution makers were deeply aware of the existing diversity but experience of partition of the country in the recent past have make them reluctant to create cultural communities as the basis of political identity. Therefore cultural communities were accommodated through special cultural rights but not political rights. Thus the concern for national unity and integrity was given an upper hand over recognition of diversity.

But in the post independence period such arrangement created lot of challenge for the Indian state with growing demand for creation of new state on the basis of language,

religion, ethnic diversity that force scholars like Harrison to remark 'the collapse of the Indian state'. During this period there emerged growing assertion from Naga and Mizos for separate homeland. The phase between the late 1960s and late 1970s was considered as the most complicated for Indian democracy and federalism. Since the 1980s there emerged relentless concern for states' rights, regional and local identities become foreground. In this period only the Bodos movement for separate homeland becomes more organized. Such local level assertion poses a threat to the very existence of India's federalism. However, even in such situation Indian federalism has been finding some positive evaluation of its significant role in maintaining India's unity since the 1980s. Ombwall viewed it from an ethno-nationalist standpoint and pointed out to the "requisite institutional and processual flexibility and resilience" of Indian federalism "to accommodate ethnic and regional discord while at the same time, defining the parameters within which such discord will be tolerated." (Bhattacharyya, 2005, pp. 18-20)

As Mahajan (2007) also articulates in the situation of growing discontent, the presence of a federal structure played a critical role in accommodating these communities and keeping the country as one by providing for reorganization of the states. The failure to recognize the same perhaps would have pushed them towards dissenting nationalism. This experiment proved that cultural identity can coexist with national identity that means multiple and complementary identities can coexist in the political imagination of its holders. However this does not mean that the path of federalism is so easy. In fact the concession leading to the recognition of a group as separate, self- governing communities have been made as a last resort when other options failed or yielded inadequate results. This is particularly true where cultural identities used anti- national rhetoric and employed violent means to assert their demands.

Along with growing ethnic challenges, other factors were also equally working that compelled India's centralized federal system adapting to change by a process of multilevel and asymmetrical innovations. Arora articulate that the 1990s is the turning point for India's polity, as it cemented the way for a political system that make federalism more stronger than ever before. With the appearance of federal coalition, new mode of participation and representation had to be recognized with the increasing role of the state

level political parties. In fact such coalition politics paved the way for sub regional political parties to play important role in the formation of government at the state level. The single state and multi- state parties have begun, through the political process an improved level of participation in national policy making which otherwise they could not have achieved through formal institutions of cooperative federalism (Arora, 2007, p. 7).

The need for federalism is enhanced in ethnically diverse countries where territorial accommodation of ethnic diversity is greatly demanded. For these countries a combination of shared rule and self is a necessity if unity and integrity are to be maintained. Bhattacharya argued on the following lines (Bhattacharyya, 2005, pp. 3-4):

Firstly, there is no inherent conflict between federalism and regionalism. The need for equilibrium between the two is of extreme importance if unity of the country is not to be risked.

Secondly, it is federalism rather than nation states that better able to accommodate distinct ethnic identities as federalism recognize difference while nation state demands uniformity.

Thirdly, a two tier federal arrangement may not be sufficient to deal with every form of regionalism. Sometimes it may require a sub- state level federal framework where region at the level of sub- state or provinces may be bestow sufficient accommodation and recognition with proper constitutional guarantee.

Fourthly, regionalism may itself be a practice for resolving ethno regional multiplicity provided there are sufficient constitutional guarantee as well as sufficient ethno- political pressure from below are available. It is through this technique, the spill-over effects of regional discontent can be contained.

Bhattacharya (2005) assert that Constitution of India remain a great source that facilitate the demand of regional movements for self- determination and their bargaining for an appropriate political institution within which they will secure distinct ethno-regional identity. He talks about two types of accommodation: non- territorial and territorial accommodation. The non- territorial arrangement in case of Bodos is significant. The Constitution Ninety- second Amendment Act, 2003 have included the

Bodo language in the Eight Schedule of the Constitution (Bakshi, 2011, p. 373). This method as interpreted by Bhattacharya seeks to accommodate linguistic groups in three ways:

1. It fulfills the need for linguistic identity to the distressed community.
2. It bestows the particular community with the right to read, among others, all official communications and documents in their own language that is their mother tongue.

3. Such language as constitutionally guaranteed under the eight schedules, become the third language in the 'three language formula' that include Hindi, national language; English, link language and the language in the eight schedules.

In this context Rekha Saxena articulates that Indian federalism has post modern prospective in the way in which it has incorporated both de facto and de jure asymmetrical arrangements. Although there exist lot of ambivalence regarding whether India is a case of asymmetrical federalism, Saxena admits that India does embrace constitutional asymmetry in dealing with the border states in north west and north east India like Jammu and Kashmir, Nagaland, and Mizoram. While early writing on asymmetrical federalism have taken the view that such arrangement will lead to secession, the most recent comparative treatment of the subject asserts that asymmetrical federalism has the potentiality to help stave off secession rather than inherently secessionist. The propagator of the former view perhaps base their assertion on the classical French and American federalism that stand for an ideal of nation state based on symmetrical rule of law for all citizens of the nation as well as equality of liberty and fraternity. This attitude also developed in the post- colonial nations like India. At the time of liberation, India reacted strongly against the imperial rule of divide and rule policy that played one community against the other. However the gradual experiment of asymmetrical arrangement with the North eastern states has shown that such arrangement in reality can accommodate multiple identities within a single state. India took almost a half a century to develop some degree of asymmetrical federalism by providing concessions and special status to some of its units. (Saxena, January, 2012)

Ronald Watts make a theoretical distinction between political and constitutional asymmetry. The former is evident in the geographical and demographic size of the units whereas the later is entailed in the constitutional arrangement that grant different legislative and executive power to the different regional units. India embodied both of these features. In terms of political asymmetry we can refer to the number of seats assigned to the states in the Rajya Sabha. Unlike American Senate, the Council of States in Indian context is not based on formal equality but on population basis. Therefore states like Uttar Pradesh have thirty one seats whereas states from North East India like Meghalaya, Mizoram, Manipur and Pondicherry and Goa have just one seat each. In terms of constitutional asymmetry, the Constitution of India recognizes separate constitution for the state of Jammu and Kashmir and provides special status to the states of Nagaland and Mizoram under article 371 A and E respectively. Article 370 of the Indian Constitution has restricted the power of Parliament to formulate laws for the state of Jammu and Kashmir to foreign affairs, defence and communication as specified in the Instrument of Accession, the basis for joining of the Union by the state in 1948. Similarly in the context of Nagaland and Mizoram, Article 370 A and E respectively provided that Parliamentary law cannot be extended to these states without the consent of the Legislative Assemblies of these states, if the concerned laws are related with the socio-religious practices of the Nagas and Mizos, their customary laws, administration of civil and criminal justice.

