

**DIFFERENTIATED CITIZENSHIP IN THE PROTECTED
AREAS OF NORTHEAST INDIA: A STUDY OF
ARUNACHAL PRADESH**

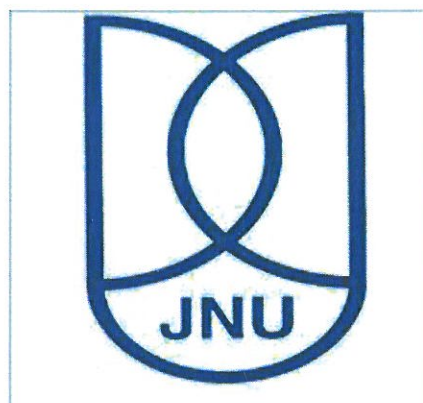
Dissertation Submitted to Jawaharlal Nehru University

in partial fulfilment of the requirements

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MASTER OF PHILOSOPHY

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DECLARATION

I declare that the dissertation titled "DIFFERENTIATED CITIZENSHIP IN THE PROTECTED AREAS OF NORTHEAST INDIA: A STUDY OF ARUNACHAL PRADESH" submitted by me in the partial fulfilment of the requirements for the award of the degree of MASTER OF PHILOSOPHY to Jawaharlal Nehru University is my own work. It has not been previously submitted for any other degree of this 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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To Maa,

whom more is owed than can be expressed

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Adi Students' Union (AdiSU)

Arunachal Pradesh Scheduled Tribe (APST)

Central Reserve Police Force (CRPF)

Democratic Front of Bodoland (NDFB)

Inner Line Permit (ILP)

National Hydroelectric Power Corporation (NHPC)

National Register of Citizens (NRC)

National Socialist Council of Nagaland (NSCN)

North East Frontier Agency (NEFA)

Protected Area permit (PAP)

Scheduled Tribe (ST)

Students United Movement of All Arunachal – East Siang (SUMAA-ES)

Students United Movement of All Arunachal (SUMAA)

United Liberation Front of Assam (ULFA)

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Chapter 1

Introduction

In this study, an attempt has been made to delve into the politics of ethnic and community belonging among the people of Northeast India, and examine the role of politicisation of ethnic identities in shaping legal, political, economic and social aspects of citizenship in the region. The Introduction outlines the framework of this dissertation along with a brief overview of the subsequent chapters and the methodology of the study. In multicultural and multi-ethnic societies, differences in identity serve as the underlying foundation for the claims to differentiated status within the polity. This study seeks to examine such claims to differentiated citizenship conveyed in the language of indigenous identity by ethnic minorities territorially concentrated in the northeastern states of India, and particularly Arunachal Pradesh.

The chapters in this dissertation engage with issues that are central to the mobilisation of the 'indigenous' identity of people in Northeast India and probe the resonance of demands associated with the assertion of indigenous identity. The objective of this study is to probe into Indian state's practice of differentiated citizenship through the institutionalisation of these ethnic entitlements for the natives of Arunachal Pradesh which gives them an advantage over the non-residents of the state. It also seeks to explore the implications of the politicisation of identity and resource over the life prospects of 'native' people and 'outsiders' in the region. So, this dissertation traverses the trajectory of the state and people in Northeast India in assertion, recognition and accommodation of indigenous identity which has ensured a differentiated form of citizenship for them within the Indian state.

As the context for this dissertation is Northeast India, it is important to elucidate the term 'Northeast' and its significance for the study. Emphasising on the recent origin of the term, Partha S. Ghosh notes that the term Northeast India was first used in the wake of the creation of Northeastern Council in the 1970s (Ghosh, 2009, p. 3). The term 'Northeast' holds meaning as a relational term for the geographical reference of eight Indian states when they are seen from the vantage point of 'mainland' India. The term 'Northeast India' is used to refer to eight states i.e., Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura, and Sikkim. T. Subba notes the inappropriateness of the term as a geographical reference

because of the location of most of the capital cities of Northeastern states such as Imphal, Shillong, Aizawl, which are positioned as southeast of Delhi (Subba & Wouters, 2013, p. 6). The demographic composition of Northeast India makes it an apt site for engagement with issues of identity, indigeneity and citizenship. The northeastern states of India encompass diverse ethnic communities who identify themselves with 'indigenous' identity and are recognised as Scheduled Tribes by the state for official purpose. With few states having as high as 60 per cent tribal population¹, the discussion on Northeast is usually shaped by the framework of 'tribalist' discourse².

Niraja Gopal Jayal notes that the term 'differentiated citizenship' is a relatively modern construction which has not found place in the scholarly writings of early 20th century. She writes that, "The term is of more recent origin, used by political theorists to signal their discomfort with universalist notions of citizenship that entail the recognition of individuals as constitutive units of the polity, and as bearers of equal rights without any consideration of inequalities in their wealth, social status or identity" (Gopal, 2011, p. 186). She argues that a discourse of citizenship which is 'liberal', 'homogenising', and 'difference blind' leads to concealment of the historical disadvantages and inequalities faced by citizens, and fails to unmask the failures of state's policy of neutrality (Ibid.). On the other hand 'differentiated citizenship' entails divergence from formal equality and neutrality towards a discourse of citizenship which recognises diversity and provides for its accommodation through various legal and political measures. The measures which facilitate state's pursuit of differentiated citizenship include allowing an exception to communities from the observance of certain laws owing to their special status, affirmative action, asymmetrical rights, and the imposition of restrictive rules on non members of the indigenous or ethnic communities.

¹ In Northeast India Mizoram, Nagaland, Meghalaya, Arunachal Pradesh are predominantly tribal states where Scheduled Tribe population constitutes more than 60 per cent of the population (Census of India 2011).

² This "tribalist discourse," van Schendel argues in the context of the Chittagong Hill Tracts in Bangladesh, is grounded in the "presumption that all tribes share characteristics that are fundamentally different from, even opposite to, those of civilized people. Principal among these are 'childish' qualities that betray a lack of socialization: immoderately emotional behaviour (revelry, sensuality, extravagance, cruelty, fear of the supernatural) and naivete ' (credulity, incapacity to plan for the future)" (Schendel, 1992, p. 103).

Iris Marion Young delineates the tension in the universal conception of citizenship, which virtue of its universality seeks to ensure similar life to everyone and same treatment of all the citizens. She writes that “far from implying one another, the universality of citizenship, in the sense of the inclusion and participation of everyone, stands in tension with the other two meanings of universality embedded in modern political ideas: universality as generality, and universality as equal treatment”(Young, 1989, p. 251). She finds the solution for this conflict in practice of differentiated citizenship which ensures inclusion and participation of everyone in full citizenship. So, in diverse societies where certain sections of the communities are bound to be privileged than rest, Young advocates for group differentiated rights which takes into consideration the disadvantage of people and addresses it .

Recognizing the importance of distinguishing historical and cultural existence of people in determination of citizenship an individual enjoys, Anupama Roy writes that, “Even among members or those who legally ‘belong’, socio-economic and cultural contexts would ultimately determine the terms of inclusion so that even when citizenship makes claims to being a horizontal camaraderie of equal members, it embodies in actual practice, a range of graded and differential categories and corresponding lived experiences of citizenship” (Roy, 2008, p. 245). In the subsequent chapters of this dissertation, the distinctive history of the territory of Arunachal Pradesh and its people has been laid out, which served as the underlying foundation for their differential inclusion in the Indian state.

There have been multiple concerns associated with the practice of differentiated citizenship. First and foremost being that recognition of identities of individuals as members of communities will lead to hardening of these identities which may undermine the unity of polity and goal of realising civic citizenship. Kymlicka and Norman note the existing opposition between diversity and citizenship in multiethnic societies, “there are legitimate concerns that some minority groups, perhaps in response to the rigid conception of citizenship advanced by the majority, have appealed to notions of identity and difference that leave little room for the promotion or nurturing of these aspects of democratic citizenship and social unity” (Kymlicka & Norman, 2000, p. 11). They argue that politicisation of ethnic identities occludes any form of communication between minority communities and the state, and in extreme situations, these minority communities even resort to the rejection of

the citizenship of the state to assert their demand for autonomy or secession. In such circumstances, any form of solidarity between the minority communities and rest of the citizens of the state escapes from public discourse. The experience of Northeast India instantiates the arguments advocated by these scholars with reference to differentiated citizenship.

The salience of ethnicity in the polity and society of Northeast India had meant that demands for the recognition of the distinctive identity of individuals and communities have been formulated in the language of self-governance and autonomy whose meaning has ranged from secession from the Indian state to territorial autonomy within the state. These demands for territorial autonomy are seen as a threat to the democratic citizenship. The demand for separate districts, states or nations have been shaped by resentment of 'original' inhabitants of the land against the increasing presence of 'outsiders' in their territory who pose threat to their culture, identity, resources and sovereignty. Baruah calls this carving out states based on the ethnic identity of people as the creation of 'ethnic homelands' where every community seeks to dominate the territory with its presence and accumulate all its resources for itself, and accessing equal educational and employment opportunities made possible by the existence of exclusionary measures ensuring existence of 'outsiders' remains outside the fold of ownership of land in these territories (Baruah, 2007, p. 49). However, it is essential to recognise that the individuals in indigenous societies simultaneously hold affiliations to multiple identities. They are citizens of the wider state at the same time they belong to particular internally differentiated indigenous communities with its specific norms, rules and regulations. By virtue of being situated in such a position, they make claims based on their own customs and laws, as well as with reference to liberal-democratic legal and political instruments. The purpose of the research is to look into the various aspects of such political, cultural claims from indigenous people which are different from equal individual rights. The research seeks to examine the differentiated status of various indigenous minority communities between (and among) themselves and also in relation to non-members of these communities in the indigenous societies.

The research also seeks to look into the ways in which these claims have found institutional expression in Indian state's endeavour towards accommodating ethnic diversities and pluralities. After exploring the existing provisions of the Indian

state through which it seeks to realise its objective of granting differentiated rights within the constitutional legal framework and institutional arrangement, it becomes evident that diversity and citizenship need not be irreconcilable rather recognition of differentiated rights of ethnic communities within the framework of universal citizenship is plausible. It is within this broad framework of parallel existence of differentiated rights and universal citizenship we have tried to situate our following chapters. Set up against a background of polity and society of Northeast India, the scope of the study is limited to Arunachal Pradesh in particular. The 'native' people of Arunachal enjoy and strive for entitlements which seek to expand the individual rights guaranteed to them as citizens in the Indian Constitution. This is an effort towards seeking state's attention to recognise and accommodate the identities of citizens as members of indigenous communities.

One of the objectives of this study is to elucidate the diverse ethnic demographic makeup of Arunachal Pradesh and examine the complexity involved in recognition of indigeneity as a criterion for grant of legal citizenship. Here it becomes important to emphasise that mobilisation of indigenous identity in ethnic societies takes place around issues of political, social and economic justice, these are also the issues which concern the practice of citizenship. The recognition of the indigenous identity of communities holds importance as it goes beyond the recognition of a status or identity and has implications for the political, economic and social well-being of individuals living within a territory. Based on the languages spoken by the people indigenous to Arunachal Pradesh, Linguistic Survey of India identified the tribes in Arunachal Pradesh as members of Tibeto-Burman linguistic group of North Assam. However, the Khampti of eastern Arunachal Pradesh is an exception to this group who speak a language belonging to the Chinese-Siamese family of Tai group. If we trace the history of major tribes in Arunachal Pradesh it becomes evident that all of them have migrated to their present residence in the state from nearby countries at different points of time. The tribes of western Arunachal Pradesh along with Sherdukpens, Nishis, Adis trace their origin to Tibet, and it is only in recent times that they had crossed McMohan line to settle in present land by replacing the existing communities living there. The Mishmis, Khamptis, Singphos are thought to have arrived from Burma at different point of time in history to settle in their present

territories of residence in Arunachal.³ In absence of any concrete historical evidence of migration Nishis are considered to have come from Khamsyul division of Tibet. The migration of Wanchos and Tangsas to eastern Arunachal is traced to a period after the arrival of Ahoms to the Brahmaputra valley in the 13th century. Against this backdrop of a society where the history of migration is shared by almost all communities, following chapter looks into the role of variation in time period determining the indigeneity and relative indigeneity of communities which becomes the basis for the endowment of differential entitlements to individuals.

In Chapter 2 I dwell upon the complexities involved in the process of recognition of the identity of communities in tribal societies. As the process of recognition in tribal society is a continuous one, so it is difficult to fixate the number of tribes and sub-tribes within the states. The argument has been illustrated in the chapter by taking the case study of few tribes in Arunachal Pradesh who continue to strive to establish their indigenous belonging to the state with the objective to bring them within the fold of Arunachal Pradesh Scheduled Tribes list. The inclusion is significant as it gives validation to their tribal identity and makes them eligible as a recipient of state's welfare programmes.

The ambiguity over the names of the tribe in the state is suggestive of the existence of a multitude of major and minor tribal communities in the state. This is one of the factors responsible for complicating the procedure of recognition of communities as Arunachal Pradesh Scheduled Tribes, which at times have even led to the denial of citizenship to certain communities. In the second Chapter along with other ethnic communities in Arunachal Pradesh, the case of the lesser known community of Yobins has been taken up, who have a history of losing and acquiring Indian citizenship due to ambiguity over their identity. M.L. Bose notes this ambiguity in the name of the tribes of Arunachal Pradesh arose from the variation in the way they called themselves and the way they were referred to by people from the plains in the Brahmaputra valley. The tribes in the Kameng districts were called as Bhutia, the Nishis were called as Daflas and the inhabitants of the Siang district were called Abors who called themselves Adi meaning hillmen. The tribes of Lohit district

³ The Mishmis are thought to have migrated around 500 hundred years ago from Burma to Arunachal Pradesh. The Khamptis are thought to have migrated from north of Burma to Assam in the 18th century to settle in the territories presently known as Lohit and Dehing. The migration of Singphos from Burma to their present land in Arunachal is traced to a much later date in 1822-1823.

were named as Mishmis which they rejected as they called themselves by names of their group i.e, Idu, Miju, Taraon. Due to their proximity to present day Nagaland the tribes in the eastern district of Tirap in Arunachal Pradesh were identified as Nagas but these people identify themselves as Nocte Tangsa and Wancho (Bose, 1997, p. 16).

The process of recognition of the origin of tribes is further complicated by obscure bureaucratic accounts. The official records of the colonial administration cite multiple origins for a single tribe. In the Census Report of 1931 R.C.R.Gumming notes that "In none of these tribes there are any traditions of origin which go back very far. All claim origin from one race or tribe settled in the Bomo- Janbo country. From Killing part of the tribe journeyed south across the Siyom river and occupied the hilly country between that river and Subansiri and the Brahmaputra. These are known as Galong". In the Census report of 1961 same people are designated as immigrants from Kham province of Tibet (Bose, 1997). More often than not, such indecisive opinion regarding the origin of a tribe among the bureaucratic circle and communities is attributed to the absence of written history of these societies. Even where the oral history of tribal communities exist, often it is loaded with mentions of multiple sources of origin of the community with multiple routes of immigration at different points in history making the entire process of tracing their origin very intricate.

William Robinson in his work *A Descriptive Account of Assam* warns about the futility of tracing the origin of tribes of Arunachal Pradesh due to unavailability of knowledge about that period, "It would be most cautious and perhaps the most philosophical course to abstain from any conjecture relative to their origin or from any attempt to penetrate into the nature of cause of which even the most distant results are partially known to us" (Bose, 1997, p. 16). It is this undeniable uncertainty about the historical origins of the people of Northeast Frontier Agency or present-day Arunachal Pradesh which may bring the designation of Arunachalees as 'indigenous' people to contestations when analysed using the definition of 'indigenous' as determined by various anthropologists and international organisations. However, tribes of Arunachal Pradesh do fulfil other attributes associated with 'indigenous' identity, for a longer period they have led marginalised existence, dependent on subsistence agriculture and governed by rules and customs of traditional institutions of their tribes. These specificities of tribes of Arunachal Pradesh shapes the contours

of debate on indigenous identity and the politics involved in the process of recognition.

After the discussion on history of origin of tribes in Arunachal Pradesh, it can be argued that empirical reality of Arunachal stands true to Parth S. Ghosh's argument that phenomenon of migration is central to the history of ethnic communities in Northeast which is made complex by the varying nature of these population movements from intra -state movements to inter -state movements vice versa and it carries crucial ramifications⁴ (Ghosh, 2009, p. 4). Even though the history of migration is shared by several communities in Northeast India, this has not resulted in equal acceptance and inclusion of all migrants within the territory and polity of their destination. Van Schendel notes that "In public debates in Northeast India there have been attempts to strengthen the insidious connotations of the term 'infiltration' by using the hyperbole of demographic attack" (Van Schendel, 2005, p. 195). The xenophobic overtones have found justification in the experience of Tripura where the overwhelming presence of migrants has reduced the native population of the state to a minority. Such connotation of migration has overshadowed the political narrative of states in Northeast India, where immigrants are identified as encroachers of land, resources, jobs of the native people, and pose threat to the social fabric. In the public discourse of Northeast India, the term 'outsiders' or 'foreigners' signify people who don't trace their origin to the state in question. The portrayal of these migrants as criminals is a prevalent narrative in the states of Northeast India. In Arunachal Pradesh several public testimonies of indigenous people of the state hold 'outsiders' as responsible for increasing crime in the state, which forms as justification for ousting of 'outsiders' from the state.

The polity and economy of Northeast India have been shaped by ethnic identity which has culminated into the mobilisation of people along ethnic lines for autonomy, secession, rights based on indigenous identity. The identity of indigenous individuals may seem to stand in conflict with the identity of the citizen of state but Indian state has sought to recognise the multiple existing identities of individuals to facilitate their existence as members of ethnic communities as well as the state. We

⁴ The labourers who migrated from Central India to Assam to work in tea plantations continue to live a substandard devoid of recognition of ST status which members of their communities enjoy in states of Central India, and those who migrated as indentured labour in Fiji, Mauritius, Guyana have raised to high positions in governance also.

have used the framework of differentiated citizenship to look at how ethnicised citizenship has gained salience in the discourse of citizenship. The chapters seek to examine various mechanisms such as administrative measures, constitutional provisions and legal rights which have resulted in the experience of differentiated citizenship for the people of Arunachal Pradesh. Arunachal Pradesh has not been recognised under the sixth schedule of the Indian Constitution but its special position in the Indian state has been recognised through several administrative measures. In its pursuit of the goal of differentiated citizenship Indian state has resorted to ensuring reservation in educational institutions, employment opportunities, and the imposition of restriction on liberty of non members for protection of the minority community. The underlying justification for such measures was the historical disadvantages and distinctive identity of Arunachali people. Regarding imposition of liberty on outsiders Kymlicka notes that, “It is usually a matter of high controversy, however, when a cultural group within a democratic state demands the right to limit the liberty of fellow citizens who are not members of their group. In general, these rights are justified in the name of protecting potentially fragile elements in minority cultures; and the need to protect cultures is often justified with the idea that a healthy cultural context is a necessary condition for individual autonomy and self-respect” (Kymlicka & Norman, 2000, p. 27). In Arunachal Pradesh, this has been given effect through legislation like Bengal Eastern Frontier Regulation 1873 which not only restricts the unfettered movement of ‘outsiders’ or non residents in Arunachal Pradesh but also excludes them from ownership of land and any form of permanent settlement in the state.

In Chapter 2 we discuss the case of Arunachal Pradesh in context of its historical specificity and the particularities of its people which necessitated the continuation such regulations in the post-colonial period. Rustomji notes that the rationale behind the policy of Indian state towards NEFA was not to keep the tribes in isolation, a purpose which colonial policies sought to fulfil to protect their economic interests. By pursuing a policy of protection to the tribes of NEFA at the same time giving them autonomy in matters of culture and governance, India state sought to establish the confidence of the local people in the government and its administration. Also, it was meant to prepare these tribes, who lead an isolated existence until now, to face the challenges posed by the outside world. With changing circumstances it had

become important that local people of NEFA could exercise their discretion in instances of conflict between their traditional values and changing circumstances (Rustomji, 1983, p. 113). The chapter discusses the changing nature of these colonial-era regulations which were introduced with the aim of restricting the mobility of the hill tribes of Assam to confine them in their space to secure the commercial interests of British entrepreneur in tea plantation. The continuation of this policy was the conscious decision based in the Nehru -Elwin philosophy of progress without any haste which dictated Indian state's policy in North East Frontier Agency, present-day Arunachal Pradesh. Over the years the colonial regulation meant for isolation of tribes evolved as a measure of protection of the identity and interest of the tribal people of Arunachal Pradesh. In recent times with greater politicisation of ethnic identity in the state, the regulation is increasingly turned into a surveillance mechanism to assert the authority of the state in sieving out 'outsiders' and 'illegal migrants' from the state. This development has to be seen in the context of increasing contestations and conflicts over the Citizenship Amendment Bill 2016 in Assam which is also impacting the society of polity of Arunachal Pradesh by virtue of the fact that both are territorially contiguous.

One of the conundrums for the scholars has been to resolve the assumed irreconcilability between minority rights and civic citizenship, as recognition and accommodation of the ethnic identities of individuals within the existing liberal framework of citizenship is not only criticised for fuelling divisive tendencies but Will Kymlicka and Wayne Norman note that critics of minority rights see it as a deviation from principles of justice. They write that, "To ascribe rights or benefits on the basis of membership in ascriptive groups was seen as morally arbitrary and inherently discriminatory, necessarily creating first- and second-class citizens" (Kymlicka & Norman, 2000, p. 32) A line of argument pursued by Sanjib Baruah regarding existing measures for protection of the 'indigenous people' in states of Northeast India. States such as Arunachal Pradesh, Nagaland, Mizoram continue to be governed by colonial-era regulations like Bengal Eastern Frontier Act 1873 which regulates the movement of 'outsiders' in the region and exclude them from permanently settling in these states and from ownership of land. The political exclusion of 'outsiders' or non permanent residents in these states occur through reservation of all seats in legislative assembly except one for the STs of the state. This

exclusion of non-tribal people from contesting in electoral politics also means that the concerns and demands of this section of the population remain absent from the debates in public discourse. Referring to such provisions, Baruah calls them as ‘instruments of protective discrimination’ which is responsible for the creation of “a defacto regime of two tiered citizenship” (Baruah, 2003, p. 1624).

Sanjib Baruah’s arguments not only raise questions regarding the appropriateness of the existing mechanisms for realising the goal of differentiated citizenship, it also doubts the authenticity of claims of several communities for these protective measures. Baruah is critical of extension of Sixth Schedule protection to communities in Northeast which don't share the same historical isolation or indigenous belonging to territories like communities which were initially included within the Sixth Schedule. He argues that "Extending a set of rules meant for isolated aboriginal groups to new groups in the profoundly transformed conditions of the twenty-first century cannot but produce a crisis of citizenship that is eloquently represented by the adivasis in the refugee camps of Kokrajhar” (Baruah, 2003, p. 1625). This leads to further contestations associated with the determination of the deserving recipients of the status of ‘differentiated citizenship’. To reduce arbitrariness from this process of recognition, one can take cue from Kymlicka and Norman’s statement that, “it is important to distinguish the reality of inequality and the oppression and stigmatization it fosters, on the one hand, from the perception of unequal status, on the other” (Kymlicka & Norman, 2000, p. 32). Even though Baruah is correct in recognising the threat that ethnic mobilisation of identity poses to rest of the communities who don’t form part of that identity, given the ethnic makeup of the demography of Northeast India it would be naive assumption that identities in such region can remain fixated⁵. With regard to the ‘identity formation among the modern ethnic labels’ in Northeast India, B.G.Karlsson writes that, as these communities are transforming from a ‘fuzzy’ community towards a “fixed” one, any distinct sense of identity is yet to develop among them. These communities are still building their identity based on their historical existence and their relationship with ethnically similar communities (Karlsson, 2001, p. 27). In such circumstances, it is expected that these communities in coming times will resort to the further

⁵ Karlsson mentions about the constant evolution of identity among Bodo, Nagas and Rabha people. Referring to these communities he says that identity of modern "ethnic labels" in Northeast India cannot be fixed for a long period of time.

mobilisation of their identities establish claims for recognition of their differentiated status. Instead of rejection of such claims for being frivolous, the situation necessitates engagement with these claims to examine their rationale in individual cases and arrive at appropriate criteria to arbitrate between competing claims to differentiated citizenship.

Contrary to this, defenders of minority rights consider recognition of ascriptive identities of individuals as necessary to overcome the historical disadvantages that some communities have been subjected to and for the realisation of fairness (Kymlicka & Norman, 2000, p. 4). In the subsequent chapters of this dissertation, we seek to explore this isolated historical existence of present-day Arunachal Pradesh and distinctive demography of the territory which paved way for several administrative ways through which the claims for differential citizenship status found expression in Arunachal Pradesh. Such measures aim to privilege the protection of identity and interests of ‘originals’ of the state by imposing restrictions on the non-members or ‘outsiders’ in the state. However, in order to avoid any generalisations regarding the fairness of these institutions, it becomes imperative to do case by case analysis of the appropriateness of the regime of differential citizenship which is permeated by the category of indigenous identity. To pursue this objective, in the third and fourth chapters we examine colonial era legislations like Bengal Eastern Frontier Regulation Act 1873 which continue to exist in Arunachal and which prohibits free and unregulated entry of non native Indian citizens in the state and restricts any transfer or sale of land to the non native Indian citizen. Every non-native Indian citizen has to procure an Inner Line Permit from the relevant state authority before entering into the state. Such laws are seen as fuelling a process of inequalisation of ethnic others in the region. This study engages with the implications of the regime of what Baruah calls ‘protective discrimination’ on the polity and society of the state, as well as on rest of the Indian citizens living in Arunachal who are considered as ‘outsiders’ in the state.

In Chapter 2 titled as Indigeneity and Politics of Belonging, we discuss the various arguments from which people derive their claims for exclusive status and autonomy among people in Northeast India. Primarily it is the indigenous identity of the people which informs their claims for ‘differentiated citizenship’. The chapter engages in the existing theoretical discussions on the category of ‘indigenous’ and

'tribe' and examines the appropriateness of the application of the term 'indigenous' in the Indian context. Taking Northeast India as context for discussion, the chapter looks into the contestations associated with the recognition of the indigenous identity of people and how the variation in the degree as well scope of indigeneity among people makes the process of recognition a complex one. As the establishment of the authenticity of the indigenous identity acquires importance it becomes evident that the issues of indigeneity is not only a question of identity or status, but it is a political question as well which is closely bound with the claims of political, economic and social resources within a territorial frame.

The chapter seeks to establish that the questions of political, economic and social justice around which practices of indigeneity are shaped are also the questions of citizenship. In particular, the chapter discusses the prevailing situation in Arunachal Pradesh where the administrative ways of recognition of the indigenous status of people to list them as Scheduled Tribe in the state is an intricate process marked with many contestations due to the presence of Tibetan and Chakmas. While the former community in the state has been accused of manipulating the administrative procedures to fraudulently acquire Arunachal Pradesh Scheduled Tribe certificate to receive benefits of the state, the latter community is abhorred by the people for their continuous struggle for Indian citizenship which would ensure their permanent settlement in the state. In Northeast India, the indigenous rights protection regime acts as an organiser of the social and the political life of the people in the state. These regimes are sites of contestations and political confrontations framed by migration and indigenous agency. The case study of Arunachal Pradesh as an indigenous society makes it evident in such regimes of indigenous rights various entitlements are determined based on the history of migration of communities to the state. Even though the history of migration is shared by most of the people in the state but it is the variation in the degree and time period of migration which makes a sharp distinction between the native tribes, other tribes and the non-tribal outsiders. The criterion of relative indigeneity plays a crucial role in the formation of identities of people in the state which determines the endowment of various entitlements.

As we note in Chapter 2 that the historical isolation of the people of Arunachal Pradesh and their indigenous identity serves as the rationale for their differential treatment by the Indian state. Chapter 3 is an attempt to understand the notion of

citizenship in multi-ethnic states and study the state's endeavours to accommodate ethno cultural differences through institutional arrangements by embedding these discussions within specific policy debates. These policy debates range from Inner Line Regulation, indigenous land rights to non territorial forms of autonomy and political reservation. This chapter specifically concerns itself with legislation Bengal Eastern Frontier Act 1873 which has served to secure differentiated status to the natives of Arunachal Pradesh which is a variation from equal individual rights, yet it is normatively plausible. Discussion of such legislations brings into foreplay that citizenship as a category is concerned with the process of identification and enumeration to organise people as 'citizens' and 'outsider', in Arunachal Pradesh the Inner Line Regulation defines the scope of such process of recognition of 'natives' and 'outsiders'. It becomes evident that in present times colonial era legislations have become instruments in the hands of the state to assert their territoriality and sovereign power in the determination of the fate of the native citizens and 'outsiders' in the state. This chapter seeks to analyse existing mechanisms of Inner Line Permit which has ensured exclusive treatment of people of Arunachal Pradesh, its evolution as an administrative tool of governance, and its relevance in present times with reference to its implications on the natives as well as outsiders in the state.

In Chapter 4 the framework of land regulation in Arunachal Pradesh has been delineated primarily through legislations which govern land ownership in the state Bengal Eastern Frontier Act 1873, Arunachal Pradesh (Land Settlement And Records) Act 2000, Arunachal Pradesh (Land Settlement And Records) (Amendment) Act 2018. The chapter discusses debates around two issues. Firstly, in societies with a dominant tribal population where customary laws primarily govern the socio-economic life of people, the case of Arunachal Pradesh is not different where traditional institutions govern ownership and transaction in the land. It engages with the debates which assume an inherent dichotomy between the formal and customary law. Secondly, the chapter discusses how in ethnicised polity the claims for exclusive ownership of land is used as an instrument by a certain section of the society to develop rent economy for themselves by excluding of 'outsiders' from participation in the market. Even though the legislations of the government entailing differential treatment of 'natives' and 'outsiders' don't frame the issues associated with land ownership, the practice of trade, political representation as issues of citizenship, but

through these chapters, we seek to illustrate the existing relationship between different ethnic entitlements to people and citizenship. As Arunachal Pradesh has to bear repercussions of recent developments like Citizenship (Amendment) Bill 2016 and Naga Accord, the final chapter of the dissertation gives an incisive view into the contemporary issues and contestations around citizenship, territoriality and autonomy in the state.

In this dissertation, two categories have been identified as central to this study i.e, indigeneity and citizenship. For the purpose of the study I have referred to the existing body of literature on these two categories, along with several primary and secondary studies on Arunachal Pradesh. It is through engaging with these works an attempt has been made to address the issues and contestations surrounding the notion and practice of differentiated citizenship. The extensive part of this research is based on analysis of secondary literature as books, journals, local newspapers. This has been used along with primary resources like Census of India records on Arunachal Pradesh, several legislations specific to Arunachal and reports of Anthropological Survey of India on the state. The chapters of this dissertation are woven around the theme of recognition of differentiation based on 'indigenous' identity and the mechanism through which differentiated citizenship has been given expression in ethnicised polity in Northeast India, and particularly Arunachal Pradesh. The chapters engage with the debates and contestations surrounding such protective mechanisms. They seek to examine how such mechanisms lead to reinforcement of 'insider'- 'outsider' binary existing in such societies.

Chapter 2

Indigeneity and Politics of Belonging

Historically in the states of Northeast India, the ethnic identity of people has been a significant determinant in several ethnonational movements and ethnic conflicts in which the states have been mired perpetually. In recent times the desire for secessionist movements driven by ethnic identity seems to have been replaced by the budding desire among people to formulate claims for their exclusive status and autonomy based on their 'indigenous identity' which remains under constant threat from the 'outsiders'. The objective of the chapter is to engage with 'indigenous identity' as a criterion which informs the state practices for exercise of group differentiated citizenship. In this chapter, I seek to illustrate the complexities associated with the state's exercise of differentiated citizenship by employing the category of Scheduled Tribe for communities in Northeast India, and Arunachal Pradesh in particular.

The term 'indigenous' is a contentious term as there is no one accepted definition for it. Often the term 'indigenous', 'tribal' and 'adivasi' are conflated with each other but the works of eminent scholars of the field suggest that all three terms are not coterminous with each other. The chapter begins with the analysis of categories of 'indigenous' and 'tribal' as they have been addressed in the works of several scholars as two distinct categories. It is followed by engagement with the pertinent issues in states of Northeast India which involves contestations around indigenous belonging of communities and variation in scope and degree of their indigeneity. As the determination of authenticity of indigenous identity acquires importance it becomes evident that the issue of indigeneity is not only a matter of status or identity but it is also a political question, because it is closely bound with claims to political, economic and social resources within a territorial frame. So, the issues of political, social and economic justice around which practices of indigeneity is shaped are also issues which concern practices of citizenship. In particular, the chapter takes up the case of Arunachal Pradesh to understand the distinctive nature of society and polity of the

state which has been the underlying foundation for differential inclusion of Indian citizens within the state. In the chapter I dwell upon the contestations surrounding claims of indigenous belonging among various communities of the state and its linkages with the practice of legal citizenship.

2.1 Conceptual understanding of categories of ‘tribe’ and ‘indigenous’ identity

The Indian Constitution has envisaged a regime of citizenship which is primarily universal in nature with individual as its basic unit, whose inclusion in the polity was at par with all other citizens of the state (Jayal, 2011, p. 193). However, the politics surrounding the indigenous identity in Northeast India is reflective of the significance of historical origin and nature of group membership in differential inclusion of individuals within the regime of Indian citizenship. Regarding the principle of differentiated citizenship in the Constitution she notes that, “Privileging the conception of universal citizenship, the Constitution consciously sought to accommodate the claims of historically disadvantaged groups on the grounds of protection or compensation for disadvantage, rather than on the grounds that these were distinctive interests that needed special representation in the political system” (Jayal, 2011, p. 193). The objective of the chapter is to bring forth the significance of historical and social context of communities in Arunachal Pradesh which became the basis for their differential inclusion in the Indian polity through several legal and administrative measures. The acknowledgement of the need for protection of tribal communities, owing to their historical marginalisation, came in the form of designation of Scheduled Tribe status to them. The status provided for reservation in education, public sector employment, and promotion to ensure equality of opportunity to these communities. In order to ensure adequate opportunities to historically marginalised tribal communities, constitution also provided for reservation of seats in state assembly and Lok Sabha for them. In order to protect these communities in their territorial habitat, state practices also necessitated restricting the rights of rest of Indian citizens to move freely, reside and settle in such territories within India⁶.

Even though India state addresses the demand of historically marginalised tribal communities by attributing them ‘Scheduled Tribe’ status, more often than not,

⁶ This point will be further elaborated in Chapter 3 where the discussion will be on Bengal Eastern Frontier Regulation 1873.

the 'native' people in states of Northeast India frame their claims and demands for differential treatment in language of indigenous belonging to the land. With reference to Northeast India Rajesh Dev writes "that in the determination of the justifiability or legitimacy of claims by non-dominant groups it is not residency but 'indigeneity' that determines a group's claim and inclusion as full social and political actors in the state" (Dev, 2004, p. 4750)⁷. As questions about indigeneity remain of enduring interest in Northeast India, which is the universe of discussion for this dissertation, it is essential to evaluate the existing meanings associated with the term. This section delves into the wide range of positions which exist on conceptualisations of 'tribe' and 'indigenous' identity. Here I also seek to examine the appropriateness of the application of term 'indigenous' in Indian context through assessment of several attributes associated with the 'indigenous' identity.

a) The tribal identity in India

The communities who regard themselves as 'indigenous' or 'adivasi' have often expressed their visibility in the administrative space by employing the category of 'tribal' which finds mention in the Constitution of India. However, finding an acceptable definition for the category of 'tribe' which is capable of encompassing all the variations and nuances of tribal identity in the country continues to remain a task. As the question of recognition of 'tribal' identity in India is closely linked with access to forest resources and endowment of reservation there has been increasing demand among communities for recognition of their 'tribal' identity within the constitutional framework of the state through inclusion in the Scheduled Tribe list (Xaxa, 1999, p. 3589). Andre Beteille argues that as India undertook the task of finding the target population for its positive discrimination programme it gave precedence to the task of identification and recognition of the tribes over the formulation of any precise definition of the tribe (Beteille, 1998, p. 188). The act of Indian state to ensure positive discrimination for tribal people without significant endeavour towards establishing the philosophical foundation and constitutional and legal definition of tribe meant the category was fraught with contestations from the beginning.

⁷ The best example to illustrate this would be the tea tribes of Assam who were brought as plantation workers by colonial rulers back in 19th century from Central India. Till now the community has been struggling for recognition of Scheduled Tribe status in Assam but they are continued to be regarded as 'outsiders' in the state as their ancestral origin lies elsewhere and not in Assam.

In the Indian context, several labels have been used such as 'hill and forest tribes', 'aboriginal tribes' to refer to particular communities who were identified possessing certain characteristics considered to be 'primitive', but the term 'Scheduled Tribes' found place in the Constitution of India. According to the Article 342 of the Indian Constitution a tribe is defined as "an endogamous group with an ethnic identity, who have retained their traditional cultural identity; they have a distinct language or dialect of their own; they are economically backward and live in seclusion governed by their own social norms and largely having a self-contained economy". To formalise the process of recognition of tribal identity and revise the list of Scheduled Tribes and Scheduled Castes in 'scientific and rational manner' the federal government appointed the Lokur Committee. They arrived at five point criteria for inclusion in India's List of Scheduled Tribes: (a) indication of primitive traits (b) distinctive culture (c) geographical isolation (d) shyness of contact with the community at large (e) backwardness. Lokur committee formulated rigid standards for determining the tribal recognition in the country. The Communities fulfilling these criteria find themselves enlisted in the Scheduled Tribes List. Even though these are set official criteria for the identification of the tribal people, Townsend Middleton illuminates the role of unofficial criteria such as religion or the perception of the ethnographers and administrators in determining the tribal identity of people which would subsequently make them recipients of the welfare of the state (Middleton, 2015).

This definition of 'tribe' which emerged from the Constitution Assembly debates is representative of one set of views out of many which were mainly centred on protectionist and assimilationist arguments. The existing definition of the term 'tribal' has primarily been derived from the connotations attached to the term 'tribal' in the colonial period. The colonial administration formulated the category of 'tribal' to contain characteristics which were particular to certain communities and based on those characteristics it reinforced a hierarchical relationship between non tribal and tribal people in the society (Schendel, 2011, p. 21). The term was based on the theory of evolutionism which applied particular characteristics to identify certain groups as tribal such as those who existed in isolation as self-contained social groups, based on their mode of subsistence, levels of technology, inhabitation in isolated geographical

tracts of hilly regions separated from the people of the plains, absence of written codified laws.⁸ Willem van Schendel identifies two important aspects of being a tribal

Firstly, in colonial South Asia, the term 'tribe' came to refer to groups who were given a low rank in a hierarchical system based on civilisation and modernity. They were uncivilised and unmodern. Secondly, South Asians who came to be identified as 'tribal' were seen as members of the universal category: in the nineteenth century Europeans were discovering tribes all over the world

(Schendel, 2011, p. 20)

Such an identification of communities as 'tribe' was considered essential by the colonial rulers as it served their administrative purpose. By categorising people as entities with fixed characteristics the administration sought to easily differentiate them from rest of the population. Even though the criteria of socio, economic and political marginalisation has always, and continues to play a key role in designation of communities as 'tribal', but it is important to note that this important marker of tribal identity was not absolute in itself. The historical account of hill tribes in Northeast India suggests that, Abors living in the hills of present-day Arunachal Pradesh were known for conducting raids in the plains of Assam and they were feared by the people of the plains and to pacify them they were paid 'posa' (Naga, 2014, p. 29). Interestingly Beteille argues that in the initial years of ethnographic survey the territorial location of the communities was the marker of their tribal identity. He says that most of the tribes were so identified because they were located in the hills, forests and frontier regions of the state (Beteille, 1998, p. 189).

T. Subba says that apart from endowments which come with the identification of tribe, definition of tribe becomes important as it allows for "bringing the people so defined under some kind of conceptual control and bringing certain degree of certainty, and hence predictability, about their socio- economic and psychological characteristics or behaviour"(Subba, 2007, p. 401). He is critical of

⁸ It is interesting to note that these European ideas regarding tribes as wild, savage, and lagging in time were not imposed on the native elites in South Asia rather they were in consonance with the views of the scholars of the region and their way of perceiving tribes in South Asian context. The common term which reflected the attitude of both local and colonial elites was '*jongoli*' meaning those living in the jungle, uncivilised (Schendel, 2011, p. 21).

such identification because it captures only certain identities which fall in line with the label of the tribe whereas all other qualities of communities are marginalised. Going beyond definition of tribe which visualises them as homogenous communities, Subba defines tribe as 'reciprocal people' because in tribal communities people who are obliged to reciprocate do so at all times of need⁹.

It was only in the census of 1901 that we come across formulation of criteria for the definition of tribe. It sought to define tribe through the category of religion. So, 'tribal' was identified with the practice of animism and in subsequent censuses animism was replaced by the tribal religion (Xaxa, 1999, p. 3589). It can be another matter of contestation as what would be considered as falling within the ambit of 'tribal religion'.¹⁰ This opacity in the definition of 'tribal' is reflective of the administration's incapacity at arriving at a clear definition of the category. This absence of uniform definition meant that Xaxa writes, "One set of criteria was used in one context and quite another in another context. The result is that list includes groups and communities strikingly different from each other in respect of not only size of the population but also the level of technology and social and political organisation" (Xaxa, 1999, p. 3589).

Being aware of the diversity of Indian population and existence of historically disadvantaged and marginalised group in the state, members of Indian Constitution Assembly sought to remain committed to the principle of universal citizenship as well as differential inclusion. Niraja Gopal Jayal refers to such endeavours of Constitution Assembly to differentially include Scheduled Castes and Scheduled Tribes within Indian Polity as, "drawing on the resources of antecedent institutional practices of differentiation". However, unlike the colonial administration, the Constitution

⁹ The prevalence of reciprocal obligations among the tribal communities is illustrated in the way their daily life functions. At any event of marriage, death, construction of houses in a tribal village, irrespective of their belonging to same clan or lineage come together to pool their resource and labour to assist each other. This commitment to reciprocate obligations serves as the mechanism to maintain social relations in tribal societies. People are praised or admonished dependent upon the reciprocation shown by them in their community. Subba considers this feature of tribal societies as unique, and considers it as a marker while defining people as 'tribe'

¹⁰ Beteille disregards animism as criteria for determination of tribal identity as animism is influenced by and has influenced Hinduism, and it cannot be called indigenous to India any more than Hinduism can be called indigenous (Beteille, 1998, p. 190). It is problematic that Beteille's critiques of location, religion, language as markers of tribal identity is based on the grounds that these characteristics are diluted by external influence in tribal societies of India because he keeps the societies of North America, Australia as the parameters for determination of the identity of communities as tribal, electoral representation.

Assembly provided normative foundations¹¹ which undergirded different treatment of these communities (Gopal, 2011). One such provision for differential treatment of tribal communities was provision for autonomy of governance to them through the creation of Fifth and Sixth Scheduled Areas. The proposal drew scepticism from many members of the Constituent Assembly. Those in favour of assimilation of the tribal people with the rest of India questioned the capacity of the tribal people to rule themselves in these designated areas for self governance. A.V.Thakkar argued that even though he was apprehensive of the creation of autonomous districts, but eventually realisation dawned upon him that it is the best way to govern tribal people. Others like Biswanath Das refuted the very distinction between tribal and non tribal as he saw these categories as responsible for fuelling differences among people. Kuladhar Chaliha of Assam criticised Sixth Schedule for being the continuation of the British policy of separation and isolation of tribes, which would ultimately lead to the calls the creation of 'Tribalstan'. He saw the proposal of autonomous governance to tribes through Sixth Schedule as a measure of exclusion of the presence of Indian state and its institutions for governance in the region. Another popular opinion in the Assembly was that such measures of differential governance for tribal people were introduced with the intent to keep them away from any interaction with non tribal people. It was argued that such isolated existence of tribal people would create discord between tribal and non tribal people in the region. The creation of Fifth and Sixth Schedule was questioned for being based on British era legislations as The Scheduled District Acts of 1874, The Government of India Act of 1919 which established Backward Tracts and Government of India Act of 1935 which demarcated Excluded and Partially Excluded Areas.

Those who were advocates of a protectionist line of arguments considered the provision of self governance in ethnic societies as an imperative as these people have been vulnerable to encroachment and subjugation and continue to remain so. In the academic world, the debate along assimilationist and protectionist lines came to be

¹¹ The normative foundation was ensuring equality of opportunity to all individuals in the society. Taking into account the historical isolation and marginalisation of tribes in India, it was recognised that the tribal people are not prepared to compete with rest of the outer world and would require assistance in the form of reservations in education, employment opportunities, to ensure equality (Gopal, 2011)

represented by Indian sociologist G.S.Ghurye and British born ethnologist Verrier Elwin. While former advocated for assimilationist approach, latter argued in favour of policy solutions for protection of the tribal people. The Constitution Assembly's policy solutions envisaged the integration of the tribal in the larger society through the affirmative action for Scheduled Tribes. In defense of Advisory Sub- committee's recommendations for creating autonomous districts for Hill tribes in Assam, Gopinath Bordoloi argued that none of the provisions of the Schedule are in violation of the broader framework of Indian Constitution. In the constituent assembly debates, he asserted that proposal of administration of certain tribes coming under the Sixth Schedule as autonomous tribes is an attempt to preserve the democracy and autonomy which prevails among these tribes. Disappointed with such views of fellow members in constituent assembly Jaipal Singh rejected the approach of coercion to subjugate the tribes in Assam and advocated that state should pursue the path of convincing and building confidence among these people. Instead of considering the operation of Sixth Schedule in Assam as propelling divisive tendencies in the region, he saw it as a measure for the accommodation of tribal people with rest of Indian citizens. Amidst such diverse opinions and debates in the Constituent Assembly the provisions for differential treatment of tribal people was arrived at.

Often the term 'adivasis'¹² is used to refer to 'tribal' people, but the appropriate use of these categories not only demands the identification of communities for recognition but also the context in which these communities thrive. J.J.Roy Burman says that use of term 'adivasi' in context of northeastern states of India to refer to 'tribal' citizens would be a gross mistake because the term 'adivasi' is popularly used in northeastern states for migrant workers in the state. The local tribes in this region use the label of 'adivasi' to refer to migrant labourers belonging to Santhal, Munda, Oraon and Ho tribes of Chota Nagpur plateau who were brought in the nineteenth century by colonial administration to work in tea plantation in Assam. (Roy Burman, 2009). This subsuming of the individual tribal identity of the migrant tea workers within the broader identity of 'adivasi' is the first step towards

¹² William Van Schendel argues that in India post independence the term 'adivasi' was used as a replacement for the term 'tribal' which enunciated derogatory attachments with the identity (Schendel, 2011). Even though Schendel says that the term 'adivasi' was introduced as non derogatory replacement for 'tribal', but its meaning is closely associated with the term 'indigenous'. So, there is a consensus among the scholars that various categories of 'tribal', 'indigenous', 'adivasi' more or less refer to similar communities who are identified possessing a set of criteria.

delegitimisation of their claims to tribal identity in states where they have migrated to. Despite the fact that these workers have migrated to various parts of Northeast India in the nineteenth century, and their subsequent generations have born and continued to live in these states they are continued to be seen as 'outsiders' who are encroachers or intruders. So, it is humiliating for local tribal people to identify themselves with the term 'adivasi'. They rather prefer to identify themselves with their own name of the tribes or as indigenous people of the state.