Besides these state level asymmetrical arrangements, there have been sub- state level asymmetries in the Indian Constitution that manifested in the differential treatment to it's seven Union Territories (UTs). These UTs have been created at different times by entailing specific constitutional provisions with a view to cope with the cultural specificity, interstate disputes, and particular necessities of National Capital Territory (NCR) and far flung remote location of these regions on the coast.

Along with these provisions, time and again India has manifested specific asymmetrical arrangement both in terms of political as well as constitutional asymmetry. These arrangements can be enlisted as follows:

Firstly, specific asymmetry has been shown in dealing with the government of the tribal areas, intra state regional disparities, law and order condition, and seats arrangement in the state Legislative Assemblies in relation to the states of Maharashtra, Gujarat, Assam, Manipur, Andhra Pradesh, Sikkim, Arunachal Pradesh, and Goa in the Constitution of India.

Secondly, in the states of Maharashtra and Gujarat, the Governor has been assigned with special responsibility to establish separate development boards for certain backward regions of the states. In these regions the Governor has to ensure equitable distribution of development funds and provision of facilities in mechanical education, professional training and employment opportunities.

Thirdly, the Constitution has obliged the President of India to guarantee the setting up of a committee of the Legislative Assembly in the states of Assam and Manipur to look after the wellbeing of the tribal communities. These committees have to be composed of Legislative Assembly members from those tribal communities.

Fourthly, with regard to the different regions of Andhra Pradesh, the President has to ensure equitable opportunities and facilities with respect to public employment and education and the creation of a central University in the state.

Fifthly, the Constitution has entailed that the number of state Legislative Assembly members in the states of Sikkim and Goa shall not be less than thirty. Also, the Governor of Sikkim has been assigned with special obligation to ensure peace by taking up equitable arrangement for socio- economic progression of diverse sections of the population of the state. Sixthly, the Governor of Arunachal Pradesh has special responsibility to sustain law and order in the state. Also the Governor can act on his individual judgment after consulting the Council of Ministers.

However asymmetrical federalism has been marked by lot of debate. John McGarry views that asymmetrical federalism does not lead to secession. It is in conjunction with other contextual and political factors that decide whether such arrangement is a deterrent to national unity or not. He is of the view that secession or break up of the units from the federal union is more prevalent in those nation states that

entail unitary system and are essentially symmetrical. While there may be temporary or occasional instability and illiberalism associated with asymmetrical federalism, but there is nothing inherently unstable or illiberal about it. However on the other hand, thinkers like Charles Tarlton who is credited with having coin the term rather took a more pessimistic view about asymmetrical federalism. For him, asymmetrical federalism is prone to secessionism. Michael Burgess took a more balance view of the issue by arguing that accommodative and secessionist tendency of asymmetrical federalism is depend upon particular historical and cultural specificity of the cases in hand.

There is concern over whether India really incorporated asymmetrical federalism. Tillin argue that Article 370 regarding Jammu and Kashmir was included in the constitution in Part XXI under the caption "Temporary, Transitional and Special Provisions". It was neither included in recognition to the state's "distinct", Muslim majority status to implant corresponding group rights nor anticipated as a challenge to India's composite and equal vision of territorial nationhood inclusive of all religions, languages, and ethnic groups. She considered India's north-eastern states as coming closest to de jure asymmetrical federalism. However she argue these states "are perhaps better seen as 'peripheral' units within India" and approvingly quotes Watts who says "these relationships are quite distinct from those of the main body of constituent units within the major political entity". (Saxena, January, 2012, p. 73)

Mahajan (2007) argued that positive recognition of diversity at the national level needs to be supplemented by recognition of diversity at the regional level also. We need to create multinational democracy at all levels although it is not easy. India is a multi-nation democracy by most measures where federal system has enabled different nations to govern themselves. However it is argued that such arrangement has not been extended to the nation building at the regional level. The regional level does not show the concern they have themselves received as minorities to existing minorities within the region. Thus although federalism offers a way of accepting diversity within the national polity, but we still need to devise structures and policies by which diversity may be respected within each region.

The assertion that regional level does not show similar concern for the minorities within their region is well manifested in the case of Assam. While the emergence of federal coalition created a turning point in India's federal process by giving increased level of representation as well as participation to regions at the national level but such pattern is either absent or at best in the initial stage in the regional level. It means the third strata of India's federalism represented by the sub regional institutions whether it is Panchayati Raj Institutions or the District Councils and the Regional Councils have not still been properly represented. It is due to their lack of bargaining power as they do not hold any significant position of power at the regional level for example the State Legislative Assembly. This is the case with BTC. Till 2009, the Bodoland Peoples Front (BPF/ BOPF), the party whose members have majority presence in the BTC had no significant stake in the state Legislative Assembly. This may acted as critical in limiting their bargaining power over the state government that resulted in dominance of the state government in case of dispersal of funds, lack of their representation in the deliberation of state budget as well not holding significant Department of the state.