Virginus Xaxa brings out the different understanding of 'tribal' identity among the people, administrators, and academicians. In official discourse, the communities are recognised as tribal only if they fulfil the criteria mentioned in the Constitution. On the other hand, those who claim themselves to be 'tribal' don't restrict their identity to a category which is dependent on political and administrative recognition. Rather they view themselves in the sense of belonging to the same community irrespective of constitutional recognition. Xaxa argues that this virtue of community belonging among tribal people makes them eligible to be included within the fold of 'adivasi' or 'indigenous' identity (Xaxa, 1999, p. 3595). Amidst such diverse definitions and criteria for determination of 'tribal' identity, it is argued the criteria of self identification with certain forms of community belonging holds significance in encouraging people to secure validation of their tribal identity from the state.

b) The concept of 'indigenous'

Contrary to the popular understanding of the indigenous as a category or status which seems to evoke memories of antiquity the term indigenous is actually a relatively modern construction. More often than not the term 'indigenous' was used for people in Oceania and Native Americans for their experience of subjugation and decimation under European colonial rule. The journey from marginalised existence to being the centre of concern at international platform required consistent efforts on part of the organisations representing indigenous people. The activism has involved an extension of forging links between members of the communities within first nations to rest of the world which has influenced tribal and marginalised people in the developing countries as well (Srikanth, 2014).

The history of activism by indigenous people in the international organisations can be traced back to 1957. The general conference of International Labour Organisation (henceforth ILO) adopted Indigenous and Tribal Populations Convention No 107 in 1957 regarding the protection and integration of indigenous people along with other tribal and semi-tribal population in independent countries. The convention identified the tribal and semi-tribal population on the basis of their socio-economic backwardness and prevalence of their traditional rules in the governance of their life. The question of tribal and indigenous status was partially answered by the convention, as it recognised people from tribal and semi-tribal communities as indigenous if they were regarded so by their respective state based on their origin to the land and historical experience of surviving onslaught of colonialism (ILO, C107 Indigenous and Tribal Populations Convention, 1957 No. 107). Thus, the convention sought to address the concerns of tribal and semi-tribal people along with the indigenous, by advocating that the former can be brought within the fold of latter if recognised by their state but it still maintained a distinction between the two categories based on certain parameters.

The growing activism of indigenous people at the world forum was met with changes in the attitude of people towards them, which necessitated changes in the state's response to indigenous communities within their territory. This called for revision of Convention No 107 of 1957 convention of ILO which had more integrationist bent for an approach towards indigenous people which laid greater emphasis on the recognition of rights of indigenous and tribal people for preservation of their identities along with their empowerment through greater participation in governance Accordingly the ILO adopted a revised convention (No 169) in 1989 based on the recommendation of the expert body formed by the General Body of ILO (Bijoy, 1993, p. 1357). Amidst the growing demand by indigenous activists for recognition of their identity and distinct history of colonialism and subjugation, in 1988 the UN Working Group on Indigenous Populations (WGIP) and the Sub Commission on Prevention of Discrimination and Protection of Minorities proposed that the year 1992 would be International Year for the World's Indigenous Peoples. They declared that the year would begin at the end of 1992 coinciding with the end of the Second Decade for Action to Combat Racism and Racial Discrimination. This proposal was endorsed by the UN General Assembly in its session in 1988. The

declaration of 1993 as the year for World's Indigenous People brought changes in the perspective of people and greater activism by the communities across the world.

C.R.Bijoy argues that in the absence of any single accepted definition of indigenous people, there are four elements which are considered crucial while formulating a legal definition of indigenous i.e, "pre existence, non-dominance, cultural difference and self-identification as indigenous" (Bijoy, 1993, p. 1357). Considering all these aspects of indigenous identity and definition proposed by agencies like ILO and World Bank, United Nation has arrived at the working definition of indigenous people as:

Indigenous populations are composed of the existing descendants of the peoples who inhabited the present territory of a country wholly or partially at the time when persons of different culture or ethnic origin arrived there from other parts of the world, overcame them and, by conquest, settlement or other means, reduced them to a non-dominant or colonial situation; who today live more in conformity with their particular social, economic and cultural customs and traditions than with the institutions of the country of which they now form a part, under a state structure which incorporates mainly the national, social and cultural characteristics of other segments of the population which are dominant" (Ibid.).

It becomes conclusive from the preceding discussion that out of all the discussed attributes of indigenous status two aspects of indigenous identity takes precedence over other dimensions. Firstly, the term has been by the scholars and international organisations as UN, ILO, World Bank for those people who are regarded as having descended from populations that originally inhabited the country before the arrival of colonisers. Secondly, to designate people as indigenous it is required that people have a history of subjugation and being under colonial rule.

The category of 'indigenous' is not only limited to the assertion of a status, it also defines the relationship between those who claim to be original inhabitants of the land and the 'settlers' on that land who seek to colonise, marginalise and decimate the former. This is strongly emphasised by Andre Beteille, who disregards the tendencies to conflate the tribal-non tribal distinction with indigenous- non indigenous identity.

For him, the designation of communities as indigenous is intertwined with the existence of 'alien' or 'settler' population in the territory (Beteille, 1998, p. 188). He reserves the use of the term indigenous for the communities who have undergone dramatic demographic transition over a vast land in a very short time to such an extent that they were reduced to extinction¹³ (Beteille, 1998). So, determination of the identity of the 'outsider' is inherent in the determination of the indigenous identity of the individual. The successful construction of indigenous identity requires the establishment of a relationship with the land which is a link between the present generation claims and ancestral belonging over that land. So, individuals need to engage in establishing a special relationship with the territory of which they are considered to be prime settlers in relation to rest of the non indigenous people of the country. It also involves establishing preferential ownership rights over the political-economic resources of this territory by evoking the history where people have the experiences of having being wronged in a particular way which has a role to play in present-day inequalities and exclusions which they have to undergo in daily life (Xaxa, 1999, p. 3593). Parmar says that the claims and the injustices towards which indigenous people seek to draw attention to can be understood through the complex relations rooted in the layered history of original inhabitants and outsiders in particular locations (Parmar, 2015).

Roy Burman while acclaims Indian state's criteria for recognition of Scheduled Tribes and their protection, he is critical of the absence of clarity in UN Draft Declaration's definition of indigenous people. He also denounces the definition postulated by UN for having "Eurocentric bias", which seeks to identify indigenous people across the globe, particularly in Asia but not in Europe (Roy Burman, 1996). On the other hand B.G. Karlsson criticises Roy Burman for failing to note that the category of Scheduled Tribe which Indian state recognises also lacks any precise formal definition (Karlsson, 2001).

¹³ Beteille regards Australia as an apt example for description of the designation of 'indigenous' people. It is a country where the native population was isolated dispersed and homogenous before the arrival of the white people there. Thus, the native people of Australia were seen as fulfilling the categories for tribal recognition. After the conquest by white in Australia, the native population underwent dramatic demographic change as it declined from 2, 50,000 to 80000 from 1788 to 1966. At the same time, the settler population of British origin rose to around 11,500,000. This decimation of the population after colonisation deems it necessary to classify the tribal population of Australia as indigenous (Beteille, 1998, p.188).

2.2 Debate on the ‘indigenous’ identity of people in India

The failure of scholars to unanimously arrive at any coherent definition of indigenous people has not meant that the term has escaped from public discourse; rather post 1990s people have increasingly and extensively engaged with the language of indigenous identity to convey their claims and entitlements¹⁴. Irrespective of the different historical trajectories of indigenous people in different nations, the cause of assertion and recognition of indigenous identity and rights found unanimity among people of indigenous belonging including India. In the reckoning of scholars as Townsend Middleton, Virginus Xaxa, and Daniel Rycroft¹⁵ unfolding of the discourse of indigenous identity and rights associated with it has been a response to non recognition and marginalisation of adivasis in India. The strengthening of indigenous identity has been accompanied by greater differentiation between tribal from non-tribal identity. On the other hand, B.G.Karlsson notes that, “increasing numbers have begun to use the English term "indigenous peoples," signalling an effort at self ascription that internationalizes local struggles and places local demands in relation to the indigenous peoples' movements in other parts of the world” (Karlsson, 2001, p. 12). Such differentiation of identities when fused with the xenophobic tendencies, fuel the ethnic clash in the states with a significant indigenous population (Xaxa, 1999). This phenomenon has time and again found a place in the historical and political narratives of Northeast India. Amidst such occurrences it becomes imperative to look at the debates surrounding the claims of various communities for indigenous status and its authenticity in the Indian context.

2.2.1 Indian state’s stand on ‘indigenous’ identity

At the level of international organisations, India has been one of the first signatories of International Labour Organisation’s 1957 convention on indigenous people. The government of India had placed no objection to the use of the term indigenous when it was deliberated upon in the convention as the term then was not representative of the recognition of rights of indigenous people; rather emphasised upon the need of integrating the indigenous and tribal people into the larger social and political system. However, by 1989 as the focus shifted from integration of indigenous people in the

¹⁴ This rejuvenation of indigenous activism with vigour is attributed to the declaration of 1992 as the year of Indigenous people by United Nations.

¹⁵ See Xaxa (2009), Middleton (2005), Rycroft (2011)

nation to the recognition of their distinct identity, it resulted in the revision of India's stand on the issue in international organisations. India didn't ratify the revised ILO convention on indigenous people in 1989 and argued that a category such as indigenous does not hold true in the Indian context (Xaxa, 1999). The Permanent Mission of India to the UN office asserted that there are no indigenous people in India and indigenous people cannot be equated with 'Scheduled Castes and 'Scheduled Tribes'. It argued that these categories were created by the Constitution for the fulfilment of its purpose of positive discrimination meant for them to offset the historical discrimination which they have undergone through, resulting in their present-day backwardness. So, creation of the categories of 'Scheduled Caste' and 'Scheduled Tribe' was not recognition of these communities as the original inhabitant of the country who have been historically marginalised, but it was a way to arrest the underdevelopment among these communities and secure special privileges for them to ensure their accelerated progress in present times. So these identities were instruments of securing progress for them rather than recognition of their identity. The reason cited for denial of indigenous recognition to specific groups in the country, by the official representatives of the Indian state in international forums, is that most of the tribes in present-day India share their origins with the neighbouring non-tribal population which makes it difficult to identify any sharpening distinction between the two communities. The consistent official position of India is that as it is inhabited by people belonging to several tribes, culture, religion who traces their origin to the Indian state, so the entire population is indigenous.

Apart from the officially cited reason for the non recognition of term indigenous by the Indian state, C.R.Bijoy attributes the cause of this denial to the fear of the possibilities of self-determination that the obligation of indigenous rights holds (Bijoy, 1993, p. 1360). The prevailing fissiparous tendencies in post-independence India made the state wary of acceptance of indigenous identity which would eventually require ratification to the Universal Declaration of rights of Indigenous people. The bundle of indigenous rights encompasses the right to self-determination and the ethnic movements in Northeast India, which have continued to pose a fierce challenge to the sovereignty of Indian state through the assertion of their rights to self-determination which has ranged from the creation of separate states to secession. Bijoy argues that India's refusal of acknowledgment of specific communities as

indigenous within its territory is a way for the Indian government to escape questions of accountability in United Nations sub-committee, towards the indigenous people which would emerge from the recognition of their rights and privilege (Ibid.).

Contrary to India's stand on the indigenous status of its people at the meetings and working groups of international organisations, United Nations for its official purposes recognises India's 60 million tribal people as indigenous people (Bijoy, 1993, p. 1360). Even though Indian state has denied the existence of indigenous people in its territory, it has not stopped the activists of indigenous rights from furthering their cause¹⁶. The impetus to communities for placing their demand within the framework of indigenous identity at global level has been given by organisations as Indian Confederation of Indigenous and Tribal Peoples, North-East Indigenous and Tribal Peoples Forum, who seek Indian state's acknowledgment of Scheduled Tribe within India as the indigenous people of the state¹⁷. The composition and nature of these movements illustrate that, the people in India simultaneously identify themselves as 'tribal' and 'indigenous'. In India people who have been identified as Scheduled Tribes or who identify themselves as 'tribal' are also the ones struggling for recognition of their indigenous belonging. Referring to the concept of 'indigenous identity' as a 'political fact' B.G.Karlsson argues, "Tribal communities increasingly identify and mobilize as indigenous people (or as adivasis) to claim over land and resources. The global discourse on indigenusness resonates with or captures central features of tribal predicaments and aspirations" (Karlsson, 2001, p. 36). The tribal people in India identify their marginalised existence with the similar experiences of indigenous people in other parts of the world, which becomes the underlying foundation for their claims to indigenous identity. Thus, in the self perception of people seeking 'tribal' or 'indigenous' recognition in India there exists

¹⁶ The consistent efforts of the activists of the Jharkhand movement culminated in the formation of the Indian Council of Indigenous and Tribal Peoples (ICITP) in 1987 which is affiliated to the World Council of Indigenous People. The body is also part of the meetings of Working Group on Indigenous People. The ICITP advocates in favour of the recognition of India's 'Scheduled Tribes' as 'indigenous people' the way they are identified in the UN documents (Bijoy, 1993, p. 1359).

¹⁷ This recognition is expected alongside ratification of ILO Convention No. 169 on Indigenous and Tribal Peoples by the Indian state. It is deemed significant because it would bring them within the fold of the International Labour Organization Convention (ILO) and the UN (draft) Declaration (Bijoy, 1993, p. 1359).

no significant difference between the meanings of two categories as defined by the scholars from the experiences of western world.

2.2.2 Appropriateness of the term ‘indigenous’ in Indian context

Even though Indian state refuses to acknowledge the indigenous identity of people, in the Constituent Assembly Debates one can find that while providing rationale for Sixth Schedule, Dr. B. R. Ambedkar draws comparison between the tribal people in Assam and Red Indians in United States¹⁸. He was of the view that as Red Indian varied in their ways of life, nature of laws and modes of governance from rest of the citizens of United States, it necessitated the introduction of affirmative action and autonomy for them. On similar lines, the tribal people in Assam have distinctive ways of life, law, and governance which has called for the creation of District Councils. Taking this distinctive existence of people of Northeast India, the next section preface the scholarly arguments on the contestations involved in the application of the category in Indian context. Based on the above unfolding of the conceptual category of ‘indigenous’, I have identified four major attributes denoting indigenous identity. The objective here is to examine the appropriateness of the application of the term for communities in India, through these parameters.

a) Argument of first settlers

The first dimension of indigenous identity has always been the determination of the relationship between existing residents and land where they have settled. For attaining indigenous status it becomes necessary for people to put forward a convincing history of them being the descendants of people who claim to be ‘original settlers’ of the land. However, the application of this criterion for determination of indigenous people in India is fraught with many contestations. Unlike in the US, Canada, Australia where the natives of the land are clearly identified, the history of India is the history of waves of migration dating back centuries and millennia. Some scholars as N. Ray refer to the arrival of Aryans in the country as the defining time period for the

¹⁸ Dr. Ambedkar in response to the opposition opposed by members of Constituent Assembly for creation of Sixth Schedule said that “the position of tribals of Assam, whatever may be the reason for it, is somewhat analogous to the position of the Red Indians in the United States as against the white emigrants there”. He further asserted that even though these people continue to be United States citizens; they exist as separate and independent people. In such circumstances subjugating them under the laws and institutions of majority communities would be unfair (CAD Vol IX).

determination of original settlers of the country (Ray, 1973, p. 124-125)¹⁹. So, if we use the criteria of original settlement to the land as determinant of designating tribal people the status of indigenous communities within a territory, then Virginius Xaxa argues that it is essential to establish that the tribal people have been natives of the land for all parts of history which we are aware of, and non tribal people have been immigrants to the land in question. However, this seems to be a herculean task given that Indian history is full of narratives of migration of people all the time different points and from different places. As we have seen scholars mark the arrival of Aryans as defining point for the determination of onslaught of ‘outsiders’ on the ‘natives’, so second criteria to assert the indigenous status of people would be to examine if the ‘tribal’ have also migrated to their present place of residence then whether their arrival there precedes the arrival of Aryans to the land (Xaxa, 1999, p. 3591). If we accept this as a parameter for determining the indigeneity of people in India it would mean precluding a number of communities in the country from this status of indigenous belonging. Especially a number of tribal communities in Northeast India who establish their claims for special citizenship rights with respect to the non natives of the land on their indigenous belonging to the land.

So, while dealing with different geographical territories it becomes imperative to take into account the different histories as well as different ways of life of people in those land. William Robinson suggests that in order to find the descent of the tribes of North East Frontier the important markers of comparison are language, civil and religious institutions, mythological fables, the study of the similarities between the customs and ways of tribes (Bose, 1997, p. 16). The history of the people of Northeast states of India, who have been designated with tribal status and with whom the term indigenous is also associated, is a history of transmigration. The roots of most of the tribes in the northeastern states of India can be traced back to present day Myanmar, Tibet, China. Racially most of the tribes belong to Tibeto- Burman or Mongoloid communities. These are the people who had migrated in waves from the east

¹⁹ The reason being that Aryans are seen to be major social group existing in India today who were ‘outsiders’ at one point of time, so it is assumed that people who inhabited the geographical territory that constitutes India today came before their arrival of dominant social group Aryans are the indigenous people of the land.

and south-east Asia at different points of time and settled both in the plains and hill areas of the northeast. Since all Mongoloid communities settled in the region had migrated to the region at some point in history and many were moving from one place to another in the region, it remains difficult to determine the first settlers of the present territory of residence. The arrival of Nagas in India is thought to be post the arrival of Aryans in India, in the middle of the first millennium BC from Tibet to their present residence. Many communities whose identity is shaped by their 'indigenous' status have migrated to India only a few centuries back, the history of Mizo settlement in India is traced back to sixteenth century and their arrival was followed by Kukis (in Manipur) and Lushais (in Mizoram) from South China and Chin Hills (Xaxa, 1999, p. 3592). The matrilineal tribe of Khasis of Meghalaya who belongs to the Mon-Khmer linguistic group is believed to have migrated from Cambodia to what they see today as 'native' land. If we look at the history of Denzong Bhutias who are considered to be the royal tribe of Sikkim have also, they have also migrated from Tibet to present-day Sikkim (Burman, 2009).

Such history of migration and settlement becomes the basis to question the authenticity of the claims of communities to be indigenous, as their present land has not been their only place of residence²⁰. However, these arguments regarding 'original' settlement as a determinant of 'indigenous' identity don't take into account the historical existence of those tribes who have a tradition of transmigration. A case in point is of Lisu tribe in Arunachal Pradesh who define themselves as the 'wandering people' which is indicative of their nomadic habit. There are multiple historical accounts of their arrival in India and their settlement in Arunachal Pradesh. Based on the various references about their migration to India it can be concluded that there exist two prominent narratives about the origin of Lisus, one narrative trace have their

²⁰ To reflect on this contested nature of the indigeneity of people Xaxa points out that, "non-tribal groups in India like the Bengalis, Gujaratis, Oriyas, etc, have a much longer history of settlement in the country than these tribes. So, it is problematic to say that, "all tribal people in India are earlier settlers than the Aryans and therefore tribes are indigenous and non-tribes non-indigenous" (Xaxa, 1999, p. 3592). A point which is asserted by Andre Beteille as well, "in various parts of the world the tribal population is the indigenous population as it can be established on the basis of historical evidence. However, in many instances, tribal population is not the indigenous population and in such instances, the blanket use of the term "indigenous people" instead of "tribal population" become seriously misleading" (Beteille, 1998, p. 188). The historical evidence which Beteille is talking about is the history of the settlement of 'native' people and their usurpation by the 'outsiders', where the former existing population was significantly exterminated by the arrival of the

origin to China-Myanmar border areas while others think them to have migrated from Tibeto-Chinese border to India. In Arunachal Pradesh, the presence of tribe was first identified in 1961 by a party of Assam Rifle and subsequently, they were recognised as citizens of India. However, in the early 1980s, the government of India took away Indian citizenship from Lisu people and branded them as refugees. In 1994, citizenship was restored to them but their tribal status was not reinstated which remained a source of conflict between the community and state over a long time until they were recognised as Arunachal Pradesh Scheduled Tribe in 2015. So, the case of Lisu shows that for communities for whom transmigration and ‘hybridity of communities’ is a reality it becomes difficult to fulfil the attributes defined by the state to be regarded as ‘tribal’ and convince the bureaucrats and administrative machinery of their indigenous origin (Dhar & Coomar, 2004). However, their failure to do so doesn’t negate the fact that they continue to live extremely marginalised lives in areas of Arunachal which are devoid of any communication with rest of the state²¹.

The debates surrounding the determination of the identity of indigenous people based on the original settlement in the country is further complicated by the questions regarding the indigenous status within a particular region or indigenous status in the country. This should be seen in congruence with the fact that determination of the indigenous identity of individuals is tied to their relation and ownership to the land of present residence, Ghurye argues that, "When the history of internal movements of peoples is not known, it is utterly unscientific to regard some tribe or the other as the original owner of the soil. It is possible to contend that even if the tribes are not aborigines of the exact area they now occupy, they are autochthonous of India and to that extent, they may be called the aborigines" (Ghurye, 1963, p. 12). In the absence of shreds of evidence for the original owner of the land, special rights and privileges are ascribed on the basis of present occupancy of the land. In Ghurye’s definition, autochthonous are those who are internal migrants in the country, it seems that there is prior assumption about precluding those tribes from the category of

²¹ The Yobins living in Vijoyanagar circle live a highly marginalised life as there is no motorable road from the Vijoyanagar to nearest town of Miao. People have to walk miles just to get medical aid and essential supplies

‘indigenous’ who have migrated from nearby countries to their present area of residence. Additionally, in his definition of ‘aboriginal’, being autochthonous to India precedes the importance of being autochthonous to present residence. So, his definition would give recognition to the ‘adivasis’ in Assam as ‘aboriginals’, because even though they are not autochthonous to Assam but it is known that the Adivasis in Assam are descendants of people who were brought by British from Central India to work in tea plantations. Contrary to this, Andre Beteille excludes tribal people who have internally migrated within India from claims for indigenous belonging in their new territory of residence because by choosing to leave their place of origin these people also abandon their claims to being ‘indigenous’ (Beteille, 1998, p. 190). In Beteille’s formulation of the ‘indigenous’ identity, the attribute of original settlement takes priority over the marginalisation and deprivation of individuals or communities. This formulation of Beteille would fail to administer justice to those tribal people who were subjected to exploitation and forcefully removed from their place of origin by the colonisers. The communities such as Santhals who settled in present-day Assam in around 19th century and are referred to as ‘adivasis’ in the state. Ironically, despite being referred to as ‘adivasis’ they are not one of the designated tribal groups of the land. As the Santhals in Assam are descendants of someone whose origin was not in Assam it becomes the ground for denial of indigenous identity to them which has been followed by the denial of tribal status to them over the years. On the other hand, there are Mizos whose arrival is traced back to a very later date but the fact is that they are the original settlers of the place where they live now which makes them indigenous to the territory. This seems problematic like in the case of Santhals who too should have recognition of indigenous belonging, as criteria of original settlement should not be seen in isolation for the determination of indigenous rather it should be seen in consonance with other criteria which are going to be discussed here.

b) Non Dominance

The classification of people as indigenous, Beteille argues, requires existence of two categories of population of ‘natives’ and ‘aliens’ within the territory in question (Beteille, 1998, p. 188). These outsiders are expected to be the

dominant communities who in order to assert their ascendancy over the 'native' seek to wipe out latter's existence from the territory. This precedent was established with reference to the colonial history of Americas and Oceania where the 'outsider' population resulted in wiping out of the natives of the land. The experiences of the local people of Northeast India in pre colonial, colonial and post colonial period doesn't seem to replicate the experience of indigenous peoples in countries like the US, Canada, Australia and New Zealand. Unlike in the US or Australia, the Northeast India, or for that matter India as a whole, did not witness large-scale migration and settlement of white people which could reduce the native population to a minority. The existing literature on the British policy towards Northeast India has a consensus that colonial power penetrated only in those areas where involvement was rewarding to British exchequers like tea gardens in Assam. It left people living on the Indian frontier in isolation as administration of forested hilly terrain and 'savage' people were not considered worthy by colonial administrators²².

An important attribute in the determination of the indigenous status of people which distinguishes them from the tribal population is based on their historical experience of subjugation and victimization by the onslaught of people from outside the region (Xaxa, 1999). It has been seen that the advent of British in the Northeast region didn't mean the decimation of the local population. Rather according to popular records, most of the region remained out of British control or British adopted a policy of isolation or rule from far for these areas. It was achieved through the creation of Excluded and Partially Excluded areas and with the help of instruments such as Inner Line Permit. By and large, the hill communities retained their traditions and continued to exercise control over their land. So, Beteille and Xaxa agree that being a tribe in India has been matter of retaining of certain attributes which are identified with the identity of 'tribal' and this preservation has been made possible by remaining outside the purview of the colonial state and society at large which enabled them to escape subjugation and colonisation (Xaxa, 1999, p. 3593).

²² For the prevalence of this narrative in academic literature see works of Verrier Elwin, Sanjib Baruah,

They cite instances where people, when subjugated, became part of the larger social organisation and failed to maintain their distinctiveness.

In recent times multiple flows of migration from rest of India, and other countries have opened towards Northeast India. In wake of the greater exposure of the region to rest of the country and emergence of work opportunities in these states as they embark upon infrastructural expansion and agricultural modernisation has allured many nontribal people to migrate to these states. The strategic locations of states in Northeast India who share borders with multiple countries have made them easy refuge for 'illegal migrants'. The outflow of people from rest of the parts in this part is evident in the fact that the increasing number of migrants has reduced the native community in Tripura and Sikkim to the minority in their own land which serves as a lesson for rest of the states in the region and this fear cannot be rubbished altogether. According to Census of 1901, the tribal population in Tripura made up nearly 52.89 percent of the state's population. A century later their share in the total population has dipped to 30 percent. Thus, the Northeast region of India presents a different case where there is a continuous flow of outsiders from within or outside the country to region, who may or may not be in a position to subjugate the local population but they do hold the potential to decimate the local population to a numerical minority. So, it remains to be examined whether in such situations where the local people of the region are living under the real threat of numerical marginalisation can be considered as a situation for designation of indigenous status to the local people.

In the absence of well documented historical evidence, it becomes difficult to say anything with certainty about the nature of historical relations between the two types of social groups i.e, 'tribal' and 'nontribal' in India. Virginus Xaxa says that "In general the relationship between tribes and non-tribes has been described as one of mutual coexistence rather than one of subjugation and domination at least until the advent of British rule" (Xaxa, 1999, p. 3592). This absence of angst and antipathy between the two social groups, an important determinant of the indigenous identity where interests of 'outsiders' stands in conflict with that of the 'natives', poses a question to the application of the term indigenous in the Indian context with reference to tribal people.

The assertion made by Xaxa finds place in works of Willem van Schendel also, who in reference to tribes in South Asia argues that there is ample historical evidence available to suggest that “tribes and non tribes have a sustained experience of cultural, social interconnectedness and exchange, and that neither racial nor territorial, technological, linguistic or religious measures can be used as effective markers of tribal identities” (Schendel, 2011, p. 24). This non domination by ‘outsiders’ of the ‘natives’ goes with the argument that in many instances these settlers in the region are no more economically, socially or politically more influential than the natives of the state. Settling of communities like Santhals in Assam was a result of British policy for tea plantation. So, their relationship as ‘outsider’ with the ‘natives’ of the state was far from being an exploitative relationship rather they themselves were subject to exploitation. Some scholars in order to prove the absence of exploitation of the natives of the states in Northeast India by the outsiders have gone to the extent of saying that it is the ‘nontribal’ who live at the mercy of the locals in the region (Srikanth, 2014). Such arguments only seem to magnify the magnitude of contradictions between the two communities of tribal and non tribal in states which are divided into ethnic lines.

While the presence of simmering angst against the ‘outsider’ in the states of Northeast India is undeniable which becomes evident in frequent communal flare-ups in the region, but it is equally true that such communal contradictions and conflicts are just not restricted to natives and non natives. Communal tensions keep building up even among those who lay equal claims on their belonging to the state over territory, ownership of resources etc. In order to get a balanced view of the relationship among communities in the societies divided along ethnic lines it becomes necessary to not succumb to the popular narratives of ‘insider’- ‘outsider’ divide, rather supplement such existing narratives with conflicts within ‘insider’ citizens. A study on the issues on which the local communities conflict among each other and the ways in which vary with the issues which bring ‘insider’ and ‘outsider’ at loggerheads would enrich the comparative perspective of study in such societies.

Further, it is argued by H.Srikanth that, “Colonial rule in the region did not wipe out local languages, nor did the native communities in the Northeast undergo any experience of alienation which native children experienced in

residential schools in Canada and the US” (Srikanth, 2014, p. 44). However, this argument seems to either undermine or completely deny recognition of the racial prejudice which exists against the people from North-eastern parts of the country. The frequency of crimes against people from Northeast in metropolitan cities is not unheard of. To counter this, Srikanth has argued that “at least in the region, they are at the helm of affairs and no outsiders dare humiliate or look down on them” (Ibid.). However, such issues associated with the principles of equality and justice cannot be determined based on the geographical location of the residents, these principles stand true universally. So, denial of the existence of discrimination and exploitation against a certain section of people because of their racial profile outside their region of belonging, on the grounds that these people are dominant ones in their homeland and face discrimination only in selective parts of the state is inappropriate.

c) Cultural Difference

As the politics in the region with ethnic population has come to be surrounded around the indigenous identity of the people, people have resorted to ways for their identification as a distinct cultural group for claiming indigenous status. To assert their indigenous identity it is required for the people of the distinct cultural group to have their own socio, cultural and economic institutions which take precedence over the institutions of the nation. It is observed by anthropologists Andre Beteille and Virginius Xaxa that, “communities who are described as tribes in India have been living in close proximity with the non tribal people for over centuries which has resulted in their acculturation and even assimilation into the larger Hindu society” (Xaxa, 1999, p. 3591). This seems problematic because these are people who in their works have also argued that staying outside the state and social framework in the past has allowed them to maintain a distinct identity. Another argument which denies any significant distinction between the existence of indigenous and non indigenous people in present times is that under the prevailing regime of governance these indigenous communities are also administered by a same bureaucratic legal structure like rest of population. In the post independence period, these people have not remained untouched by development policies

and programmes of the Indian state. They are encompassed by the broader political, economic social processes in operation in the state which leaves no space for them to claim an indigenous identity based on the existence of their traditions and local institutions (Xaxa, 1999, p. 3593). It is undeniable that like everyone else tribal communities have also been brought under the fold of the operations of the state given we are aware of the extent of penetration of the modern state in the society. This does not negate the existence of ample of evidence regarding the existence of self governing institutions of the tribal societies which still continues to play a prime role in their management of disputes or sorting law and order issues at the village level or extending the welfare benefits to the members of the tribes. In Arunachal Pradesh, each tribal group has their own traditional system of administration which exists along with the modern form of governance. These systems are institutionalised in the case of Akas, Apatani, Monpa, Khampti, Singphos as village councils whereas for others as Noctes and Wanchos political administration is conducted by the institution of strong chieftainship with gaon burahs as their political head (Dhar & Coomar, 2012). Denial of the role of these local institutions in the tribal societies by eminent scholars of the field, even though when the evidence suggests otherwise, shows the unwillingness of scholars to accept the effective claim of communities for the recognition of their indigenous existence.

d) Mode of living

A significant determinant of the indigenous belonging is the mode of subsistence and technological advancement of the group. In the context of Northeast India, the works on people of the region make it more or less clear that the primarily most of the tribes in the region are primitive or disadvantaged communities primarily engaged in hunting, food gathering, or jhum (shifting) cultivation. Gradually in most of the states, the community ownership of resources is being replaced by individual ownership over land, and in some states like Arunachal, it has lead to the emergence of an informal regime of private property rights over land (Harriss White, 2009). In changing political economic and demographic scenario, holding primitive mode of subsistence as a factor for recognition of indigenous status has lead to lot of

contestations, because as H.Srikanth argues, “Such a criterion precludes indigenous status to several communities in the plains who have long taken to settled cultivation, business and other modern vocations for earning their livelihood” (Srikanth, 2014, p. 44). It is important to note that even though historically several communities living on the hilly frontier of Northeast India have been practising shifting cultivation due to the topography and traditions attached to the practices, in wake of changing understandings regarding common property resources and legal structure regulating land, the mode of cultivation is also undergoing change in this region. Also, changes in the mode of agriculture are leading to changes in the legal framework of governance of land, which is now shifting from communal ownership to recognition of individual ownership of land. With changing pattern of economic activities and expansion of economic activities toward infrastructure building in terms of construction of roads and dams, it will be unrealistic to expect the existence of historical modes of subsistence intact. It will be equally arbitrary to punish people for looking for better occupational opportunities in changing times by denying them the status of being indigenous due to their present mode of occupation. This may not be the case essentially if one understands that status of tribal should not be presumed to be of a constant way of existence in the society rather it should be accepted that in wake of various forces of change the people referred to as tribal is also subjected to change. The question emerges that it is this distinctness of identity of an individual which forms the basis for them and their communities to seek exclusive rights but when this identity undergoes significant changes over a period time to move towards the ‘nontribal’ identity in the spectrum, then can these people still hold the claims for indigenous rights. Holding the criteria of the mode of living with too much rigidity would limit the opportunities available for sustaining life to many designated tribal communities. As many people who may wish to take up new occupation may be forbidden to do so with the thought that this will exclude them from asserting claims of indigenous status.

2.3 Changing connotations of being ‘tribal’ and ‘indigenous’ in India

It has become evident from the above discussion that all the attributes meant for identification of communities as ‘indigenous’ are equally mired in contestations which complicates the conclusive arrival at an unchallenged determinant for defining the ‘indigenous’ identity. In such circumstances it is argued that instead of examining any community on individual parameters for designation of indigenous identity, the identity should be seen as function of aforementioned four attributes along with the self identification of people with indigenous belonging. Virginius Xaxa stipulates that over the years the term ‘tribal’ has found acceptance among people from the tribal communities, the term entails the criteria of deprivation and dispossession without any claim to being the original inhabitants of that region which is associated with the determination of indigenous identity (Xaxa, 1999, p. 3595). However, non assertion of claims of being ‘first settlers’ or ‘originals’ to the land, doesn’t exclude the assertion over resources. Even though the tribal people don’t vigorously assert the claims of their origin to the land where they are living presently, they argue that they have a greater claim over the resources vis-a-vis the outsiders because of their prior belonging to the land. So, instead of absolute indigenous belonging which is difficult to establish in absence of written history and multiple flows of migration, it is the relative degree of indigenous belonging which provides the ground for establishing claims over resources.

Xaxa argues that shift in meanings attached with categories of ‘tribal’ and ‘indigenous’ has meant overlap between them as changing meaning of ‘indigenous’ prioritise the aspect of colonisation and marginalisation of communities over their original settlement on land in the process of their identification as indigenous (Xaxa, 1999, p. 3590). So, given the contested nature of establishment of claims being ‘first settlers’ on the land, people have moved towards prioritisation of marginalised and disadvantaged aspects of their identity to establish their status of ‘tribal’ in the society. However, this downplaying of the claims of being the original settler has not stopped people from to several tribal communities in Northeast India to use their indigeneity as criteria for demands of autonomy and access to the resource. More often than not, irrespective of their location in the plains or the hills, people who are native residents of these states invoke the claims of being native settlers or original settlers of the land on issues of migration and refugee settlement. The claim of being

native settlers is intertwined with their claims over the land which is integrally woven with their identity and material well being.

In the states of Northeast India the idea of ‘indigenous belonging’ plays a crucial role in shaping the claims for exclusive rights and recognition of the people. These claims are often woven around ownership of land or creation of exclusive territories for the indigenous people of the land through instruments such as Autonomous District Councils or Inner Line Permits. In ethnic societies people identify with multiple identities as individuals and members of communities. The danger involved in the recognition and accommodation of differential identity becomes apparent when claims for exclusive rights are fused with the xenophobic ideologies. In Northeast India this has resulted in fuelling of ethnic cleansing of ‘other’ communities in the region²³ and challenging the authority of the state. In extreme circumstances, Willem van Schendel argues that the sovereignty of the state is challenged by this ‘politics of belonging’ as the identity of individuals as ‘indigenous’ subjects take precedence over their identity as a ‘liberal citizen’. When people feel that their goal of attaining of exclusive jurisdiction over indigenous affairs and subsequent rights associated with their indigenous identity stands in conflict with the framework of liberal citizenship, they seek to abandon the citizenship of the state (Schendel, 2011, p. 30). After a historical study of people and states of Northeast India from the lens of ethnicity, it becomes evident that Schendel’s argument seems to miss the point that the aim of assertions of indigenous belonging is not always abandonment of the liberal citizenship of the state, at times it also seeks to expand the existing liberal framework of citizenship. While the region has seen many secessionist movements suggesting the desire for the abandonment of Indian citizenship but after the failure of violent methods to achieve desired demands often people have resorted

²³ In societies with ethnic communities the recognition of ST status doesn’t imply closure to the conflicts as it is followed by conflicts over the uneven allocation of the ST status leading to ethnic violence. In Assam six communities i.e, Mmoran, Muttock, Koch Rajbongshi, Tai Ahom, Chutia and Tea Tribes have been struggling for ST recognition since past two decades. In 2007 public turned on the adivasi communities protesting their requited bids for ST recognition. In July 2012, once again in Assam, these ethnic conflicts broke into riots between indigenous Bodos and Bengali speaking Muslims. The reason being the tribal people’s growing insecurity amidst continuing immigration which has threatened the existence, right to land and resources of all indigenous people of the entire state

to legal tools for recognition of their indigenous identities and rights within the constitutional legal framework of India²⁴.

2.4 Arunachal Pradesh: Indigenous identity and the implications of politics of belonging

Arunachal Pradesh is predominantly a tribal state with 68.80 per cent of population listed as Scheduled Tribes in the Census of 2011. The government records of Arunachal Pradesh identify the presence of 26 major and 110 sub-tribes and minor tribes in the state²⁵. The census of 1961 identified 80 different tribes in the state which increased to 110 in Census of 1971 and 111 in Census of 1981. While 1991 census doesn't specify the number of tribes in the state, in 2001 census 100 tribes are enumerated as Scheduled Tribes in the state. The self identification of the tribal people of Arunachal with 'indigenous' identity is elucidated in Deepak Singh's study on Chakmas and the people of Arunachal Pradesh. He concludes that native people of Arunachal Pradesh strongly identify with the term 'indigenous', while rejecting the popular reference of 'tribals'. He explains the appropriateness of the term 'indigenous' for people of Arunachal Pradesh by illuminating upon the presence of several attributes attached with indigenous identity in the lives of people of Arunachal. Further, he writes that, "Easily identifiable in their lives are the key ingredients used in defining in 'indigenous people': cultural distinctiveness, isolation from the mainstream, non dominant position in the national society, an ever growing propensity to retain their traditional structures of governance, and a strong sense of self identification with the term indigenous" (Singh, 2010, p. 187).

B.G. Karlsson notes that despite all the negative connotations attached to the term 'tribal', over the years tribal people have changed the understanding of the term by giving it new meanings. This has enabled tribal people to use their collective

²⁴ The best example could be of the longest surviving secession movement in post-Independence India. The fierce challenge posed by the secessionist movement in Nagaland is evident from the fact that in order to pacify the armed groups the territory was granted statehood in 1963. However, this didn't stop their demand for secession but as of now the possibility for a separate state has waned out, which the leaders are aware of, so they are looking at the possibilities of other forms of territorial autonomy within the constitutional provision through the creation of traditional councils under Naga Accord of 2015. For other communities in the region like Bodo, the existence of exclusive legislation such as Sixth Schedule for territorial autonomy is suggestive of such forms of accommodation within constitutional legal framework after a violent struggle for autonomy.

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identity for political mobilisation and recipient of several state welfare measure (Karlsson, 2001). The designation as an Scheduled Tribe (ST) by the state is significant as it not only means recognition of 'tribal' identity of people or community, but with this status also comes several endowments in the form of affirmative action benefits. In Arunachal Pradesh the benefits accrues to tribal communities in form of 80: 20 ratio reservation in employment where 80 percent of state government jobs are reserved for tribal communities of the state. The Section 10 of the State of Arunachal Pradesh Act, 1986 provides for amendment of the Representation of the People Act, 1950 to provide for reservation of 59 seats out of total 60 seats in the state Legislative Assembly²⁶. The differential treatment is extended to the tribal people of the Arunachal Pradesh by giving them exclusive ownership of land and trade licenses as well, which can be obtained by non tribal people in the state only on specific condition with the approval of the Deputy Commissioner. The roots of such provisions can be found in the Constituent Assembly Debates of India, where members of the Assembly justified the need for such provisions by acknowledging the prevailing sentiments among tribal people in the frontier tracts, which is present –day Arunachal Pradesh. It was argued that even though non tribals who have been residing in the hills for more than one generation would seek rights to participate in electoral contest, but the tribal people in the hills are extremely against it. It was felt that even in tribal constituency non tribal candidates with their financial strength would turn electoral results in their favour. Thus, along with considerations of unique historical existence of tribal communities, their economic marginalisation became ground for their exclusive rights for contesting election.

This differential treatment sometimes acts as an incentive for the communities to identify themselves with the 'tribal' identity. Rajesh Dev argues that "as this 'quest for identity' is structured mostly along "kinship orientation of social relations" in the region reproduces images of 'otherness' that is exclusionary, insular and ethnocentric" (Dev, 2004, p. 4750). In the following section it has been illustrated that in Arunachal Pradesh the image of 'otherness' is used to exclude not only the

²⁶ Regarding the composition of the state Legislative Assembly, Clause 10 of the State of Arunachal Pradesh Act, 1986 states that "The total number of seats in the Legislative Assembly of the State of Arunachal Pradesh, to be filled by persons chosen by direct election from assembly constituencies shall be sixty, out of which fifty- nine seats shall be reserved for the Scheduled Tribes; and the provisions of the Representation of the People Act, 1950 (43 of 1950) shall be deemed to be amended accordingly".

refugee communities from the polity and society, but several communities who trace their origin to Arunachal are also excluded from legal entitlement of Scheduled Tribe by referring them as ‘outsiders’²⁷.

In Arunachal Pradesh more than 120 communities identify themselves with ‘tribal’ identity, meaning the state is posed with the herculean task of identifying deserving communities for Scheduled Tribe status. In next section I have tried to explore the complexities associated with determining of deserving communities for differentiated citizenship in Arunachal Pradesh by illustrating the contestations surrounding the identity of Yobin, Mishing, Deori, and Mikir communities in the state. The major Scheduled Tribes in Arunachal Pradesh according to Census of 2001 is detailed in Table 2.1.

Table 2.1 Tribe wise Population of Arunachal Pradesh in 2001

Sl. No.	Name of the ST	Population returned in 2001 Census
1	Abor	19,927
2	Adi	32,582
3	Adi Gallong	48,126
4	Adi Minyong	33,984
5	Adi Padam	11,625
6	Aka	5,140
7	Any Naga Tribes	6,978
8	Apatani	27,576
9	Bangni	7,870
10	Dafla	45,276
11	Deori	5,693
12	Galong	27,239
13	Idu/Chulikata Mishmi	9,350
14	Khampti	12,890

²⁷Also the exclusion happens at times due to the administrative discrepancy owing to the diverse number of tribes and presence of refugee communities,

15	Miji	5,721
16	Mishing/Miri	13,591
17	Mishmi	25,161
18	Monpa	41,983
19	Nishang	21,907
20	Nissi	87,656
21	Nocte	33,680
22	Tagin	39,091
23	Tangsa	20,962
24	Tawang Monpa	7,500
25	Wancho	47,788

Source: Source: Office of the Registrar General, India

2.4.1 Ambiguity in Scheduled Tribe status of select communities in Arunachal Pradesh

The process of recognition of communities as 'Scheduled Tribes' within the parameters set by the Indian Constitution is marked by many complexities and is fraught with the political motives of the state and non-state actors involved in the process. So, the recognition or denial of the 'tribal' identity of communities depends on the political implications it holds for rest of the people in the society. Townsend Middleton in his ethnographic study of Darjeeling gives a vivid description of the entire process of tribal recognition where civil servants, ethnic leaders and everyday citizens meet with each other with their own agendas understandings and power. The process of recognition requires the bureaucratic agents of the state to visit the field for examining the mode of living, customs, and ritual to determine the tribal status of the population. To gain the approval of the administrative officials people are made to display the traits of their 'tribal' identity which is supposed to convince the bureaucratic agents of the state of community's 'primitiveness' and 'backwardness'. Middleton emphasises upon the crucial role played by the local elites in the entire process, as they shoulder the responsibility to ensure that people who are subjected to ethnographic study by the bureaucrats for recognition of their tribal identity are displayed as 'living embodiments of the tribe' (Middleton, 2015). In the following

section, by taking up the case of few communities in Arunachal Pradesh I will illustrate that the complex process of recognition is permeated with political implications.

The most distinguishing case denoting the complexities involved in the process of recognition of identity in ethnic societies is that of Yobins in Arunachal Pradesh. The Yobins, according to the People of India survey, are amongst the last of the migrants to have come from Myanmar and settled down in remote areas of present-day Arunachal along the Myanmar border. They live in Vijoynagar which is inaccessible by roads and there is limited air connectivity to the area, and people have to walk for days to reach the area. The decision of granting ST status to Yobins was taken by the cabinet of Arunachal Pradesh in 2015. After the decision was taken by the state cabinet, the Department of Social Justice & Empowerment and Tribal Affairs, notified the community as Scheduled Tribe in the state. However, this happiness of Yobin community was short lived as the central Ministry of Tribal Affairs asked for the withdrawal of this notification, because it was not in consonance with Article 342 (2) of the Indian Constitution. It was only in January 2018 that the Cabinet took the decision to withdraw the notification, which has resulted in denial of grant of ST certificates to Yobin in the state (ST certificates to Yobins halted as government violates constitutional norms, 2017).

In the recent history of Arunachal Pradesh people from Mishing and Deori communities have asserted their demand for inclusion in the list of Scheduled Tribe communities of the state because members of their communities who are residents in the neighbouring state of Assam are considered as Scheduled Tribe of Assam. However, it is this history of multiple origins of belonging to multiple lands which act as a stumbling block in the recognition of the tribal identity of these communities in Arunachal Pradesh. Mishing communities form a large part of population in Lekang circle in Lohit district of the state and share similarities with Adi tribe of Arunachal. In 2006 the then Arunachal government decided to grant ST status to those members of Mishing communities, as a sub tribe of Adis, who have settled before 1947 in the state.

In protest of the state government's decision of granting ST status to the Mishings the student body of The All Arunachal Pradesh Students' Union (AAPSU)

pointed out that as per the Chin Hill Act of 1896, 'the Miris (Mishings), Deoris and the Kacharis were recognised as aboriginal indigenous schedule tribes of Assam'. It was argued that the migration of these communities from Assam to Arunachal meant that they have willingly abandoned their Scheduled Tribe status, a line of argument which Beteille makes. (One India, July 15, 2006). On the contrary Anthropological Survey of India's study on Arunachal Pradesh under 'People of India Project' states that in the absence of any concrete evidence regarding the Mishing tribe it is believed that the tribe has originated in Arunachal Pradesh and from there a section on the people migrated towards Assam, rather being the other way round as argued by the students body (Singh, 1992). So, in absence of written historical records among ethnic communities of Arunachal Pradesh and with an oral history of multiple waves of migration it becomes difficult to ascertain their tribal identity for bureaucratic recognition.