However the presences of BPF have been increasing since 2009. The surrendered members of the BLT later formed a political party in 2005 known as Bodo Peoples Progressive Front. The party contested the Assam Legislative Assembly election in April 2006 and consequently emerged as a key player in the state executive and started forming alliance with the ruling party. In the state Legislative Assembly election of 2016 the BPF has gained twelve seats and became the third ally of the winning coalition. Such electoral outcome has significant implication for the BTAD. It will enhance bargaining power of the BPF which inturn can bring the concern of the BTAD into the limelight because the same party has a major presence in the directly elected forty members BTC. Increased bargaining power can ensure timely and prompt transfer of funds from the state to the BTC, greater say in the deliberation of the state budget, an issue considered as a hurdle in proper implementation of the autonomy arrangement by the power holder.

Conclusion

From the above analysis, it become clear that in a region with several minorities, India has at time created sub- regional federations as apparent in the case of District Councils and Regional Councils as ensured under the Sixth Schedule of the Constitution. For the purpose of accommodating minorities, Indian state has shown no hesitation in amending its Constitution. Such process is further accentuated by the emergence of federal coalition politics along with the increased mobilization of the minority communities. In this way the claims of internal minorities have been accommodated without dividing the country into smaller and unviable units.

The working of Autonomous District Councils both as a political institution as well as a formal link with the state has been successful in easing the pressures exerted by ethnic communities to restore to violent means in pursuit of their political objective. It can work as a forum through which tribal and non- tribal as well as intertribal grievances can be mediated. The ADC constituency is quite small; hence successful constituency must generate and allocate political and social capital to sustain in their position where financial requirements have always been quite modest. Hence, leadership opportunities are open to all who otherwise cannot afford from an initial stage. Such modest beginning paved the way of their entry towards higher echelons of political position. Thus by fostering an additional layer of political competition, ADCs have broadened the sphere from which state and national political leaders are chosen. The ADCs have conjoined a third level to India's federal system that in turn enable better political representation and enhanced debate to occur in a more comprehensive way than it would have happened at the Center state level alone (Stuligross, 1999).

However in most of the cases such experiments have a limited degree of success. Although in the shorter period, such arrangement have been successful in reducing the ethnic conflicts by giving power to the minorities concerned within the region, but the government in the region have not always supportive of such arrangement. The ADCs faced lot of challenges in implementing the autonomy arrangements. Their dependence upon the state government is overwhelming. Also, in making such autonomy arrangement, less concern has been paid upon the particularity of the area.

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CONCLUSIONS

The long drawn journey of the Bodo movement has found a settlement with the creation of the Bodoland Territorial Council in 2003. The creation of this institution that required amendment in the Sixth Schedule of the Constitution have given a new colour to the existing local level institutions of District Council and Regional Council. Because earlier Sixth Schedule of the Constitution providing for District and Regional Councils was limited to the hill tribes only. This is not the case with Bodos who are a plain tribe, and not a hill tribe. An amalgamation of different factors has worked together to facilitate the creation of BTC. These factors can be well fitted within the theories of institutional changes as discussed in the first chapter. They are as follows:

1. As provided in the collective choice theory of institutional change, the redesign of District Council by extending its application to the hill tribe that is Bodo has been guided by the previous institutional choices, practices, and norms, etc. The creation of these institutions has been governed by the mandate of the Constituent Assembly debate that embraces integration rather than assimilation in bringing diverse and culturally distinct units into a single Union and accordingly they incorporate adequate provisions in the constitution. It is the conscious collective choices that determine their creation.

2. The federal and democratic nature of the Indian polity has facilitated the bargaining process between the demand and support forces, a process referred by Alston. In response to the growing pressure of mobilization from distinct ethnic group that is the demand force that threatened peace and breakdown of law as well as the unity of the nation; the Indian state that is the support force had to shun force in favour of consensual agreement as the deployment of former had the effect of making the situation more worst. Breaking the situation of stalemate the Indian state has made initiative to bring the rebel groups into an agreement through peace accord. The signing of the peace accord gave the message of legal recognition to the demand of the rebel group.

3. The response of the Indian government has been reciprocated by that section of the rebel group who was ready to replace their demand for separate

statehood in favour of more autonomy while the radical section of the movement still continue with their demand for secession.

Along with these factors the actions on the part of Union Government has been guided by the pragmatic concern of the central political leaders to remain in power in the context of coalition politics which demanded appeasement of regional units. While not conceding the separate statehood demand, the Bodos were granted with self governing institution. The interplay of such compromise between the demand and support forces, the mandate to maintain unity in diversity as well as federalism has facilitated the creation of the sub- regional autonomy institution of BTC over the years.

In looking into the working of the BTC certain findings have become apparent. While not denying the existence of other findings as well as alternative interpretations of the same, an attempt is made to point out some of the findings as follows:

1. The autonomy arrangement under the amended version of Sixth Schedule has largely satisfied the reformist section of the Bodos while leaving the radical section unhappy and dissatisfied. By opening up the scope of legislative, executive and judicial power; the creation of BTC has given them the opportunity for self governance. But for exercising those powers in the ground they still have to heavily rely upon the state government whether for financial or any other matters.

   Although India's federal polity have facilitated the protection of historically constituted cultural – territorial identities below the provincial level but in reality it have shown reluctance in evolving beyond the two level structure that is the centre and the states.

2. It is true that given the demographic composition of BTAD comprising of both Bodo and non- Bodos, the amended version of Sixth Schedule did include provisions for the protection of the rights and security of the non- Bodo people. But in general such arrangement has failed to address the multicultural, multi- linguistic and multi ethnic composite culture of the region. The existence and working of the BTC for more than two decades have seen increasing assertion of the non- Bodo people like Koch Rajbanshi,

minority group etc., that gained momentum in the 2014 Lok Sabha election when all the non- Bodo groups came together to support and elect a non-Bodo candidate. Some of these groups are demanding for creation of separate states.