Even after a decade the student body continues to be very adamant about non recognition of Mishings as STs of Arunachal. They constantly persuaded the Deputy Commissioners to refrain from issuing ST certificates, permanent residential certificates, land allotment orders and trading licenses to any tribe which is not recognised and the scheduled tribes in Arunachal Pradesh. In 2016 by declining the aspiring demand of Mishings for ST status, AAPSU argued for involvement of Aadi Bane Kebang in this regard. Even when the responsibility of recognition of legal identities of people is an administrative affair, in ethnic societies the complexity of recognition arises with the involvement of traditional institutions that have the power to give authenticity to the claims of communities. As these institutions are governed on lines of ethnic identity, the fear of pressure on existing resources with inclusion of more communities in the fold can often result in denial of 'tribal' identity to 'other' communities.

Another case in point is that of Deori community in Arunachal Pradesh who have constantly pursued the state for recognition as Scheduled Tribe in the state. The predicament of Deori community living in Arunachal Pradesh can be explained with the help of two court judgments. The name of Deori community is not included in tribes of Arunachal Pradesh listed under The Constitution (Scheduled Tribes) order,

1950²⁸. However, in several censuses of Arunachal Pradesh ‘Deori’ community has been listed as Scheduled Tribe category in the state²⁹. The 2001 Census of India report on Scheduled Tribes in Arunachal Pradesh mentions Deori as a tribe in 12th entry in the list³⁰. In *Debananda Deori v. State of Arunachal Pradesh & ors.*,³¹ petitioner approached the court for grant of ST status to Deori community by recognising them as STs in Arunachal Pradesh under the Constitution (Scheduled Tribes) Order 1950. The Guwahati High Court responded by stating that the court does not have power to amend the Schedule Castes Order or Scheduled Tribes order under Article 341 and Article 342 of the Constitution. The ambiguity over the status of Deori community in Arunachal becomes apparent in another case of *The State of Arunachal Pradesh versus Shri Putul Chandra Deori*. In this case the petitioner was already in possession of Arunachal Pradesh Scheduled Tribe Certificate issued by the Deputy Commissioner of Lohit District issued in 1974 but he was not being considered as Arunachal Scheduled Tribe for promotion as Agriculture Development Officer³². The Court held that as the petitioner was in possession of ST certificate which was not cancelled or revoked, he will have to be given the benefit of his Scheduled Tribe status. The judgement further stated that any denial of the grant of benefits of ST status to the aggrieved would be violation of his rights guaranteed

²⁸ The Constitution (Scheduled Tribes) order, 1950 Part XVIII lists sixteen tribes in Arunachal Pradesh 1. Abor 2. Aka 3. Apatani 4. Dafla 5. Galong 6. Khampti 7. Khowa 8. Mishmi 1[Idu, Taroon] 9. Momba 10. Any Naga tribes 11. Sherdukpen 12. Singpho 13. Hrusso 14. Tagin 15. Khamba 16. Adi

²⁹ In the 1971 and 1981 census list of Scheduled Tribe of Arunachal Pradesh the name of Deori community appears as 21st entry in the list (*The State of Arunachal Pradesh versus Shri Putul Chandra Deori*).

³⁰ The Census of India 2001 data report on Scheduled Tribes of Arunachal Pradesh states that “The list of STs in Arunachal Pradesh is open in nature. According to the Scheduled Castes and Scheduled Tribes Lists (Modification) Order, 1956 and as inserted by Act 69 of 1986 states, that there are 16 Scheduled Tribes in the state but the notification gives only an illustration of a few STs. In 2001 Census, total of 100 STs have been enumerated. Twenty-five of them have returned 5,000 and above population”

³¹ In *Debananda Deori v. State of Arunachal Pradesh & ors.*, reported in 1997 (3) GLT 151, Court had held, “In the light of the law by the Supreme Court in *Palghat Jila Thandan Samudhya Samraksha Samiti* case neither the Supreme Court nor this Court has the power either to amend or modify or alter Scheduled Castes Order or Scheduled Tribes Order, as it has been promulgated under Article 341 or Article 342 of the Constitution as the case may be. However, the Supreme Court ruled that it is open to the State Government, if it so deems proper, to forward the report of the competent authority whether the Scheduled Castes Order or Scheduled Tribes Order needs amendment by appropriate legislation. Thus, in the light of the law laid down by the Supreme Court, it is not possible for this court to accede to the contention of Mr. Deori, learned counsel for the petitioner, to issue a mandamus as sought for in the writ petition”

³² It is to be noted that in the State of Arunachal Pradesh, special treatments are given to the candidates from Arunachal Pradesh Schedule Tribe Community in matters of employment and promotion (APST).

under Article 14 and 16 of the Constitution³³. These cases of striving for ST certificate and its enforcement, illustrates the pervading ambiguity over the legal entitlements of these communities which has consequences for their educational as well as employment opportunities.

In 2010 violence ripped through the state of Arunachal Pradesh when the state government decided to grant Permanent Residence Certificates to people belonging to communities as Nepali, Yobin, Mishing, Morang, Adivasi, Kachari and Deori who have been living in Lohit and Changlang districts since last 40 or 50 years but are not listed as Scheduled Tribes in the state. These are the people who have who have settled down in the Lohit and the Changlang districts prior to 1968 and in respect of whom proper records are available with the administration. The state government stated that they had decided to grant Permanent Residence Certificate to these communities on humanitarian grounds as these people in absence of PRC are excluded from the enjoyment of several facilities like they can't even apply for central government jobs, despite being citizens of India. AAPSU responded by arguing that Deories were not aboriginal tribes of Arunachal Pradesh and had migrated from Assam and therefore, they were not to be included in Arunachal's ST list. However, amidst violence and protests over it, as it was a violation of Bengal Eastern Frontier Regulation 1873, the government was forced to revoke the decision on the grounds that the indigenous people of Arunachal were unhappy with the decision (Northeastblog, 2010).

In a bid to ensure full realization of citizenship for these communities, the issue has been raised again for grant of permanent residential certificates and ST certificates to Deori, Mishings, and other communities who have been residing in Namsai district for past six decades³⁴ (Taku advocates issuing PRC, ST certificates to Deoris, Mishings and Sonowal Kacharis, 2018). This frequent flip-flop attitude of the

³³ The court in State of Arunachal Pradesh versus Shri Putul Chandra Deori held that “Even though the name of ‘Deori’ community doesn’t find place in the list of 16 tribes mentioned in the amended Presidential Order, the order pertaining to the State of Arunachal Pradesh begins with the paraphrase ‘all tribes in the state including’”. So, the list was thought to be an illustrative list of tribes in Arunachal rather than being exhaustive one.

³⁴ Former minister Bida Taku who has raised this demand defended his claim by stating that “A gazetteer of India (Census) of Lohit district in 1978 shows the Deoris and Mishings as ST in the list (Sl. No. 21 and 61 respectively). Also, the Arunachal Pradesh gazette extraordinary published by the authority on July 17, 1989 shows Deoris, Mishings and Sonowal Kacharis as ST population of 48-Lekang (ST) Assembly Constituency” (Taku advocates issuing PRC, ST certificates to Deoris, Mishings and Sonowal Kacharis, 2018).

state government over the issue of tribal recognition or granting of citizenship and permanent settlement of the Chakmas in the state is not unprecedented. Often in the events following a decision which involves the tribal people of the state, government in power in Arunachal Pradesh irrespective of the political party has succumbed to the popular pressure and to the will of the student body AAPSU which leads to confusion over the legal position of the state over the issue.

It is interesting to note that how the changing identification of the communities in tribal societies becomes the basis of their inclusion and exclusion from the fold of the state's affirmative action plans. Mikir community in Arunachal Pradesh which resides in the Papum Pare district was enlisted as the Arunachal Pradesh Scheduled Tribe under the Scheduled Tribe Amendment Act of 1950. After the Mikirs in Arunachal Pradesh started identifying themselves as Karbis (the term Karbis is used to identify Mikirs of Assam) confusion regarding their identity arose. So, while they participated in the Panchayat elections and possessed land rights, they were denied Arunachal Pradesh Scheduled Tribe status. The Deputy Commissioner of Papum Pare stated that under Schedule Tribe Amendment Act of 1950 only Mikirs are granted ST status in Arunachal Pradesh and not Karbis, so if Mikirs want to earn their ST status back then with the help of various documents as evidence they will have to convince the authorities about their APST status. Eventually the community started identifying themselves as Mikirs of Arunachal Pradesh to continue being designated as STs of Arunachal Pradesh (Mikirs seek restoration of lost APST status, 2018). Regarding the evolving identity formation among the ethnic communities in Northeast India, B.G.Karlsson writes that, as these communities are transforming from a 'fuzzy' community towards a "fixed" one, any distinct sense of identity is yet to develop among them. These communities are still building their identity based on their historical existence and their relationship with ethnically similar communities (Karlsson, 2001, p. 27). In such circumstances, it is expected that these communities in coming times will resort to the further mobilisation of their identities and establish claims for recognition of their differentiated status. Instead of rejection of such claims for being frivolous, the situation necessitates engagement with these claims to examine their rationale in individual cases and arrive at appropriate criteria to arbitrate between competing claims to differentiated citizenship.

2.4.2 Outsiders in Arunachal Pradesh

Several scholars have pointed out that the increased demand for the ST status in India has coincided with the global proliferation of the indigenous movement in the 1990s. The states in Northeast India could not remain untouched by this wave of politics of belonging based on indigeneity. This is evident in the increasing politicisation of the issue of outsiders, refugees and tribal recognition in the region. The ensuing violence in the region has particularly been on the issue of cleansing the region of foreigners, and as Deepak Singh has accurately observed that in Northeast India the term 'foreigner' encompasses illegal migrants, refugees and Indian citizens who don't owe their origin to the state (Singh, 2010). This would come as surprise as Indian citizens within India are referred to as 'illegal settlers' but the politics of ethnicity in Northeast India is governed by such terminologies. In Northeast India the experiences of Sikkim and Tripura³⁵ serve as example for rest of the states facing illegal migration, issue of refugee settlement or overwhelming number of Indian citizens from rest of India who are also referred to as 'outsiders' in these states. Such experience of demographic alteration fuel xenophobic tendencies among people of other states and encourage them to engage in armed rebellion to assert their demand as the state is seen as weak and failing in addressing their concerns (Singh, 2010). In such circumstances, to evade ethnic violence it becomes necessary to refrain from making any generalisations about demographic decimation of tribal people in their own territory, rather it is essential to do a thorough study of the demographic composition of these states from the axis of 'insider' and 'outsider'.

The anti-foreigner sentiment started simmering in Arunachal Pradesh post attainment of statehood and it gained further vigour in the 1990s under the aegis of student leadership provided by the body of All Arunachal Pradesh Students Union. The decade of the 1990s was also a time when the government of India conducted series of operations for identification and deportation of people suspected to be Bangladeshi infiltrators to the border with Bangladesh³⁶. Even though the issues of

³⁵ These states have witnessed significant demographic change in the post-independence era with the reducing of indigenous to minorities due to continuous flow of migration

³⁶ The decade of 1990s in India saw series of anti-outsider operations conducted by the Indian state. It began with the 1992-93 operation of the Indian government called Operation Pushback under which hundreds of people who were suspected as illegal migrants from Bangladesh were rounded up in Delhi and Mumbai by the public authorities and deported to the border with Bangladesh. However, Bangladesh refused to accept these people as its citizens and India was forced to accept them.

settlement of Chakmas in Arunachal Pradesh emerged since 1970s but it seems that attainment of statehood made people of the state more consciousness of their ownership of the resources and assertion of their claims over it³⁷. The first wave of the cleansing of foreigners from the territory of Arunachal Pradesh was targeted against all the 'outsiders' residing in the state under the leadership provided by AAPSU. The category of 'outsiders' in Arunachal Pradesh basically encompassed nontribal Indian citizens residing in the state, refugees, and 'illegal migrants'. So, AAPSU demanded the ouster of Chakmas, Tibetans, Hajongs, Nepalis, Yobins and Bangladeshi Muslims from the state. However, eventually, the non APST Indian citizens and Yobins were excluded from the list of 'foreigners'. The inclusion of Tibetans in the list of foreigners, which was prompted by the decision of a Tibetan monk, Rinpoche to contest in the Assembly elections was also dropped as it was soon realised that it would have adverse impact on the economy of the state which was drawing handsome revenue from the sale of Tibetan handicrafts, particularly its exotic carpets. So, the anti-foreigner movement came to be aggressively targeted at Chakmas because of their numerical strength in the state compared to Tibetans migrants and their resolve to get Indian citizenship which could secure them permanent settlement (Karmarkar, 1994: 42, Singh, 2010: 89). This cleansing drive of outsiders was extended to illegal Bangladeshi Muslim migrants in the state as well, which gained momentum in 2007 with driving out of other 'outsiders' from the state. In 2007 AAPSU evicted a number of people from Arunachal Pradesh and forced them to move to Assam as it identified them as 'illegal migrants' from Bangladesh, who have entered Arunachal Pradesh through Assam. However, Assam refused to accept those people by identifying as genuine Indian citizens (Singh, 2010, p. 108).

The selective outrage of the Arunachalees against the Chakma refugees in the state and not against Tibetans can also be attributed to the fact that Tibetans traders have had a historical presence in the state³⁸. By bestowing Indian citizenship

³⁷ Additionally Deepak Singh notes that it was Guwahati High Court judgement in Khudiram Chakma v/s the Union Territory of Arunachal Pradesh in 1992 which stated that the Chakmas living in Arunachal Pradesh were not citizens of Indian state and they were regarded as 'foreigners'. By designating the Chakmas with this label of 'foreigners', the court legitimated the action of Arunachal Pradesh to drive away Chakmas from its territory who have been engaged in the illegal occupation of the land in the state by digressing from the allotted land to them in 1964. It was AAPSU, the student body in Arunachal Pradesh, who used the decision as a leverage to harass Chakmas and drive them away from Arunachal (Singh, 2010, p. 90).

³⁸ For many centuries in the past, Tibetan traders had crossed the border to enter present-day Arunachal Pradesh and settled down on the valleys of Greater Himalayas. So, in absence of contact with the

on Chakmas, the Indian state is trying to acknowledge the presence of the community in India as victims of persecution but the hope of Chakmas to have meaningful enriching citizenship experience which would include ownership of resources, political participation and representation in Arunachal is misplaced one. This is owing to the special status of Arunachal Pradesh within India, the state through several administrative measures exclude the non indigenous people who don't fall within the Scheduled Tribe of the state from ownership of land and contesting in electoral politics.

It is troubling to see how the anti-outsider movement in Arunachal Pradesh conflated the categories of nontribal Indian citizens in the state with refugees and illegal migrants. This sort of fusion of diverse category of 'outsiders' is not peculiar to Arunachal Pradesh, but it is peculiar to societies where politics is governed along ethnic line and the ethnicised polity in states of Northeast India have time and again resorted to binaries of 'insider' and 'outsider', which are product of conflation of various categories, to frame their claims which arises from their belonging to the land. The reinforcement of such categories becomes apparent in the community conflicts in the region or in the 'Cleanliness drive' launched against 'outsiders' in these states. In the conflict between Khasi and Punjabi people in Shillong, which began with minor altercation between members of both communities and turned into a violent situation, one narrative of the violence was that the Khasi people in the state wanted to evict the Punjabis as they were referred to as 'illegal settlers' (Indian Express, June 3 2018)³⁹. In such circumstances, where minority tribes are in conflict with the involuntary migrated marginalised community, the questions of justice and fairness requires going beyond reducing these questions to tribal and non tribal division.

Brahmaputra valley, the way of life in northern Arunachal was heavily influenced by Indo-Tibetan culture. It resulted in large Buddhist settlements in western and Siang districts of Arunachal. The middle tracts of Arunachal remained untouched by the flourishing Assamese civilisation and Indo Tibetan culture which made tribes living in these regions different from rest of them (Bose, 1997, p. 16). The Tibetans were settled in NEFA in 1959 when the Dalai Lama entered India via Kameng district of present-day Arunachal Pradesh and took political asylum in India. The Hajongs, who came from the Mymensingh district of erstwhile East Pakistan and are Hindus, are too small in number to pose any serious threat to the demographic balance in the state and have also never insisted on the grant of Indian citizenship (Singh, 2010, p. 90).

³⁹ These Punjabi communities who are now referred to as 'outsiders' are Dalit Sikh communities who were brought by colonial rulers to Shillong to work as sweepers and cleaners, a job which the tribal people of the region were not ready to do. Reflecting upon the previous flare-ups in Shillong in 1979, 1987 against Bengali, Nepalese and Bihari communities and recent angst against Punjabis, Patricia Mukhim notes that 'Shillong is still stuck in the time warp of 1979-1992 where the non-tribal is invariably seen as the interloper'(Mukhim, 2018).

A different aspect of this identification of ‘outsiders’ can be understood from the politics of face⁴⁰, while the non tribal in the state with non Mongoloid features were taken up as ‘foreigners’, it comes as surprise how a tribe like Yobin who have similar origins like other tribes in Arunachal could be mistaken as ‘outsider’. This is reflective of the existing diversity within the tribes in Arunachal Pradesh which negates the understanding of ‘indigenous’ as a category of homogenous people. The act of inclusion of an communities who identify themselves as ‘tribal community’ of Arunachal Pradesh, in the category of ‘outsider’ shows the prevailing ambiguity among the administrative machinery and people of the state regarding the tribal identity of certain communities in the state. Even with the passage of two decades, the issues which dominate the narrative of anti-outsider movement of Arunachal Pradesh remain same, suggesting the incumbent nature of the government which has stayed away from developing any significant action to address the issues.

The presence of Tibetan in Arunachal becomes significant becomes the state has four Tibetan settlements in four districts.⁴¹ The crusade against the eviction of Tibetans residing in Arunachal Pradesh emerged in the 1990s and it subsequently lost momentum, as the focus of anti-outsider movement shifted to Chakmas, but the issue was not allowed to die down by indigenous people of the state. The nature of the treatment of Tibetans in Arunachal Pradesh is tied to two events at two different levels. Firstly, Indian state's attitude towards Tibetans in India is determined by the political and strategic interests of India. Depending on the nature of ongoing Sino-India relationship, centre's treatment of Tibetans vary from recognition of their status a refugee and endowing them with privileges that comes with it, to denial of it (Chakravarty, 2017). In case of Tibetans in Arunachal Pradesh, the Indian state's policy for Tibetans become intricate as the politics of indigenous belonging permeates it. Secondly, in Arunachal Pradesh, the anti-Tibetan sentiment has surfaced along with anti-outsider movement or anti-Chakma movement. So, when in 2007 movement for eviction of Chakmas was revived, anti-Tibetan sentiment in Arunachal also attained new vigour. Once again, AAPSU led talks with Samdhong Rimpoche who was the then Prime Minister of the Tibetan Government-in-exile. The body sought assurance

⁴⁰ Subba and Wouter coin the term ‘Indian Face’ to delineate the confusion between Mongoloid face and Indian citizenship. They argue that in popular reference of Indian face, it excludes the people from Northeast India from popular live in Indian polity with Indian citizenship(Wouter &Subba, 2013)

⁴¹ In Arunachal Pradesh Tibetan live in settlements in Tezu (in Lohit district), Miao (in Changlang district), Tuting (Upper Siang district) and Tenzingaon (West Kameng district)

from the Prime Minister to resolve the refugee issue which should subsequently be followed by their deportation from India (Singh, 2010, p. 108). Now the demonstrations against Tibetan refugees have again flared up in the state after the recent decision of the Arunachal Pradesh government to implement centre's Tibetan Rehabilitation Policy 2014. The policy aims to ease the job search procedure for Tibetans and allot them land lease documents, along with making them recipients of benefits of government schemes by bringing them within the fold of beneficiaries. Centre's policy for Tibetan rehabilitation states that "the state government should sign a lease document for the land occupied by the Tibetan refugees for a period of 20 years or till it is revoked or cancelled. The refugees would thereafter be eligible to benefit from various government schemes, such as MGNREGA, the Public Distribution System, National Food Security Act, Indira Awas Yojana, National Rural Livelihoods Mission, Rajiv Awas Yojana and National Rural Health Mission, besides availing infrastructural facilities like electrification, roads and drinking water supply in and around their settlements. The refugees will also be able to compete for jobs as per their qualifications" (Barooah Pisharoty, 2017).

Extension of such benefits to the Tibetan refugees and land allotment to them is seen as overriding of the Bengal Eastern Frontier Regulations Act 1873. The Students United Movement of All Arunachal (SUMAA) has been demanding a rollback of the Tibetan Rehabilitation Policy as it is infringing upon the rights of the indigenous people and called for support for people in joining the 'rescue mission' to safeguard the indigenous community. In wake of Arunachal Pradesh cabinet's decision to adopt Tibetan Rehabilitation Policy of 2014, the student bodies in the state came down heavily upon the Tibetans living in the capital of the state. The shopkeepers of Tibetan origin in the capital were being subjected to scrutiny, document verification and intimidation by the student bodies. The Capital district Administration responded to the situation by issuing an executive order stating that the act of these bodies to remove any migrant- refugee or citizens from the state was an unconstitutional and violating law of natural justice. In anticipation of any further ruckus by the student bodies the district administration even resorted to Section 144 Cr Pc, in the Tibetan settlement and rental areas in Itanagar as a measure of protection (DA clamps restriction, the government says state interest on top, 2017). This frequent act of student bodies to take up the job of administration in their hands

arbitrarily seems to suggest the disappointment with confusing central government's stand regarding the state as well as court orders and the flip-flop attitude of the state government itself towards issues of migration and recognition.

On the other hand, many people have been arguing that the implementation of the policy would not mean any special privilege for Tibetans rather their existence would be more or less like other nontribal in the state. The statement is ironical in the sense that in the eyes of the local people of Arunachal Pradesh treatment of refugee and Indian citizens at par does not seem a matter of concern. Citizenship as a discourse is seen as 'universalising', as it strives to broaden its horizon to encompass more people within its fold but the treatment of refugees at par with the nontribal Indian citizen enunciates that in Arunachal Pradesh there exist hierarchy between Indian citizens who are 'indigenous' to Arunachal and rest of Indian citizens in the state. Also, it has to be seen whether adoption of such policies involves real life implications on the life of the local people or it is just one of those strategies of weaving an issue around indigeneity to use it as a galvanising force for identity politics.