The creation of such institutions has been characterized by lacking of long term vision. In deriving a solution the Government has taken into consideration the view point of only one section. Views and concerns of different stakeholders were not sought. Although the Government had appointed one member committee under Bhupinder Singh; its recommendations were not taken seriously. The committee had found that according to the provisional census of 1991 the Scheduled Tribes population was around sixteenth lakhs out of a total population of about ninety five lakhs. In this regard any solution in terms of political autonomy in the north plain must consider this demographic factor. The committee recognized the legitimate demand of the plain tribes especially the issues relating to encroachment of tribal land and illegal migration that have brought substantial changes in the demography of the region. In this context the committee has recommended for a multi- layered, multi-structured institutional set-up that could give representation and justice to the indigenous as well as other groups residing in the area. The committee has proposed for division of the plains tribes' area into the west-central sector and the eastern sector and linking them to the state legislature.

While incorporation of such recommendation could have brought stability and peace to the region but again the doubt remain regarding the acceptability of such arrangement by the Bodos who have been demanding for a separate state. The possibility of such arrangement is thin especially in a context where we hardly appreciate the existence of recognition and representation in the absence of its link with territoriality. The creation of Autonomous District Council over a defined geographical territory has well addressed the territorial concern of the Bodos.

Given the demographic complexity and lack of accommodation between Bodos and non- Bodos alternative formulations have been suggested that can be well explored. One such suggestion is put forward by J. K. Sharma (2011) who advocates the idea of a "de-territorialized" autonomy in Assam. Such model is based on the idea for example a

citizen of a Bodo community residing in Karbi Anglong, North Cachar Hills or anywhere in Assam can participate in the process of election and other variety of activities of the Bodo Autonomous Council. In the same way, a Karbi citizen residing outside the Karbi Anglong district in Assam will also be regarded as the integral part of the Karbi Autonomous Council, which is not possible in the present structure. Such arrangement was thought to address the concerns of minorities as well as the claims of other ethnicities for their own autonomous councils which inturn would reconcile the presence of differentiations and ethnic claims in the state. But again this is not an easy task.

Throughout the process involved in the creation of such autonomy institutions it is found that their creation is the result of selective engagement with certain section. And the very fact of their creation has been termed as an end in itself. But in reality their creation has to be viewed as a beginning for further engagement and involvement with the groups and their concerned issues that can make the outcome more durable. As evident from the historical background of the Bodo movement, land and illegal immigrants has been the key issue behind their agitation. For tribal people land is not just a commodity but also a part of their culture and custom. The fear of losing land due to indiscriminate illegal immigrants from Bangladesh has been a major cause of growing conflict between the two communities in the region. In this regard resolution of such structural factors is critical for ensuring peace in the region. The recent National Register of Citizen (NRC) updation is a welcome measure to resolve the citizenship issue that will reduce fear and suspicion among the two groups. Again the success of this initiative depends upon the transparent implementation of the same. There may be discontentment regarding the fixation of cutoff date for determining citizenship. Even though these facts are taken into consideration, but it is not possible to wipe out the stereotyping mindset of the people towards the illegal immigrants overnight.

There is no doubt that federalism has been regarded as the best practical solution to the growing ethnic assertion throughout different countries. But it is used more as a means to manage those conflicts rather than to resolve them. In Indian context the large-scale reorganization of states and creation of multilevel asymmetrical institutions that have granted autonomy in the North-East region well underlined the innovative potential

of federalism. Such arrangement has been successful in holding the parts of the country together. Given the deep level of diversity it is not a mean achievement in itself. However, as Harish K. Puri articulate as well as in many other studies, the case of North-East India points to the problem with "manipulative federalism". Taking recourse to structural reorganization, creation of more states and Autonomous District Councils have been directed by the urgency to manage conflict marked by new insurgency or other kind of political turmoil. Such arrangement has enabled creation of more space for accommodation and co-operation of newer elements of the political class in the local or regional power structure. The Indian state has also relied on different schemes for devolution of more funds through Central grants. While these policies and initiatives are welcoming but little attention has been paid for further arrangements that make such initiatives more durable that will bring peace and stability. Scant attention was given to the development of the democratic and federal political process. There has been neglect in the development of infrastructure of integration and the salience of democratic decision-making in the region that tended to defeat the apparently innovative restructuring of institutions. In this context each new measures of accommodation have therefore triggered not only further struggles by disadvantaged minority political elite for more autonomy but it has also resulted in further alienation and nurtured imaginations of "distinct nations" deserving sovereign status. It has the effect of making "culture as difference" to gain more legitimacy as against seeking for shared interests. (Puri, 2008)

The efficiency of the federal medium in managing cultural diversity would be possible by emphasizing upon the quality of available leadership that hold power in the newly created institutional set up. Otherwise the corruption and vengefulness of political entrepreneurs in such difficult situations can became a powerful factor for escalation of conflict. In a multicultural set up the politics of divisiveness played by political leaders can stand as a hindrance in bridging the gap between communities. Also it will deteriorate the trust of other communities over these institutions. However, our gained wisdom is that there are no better alternatives to federal and confederal arrangements of accommodation and managing conflict.

To sum up, the creation of institutions has to be proceeded through deeper level of deliberation and thinking as well as long term vision so that it can suit the particular context. Given the demographic composition of the BTC region where different cultural communities, minority people have been living together, any institutional arrangement for such areas has to be followed by recognizing the concerns of multiple stakeholders. There should be deep level deliberation to embrace comprehensive arrangement to protect the rights and interests of the non- Bodos like Koch Rajbanshi, Adivasis, and Muslim population along with the Bodos. Securing the interest of one community should not come at the expense of sacrificing the interest of other communities. Otherwise it will result in newer demands for state and further autonomy from other groups also that will make the situation complex. This is very much evident in the BTAD area where the Koch Rajbanshi are demanded for separate Kamatapur state the territory of which will overlap with the imagination of separate Bodoland as a state. In setting up the ground for substantial implementation of the autonomy arrangements, India's federal structure need to genuinely evolve beyond two level federal strata to a multilevel one in certain context. Along with the creation of these institutions there should be prompt actions to resolve certain structural issues like land, illegal immigration that will bring stability and peace to the region. At a greater level attempts should be taken to strengthen institutions like North Eastern Council as well as to ensure proper functioning of Development of North Eastern Region (DONER) Ministry. At a larger policy level intervention the formulation and implementation of Look East Policy have to be done in a manner that lead to the development of the whole North eastern region. Finally, a lot depend upon the emergence of BPF as the major ally of the ruling party in the 2016 Assam Legislative Assembly election. It can enhance their bargaining power in the state that in turn can bring the challenges and problems faced by BTC into limelight as most of the members in the Member of Council Legislative Assembly of BTC are from BPF.

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ANNEXURE I

Memorandum of Settlement (Bodo Accord) signed in Guwahati, Assam on 20 February 1993)

1. Preamble

(i) Both the Government of India and the Government of Assam have been making earnest efforts to bring about an amicable solution to the problems of the Bodos and other Plains Tribals living in the north bank of river Brahmaputra within Assam.

(ii) Towards this end, the Government of India held a series of meetings with the State government as well as with leaders of All Bodo Student's Union (ABSU) and Bodo People's Action Committee (BPAC). The State Government has also separately held discussions with the Bodo leaders. As a result, it has been considered necessary to set-up an administrative authority within the State of Assam under a scheme, the details of which are outlined in the succeeding paragraphs:

2. Objective The objective of this scheme is to provide maximum autonomy within the framework of the Constitution to the Bodos for social, economic, educational, ethnic and cultural advancement.

3. (a) Name: Bodoland Autonomous Council (BAC) There shall be formed, by an Act of Assam Legislative Assembly, a Bodoland Autonomous Council (BAC) within the State of Assam comprising contiguous geographical areas between river Sankosh and Mazbat/river Pasnoi. The land records authority of the State will scruitinize the list of villages furnished by ABSU /BP AC having 50% and more of tribal population which shall be included in the BAC. For the purpose of providing a contiguous area, ever the villages having less than 50% tribal population shall be included. BAC will also include Reserve Forests as per the guidelines laid by Ministry of Defence and Ministry of Environment and Forests, Government of India, not otherwise required by the Government for manning the international border and tea gardens located completely within the BAC continguous area.

(b) Powers

The BAC will comprise of a General Council comprising 40 members, 35 elected on the basis of adult suffrage and having a life of five years. The Government will have powers to nominate 5 members to the Council, particularly from groups which could not otherwise be represented. This Council will have powers to make bye-laws, rules and orders for application within the BAC area on the subjects enumerated in Schedule 'A'.

(c) The Executive Authority of the BAC would be exercised in its Executive Body to be known as Bodoland Executive Council (BEC). The BEC will be responsible for implementation within the BAC area of the laws on subjects enumerated in Schedule 'A'.

(d) The General Council and the BEC will hold office during the pleasure of the Governor of Assam. Consultation with the State Law Department of Government of Assam would be necessary if the Governor proposed to dissolve either the General Council or the BEC before the expiry of its term in accordance with the provisions of law. The executive authority of the BEC will be exercised by the party enjoying a simple majority in the General Council. On completion of elections, the Governor would invite the leader of the majority party to constitute the BEC.

4. Finances (i) (a) The finances for the BAC will be earmarked under a separate subhead within the State budget, in keeping with the guidelines laid down by the Government of India from time to time. The government of Assam would have no powers to divert this earmarked allocation to other heads/areas except in exigencies when there is unavoidable overall Budget cut.

(b) The provisions made in 4 (i) (a) regarding allocation of funds should be in line with the spirit of the Constitution (seventy second) and (seventy third) amendment.

(ii) The BAC would also receive grant-in-aid from time to time within the principles and policies enunciated by the Government of India.

(iii) The General Council will have powers to raise finances from levies/fees/taxes etc., on subjects mentioned in Schedule 'A' subject to Constitutional amendment mentioned above.

(iv) The finances for the BAC will be managed exclusively by its General Council and the statement of its annual audited accounts will be laid on the table of the State Assembly.

5. Powers of appointments The Bodoland Executive Committee would have powers to appoint Class III and Class IV staff within its jurisdiction for implementation of schemes connected with the subjects enumerated in Schedule 'A'.

6. Reservation of Seats the Election Commission of India will be requested by the BAC to consider seat reservation and delimitation of constituencies, both Lok Sabha and State Assembly, within the BAC area to the extent permitted by the Constitution and the law.

7. Special provisions for the BAC area The General Council shall be consulted and its views shall be given due regard before any law made on the following subjects, is implemented in the BAC area:

i) the religious or social practice of the Bodos; ii) the Bodo customary laws and procedures; and iii) the ownership and transfer of land within the BAC area.

8. Special status for the Bodoland Autonomous Council the BAC shall, within the laws of the land, take steps to protect the demographic complexion of the areas falling within its jurisdiction.

9. Special Courts: Action will be taken in consultation with the Guwahati High Court to set up within BAC area Special Courts as specified below to try suits and cases between parties all of whom belong to Scheduled Tribe or Tribes in accordance with the tribal customary law and procedure, if any.

(a) village Courts (b) Subordinate District Customary Law Courts within a civil Sub Divisional Territory, and (c) District Customary Law Court.

10. Appointment in the Central Bodies The claims of the Bodos shall be considered for appointment to the North Eastern Council.

11. Official Language The General Council can lay down policy with regard to use of Bodo language as medium of official correspondence within the BAC area. However, while corresponding with offices outside the BAC area, correspondence will have to be in bilingual from in accordance with the Article 345 of the Constitution and the provision of law in this behalf.

12. Changes in Geographical Boundary The geographical area of the Bodoland Autonomous Council as agreed upon can be changed with the mutual consent of the BAC and the Government of Assam.

13. Revision of List of Scheduled Castes and Scheduled Tribes The scheduling and de-scheduling of Scheduled Castes and Scheduled Tribes residing within the Bodo areas will be done as per the Commission appointed by the Government of India under the Constitution.

14. Trade and Commerce: The General Council will have powers to regulate trade and commerce within its jurisdiction in accordance with the existing law. For this purpose, it can issue permits and licenses to individuals within the BAC area. The Government of Assam and the Union Government while considering allotment of permits to people residing within the BAC area will give preference to the Bodos.