It has been noted that multiplicity of ethnic identities within the state complicates the recognition of indigenous people of the state and designating them with ST status as in the case of Yobins. It is interesting to note that, the similarity in identities between people of western Arunachal Pradesh and people who have come from across the border from Tibet has led to contention on the issue of grant of Arunachal Pradesh Scheduled Tribe Status to the communities. The stay of Tibetan refugees in Arunachal Pradesh has become sore in the eyes of Aruanchalee people because innumerable times people of Tibetan origin have been found to be in possession of Scheduled Tribes certificates granted by the state which is meant for the indigenous people of Arunachal Pradesh. The matter has been of concern in Tawang and West Kameng districts of western Arunachal Pradesh, where the religious and cultural similarity between Arunachalee tribe of Monpas⁴² and Tibetans facilitate the acquisition of ST certificate by latter. The issue first arose in November 2000, when AAPSU had objected to the fact that "thousands of Tibetan refugees settled in Tawang and West Kameng districts were illegally obtaining scheduled tribes (ST)

⁴² Monpas are the dominant tribe in Western Arunachal Pradesh who practice Buddhism

certificates—which de facto makes them Indians—and trading licences in connivance with politicians in the state” (Routray, 2007, p. 86, Singh, 2010, p. 108). Such conclusion was arrived at by AAPSU when a fact finding committee formed by it stated that “ out of 1,600 Tibetans in the Shyo village in Tawang district, 181 had managed to obtain ST certificates, whereas the number for Bomdila, the district headquarters of West Kameng stood at 300” (Ibid.). In 2002, the then Secretary of Department of Social Welfare had issued order to the Deputy Commissioner of Tawang determine the citizenship of 90 families in Shyo village through the genealogical tree, which would help in tracing the origin of these families to the village to determine their status as bonafide residents of the village. Determination of citizenship of these individuals was to be followed with the grant of ST status to them in the state. The matter has been complicated because the residents of Shyo comprises of both indigenous Arunachalee people and significant Tibetan refugees also. Now Arunachal Civil Society is demanding that the government should withdraw its 2002 order of granting ST status to residents of Shyo village, as the order has been exploited by the Tibetans refugees settling in the village to get ST certificate and land up government jobs in the state (Revoke decision to grant ST certificates to Tibetans, ACS to government, 2018). The Tibetan refugees in the state have often been accused of enjoying the status similar to the tribal people of Arunachal Pradesh, a status which is subsequent to recognition as the citizen of India. Challenging this act Arunachal Pradesh Abo- Tani Clans Youth Organisation approached the Personal Secretary of Chief Minister of Arunachal Pradesh for issuing Tibetan refugees with certificates of Schedule Tribe, Permanent Residence along with an allotment of land. This group alleged that certificates which are meant for the indigenous people of Arunachal Pradesh was made available to Tibetan refugees by forging their identities on documents as Monpas and Sherdukpens who are indigenous tribes of Arunachal Pradesh (Organisations allege government of handing indigenous rights to Tibetans, 2017). This makes evident that in societies where indigenous belonging to land and cultural traits are taken as markers for identification of the ‘tribal’ identity of the people by administrative machinery, it not only leads to honest mistakes by the bureaucrats but creates ample of space for manipulation of identities by several categories of people like ‘refugees’ and state machinery as well. As already discussed the process of getting an ST certificate is a complex one starting from the recognition by the Gaon Burahs/village heads to Deputy Commissioners. So the ability of

Tibetans to get ST certificates reflects the existing loopholes in the administration of the state which need to be sealed to prevent flaring up of any communal tension in the state.

The matter of settlement of Tibetan has gained prominence in the concerns of indigenous people of Arunachal Pradesh with the increasing realisation that even though unlike Chakmas Tibetans are not demanding citizenship of India but the prospects of them leaving Indian territory seems bleak. Several Tibetan refugees are acquiring land and building houses, along with taking with government jobs in the state and marking their increasing dominance in the economic activities of western Arunachal Pradesh. All these indicate that Tibetans in Arunachal Pradesh have already begun to develop interests in the state which is far from the hope of Arunachalees who see Tibetans leaving their state one day. In Tawang, the issue of Tibetan refugees has been raised by All Tawang Districts Students' Union, who submitted a memorandum to the Deputy Commissioner of Tawang stating that "Many individuals and families in Tawang district have Arunachal Pradesh Scheduled Tribe (APST) certificates as well as refugee cards. They should surrender either of the categories. They cannot acquire both the benefits (Revoke decision to grant ST certificates to Tibetans, ACS to the government, 2018). For the union enjoyment of dual status, as refugees and ST of Arunachal Pradesh, and the endowments that come attached with it was problematic. As these Tibetan individuals enjoy the status of a refugee outside India and their family members enjoy ST status in Arunachal Pradesh, union called for giving up one status by these individuals. However, what seems problematic in the statement of the body is that even while Tibetans are refugees in Arunachal Pradesh, it seems they don't have an issue if those among Tibetans who are enjoying refugee and ST status give up one of them. Giving up of refugee status and embracing of ST status would mean that they are recognised as citizens of India and as a tribe in Arunachal Pradesh. It is interesting to see how Tibetans straddle between being a 'refugee' and 'an indigenous citizen' within Arunachal Pradesh in India.

2.5 Conclusion

In India, citizenship is largely individual based and constructed around the liberal framework but the politics surrounding indigeneity in India is reflective of the growing desire of people to make citizenship a function of membership of communities indigenous to the state in question as well. The broadening of the existing liberal framework of citizenship for recognition of indigenous rights is a desirable move but full of many challenges. Most important being the definition and identification of people who can be designated indigenous status. The existing definitions and dimensions of indigenous identity seem too precise but suffers from Eurocentric bias. Such existing parameters need to be broadened to take into account alternative trajectories of the history of people, different geographical and social realities. At the same time, it is necessary to remain cautious of the blanket use of the term indigenous to fulfil the aspirations of people which serves anything but the 'endangered' existence of the weakest within these communities.

It has been argued in the chapter that application of indigenous status to people based on selective criteria should be replaced with efforts to look at all attributes of indigenous identity in consonance with each other. Often the indigenous status allotted to many tribes in Assam is contested like that of Bodos, on the grounds of them being a plain tribe and not a majority in their homeland. However, the existing conventions of international organisations don't regard majority or minority presence of the indigenous people in their geographical territory as a determinant of the nature of protection given to them. In the first world conference to combat racism and racial discrimination, it was clarified that indigenous peoples should not be synonymous with minorities. So scholars like Srikanth or Sanjib Baruah who argue for the designation of indigenous status to people based on their numerical presence miss the significance of historical existence, geographical location, cultural identity of these communities which requires protection by international instruments and national constitutions and other legislative and administrative measures.

More often than not the lens of politics of indigeneity reduces people's framework for operationalisation to categories of native-migrant, tribal-non tribal binaries but too much reliance on the politics of exclusion leads to dissatisfaction and conflicts among communities with oppositional status. So, while working under this framework it remains a continuous challenge for the people to strive for honouring the

rights of the both the indigenous and the non indigenous people to which they are entitled to irrespective of their residence in any part of the country.

Chapter 3

Inner Line Regulation: Changing contours and emerging contestations

This chapter seeks to engage with institutional arrangements through which Indian state seeks to accommodate ethno cultural differences in diverse societies. The chapter examines the nature and logic of claims of people for differential treatment in multi ethnic societies by embedding these discussions within specific policy debates. These policy debates range from Inner Line Regulation, indigenous land rights, non territorial forms of autonomy, and political reservation. Such measures serve to secure a differentiated status to the natives of the state which is a variation from equal individual rights, yet it is normatively plausible. In pursuit of this objective, the chapter adopts an incisive look into the historical and legal position of Inner Line regulation as a protective measure for ‘indigenous’ people of Arunachal Pradesh. Here an attempt has been made to understand the implications of such protective measures for on the conceptualisation of citizenship in states with significant tribal population. Additionally in the chapter broader debates surrounding the issue of introduction of Inner Line Regulation Meghalaya and Manipur has been addressed. The followings sections on Inner Line Regulation outline diverse scholarly discussions on the issue and anxieties of residents of states who live under the regulation as well as those who are striving for its introduction.

In Arunachal Pradesh indigenous rights protection regime acts as an organiser of the social and the political life of the people in the state. These regimes are sites of contestations and political confrontations framed by migration and indigenous agency. The case study of Arunachal Pradesh as an indigenous society illustrates that in regimes of indigenous rights various entitlements are determined by history of migration of communities to the state. Even though the history of migration is shared by most of the people in the state, it is the criterion of relative indigeneity that plays a crucial role in the formation of identities of people and determination of entitlements of people based on that identity. The chapter seeks to analyse the state practices and its implications on the society.

3.1 A brief history of Arunachal Pradesh in Indian polity

It is important to discuss the context which drove Indian state in post independence era to stroll with caution in territory of North East Frontier Agency (present day Arunachal Pradesh) and ensure protection for its people. At the time of independence of Indian state, North East Frontier Agency (NEFA) was very sparsely populated⁴³ with population scattered in tiny settlements across the mountainous territory. It was realised by the then leadership that existence of such miniscule indigenous communities would be posed with difficulty in wake of unfettered immigrant population in the territory. This necessitated the continuation of colonial regulations in NEFA, as well as introduction of new measures by Indian state identity and existence of tribal people of the territory. In his extensive work on NEFA, P.N.Luthra does a study of the special measures in place which realises the distinctiveness of this territory within India. He points out that in order to recognise the significance of the laws and customs of the tribal people in their life the Assam Frontier (Administration of Justice) Regulation 1945 was introduced. It served the objective of ensuring that majority of civil and criminal disputes in NEFA were solved in accordance with the prevailing traditional codes of tribal communities. The Act endowed the village authorities with the responsibility of performing ordinary police duties and ensured maintenance of peace and order. In instances of offences such as theft, criminal trespassing, assault the Act provided the village authorities with power to try the case. The Act also recognised the authority of traditional institutions of village councils and chieftainship in the management of social and cultural affairs of the villages. However, the Indian Penal Code was introduced in 1916 for the purpose of conducting trial by regular court of law when deemed necessary (Luthra, 1993, p. 19). Luthra further notes that, the special attention to the local needs of the region is evident in the way administrative system was set up for the territory. Even though in NEFA the pattern of administrative division of the geographical territory followed the pattern of rest of India such as the division of territory into circles, sub-divisions and districts but the duties allocated to the administrative officers of the region were according to the local needs of the region. The appointment of the Additional Deputy

⁴³ In absence of Census records for NEFA in immediate post independence era, the sparseness of the population can be gauged from the fact that according to Census 2011 Arunachal Pradesh has population density of 17 persons per square kilometre, making it the state with lowest population density in India.

Commissioner in the sub divisions of the districts in NEFA has been called by P.N.Luthra as an ‘administrative experiment of appointing a high powered officer for a comparatively lower administrative jurisdiction’ (Ibid.). He looks it as a successful experiment as it has been able to yield result in terms of accelerating the developmental works in the border areas of the territory.

Nari Rustomji notes that unlike colonial administration who sought to isolate tribal people in the hills to protect their economic interests in plains of Assam, the rationale behind the policy of Indian state towards NEFA was not to keep the tribes in isolation. By pursuing a policy of protection to the tribes of NEFA at the same time giving them autonomy in matters of culture and governance, India state sought to establish the confidence of the local people in the government and its administration. Also it was meant to prepare these tribes, who had an isolated existence till now, to face the challenges posed by the outside world. Rustomji writes that, “With changing circumstances it had become important that local people of NEFA could exercise their discretion in instances of conflict between their traditional values and changing circumstances” (Rustomji, 1983, p. 113). The following section of chapter is a discussion on the evolution and changing nature of Bengal Eastern Frontier Regulation 1873 as an administrative tool in Arunachal Pradesh.

3.2 Anglo Abor Treaty of 1862

Most part of history of present day Arunachal Pradesh and its people is unknown. It was inhabited by tribes who had their own territory in every hill dwellings and sub dwellings. They were constantly engaged in warfare with the neighbouring people from Assam over resources or people from tribes such as Miri in foothills of Assam whom they considered as their ‘slaves’. In order to protect the plains people from the raids of hill tribes the Ahom people had introduced ‘posa’ system which was a system of payment in cash or kind in lieu of their forceful extraction from the village. So, the Assamese kings maintained the policy of aloofness and conciliation with these hill tribes. It was the annexation of Brahmaputra Valley by British and Treaty of Yandaboo in 1826 which brought them in direct confrontation with the tribal of the hill. Sanjib Baruah says that British saw the vast land in Assam as wastelands and it was as early as in 1833 that British officials came up with the idea of settling these wastelands with English entrepreneurs (Baruah, 2007, p. 25).

With the consolidation of colonial rule in Assam several tea plantations came up in Daarrang, Lakhimpur, Sibsagar districts of Assam which shared boundaries with territory of present day Arunachal Pradesh. Even though for British these lands were just vast tracks of wastelands but for the natives these lands had multiple uses as they depended on it for their subsistence. So, the conflicts around the ownership of land grew between British subjects in Assam and tribes such as Khasis, Mizos, Nagas, Garos, and Abors. Sanjib Baruah notes that the present conflict over land in various parts of Northeast has been shaped against this background in colonial history of conflict over land between ‘outsiders’ and those who claim to be indigenous to the land (Ibid.). Sajal Nag identifies these tribes⁴⁴ as responsible for perpetrating raids in the plains of Assam for a longer period of their history (Nag, 2014, p. 29). The raids and plunders by Abor tribes⁴⁵ in the British territory of Assam was very frequent which negatively impacted the commercial prospects of tea plantation owners in the region. Ranju Bezbaruah attributes this conflict to the continuous attempts by British officials for extension of tea cultivation till the limits of the settled areas of Lakhimpur districts as well as beyond it, and encroachment of land in the foothills of Abor hills which had prospects of minerals and forest produce like timber or rubber⁴⁶ (Bezbaruah, 1997). British saw raids, loot, plunder, head hunting as attributes of savagery and barbarism. Even though British could bring Abor hills under its administration to deal with these hill tribes directly, they didn’t consider investment of time, money and responsibility it involved in administering the ‘savage’ tribe as a worthwhile option. It decided to deal with it by sending punitive expeditions to the hills which devastated the tribal habitat, blocked their outlet to the plains and restricted their movement within the hills.

According to Sajal Nag for more than half a century, between 1826 to 1878, British administrators continued with their policy of punitive raids and expeditions to the hills along with establishment of outposts in Sadiya, Kohima, Aizawl which acted

⁴⁴ Khasis, Mizos, Nagas, Garos and Abors

⁴⁵ The inhabitants of the Siang district of present day Arunachal Pradesh were called Abors who called themselves Adi meaning hillmen (Bose, 1997, p. 16).

⁴⁶ Further, as British planters were attracted to the prospect of transporting tea to Eastern Tibet to compete with Chinese tea, it could be done only through transgressing Mishmi territory of Abor Hills leading to bitter confrontations between both sections. The tribes of present day Arunachal Pradesh who lived on the frontier of Lakhimpur district were Khamptis, Singphos, Duaniyas, and Fakials living and they visited their relatives beyond Patkai range which at times involved raiding of villages falling within that range (Bezbaruah, 1997).

as a fort for the British to deal with the tribal population. However, there were alternative methods as well to come to peace with the tribes, one of them being payment of *posa*⁴⁷ which pacified the tribes in Arunachal (Nag, 2014, p. 29). It was a payment which was traditionally made by the Ahom kings to the village chiefs in the hills and later on by the British officials which restrained the tribal people in the hills from raiding the plains for goods or slaves.

The Abor raids in Assamese territory in 1848, 1858 and 1861 were met with subsequent British expedition in the hills. These conflicts between Abor tribes and British officials paved way for the Anglo Abor Treaty of 1862 between British administration and a section of tribes from Abor Hills called Meyong Abor. It was followed by two other treaties with Dehang Debang Abors and Kebang Abors. These treaties decided the boundaries between British territory of Assam and Abor Hills, which was commonly agreed upon by both of them. These treaties restricted the British authority to the foot of the hills and allowed them to establish forts, stations, post guards, build roads on the frontiers in the plains. On the other hand the Abors tribes were made to recognise the new demarcation as the limit for their territory beyond which they were not allowed to interfere with the British subjects. The treaty restricted the Abors from resorting to violent means in instances of conflict with British territory and endowed the Deputy Commissioner with the responsibility to sort out the conflict (Nath, p. 413). The treaty is significant because it marked the beginning of formal administration of the region. So, in the initial years with regard to the territory, which is known as Arunachal Pradesh today, British avoided the policy of complete annexation instead pursued a policy of protection and conciliation which led to slow administrative penetration in the region.

Jogendra Nath notes that Alexander Mackenzie, one of the earliest recorders of history in the region, and Dorothy Woodman, a researcher in Himalayan Frontier, looks at Anglo Abor Treaty of 1862 as a significant step towards establishing peace in

⁴⁷ S.N.Mishra traces the history of *posa* to the reign of Ahom ruler Pratap Singh in 17th century, when the hill tribes of present day Arunachal Pradesh as the Akas, the Daflas, the Miris and the Abors were granted right of levying '*posa*' which included annual collection of goods along with labour service of people captures as slaves from Assam. However, British attempted to change this system by fixing the amount of commodities which was to be paid to each of the tribe. They termed '*posa*' as 'blackmail, blackmail levy or compensation levy for blackmail'. Later on British resorted to monetary payments, instead of traditional payment of commodities, to the tribal chiefs and leaders through the office of Deputy commissioner (Mishra, 1983, p. 1838) .

the region (Nath, p. 411). However, Nath extends the importance of the Treaty to formation of Bengal Eastern Frontier Act of 1873, because the boundary demarcations made under the Anglo Abor Treaty of 1862 was same as the Inner Line drawn under Bengal Eastern frontier Act of 1873 (Ibid.). Even though the treaty was meant to establish peace in the region through drawing or redrawing of boundaries between hills and the plains and its people, it was constantly being violated as land of tribal in the hills was perfect place for the British for tea plantation. With the prosperity of tea industry many people from Europe wanted to invest in the industry, and acquiring greater area for plantation meant greater movement eastwards towards the Naga territory. The constant movement of British towards the hills for the plantation of tea scared the Nagas and Mizos. Also, the advancement of British to the hills was threat to their sovereignty, land and their ancestral belonging. Most importantly it threatened their resources on which their sustenance was dependent. The colonial government encouraged those economic activities of non tribal which involved exploitation of forest for timber or catching of elephants, which was earlier accessed by the tribal for their livelihood. This interference of ‘outsiders’ in the use of forest resources which was earlier the lone prerogative of the tribal people, brought them in conflict with each other⁴⁸. The tribal raids as a result of frequent land encroachment by the British had become so acute that the British India was compelled to think about measures to prevent encroachment into Naga territory by the Britishers and the non tribal, to prevent any harm to the prospering tea plantation industry from the raids of tribal people. The measure came in the form of Bengal Eastern Frontier Act 1873 which is popularly now known as the Inner Line Permit Regulation.

3.3 Bengal Eastern Frontier Regulation 1873

The Act came into force on 1st November 1873 and was applicable to the districts of Kamrup, Darrang, Nowgong, Sibsagar, Lakhimpur (Garo Hills), Khasi and Jainta Hills, Naga Hills, Cachar. Later on it was extended under Scheduled Districts Act 1874 to the Eastern Duars in the Goalpara District, the Mokokchang subdivision of the Naga Hills District, the Sadiya Frontier Tract, the Balipara Frontier Tract, the Lakhimpur Frontier Tract and the Lushai Hills district. It provided for the altering of

⁴⁸ Sajal Nag mentions one such conflict over the resources, as Lushais and Arunachalees were good collectors of rubber they used it for trade with the people of the plains, but encroachment of forests for tea plantation deprived them of this activity, this is why they targeted the tea gardens for their raids (Nag, 2014, p. 30)

Inner Line in all these districts by State government by notification in the Official Gazette. It made it essential for British subjects to obtain a pass from the competent authority to go beyond the Inner Line and violation of this directive was deemed to be punishable. It restricted the non native of the districts where the regulation was applicable to acquire land beyond the said “Inner Line” without the permission of the State Government or any such officer as the State Government appointed on its behalf. The Act stated that State Government may also, by notification in the Office Gazette extend the prohibition contained in this section to any class of persons, natives of the said districts, and may from time to time in like manner cancel or vary such extension.

Regarding the objective of Inner Line Bodhisattva Kar argues that, “The Inner Line was given the difficult task of providing a territorial frame to capital” (Kar, 1999, p. 51). Due to increasing confrontation between the hill tribes and valley people in Assam was posing threat to the flourishing tea plantations in the region, colonial administration sought to control the social and economic interaction between these two communities. Inner Line was invested with the task of separation of hill territories from the plains of Assam, and regulating interaction between the two communities. Through limited interaction between tribal communities and the people from the plains colonial state sought to reduce confrontation between them and secure tea plantations from further raids by hill tribes. In delineating the objective of Inner Line, Alexander Mackenzie writes that the primary reason for introduction of Inner Line was to “enforce, ‘more stringent control over the commercial relations of our own subjects with the frontier tribes living on the border of our jurisdiction’, stopping ‘the operations of speculators in caoutchoc’, and restraining ‘the spread of tea gardens outside our fiscal limits’ ” (Kar, 1999, p. 52).

The Chief Commissioner of Assam Richard Keatinge was endowed with the responsibility of fixing the Inner Line as, “a line of demarcation between the wider territorial possessions of the British state and its constricted jurisdictional limits” (Kar, 1999, p. 51). The Act and regulations were aimed at carving plain and hill areas of Assam bordering China and Burma. The administration of areas which were beyond Inner Line was not a direct responsibility of the British government; rather they were governed through the political agents, who were administrative officials of the ranks of present day Deputy Commissioner. British devised an alliance with the

tribal chief in the villages in these frontier tracts. So, in the villages the tribes were given free hand for the management of their affairs based on the customary laws and they didn't fall directly within the jurisdiction of the British administration, but they accepted the British supremacy. R.K.Sathpathy describes this as the process of developing 'political relationship' between the British and the hill tribes (Ibid.). So, the Act came into place to serve the commercial interests of British plantation owners and protected the culture and identity of tribal people by restricting transgression of outsiders in their territory⁴⁹.

Apart from these prime arguments for the Inner Line regulation, Sathpathy comes up with the argument that the main intention of the British administration was to segregate these hill people from the British subjects so that former will not join hands with the latter in protest against colonisers. Thus, it was an attempt of the British administration to further isolate the secluded areas from the simmering discontent in rest of the country. He also looks at this Act as a attempt to fulfil the British intention to spread Christianity in this part of the region without much opposition from the inhabitants. He argues that once the area was completely isolated it became easier to convert the indigenous people to Christianity (Sathpathy, 2014, p. 42). This can be contested because ILP prohibited British subjects also from trespassing Inner Line. These claims can only be verified if there are traces of British officials selectively allowing the movement of missionaries beyond Inner Lines to the frontier tracts in the region, a line of argument found in works of S.K.Chaube. These claims can gain prominence in present times with majority of population turning towards Christianity, as the share of Christians in the ST population of the State has risen from 13.6 percent in 1991 to 40.9 percent in 2011. The argument needs re-examination if the Central government's recent decision to dilute Protected Areas Act comes into force, which will give greater mobility to foreigners in the state.

One of the many objectives for the notification of Inner Line regulation was to redesign the landscape of these territories in the Northeastern part of India. It not just

⁴⁹ Virendra Singh Jafa in his paper on 'Administrative Policies and Ethnic Disintegration Engineering Conflict in India's Northeast lists out the reasons which British administration gave periodically to separate hill tribals from the plains of Assam and Bengal, "a)To protect the plains from raids and plunder by the hill tribes 1873-1900. So it was meant as a protection from the hill tribes of the tea plantations, oil fields and trading posts. B)To protect the hill tribals from the exploitation by the plains men 1900-1928. c)To foster an enlightened public policy for the cultural survival of the hills 1928-1947" (Lyngdoh, 2014, p. 10)

attempted to separate the hills from the 'plains', along with separation of geographies it was also separation of ways of life. It sought to distinguish the nomadic way of life from the sedentary, the forested areas from the agricultural plains, the tribal areas and its way of life from the plains of Assam (Kar, 1999, p. 52). By limiting mobility of communities the state sought to restrict the existence of hill tribes and plain people in their 'original' residence. Emphasising on the economic objectives of colonial state in the Northeast region, Sanjib Baruah argues that plains district of Assam constituted "the core of the new colonial frontier" with flourishing economic activities, and Inner Line provided a protective cover to this territory (Baruah, 2007, p. 26). He also notes demarcation of Inner Line was an attempt on part of the colonial state to define limits of the "civilisational space" (Ibid.). The demarcation envisaged by Inner Line was not only demarcation in territory but also differentiation between different kinds of people. Beyond Inner Line colonial administration stripped itself of all responsibilities of protection of life and property of people, because people living beyond the boundary of Inner Line were identified with attributes of being primitive, uncivilised, savage, and head hunters.

As Inner Line Regulation continues to exist in the state of Arunachal Pradesh, Mizoram and Nagaland, Inner Line Permit is required by Indian citizens who are entering these states but are not native of these states. It is an official travel document in the form of a book which is issued by the state governments of Arunachal Pradesh, Nagaland and Mizoram to any Indian citizen who wants to visit these restricted states/areas. The foreigners entering these require the protected Area permit (PAP) from the designated authorities.