15. Employment opportunities The BAC will have powers to reserve jobs for Scheduled Tribes within its jurisdiction. However, exercise of such powers shall be in accordance with the existing constitutional and legal provisions.

16. Civil and Police Services (i) The Government of Assam may from time to time post officers of the rank of Class II and above to posts within the BAC in accordance with the exigencies. While making these postings due regard will be given to, views of BAC about officers being so posted.

(ii) The officers posted to the BAC area will be accountable to the BAC for their performance and the assessment of their work recorded by the BEC authorities, will be incorporated to their ACRs by the State Government.

(iii) The Central Government, while making recruitments from the State of Assam to the Army, para military forces and police units, will hold special recruitment drives within the BAC area.

17. Appointment of Interim Bodoland Executive Council The Government of Assam will take steps for the formation of an Interim Bodoland Executive Council for the BAC from amongst the leaders of the present Bodoland movement who are signatories to this settlement, during the transition period, i.e. prior to the holding of election. Such Interim Council would be formed before a prescribed date mutually agreed between the Central and State Governments.

18. Relief and rehabilitation

(i) ABSU - BPAC leaders will take immediate steps to bring overground and deposit with the District authorities all arms, ammunition and explosives in the possession of their own supporters and will cooperate with the administration in bringing overground all Bodo militants along with their arms and ammunition etc. within one month of the formation of the Interim BEC. In order to ensure the smooth return to civil life of the cadre and to assist in the quick restoration of peace and normalcy, such surrenders made voluntarily will not attract prosecution.

(ii) The Government of Assam will consider sympathetically the withdrawal of all cases against persons connected with the Bodoland Movement excluding those relating to heinous crimes.

(iii) The Government of India will initiate steps for review of action against the Bodo employees of Government of India and subordinate offices as well as in respect of Central Government Undertakings. Similar action would be taken by the Government of Assam.

(iv)The Government of Assam will initiate immediate steps for suitable rehabilitation of the Bodo militants coming overground as a result of this settlement. Similarly, the Government will organize ex-gratia payments as per rules to next of the kins killed during the Bodo agitation.

19. Share in collection of excise duty on tea The Government of Assam will deposit in the BAC Fund revenue collected from the tea gardens falling within the BAC area.

20. Protection of rights of non-tribals The Government of Assam and the BAC will jointly ensure that all rights and interests of the non-tribals as on date living in BAC area in matters pertaining to land as well as their language are protected.

21. Ad-hoc Central grant for launching the BAC After the signing of this settlement, and ad-hoc Budget on reasonable basis will be prepared by Interim BEC and discussed with the State and Central Governments for necessary financial support.

Sd/- S.K.Bwiswamutiary President, ABSU

Sd/ - Rabi Ram Brahma General Secretary, ABSU

Sd/ - Subhash Basumatari Chairman, BPAC

Sd/- K.S. RAO Add. Chief Secretary to the Government of Assam

In the presence of Sd/- Rajesh Pilot Minister or State (Internal Security) Ministry of Home Affairs, Government of India.

Sd/- Hiteswar Saikia Chief Minister of Assam State Govt. of Assam.

Memorandum of Settlement on Bodoland Territorial Council (BTC)

New Delhi, 10 February 2003

1. The Government of India and the Government of Assam have been making concerted efforts to fulfil the aspirations of the Bodo people relating to their cultural identity, language, education and economic development. Towards this end, a series of talks were held between Government of India, Government of Assam and Bodo Liberation Tigers (BLT) since March, 2000. As a result, it is agreed to create a self-governing body for the Bodo Areas in the State of Assam as follows:

2. Objectives

The objectives of the agreement are: to create an Autonomous self governing body to be known as Bodoland Territorial Council (BTC) within the State of Assam and to provide constitutional protection under Sixth Schedule to the said Autonomous Body; to fulfil economic, educational and linguistic aspirations and the preservation of land-rights, socio- cultural and ethnic identity of the Bodos; and speed up the infrastructure development in BTC area.

3. Area

3.1. The area of proposed BTC shall comprise all the 3082 villages and areas to be so notified by the State Government. The above mentioned villages and areas shall be divided into 4 contiguous districts after reorganisation of the existing districts of Assam within a period of 6 months of the signing of the agreement on the lines of the proposal given by BLT subject to clearance of the Delimitation Commission.

3.2 A committee comprising one representative each from Governments of India & Assam and BLT will decide by consensus on the inclusion of additional villages and areas in the BTC from out of 95 villages and areas on the basis of the criteria of tribal

population being not less than 50%, contiguity or any other agreed relevant criteria within a period of three months of signing of this MoS.

4. Status of Bodoland Territorial Council

The provision of the Sixth schedule and other relevant Articles of the Constitution of India will apply to BTC, mutatis mutandis in terms of this agreement. The safeguards/modifications for the non-tribals in BTC area, inter-alia, will include the following:

4.1. Provision of para1(2) of Sixth Schedule regarding Autonomous Regions will not be applicable to BTC.

4.2. A provision will be made in para 2(1) of the Sixth Schedule for increasing the number of members for BTC up to 46 out of which 30 will be reserved for Scheduled Tribes, 5 for non-tribal communities, 5 open for all communities and 6 to be nominated by Governor of Assam from the unrepresented communities for BTC area of which at least two should be women. Nominated members will have the same rights and privileges as other members, including voting rights. Election from the 40 constituencies of BTC shall be on the basis of adult franchise. The term of the elected members of BTC shall be for 5 years.

4.3. Safeguards for the settlement rights, transfer and inheritance of property etc. of non-tribals will be suitably incorporated in para 3 of the Sixth Schedule. Any such law as may be made by the BTC in this regard will not, in particular:

(a) Extinguish the rights and privileges enjoyed by an citizen of India in respect of their land at the commencement of BTC, and

(b) Bar any citizen from acquiring land either by way of inheritance, allotment, settlement or by way of transfer if such citizens were eligible for such bonafide acquisition of land within the BTC area.