3.4 Construction of boundaries and politics of resources

The historical and political development of Arunachal Pradesh is intertwined with the history of Assam. Until Arunachal Pradesh was made a Union Territory in 1972 it was attached to Assam with varying degrees. The demarcation of present day Arunachal Pradesh and Assam boundary can be traced back to the laying of Inner Line to fix the boundary of Abor Hills with Assam. In the absence of any concrete distinction between the Assam plains and the hills of present day Arunachal Pradesh many of the hill tribes from latter continued to establish their claims over people in the foothills of Assam (Nath, p. 415). This confusion over identification of people

based on indigenous belonging has continued till present day, where communities like Deori, Mishing, who were recognised as the aboriginal scheduled tribe of Assam as per the Chin Hill Act of 1896, demand for ST status in Arunachal Pradesh as well.

Drawing of boundaries has always been a contested affair because of ambiguity over various terms used to refer to various territories and competing demands of communities. The Bengal Eastern Frontier Act of 1873 laid an inner as well as an outer line, which has been defined by M.L. Bose by quoting from a document of Foreign Department, Political Branch

The limits of the district were at first thrown very far forward, too far to enable us to exercise jurisdiction all the way up to them, so it became necessary to draw a line up to which we intend to work. This was the Inner Line. The limits of the districts originally proposed became the outer line (Nath, p. 415)

This definition illustrates that outer line was sort of uncertain line which was very far off to be defined concretely. The reason for keeping the outer line indefinite was to keep the scope of further expansion of territory open as determination of the outer line was not based on any agreement between the hill men and British authorities. Also the demarcation of area between outer line and inner line was not clearly defined so that inner line can be extended subsequently whenever deemed necessary. There was loose administration in the area between the Inner Line and the outer line as the British regarded the people living there as beyond application of law. Lord Hardinge called for administering it politically where the political officer would be appointed by the Assam Frontier Tract Regulation of 1880. This political authority of the officer rested on the application of force as the rule of law-civil or criminal law codified by the colonial state- was not applicable to the territories beyond Inner Line⁵⁰. In the political control area there was no taxation or prohibition of war or headhunting but the government reserved the right of intervention in cases of conflicts leading to excesses.

⁵⁰ With the drawing of Inner Line at Lakhimpur, Darrang it was made clear that the Abor of present day territory of Arunachal Pradesh were to be restricted to their land and they could extract money only from those villages of Assam which were near the foothills. In instances when they were allowed to settle on the plains of Assam the British would collect taxes from these people in order to assert their authority over land and to make sure that Abor people don't consider this settlement as some form of ownership of the land laid with the British.

It was only in 1914 that the outer line was fixated when McMohan Line⁵¹ came into existence (Nath, p. 417).

Sanjib Baruah says that too much of emphasis on the fixed nature of the Inner Line in distinction between hills and plains meant ignoring the fact that “Inner Line was a revisable, mobile and pliant boundary on the ground”⁵² (Kar, 1999, p. 55). We will return to this argument later in the chapter to understand how Inner Line Regulation has become an instrument for the state to assert its sovereign power in pursuit of its territoriality. Other reasons which drove revision of Inner Line were the recognition of the imperfection in the survey maps, the security anxiety of the state and the adaptive practices of the internally differentiated communities. Kar says that “the extension of Inner Line to areas which were formerly beyond the line was an attempt to bring them from a period of pre capital to capital and from a time frame where no law was applicable to a period where territory and its people were subjected to the rule of law (Kar, 1999, p. 60). In order to understand how availability or discovery of resources shaped the politics of Inner Line in Assam and Abor Hills we will engage with history of areas around which Inner Line was drawn. These areas had great commercial prospects for tea plantation but their location on the boundaries of Assam and Abor Hills made them contested territories.

The account of Luftman Jhonson, secretary of Chief Commissioner of Assam Richard Keatinge, gives us an insight about the politics of twisting of Inner Line in the areas having tea gardens. He discusses about moving the line in the south of Jeypore, in Assam so as to enclose a tract of land which was formerly outside the British administration but were economically crucial for them as it had three tea gardens of Namsang, Hukanjuri and Turuack. These tea gardens that lay on the southern bank of Brahmaputra were in Lakhimpur districts but protruded towards the territory which was claimed by tribal chiefs of Namsang and Borduria making it a

⁵¹ In a tripartite convention in 1914 between India, Tibet and China an agreement was ratified by the Tibetan authorities deciding upon the boundary between India and Tibet, However, Assam Government was for a long time unaware of this line, in the absence of any formal notification specifying that the legal boundary of northern frontier of Assam is same as the legal boundary between India and Tibet as defined by the McMohan Line (Constitution Assembly Debates Vol. VII Appendix C).

⁵² The flexibility of the ILP is evident from the statement of the Chief Commissioner of Assam Sir Charles Elliot who said that the “Lakhimpur Inner Line was not going to remain fixed as it was decided in 1875. The northward advancement of the line was only a matter of time depending on the pressure on the land in the settled areas of the district” (Bezbaruah, 1997, p. 7).

conflicted territory⁵³. So the geographical location of these areas was such that they fell on the boundary of Abor Hills and Assam plains, and the colonial administration attempted to bring it within their jurisdiction through twisting of Inner Line. On the northern bank of Brahmaputra, tea gardens like Harmati and Joyshing were on the very edge of the settled areas of Lakhimpur district, thus being a constant source of conflict.

In Darrang district some tea gardens like Singli, Rangaghar and Bargang were located on the very proximity of the foot of the Abor Hills (Bezbaruah, 1997). Ranju Bezbaruah discusses various instances when the Lakhimpur Inner line was pushed northwards to the foot of the hills with respect to the outer line to bring more tea gardens within its purview. Another case of how the availability of resources determined the modification of Inner Line is evident in the case of Margherita⁵⁴ in Assam where new tea gardens and coalmines were flourishing. The political officer in the region strongly favoured the annexation on the Sarkari Naga territory, inhabited by tribal people of the region, in order to put an end to the conflicts on the border and to extend effective protection to both its inhabitants and industrial belt of Margherita, in return of taxation from Sarkari Nagas (Bezbaruah, 1997, p. 13). It seems that it was the immediate usability of the resources which governed the British concerns of modification and extension of Inner Line because the coal tracts in Tirap and Namsang⁵⁵ were left outside the Inner Line. The uncertainty over the development of coal mines in the region meant the economic worth of the resources could not be determined at that time and these resources were unlikely to be exploited by tribes from neighbouring village. So, British always had the option in hand to bring these resources within their jurisdiction at the hour of need through extension of Inner Line to areas which hitherto fell outside the line⁵⁶.

⁵³ Presently Namsang and Borduria fall within the territory of Arunachal Pradesh while Hukanjuri has been established as a post or an entry point for Tirap district in eastern Arunachal Pradesh, where Inner Line Permit of people from outside the state is verified before their entry in the state.

⁵⁴ The area lies between the present-day Arunachal Assam Boundary.

⁵⁵ Namsang lies within the jurisdiction of Tirap district.

⁵⁶ Later on the areas of political control in areas of Naga Hills went on to be converted to areas of administrative control and administration was extended beyond the Inner Line starting with the establishing of outpost at Mokochung in 1890. Even though the movement of non officials beyond the line continued to be restricted, officials and missionaries approved by the British administration were permitted within the zone. According to S.K. Chaube by the end of the British period with frequent redrawing of Inner line, the administration had spread over all the hills except the areas covered by the Himalayan frontier.

Kar argues that Inner Line regulation through this reordering of the geography of the region came to define the scope of colonial governmentality in the region (Kar, 1999, p. 52). He notes that, “The areas which lay beyond the Inner Line were not just the territories which were outside the frame of British capital or their purview of commercial relations but it was also a temporal outside of the historical pace of development and progress”. He calls it as “a line not only in territory but also in time” (Kar, 1999, p. 60). People who lived beyond the Inner Line were seen to be belonging to a time frame where the time of law didn’t apply. So, in these territories the outdated ‘savage’ practices of slavery, head hunting, loot, raids, plunder and nomadism were allowed to exist. This shaping of governmentality was crucial for addressing the situations of conflict between the British planters and tribes from the hills. In instances of conflict, while the people from the plains were considered to be within the purview of the law and were dealt accordingly, the tribal people from the hills were seen as immune to the ‘rule of law’ and were not amenable to it. Thus, these people had to be dealt differently by the colonial state, a policy which found resonance even in the post colonial Indian state.

The other reason for the extension of ILP beyond initial laid out line was explained by the Chief Commissioner William Ward who said that “it was the imprudent and insolent behaviour of the Abor tribes which might force the British to go in for more annexation” (Bezbaruah, 1997, p. 8). So, the whole endeavour of demarcating inner line was also with the motive to control the behaviour of tribal people from Abor Hills and to assert more authority on the land claimed by the tribal Abors.

3.5 Conflicted understandings of Inner Line Regulation: A jurisdictional or a territorial boundary?

The existing literature on Inner Line regulations conveys that there were conflicted understandings regarding Inner Line. It was not clear whether it was to be understood as the jurisdictional limits till where British administration could collect revenues or was it to be understood as the territorial line which should coincide with the extent of direct control. The then Deputy commissioner of Lakhimpur, Godfrey, admitted the ambiguity when he said that “I don’t know if the limits of Chief Commissionership have ever been specified, so that we know precisely what are the areas within the acts

of Governor General –in – Council are in force. I have been inclined to think that Inner Line marked the boundary of our regular jurisdiction, that is our courts of law, but inner line is not one that defines jurisdiction. The chief commissionership of Assam extends till China, Tibet and Burma”.

According to Aitchinson, Inner Line was the limit up to which the state accepted the responsibility of ensuring protection of life and property. However, even within that line the degree of state’s presence and administrative control varied from rigid administration to delicate handling of the region and the people. Beyond Inner Line state resorted to mild administration through appointment of political officers. So, Inner Line didn’t ensure uniformity in administration for the territories which lay within the Line. Kar calls this variation of degree in administration within and beyond Inner Lines as “incomplete promise of uniform jurisdiction” by the British administration (Kar, 1999, p. 58).

In order to clear the colonial administration’s understanding of Inner Line R.K. Sathpathy cites from the December 10, 1910, dispatch of the Hardinge

We can now claim suzerainty up to the foot of the hills. We have an inner line and an outer line. Up to the inner line we administer in the ordinary way. Between the Inner Line and the outer line we only administer politically. That is our political officers only exercise loose jurisdiction, and to prevent trouble with the frontier tribes, passes are required for those who want to cross the inner line. The country between two lines is sparsely inhabited and mostly jungle” (Sathpathy, 2014, p. 40).

Sajal Nag argues that with the extension of direct formal British administration beyond inner Line to Naga and Lushai Hills, Inner Line became dysfunctional, because the British argument for Inner Line rested on these territories being sovereign and beyond direct jurisdiction. As the line meant that these areas were territories which have escaped law of capital and time but repeated attempts of shifting the line slowly brought these areas within British administration, thus leaving not much differentiation between them and rest territories which were within Inner Lien. So, Sajal Nag argues that there were no grounds left for Inner Line to be apt for these but it has continued to exist in a dormant manner (Nag, 2014). From these arguments it has become evident that introduction of Inner Line in traditional sense don’t stand any grounds at present, as all the states demanding introduction of Inner

Line Regulation or those who have it in place already are neither sovereign in their own right nor they lay beyond jurisdiction of Indian state. These states enjoy different degree of privileged status within the India and Inner Line Regulation can serve as a mechanism to substantiate that status.

So, with the varied available understandings of Inner Line it was feared that what was introduced as a jurisdictional line would come to be understood as the territorial line in the long run. As a result many officers from the frontier were in favour of annulment of the line. They believed that the tribes cannot grasp the difference between a jurisdictional line and a territorial frontier. It was further argued that if British officials don't exercise any administrative powers over the territories beyond the Inner Line for a long period of time it may encourage the tribal communities living in these hills to assert their claims over territory and its governance. It became evident over the course of years when British officials and people from beyond Inner Line continued to engage in commercial activities. While Inner Line was meant to separate the worlds of 'law' and 'no law', but they didn't remain as distinct as it was thought to be because on examining even within the structure of law one can find existence of illegal practices. The Line was notified to restrict the commercial engagements of the British subjects with the tribes in the hills but various accounts suggest that the constant engagement between the British planters and the tribal communities beyond the line existed, causing conflicts and unofficial payments. This commercial engagement of the British plantation owners, contractors and the tribal communities belies the image of them being belonging to the world of pre-capitalist primitives. Kar writes that, "it is important to ponder over whether the worlds of 'law' and 'no law' were not in effect two functional sectors of the same economy of extraction and enframing; whether the time of capital has not always been carrying the time of pre capital within itself"⁵⁷ (Kar, 1999, p. 63). It was

⁵⁷ He mentions a case study of tribes of conflict between Dobangs, Tadungs and Pasi Minyongs tribes, and Sissi Saw Mills and Trading Company and Meckla Nuddee Saw Mills Company. Dobangs, Tadungs and Pasi Minyongs were the ethnic groups who emerged out of the Abors by the end of the nineteenth century and asserted their claims over various segments of forest beyond the Inner Line in Lakhimpur. After exhausting the forest resources within the Inner Line the British contractors sent Miris to collect trees beyond the Inner Line without passes. They made a payment to the Abor chiefs for working in the forests beyond the Inner Line. This was clearly in violation of the Inner Line regulation and the act of paying royalty to Dibangs, Tadungs and Pasi-Minyongs was seen as illegal because the forest beyond the Inner Line fell within the jurisdictional property of British over which it had declined the right to administration. So, there were demands for assuming direct control over these territories too by pushing forth the police posts because if people were left alone over a long period of

feared that, complicity of the colonial administration in allowing for extraction of money by hill tribes from plains people in return of allowing latter to use resource of the hills would eventually lead to a narrative of Inner Line as a territorial boundary. These fears were not unfounded as present debates on ILP are centred around protection of the territory, its resources and its people by the respective states through introduction of Inner Line Regulation because states already enjoy jurisdiction over those areas where Inner Line is asked to be introduced but regulation is seen as an additional protective cover over already existing territorial boundaries.

3.6 Inner Line Regulation in Arunachal Pradesh

For the people of Northeast India the realities of migration and ethnic conflicts have shaped their political and social imagination. The vulnerabilities emerging from the threat of demographic change, in wake of unrestricted influx necessitates emphasis on preservation of ethnic identity of citizens and securing their claims of self determination over their land to shape their future prospects. The demand for introduction of Inner line permit in Meghalaya and Manipur is taking shape against increasing fear among the natives of being outnumbered by the outsiders in their own land. In these states the pressing concern for the locals of the states demanding Inner Line regulation is the growing pressure on the limited resources of the state and threat of economic dominance of the outsiders. While the demand for such protectionist measures is shaped with reference to the looming threat from ‘outsiders’, it becomes important to analyse whether these sentiments for protection are real or merely perceptual in nature to consolidate the indigenous identity and interests in the region. In Manipur demand for Inner Line was based on the arguments of protection from the outsiders but large number of protests for Inner Line has concentrated around the Manipur Valley which is 9 percent of the geographical area and 61.54 percent of the inhabited population in the valley belongs to the majority community⁵⁸. In such

time they might start assuming that they own the resources while the popular understanding among the British officials was that it reflected weakness on part of British administration to let savages extort money from the British subjects in British territory.

⁵⁸ In the discussion of pretext and context in which demand for ILP in Manipur has been shaped, Malem Ningthouja writes “Interplaying with Manipuri xenophobia was minority cum inferiority consciousness articulated by insurgency in an atmosphere of moribund governance, militarisation and monopoly by ‘outsiders’ who systematically establish control over land, resources, construction projects, market, and labour pool. It had catalytic impact on crystallising into the demand for ILP system” (Ningthouja,2012). As the context in which demand for ILP flares up has frequent references to overwhelming presence of ‘outsiders’ in the state, the demands for solution is bound to envisage a

circumstances it becomes important to investigate the nature of insecurities which drive the native people of these states want protection when they are already a majority there.

In recent times Arunachal Pradesh has embarked upon the path of infrastructural expansion which has necessitated bringing of workers from outside the state in absence of significant workforce in the state. The apprehensions regarding losing control over resources by indigenous communities and declining employment opportunities has led to vigorous demand for reinforcement of Inner Line Regulation. The demands need serious engagement with the claims and apprehensions of indigenous people amidst growing influx, at the same time it is important to take into account the diverse realities of the issue of influx. In an attempt to understand the diverse realities of migration in Arunachal Pradesh I have broadly tried to categorise the 'outsiders' in the state in four groups. Firstly, there are people who having faced political persecution because of their beliefs have fled to Arunachal Pradesh. Though they have more or less permanently settled in the state still they don't refer to the state as their native land. The Tibetans settled in the state across five settlements and fall in this category. Secondly, there are those are victims of religious persecution like Chakmas who have engaged in a long continuous battle for citizenship and are determined to settle in the state permanently. Thirdly, there are illegal migrants from Bangladesh who have fled their home to look for prospects of survival in India. Fourthly, there are migrant labour who in the wake of upcoming developmental activities and expanding infrastructural capacity of the state the increasing demand of labour and failure of the indigenous community to cater to this demand has that outsiders have migrated to the state and they would leave the state when they cannot find economic opportunities so they are not the permanent settlers in the state.

After 2015 order of Supreme Court to grant citizenship to Chakma and Hajong in Arunachal Pradesh a fear has been generated among the natives of Arunachal Pradesh that recognition of these people as citizens on par with the Scheduled Tribes of the state will lead to dilution of their indigenous rights. The decision has not only

regime of exclusion of the 'outsiders' for the protection of 'insiders'. So, when a Demand Committee for ILP was formed in Manipur in 2006 to pursue for the introduction of regulation in the state, the demands it asserted were "restrict immigration; control demographic pressure; halt transfer of land, resources, market monopoly power, and political power to 'outsiders'; develop local productive forces; protect culture and community identity; and enjoy certain degree of protection and autonomy"(Ibid.)

invited fierce opposition against the permanent settlement of Chakma and Hajongs in the state by the natives of the state, but it has also intensified a cleaning driving against ‘illegal’ non Arunachalee ‘outsiders’ in the state. The Inner Line Regulation is being used as an instrument to sieve the ‘illegal migrants’ in the state, a category which is used to refer to migrants from of other countries illegal residing in the state as well as Indian citizens who are not indigenous to the state of Arunachal but have settled here in absence of Inner Line Permit. These people are held responsible dominating the state economy and subjugating the indigenous community. The presence of overwhelming number of non Arunachali in the state is seen as onslaught on the culture of the people of the state and threat to the social fabric of the state. Against this background of increasing threat perception and insecurity of the local people of the state against ‘outsiders’ in the state, it becomes important to analyse the existing possibilities of demographic change in Arunachal Pradesh due to ‘overwhelming’ migration. For this purpose the available census data on scheduled tribe and population growth in Arunachal Pradesh in the past six decades has been presented in Table 3.1 and Table 3.2.

Table 3.1 Scheduled Tribe Population in Arunachal Pradesh during 1961-2011

Year	Total Population	Scheduled Tribe	Percentage
1961	3,36,558	2,97,853	88.50
1971	4,68,511	3,69,408	78.85
1981	6,31,837	4,41,167	69.82
1991	8,64,558	5,50,351	63.66
2001	10,97,968	7,05,158	64.20
2011	13,83,727	9,51,821	68.80

Source: Census of India 2011, Director of Census Operation, Arunachal Pradesh, Itanagar

Table 3.2 Population growth in Arunachal Pradesh (% per annum)

Year	Total	ST	General
1961	-	-	-
1971	3.89	2.32	16.79
1981	3.51	1.94	9.44
1991	3.68	2.47	6.48
2001	2.7	2.81	2.5

Source: Data from different population Censuses of India (Arunachal Pradesh) Arunachal Pradesh Human Development Report 2005

From the study of the demographic data of Arunachal Pradesh it can be concluded that from the decade of 1960s to 1980s the percentage of ST population as a percentage of total population in Arunachal Pradesh saw significant decline. This change is attributed to the development projects started by the government of India in the region which brought in skilled and unskilled workers from outside the state because Arunachal Pradesh didn't have a developed labour market. The migration of 'outsiders' in the state meant that population of Arunachal Pradesh grew four times from 1947 to 2001(Arunachal Pradesh Human Development Report 2005). The increase in absolute number of tribal population in 1960s is seen as a result of underenumeration of tribes in census of 1961. The second reason identified is inclusion of some Scheduled Tribes migrants in the Scheduled Tribes population of Arunachal Pradesh in the 1971 Census. It is to be noted that people belonging to the Scheduled Tribes elsewhere in the country are not counted as Scheduled Tribes of Arunachal Pradesh. In the subsequent decades after 1980s the growth rate of ST population has been significantly high, surpassing the growth rate of General population. Also in these past few decades from 1990s to recent election of 2011 the percentage share of tribal population has also slowly increased and they form two third of the population of the state.

In such circumstances where the tribal population forms 68 percent of total population of the state and growth rate of General population has declined from 16 percent in 1971 to 2.5 percent in 2001, any real threat of cultural domination by the outsiders in the state remains a contested assertion. At the same time the argument that the threat perception of the tribal population is irrational as the state of Arunachal

Pradesh is constitutionally protected can hold ground to the extent that the influx of outsiders does not change the demographic composition of the state. As for the argument against the influx that it is taking over the jobs of the local people, regarding the government jobs available Sathpathy rightly argues that in these tribal states as far as higher posts in the government is concerned it is least possible for the non locals to secure it because of the reservation policy in the state government jobs. In Arunachal Pradesh 80 percent of posts in government jobs are reserved for Arunachal Pradesh Scheduled Tribe (APST) candidates and 20 percent posts is unreserved i.e, for open competition according to Arunachal Pradesh reservation policy. The demand for fierce guarding of employment opportunities for tribal people of the state emerges from the apprehension regarding encroachment of jobs by ‘outsiders’ in the state. At the same owing to a delayed start on the path educational development Arunachal Pradesh also suffers from lack of manpower in field of education. Taking note of the situation Arunachal Pradesh government has amended its policy of reservation for post graduate Science and Mathematics teachers in the state to 50: 50 ratio in reservation of seats for APST and un- reserved candidates. Sathpathy rightly points out that mostly non local are found in the central government jobs who are employed for a limited period and they don’t pose threat to the indigenous people of the region. Also there are enough checks in place to prevent the unfair appointment of non locals in the lower grade jobs. Natives of these states are concerned with the private workers whether skilled or unskilled who have increasingly found employment in the wake of number of developmental projects undertaken by the state. Sathpathy emphasises the need of these workers in the economy of these state as some works of construction, carpentry, and mining critically depend on the outside workforce. He cites the example of Mizoram where the work of barbers is dependent on the outside workforce and when the people in Mizoram drove the barbers away the locals had to buy scissors from market and cut hair themselves as local people of the state were not engaged in such activities. Subsequently realising their imprudence the activists allowed the barbers from outside to come again (Sathpathy, 2014).

Nari Rustomji brings out the importance of outsiders in the initial years of setting up administrative apparatus in Arunachal Pradesh. The absence of roads in the forested and rocky terrain meant that porters had to carry food and other essential supplies in the interior regions of the state. This human labour was provided by the

outsiders as tribal people refused to do the job because it interfered with their daily occupation. The thin population of the then NEFA reluctant to work as labourers or porters in road construction posed challenges to administration's infrastructural development programmes in the region. This unavailability of local workforce didn't mean unfettered flow of outsiders in the territory as administrative officials were aware that it large presence of outsiders would create suspicion among tribal and flare up conflicts. In such circumstances guided by the Elwin's policy of prioritising consultation and consent in every matter, administrative officials refrained from forced conscriptions of tribal people as labourers for road construction and bringing outsiders in huge numbers to the region. The officials resorted to air lifting or air dropping of the materials to facilitate the work of administration. Such administrative measures ensured that tribal population of Arunachal didn't become victims of onslaught of outsiders and fast paced development (Rustomji, 1983, pp. 109-112). Even when the threat of migrant workers taking the job stands true like in case of Lafarge in Meghalaya but it is also worth considering that there are many sectors of economy in which the members of tribal societies don't engage which necessitates the involvement of outsiders in the economy of these states. So, Sathpathy argues that in these states of Northeastern India permanent settlement of outsiders should be prohibited and precautionary measures should be put in place to check illegal migration. However, these measures should not be understood as ways to restrict movement of Indian citizens within the state (Sathpathy, 2014).