4.4. Provision will be added in para 6 of Sixth Schedule that in BTC area, language and medium of instruction in educational institutions will not be changed without approval of the State Government.

4.5. Provision of para 8 of Sixth Schedule regarding power to assess and collect land revenue and impose taxes shall be applicable to BTC.

4.6. Para 10 of the Sixth Schedule will not be applicable to BTC area.

4.7. Provision of Article 332(6) of the Constitution will be so modified that the existing status of representation of BTC area in the State Assembly is kept intact. After the creation of BTC, the Parliamentary & Assembly Constituencies shall be delimited by the Delimitation Commission in accordance with the provisions of the Constitution.

4.8. In the event, Panchayati Raj system ceases to be in force in the council area, the powers of the Panchayati Raj Institutions in such matters shall be vested with the Council.

The Amendments to the Sixth Schedule shall include provisions in such a manner that non- tribals are not disadvantaged in relation to the rights enjoyed by them at the commencement of BTC and their rights and privileges including land rights are fully protected.

5. Power and Functions

5.1. The Council shall have legislative powers in respect to subjects transferred to it as enumerated below. All laws made under this paragraph shall be submitted forthwith to the Governor and until assented to by him, shall have no effect. The BTC shall have executive, administrative and financial powers in respect of subjects transferred to it.

Subjects to be entrusted to BTC by Assam Government

1. Small, Cottage and Rural Industry; 2. Animal Husbandry & Veterinary; 3. Forest; 4. Agriculture; 5. PWD; 6. Sericulture; 7. Education (Primary Education, Higher Secondary Including vocational training, Adult Education, College Education (General); 8. Cultural Affairs; 9. Soil Conservation; 10. Co-operation; 11. Fisheries; 12. Panchayat and Rural Development; 13. Handloom and Textile; 14. Health & Family Welfare; 15. Public Health Engineering; 16. Irrigation; 17. Social Welfare; 18. Flood Control; 19. Sports & Youth Welfare; 20. Weights and Measures; 21. Library Services; 22. Museum & Archaeology; 23. Urban Development – Town and Country Planning; 24. Tribal

Research Institute; 25. Land & Revenue; 26. Publicity/Public Relations; 27. Printing & Stationery; 28. Tourism; 29. Transport; 30. Planning and Development; 31. Municipal Corporation, Improvement Trust, District Boards and other local authorities; 32. Welfare of Plan Tribes and Backward Classes; 33. Markets and fairs; 34. Lotteries, Theatres, Dramatic performance and cinema; 35. Statistics; 36. Food and Civil supply; 37. Intoxicating liquors, opium and derivatives etc.; 38. Labour and employment; 39. Relief and Rehabilitation; 40. Registration of Births and Deaths.

5.2. There shall be an Executive Council comprising of not more than 12 Executive Members, one of whom shall be the Chief and another one the Deputy Chief of the said Executive Council. There shall be adequate representation for the non-tribal members in the Executive Council. The Chief and the Deputy Chief of the Council shall have the status equivalent to the Cabinet Minister and the other Executive Members equivalent to the Minister of the State of Assam for protocol purposes in BTC area.

5.3. The BTC shall have the full control over the officers and staff connected with the delegated subjects working in the BTC area and shall be competent to transfer officers and staff within the BTC area. ACRs of these officers shall also be written by the appropriated BTC authority.

5.4. BTC shall also be competent to make appointments for all posts under its control in accordance with the rules of appointment followed by the Government of Assam. However, the posts, where recruitment is made on the recommendation of APSC, shall not be covered under this provision. The Council may constitute a Selection Board for appointments to be made by it and may 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.

5.5. No posts shall be created by BTC without concurrence of the Government of Assam and it shall also abide by the decision of the Government of Assam in respect of abolition of/temporarily keeping vacant any post.

5.6. Development functions and bodies within the competence of BTC shall be transferred to BTC. In respect of DRDA, concurrence of Government of India will be obtained.

5.7. The offices of the Dy. Commissioner and Superintendent of Police will be outside the superintendence and control of BTC.

5.8. The State Government would provide an amount, to be decided every year on population ratio basis, as grants-in-aid in two equal installments to the BTC for executing development works. The proportionate share for the BTC shall be calculated on the basis of the plan funds available after setting aside the funds required for earmarked sectors and the salary. This amount may be reduced proportionately if the state plan allocation is reduced or there is plan cut due to resource problem. In addition, the Council will be paid a suitable amount of plan funds and non-plan funds to cover the office expenses and the salaries of the staff working under their control. The BTC shall disburse the salaries of the staff under their control and would ensure strict economy in the matter.

5.9. BTC authority shall prepare a plan with the amounts likely to be available for development works, both under State share and Central share, covering any or all the activities of the departments under their control. The Council shall have full discretion in selecting the activities and choosing the amount for the investment under the same in any year covering all groups of people in a fair and equitable manner. This plan will be a sub set of the State plan and would be treated as its integral part. Once the plan of the State, including BTC plan, gets the approval of the Planning Commission the BTC authority will start execution of their plan in the BTC area. Modifications, if any, made by the Planning Commission in the BTC proposal, shall be binding on the BTC authority. The State Government shall not divert the funds allocated to the BTC to other heads and also ensure its timely release. BTC may have Planning Department to prepare the plans for BTC area to be submitted to Planning Commission through the Government of Assam.

5.10. The executive functions of the BTC shall be exercised through its Principal Secretary who shall be an officer of the rank not below of Commissioner/Secretary to Government of Assam. The sanctioning powers of the Government of Assam shall be vested with the Principal Secretary of BTC and sanctioning powers of head(s) of the

Department(s) including for technical sanction shall be conferred on the senor most officer of that Department preferably not below the rank of Additional Director, who may be designated as Director of BTC for that department. The Principal Secretary and other officers shall exercise their powers under the overall guidance and supervision of BTC.

6. Law and Order

To strengthen the Police Administration, Government of Assam shall appoint an IGP for 4 districts of BTC and the jurisdiction of the DIG Kokrajhar shall also be modified to cover these 4 districts.

7. Revision of list of ST

Consequent to the inclusion of BTC area into the Sixth Schedule, the list of ST for the State of Assam shall be so modified so as to ensure that the tribal status of Bodos and other tribals living outside the BTC are does not get affected adversely.

8. Grant of ST status of Bodo Kacharis of Karbi Anglong and NC Hills districts

The Government of India agrees to consider sympathetically the inclusion of the Bodo Kacharis living in Karbi Anglong and NC Hills Autonomous Council area in the ST (Hill) List of State of Assam.

9. Development of Bodo Language

9.1. The Government of India agrees to consider favourably the inclusion of Bodo Language in Devnagri Script in the Eighth Schedule of the Constitution.

9.2. Bodo language shall be the official language of BTC subject to the condition that Assamese and English shall also continue to be used for official purpose.

10. Additional Development Package for BTC

10.1. The State Government, within the limitation of financial and other constraints, may offer or allow the Council to offer, possible and sustainable additional incentives for attracting private investment in the Council area and would also support projects for external funding.

10.2. In order to accelerate the development of the region and to meet the aspirations of the people, the Government of India will provide financial assistance of Rs 100 crores per annum for 5 years for projects to develop the socio-economic infrastructure in BTC areas over and above the normal plan assistance to the State of Assam. The size of the Corpus will be reviewed after a period of 5 years. Suitable mechanism will be built in the system to ensure that the funds are transferred to BTC in time and at regular intervals. An illustrative list of projects which may be considered to be taken up in BTC given below:

List of projects:

1. To establish a centre for development and research of Bodo language; 2. Upgradation of existing educational infrastructure by way of renovation/addition of buildings, providing modern facilities for teaching such as computers, science laboratories etc. from primary level to college level in BTC area; 3. A cultural complex to be established at Kokrajhar to promote and develop Bodo tradition and cultural heritage; 4. To establish a super-speciality hospital with all modern facilities at Kokrajhar Government Hospitals shall be established in all district, sub-divisional and block headquarter; 5. To establish sports complexes in all the district headquarters; 6. Food processing plants and clod storage facilities at Kokrajhar, Kajolgaon, Udalguri and Tamulpur; 7. Construction of a bridge over river Aai to connect Koilamoila, Amguri etc. with the rest of the district; 8. To build a Bodoland Bhawan in Delhi; 9. To set up integrated agro-processing park and textile-cum-apparel park; 10. Revitalisation of Kokilabari Agricultural Farm; 11. To develop adequate infrastructure to promote Manas sanctuary as an international tourist spot; 12. To complete Champa, Suklai and Dhansiri irrigation projects; 13. To construct a highway on the Indo-Bhutan border from Jamduar to Bhairabkunda to connect remote places located adjacent to the border; 14. To set

up model dairy, fishery, horticulture and poultry farms/training centres at different places in all the 4 districts to encourage youth for self-employment; 15. To enhance the existing facilities in veterinary hospitals in BTC area.

10.3. Government of India will provide necessary one time financial assistance required for development of administrative infrastructure in the newly created district

headquarters, sub- divisional headquarters and book headquarters, besides the BTC Secretariat Complex at Kokrajhar

11. Centrally funded University

11.1. A centrally funded Central Institute of Technology (CIT) will be set up to impact education in various technological/vocational disciplines such as Information Technology, Bio-Technology, Food Processing, Rural Industries, Business Management, etc.

11.2. The CIT will be subsequently upgraded to a Centrally funded State University with technical and non-technical disciplines to be run by the BTC.

12. Relief & Rehabilitation

12.1. The BLT would join the national mainstream and shun the path of violence in the interest of peace and development. After the formation of the interim council of BTC, BLT will dissolve itself as an organization and surrender with arms within a week of swearing-in of the interim council. The State Government would provide full support to relief and rehabilitation of the members of BLT who would surrender with arms in this process in accordance with the existing policy of the State. Financial support in such cases however shall be limited to be provisions of the scheme prepared and funded by the Government of India. Withdrawal of cases against such persons and those related to overground Bodo movement since 1987 shall be considered according to the existing policy of the State of Assam.

12.2. The Government of India will initiate steps for review of action against the Bodo employees of Government of India and subordinate officers as well as in respect of Central Government Undertakings. Similar action would be taken by the Government of Assam.

12.3. Bodo youth will be considered for recruitment in Police, Army and Paramilitary forces to increase their representation in these forces.

13. Special Rehabilitation Programme for the people affected by ethnic disturbances:

The Special Rehabilitation Programme (SRP) for the people affected by ethnic disturbances in Assam, who are at present living at relief camps in Kokrajhar, Bongaigaon etc. shall be completed by the Government of Assam with active support of BTC. Necessary funds for their rehabilitation shall be provided by the Government of India and lands which are free from all encumbrances required for such rehabilitation shall be made available by the BTC.

14. Interim Council

Immediately after signing of the agreement, Interim Executive Council for BTC shall be formed by Governor of Assam from amongst the leaders of the present Bodo movement, including the signatories to this settlement, and shall include adequate representation to the non-tribal communities in BTC area. The Interim Council shall not continue for a period beyond 6 months during which period election to the Council shall be held. Government of Assam shall dissolve the Bodoland Autonomous Council (BAC) and repeal the BAC Act.

15. Government of Assam will consider inclusion of all tribals including Bodos in RHAC/MAC/LAC in consultation with leaders of these Councils.

16. The Implementation of the provision of the Memorandum of Settlement shall be periodically reviewed by a Committee comprising representatives of Government of India, Government of Assam and BTC.

Signed on 10th February, 2003 at New Delhi in the presence of Shri L.K. Advani, Hon'ble Deputy Prime Minister of India and Shri Tarum Gogoi, Chief Minister of Assam.

(Hagrama Basumatary)   (P K Dutta)   (R C A Jain)

Chairman Bodo Liberation Tigers   Chief Secretary Govt. of Assam   Secretary (BM)

Ministry of Home Affairs

Government of India