3.7 Inner Line Regulation and state practices: Questions of sovereignty, territoriality and governmentality

Bringing forth the importance of context in determination of the nature of citizenship an individual enjoys, Anupama Roy writes that, "Even among members or those who legally 'belong', socio-economic and cultural contexts would ultimately determine the terms of inclusion so that even when citizenship makes claims to being a horizontal camaraderie of equal members, it embodies in actual practice, a range of graded and differential categories and corresponding lived experiences of citizenship" (Roy, 2008, p. 245). The chapter brings forth the historical specificity of Arunachal Pradesh which mandated the differential inclusion of non native Indian citizens in society, polity and economy of Arunachal. The policy of restricting the settlement of outsiders in NEFA didn't please many who considering the strategic location of the

territory wanted it to be settled with ‘thoroughly loyal and India oriented people’,⁵⁹ who could use its vast territory to make it agriculturally prosperous. The settlement of outsiders was expected to fulfil multiple objectives. One of them was facilitating easier assimilation of tribal people of NEFA with rest of India (Rustomji, 1983).

Willem van Schendel notes that the way the narrative regarding infiltration has evolved in India it has shaped the national discourse where the patriotism of any Indian is proved by their actions towards the immigrants. So, when Northeast India came to realisation about the overwhelming number of Bangladeshi immigrants in the region, it was asserted by the state that, “the duty of any true Indian patriot was not to welcome immigrants as repatriates coming home, but to deport them as foreign agents out to destabilise, Islamise and ultimately annex entire regions of India to Bangladesh” (Schendel, 2005, p. 198). One can see the operationalisation of this narrative becoming visible in the context of rampant Inner Line Permit checking conducted by the state and non state actors in Arunachal Pradesh. Due to an incumbent administration in the state, often the student unions in the state have taken up the task of administration. The Students’ United Movement of All Arunachal (SUMAA), East Siang Unit led by its chairman Bharat Lego, along with the police officials, carried out an Inner Line Permit (ILP) checking drive at Ruksin, Jampani, Mebo and Pasighat areas only to find hundreds of workers employed in private schools and construction sites without Inner Line Permit. They came up with the finding that hundreds of workers employed in private schools and construction sites in the area didn’t possess Inner Line Permit. It was reported that the list of offenders consisted of teachers, clerical staff and employees who were residing in the villages for past two three years, but the name of hundreds of violators was never specified. The discrepancy over the number of violators and secrecy over their names is held to magnify the intensity of the problem and consolidate the community against flushing out these outsiders through any means. Here the student organisation urged the administration to only employ those people who have ILP. According to SUMAA-ES general secretary Redong Pertin the drive was undertaken as a preventive measure to curb possible anti-social and anti-national activities in view of illegal influx of

⁵⁹ After the Sino India war of 1963 there were serious apprehensions regarding the loyalty of the local people of NEFA if India were to face any war in future. Settlement of ‘loyal’ Indians from mainland India was seen as way to ensure the security of the territory as it was assumed that they would not hesitate to be in forefront in event of Chinese invasion of NEFA (Rustomji, 1983).

labourers from neighbouring states and also suspected Bangladeshi nationals whose numbers are increasing these days. Such suspicions against the outsiders are further aggravated by incidents of crime committed by people from outside the state against tribal people of the state. In this case the incident of murder of Rural Bank Mebo branch cashier, late Bomge Nyori triggered the ILP drive along with the demand for setting up more check posts at Gadum and Siluk villages to check the Inner Line Permit of entrants to the state (Tayeng, 2018). One might wonder how these people have been able to live in the state by flouting ILP regulation which is considered to be such an important form of legal protection of the local people of the state. The Union blames it on the natives of the state for shielding these outsiders by allowing them to reside in their houses illegally without possession of Inner Line Permit. They have criticised such employers for bringing more outsiders to town and give employment to them by flouting the rules under the garb of education and teaching profession. In the border areas of Northeast India the narrative of migrants as ‘infiltrators’ ‘foreigners’ overshadow any other narratives. This is not only applicable to people who have crossed the international borders to enter India but also Indian citizens who migrate from rest part of the country to Northeast India. In such a society it is not uncommon to come across warnings on signboards refraining Indian citizens from giving refuge to outsiders (Schendel, 2005, p. 191).

It is essential to outline the evolution of citizenship in these societies which have existed in isolation till past century but now they are increasingly getting preoccupied with identification of ‘outsiders’ in the state through enumeration and categorisation on basis of their belonging to Arunachal Pradesh. Even in the presence of existing mechanism to ensure that the inclusion of non Arunachalis in the state won’t be at par with the indigenous people of the state who are listed as Scheduled Tribes, there is further demand to strengthen the ILP mechanism in the state by students organisation like the Adi Students’ Union (AdiSU). The body submitted a two-point memorandum to Deputy Commissioner of Lower Dibang Valley, demanding deployment of CRPF personnel to man the inter-state Arunachal-Assam boundary at Shantipur check post and to effectively implement the ILP system. The opening of Dhola-Sadiya Bridge, connecting eastern Arunachal Pradesh with northern Assam, is seen as strategically important given the political and military contestations between India and China over the territory. However, the bridge is also seen with

apprehension by the people of Arunachal Pradesh because with the inauguration of the bridge thousands of visitors other than natives of Arunachal Pradesh are being observed in-fluxing in the Lower Dibang Valley district at an alarming rate. The union demanded the effective implementation of Inner Line Regulation to restrict the entry of outsiders in the state without a valid permit and to maintain social cohesion, peace within the district and for protection of the local population (Adisu appeals for effective implementation of ILP system, 2017). The threat of outsiders is not something new in the narratives of ethnic politics and this is evident in aforementioned students union statement which regarded the overwhelming presence of ‘outsiders’ as carrying inherent threat to peace of the state. The link between the presence of outsiders in the state and increasing crime exists in the public discourse of tribal people of Arunachal Pradesh, which finds expression in the voices of student unions of various tribal communities in the state⁶⁰.

The colonial era legislation is evolving as a mechanism for surveillance in present times in Arunachal Pradesh. Presently the Inner Line Pass granted under Bengal Eastern Frontier Regulation Act 1873 is in the form of book system but Arunachal Students’ Federation (ASF) has suggested State Secretary to change the existing system to Swipe Identity Card with Aadhaar –enabled authentication system. The union has urged the state government to switch to this new mechanism which would allow persons to enter the state only after swiping their ID cards verified by thumbprint authentication. They see the process as facilitating the state police in monitoring the increasing crime rate and fake ILP holders as well. The Federation also called for enhancing security surveillance system at the check gates with round-the-clock monitoring system through installation of CCTV cameras and two-direction checking at Banderdewa, Hollongi and Gumto check gates.

The mechanism which was introduced by British administration to restrict the tribal communities to their place of origin to protect its commercial interests in tea

⁶⁰ All Nyishi Students’ Union has also expressed serious concerns on the incidents of rape of minor girls and children going missing in the state, the Union appealed the Home department to check ILP in all entry points of the state and timely conduct of ILP drive in and around capital complex. They have further stated that if ILP is not strictly checked there is apprehension of entry of illegal settlers like Rohingyas, and people of Arunachal have not come to terms with permanent existence of Chakmas in the state after five decades of their settlement in Aruanchal (Call for timely check of ILP, 2018).

plantations, evolved as a protectionist measure protecting the identity and interests of the indigenous people of Arunachal Pradesh. As the post independence history of states of Northeast India is mired in narratives of illegal migration and ethnic conflict, Arunachal Pradesh even though largely peaceful has not remained untouched from it. These apprehensions have shaped demands for transformation of mechanism for protection of indigenous people to a mode of surveillance against the ‘outsiders’ in the state. The ASF, meanwhile, requested the concerned department to provide instruction to the owners of all rental houses to collect details of their tenants including name, identity proof and passport size photo and submit the same to concerned authorities which will, in turn, help police to trace person whoever flee from the state after committing crimes (Suggestion on upgrading of ILP checking system, 2017).

Willem Van Schendel writes that, “Borders are too often seen as spatial fixtures, lines in the landscape, separators of societies- the passive and pre-given ground on which events take place. But if we think of spatiality as an aspect of social relations that is continually being reconfigured, borders become much more significant. It is here that the state ‘s territoriality is dramatised and state sovereignty is flaunted” (Schendel, 2005, p. 9).⁶¹ Introduction of Inner Line Regulation in Assam, as it existed in 1873, was an exercise in separation of its hill territories and tribes from its valley and people. The separation of people and territories was meant to further colonial state’s pursuit of absolute control over the social and economic relations in the region. By ensuring lesser confrontation between hill tribes and valley people through restricting the mobility and interaction between communities, colonial state sought to secure its economic interests in the region. Contrary to this objective of colonial administration the operation of Inner Line as a lived reality saw many subsequent alterations. Sanjib Baruah rightly observes that too much of emphasis on the fixed nature of the Inner Line in distinction between hills and plains meant ignoring the fact that “Inner Line was a revisable, mobile and pliant boundary on the ground” (Kar, 1999, p. 55). It also becomes interesting to note that even though colonial administration introduced inner line due to animosity between hill and valley communities, Sanjib Baruah perceives the relation between them to be of symbiotic in

⁶¹ By territoriality Schendel means the attempt of state to exercise complete authority over the people and resources within its territory (Schendel, 2005, p. 3).

nature. Further he refers British administrative vocabulary of hill tribes and valley people as ‘leaky vessels’, because of the frequent movement of people between the plains and the hills⁶² (Baruah, 2007). The frequent migration of people from their ‘original’ habitat meant that people from hill tribes could be found in plains and vice versa. This colonial categorisation of identities of people based on their living space has ramifications for the ST framework of recognition in postcolonial India.

As territorial boundaries are shaped by social relations as well, any discussion on Inner Line Regulation in Arunachal Pradesh necessitates examining its socio-economic dynamics along with the state practices. The existence of Inner Line Regulation invests special status to Arunachal Pradesh within the Indian polity, and illustrates its ability to use the regulation as an instrument to differentiate between ‘natives’ of the state and other Indian citizens, refugees migrants. The exercise of sovereign power of state has become visible in the way state has employed the strategy of territoriality to sieve out illegal ‘migrants’ and illegal ‘outsiders’ from Arunachal Pradesh. As territorialising of state power and sovereignty necessitates creation and maintenance of border, existence and greater reinforcement of Inner Line by the state has proved to be enabler in its pursuit of territoriality. On pretext of apprehensions regarding presence of illegal migrants in the state, district administrations have resorted to reinforce the importance of Inner Line for protection of the people and territory of Arunachal Pradesh. In an Order issued by the Office of the Deputy Commissioner of Tirap district it was stated, those Bangladeshi and Rohingya Muslims who have failed to register themselves in NRC in Assam are attempting to sneak in Tirap district, which is territorially contiguous to Assam, as labourers and workers. While this statement illustrates the illegality of action on part of the migrants entering Arunachal Pradesh, it misses to mention that it is the local residents of Arunachal Pradesh who in absence of workforce to work in cultivation or construction sites in the state seek ‘outsiders’⁶³.

Even though the local people have been appreciative of the actions of the state in cleansing out illegal outsiders, the economic compulsions have not stopped them to

⁶² People from the hills moved to lowlands due to commerce purposes and the people from the plains move from lowlands to the hills due to their failure of crops or extortionist labour demands of the states. They moved to hills in search of alternative livelihoods.

⁶³ Apart from Indian citizens who are considered as ‘outsiders’, outsiders as Bangladeshi and Nepalese migrant are present in Arunachal who work as wet rice cultivators in the state.

welcome such migrants all the time. This explains the end number of drives conducted by administrative officials in construction sites and working places for checking of ILP. The order was addressed to local contractors, construction agencies, local market association to refrain from employing people who lacked domicile certificate and have not undergone police verification in their native place. These two criteria being essential for grant of Inner Line Permit. Also it cannot be missed that order in identifying of illegal migrants is specific in not only targeting of specific nationalities but religious communities also. As the Citizenship Bill is being introduced it has consequences for Assam which is also impacting territory contiguous to it.

3.8 Inner Line Regulation and emerging contestations

In an attempt to foster connectivity and develop infrastructure in the border state of Arunachal Pradesh, rail services was introduced in the state. The Harmutty (Assam)-Naharlagun (Arunachal Pradesh) railway line was laid to connect Arunachal Pradesh with rest of the country through rail network. In order to facilitate comfortable travel, the Arunachal Pradesh government relaxed the rigid norm of obtaining the ILP, which is mandatory for outsiders to enter the state. Instead, the reserved ticket of the passengers was deemed sufficient by the state government as proof of identity for entry in the state. However, this decision was met with strong resistance by the natives of the state who feared that they would be inundated by outsiders, threatening their identity and culture, and the plan had to be put on hold. After a month of introduction the rail services had to be stopped. People saw this dilution of Inner Line Permit mechanism as an attempt by the central government to eliminate ILP regulation from the state.

Similar apprehensions are building up in the state against the central government's decision to rethink Protected Areas Permit which restricts the movement of foreigners in the state. David Gao argues that in an era where central government is taking its 'Act East Policy' seriously there is a need to revisit these restrictive laws like Inner Line Permit, Protected Area Permit, Restricted Area Permit etc. He envisages the role of Arunachal Pradesh in fostering economic permeability in the region in the absence of such restrictive laws. However, he is equally apprehensive of lifting these laws anytime soon as Arunachal Pradesh does not have

special constitutional provisions like Article 371(A) and Article 371(G) applicable to the states of Nagaland and Mizoram respectively, protecting their religious, social and customary laws, ownership and transfer of land, administration of civil and criminal justice, etc. (Gao, 2015). Gao while realising the economic benefits for the state in absence of restrictive measures ends up making the same arguments of prioritising the fears and insecurities of indigenous people as economic development can follow when people's identity and existence have been secured. The vision of central government to bring Arunachal on map of rail network is evident in the union budget of 2017-18 which has sanctioned survey of construction of new lines in Arunachal Pradesh from Doom Dooma to Wakro via Simalguri, Namsai and Chowkham (96km), Dangri to Roing (60km), Lekhapani to Deban via Nampong (75 km). As central government plans to expand the rail network in Arunachal Pradesh it should be prepared to either face the resistance of people or build a robust mechanism in partnership with railways to monitor the entry of people through a mode which is new for the state.

Often it is argued that it is the existence of development opportunities within these states and the lack of skilled manpower which encourages the influx to these states. So, any attempt to curb or regulate the flow of workforce from outside to the state may act as hindrance to the development in these states. However, it is also important to not exaggerate the role of ILP as a parameter in determination of the development policy of the state which hinges on other important policies as well. One thing which is similar across states demanding ILP is that there is a consensus regarding the un feasibility of direct implementation of ILP of 1873. They are taking into consideration the mobility of human and resources which has become a necessity of present time and based on these reasons they are ready to work on the modification of ILP of 1873. So, it is important to put these set of arguments in proper perspective.

The role of political leadership of the state in articulating and ensuring safeguard of the interests of the indigenous people is significant and it needs to be seen how it has played out in context of Arunachal Pradesh. The state has witnessed coexistence of traditional leadership, which includes territorial chieftainship at the apex level, intermediaries at subordinate level and chiefs at village level, with the modern leadership which is an outcome of the carving out of Arunachal as a state. It could be argued that fear among tribal people regarding their identity and

communitarian being under threat is reflective of the larger issue of degeneration of the traditional and modern leadership in the state. As the political and economic power is restricted to few, not many within the state are in a position to challenge the leadership and the constitutionally protected status of the state provides local leadership with the immunity to face challenge from outsiders in the state. This has sort of generated some sort of incumbency in governance over the years. In the aftermath of Supreme Court's decision to grant citizenship to Chakma refugees in India AAPSU came down heavily on the state's MPs – Rijiju of the BJP representing Arunachal West and Ninong Ering of Congress representing Arunachal East parliamentary constituencies and Rajya Sabha member of Congress Mukut Mithi – for not impressing upon the Centre enough to stop the citizenship move. In an interview to *The Wire*, Dai Tabom, general secretary of AAPSU referring to the Supreme Court judgement said that “Unlike, before, what we see now is that the BJP leaders both in the state and the ministers of state (MoS), in spite of belonging to Arunachal Pradesh, have not been able to convince their central leadership about the sentiments of the indigenous people. This blame game by Rijiju and others is meaningless” (Pisharoty, 2017) . The disillusionment of the native citizens from their representatives is evident in such statements.

Various scholars including R.K.Sathpathy feel the need for bursting the myth of exploitation in the tribal societies of Northeast India. They bring to light how within the hill states there is growing class of rich people who control resources and political power along with people suffering from increasing poverty and unemployment (Sathpathy, 2014). Any discussion on exploitation of tribal people in their state would fail to address the questions of equality and justice comprehensively if it eludes this increasing class differentiation within tribal communities. In Chapter 4 we engage with the issues of changing nature of tribal communities in Arunachal Pradesh, who continue to enjoy exclusive rights in land ownership and transaction in the state resulting in differential treatment of ‘outsiders’ in the economy of the state. However, increasing privatisation of ownership of land rights has also meant increased differentiation within the tribal communities.

Obadiah Lamshwa Lamare says that the economic advantages provided by the Indian state along with the exemptions and policies of protective discrimination have contributed greatly to the development of an emerging middle class. This increasing

middle class includes students, businessmen, professionals who find themselves at odds with current scheme of power distribution in the state. Lamare notes that a vocal and articulate section of this group with desires for political affluence is emerging as the tribal elite in its own way. Lamare argues that the demand for Inner Line Permit has been made an issue of identity politics by projecting the outside destitute migrants as a threat to the natives of the state. He further says that the politics of identity neutralises and suppresses the class identities by espousing the collaboration of the classes along ethnic lines. So, it tries to diffuse the boundaries between the growing tribal elite and the poor by fusing their demands under the same banner of preservation of identity and culture while there may be many other issues which may be of concern to them separately. The negation of the polarisation of the classes and the subsequent reorganisation of classes obstructs the development of the lower class tribal. He looks at the plight of migrant labourers facing many prohibitions in these states which impede their ability to sustenance and encroaches upon their fundamental human right to life and liberty. So such people are easy targets of state repression even though they don't have much agency to pose threat to the natives of the state or the state administration itself (Lamare, 2014, p. 58).

3.9 Conclusion

The discussion in this chapter has been weaved around the ways in which Inner Line Regulation has invested special status to Arunachal Pradesh within the Indian polity, and illustrates the state practises of differential inclusion of Indian citizens within the polity and society of the state. In order to understand the nature of impact of Inner Line regulation on practice of citizenship we would like to make four observations.

Firstly, by understanding citizenship as a category embedded in the principles of governmentality, it has been argued that in Arunachal Pradesh the Inner Line Regulation as an administrative measure of governance defines the scope of state's governmentality. The colonial era regulation of Bengal Eastern Frontier Regulation 1873 creates categories of citizens as 'native' and 'non native of the state' for their differential inclusion in the society, polity and economy of Arunachal Pradesh. The regulation restricts the unfettered movement of non Arunachalee Indian citizens in the state and makes it mandatory for them to hold Inner Line pass to enter the state. The regulation prohibits the non Arunachalees from developing any

permanent stake in the opportunities and resources of the state. So, aspiration of an ‘outsider’ in a tribal state is circumscribed by aspiration of the local citizens. The administrative categories of ‘native’ and ‘non native’ of Arunachal Pradesh created by the regulation, is reinforced in the public discourse through creation of binaries of ‘insider’ and ‘outsider’ which is seen as crucial for mobilisation and protection of the identity and interests of indigenous people in the state. The prevalent narrative in Arunachal that exclusion of ‘outsiders’ from resource ownership and permanent settlement in the state is a necessary precedent for protection of the indigenous people of the state is slowly gaining xenophobic overtones. This is evident in the new phase of ‘Operation Clean Drive’ launched across all districts in the state to cleanse the state of ‘illegal outsiders’, a category which conflates non native Indian citizens along with ‘illegal’ migrants from other countries in Arunachal Pradesh. This leads me to my second argument about the changing nature of Inner Line Regulation as an administrative measure of governance.

In the chapter by tracing the trajectory of evolution of Inner Line Regulation since 1873 we have become familiar with the changing nature of Inner Line Regulation. As an administrative measure it was introduced to isolate the tribes of present-day Arunachal from people of plains in Assam to secure the colonial economic interest in tea plantations, but in the post independence era period it transformed as a protective measure for the tribal people of Arunachal Pradesh. However, in recent times the nature of enforcement of Inner Line and its purpose is witnessing change which can be seen as the repercussion of the ongoing contestations around citizenship in Assam. In the chapter it has been argued that in the territorially contiguous states, citizenship crisis in one state has spill over effects in the rest. The process of updating of NRC in Assam has set off citizenship crisis in Northeast India, and Arunachal Pradesh has also not remained untouched from its implications. Several districts of eastern and south eastern Arunachal Pradesh which are easily accessible from the plains of Assam are living under the apprehension of infiltration of Bangladeshi and Rohingya refugees. This has emboldened the state to exercise its sovereign power and employ the strategy of territoriality to sieve ‘illegal outsiders’ from the population of Arunachal Pradesh and deport them beyond Inner Line through check gates at Arunachal –Assam border. As territorialising of state power and sovereignty necessitates creation and maintenance of border, Inner Line Regulation

has proved to be an enabler in state's pursuit of territoriality. The exercise of the sovereign power of the state to assert its territoriality through Inner Line has led to creation of suspect citizens where those identified without ILP are pushed to the fringes of citizenship. At the same time the constant call by the state administration to the local citizens in Arunachal Pradesh to remain alert about the presence of 'illegal outsiders' in the state and activism shown by non state actors as student and youth organisations in taking the responsibility of conducting surprise ILP checking drives at home and workplace is leading to formulation of discourse of vigilante citizenship.

The existence and operation of Inner Line regulation raises question regarding the democratic nature of these states who advocate in favour of Inner Line Regulation where every non indigenous person is automatically referred to an illegal migrant or an intruder. Jose Chunkapura interrogates the political discourse in these states which is dominated by the demands of pressure groups for enforcement or reinforcement of ILP because they see it as the only solution to prevent large scale influx and protect the interests of the indigenous people, while the concerns of 'outsiders' in the state is marginalised even though the government has responsibility towards all categories of people living in the state as well (Chunkapura, 2014). The attitude of government of Arunachal Pradesh to care about 'its own people' is bound to create sense of alienation among the rest of the 'outsider' citizens who are excluded from electoral competition and democratic participation in the state.

As Arunachal Pradesh embarks upon path of agricultural modernisation and infrastructural expansion, the anxiety of the indigenous people of the state regarding the repercussions of onslaught of development on their identity and interests is not unfounded. The apprehension of indigenous people of being outnumbered by migrant population finds rationale in experience of Tripura. The natives of Arunachal Pradesh are firm on the issue of strict reinforcement of existing protecting measures in the state so that they don't have to meet the fate of indigenous people who were overwhelmed by the migrant population, at the same time the completion and success of developmental projects undertaken by the state demands huge workforce which is more often than not provided by the 'outsiders' in the state. However, crisis for citizenship emerges when generations of these 'outsiders' who continue to live and build the state exist as impermanent residents in official records, leading a politically

and economically disfranchised life. Arunachal Pradesh has largely been a peaceful state in a region away from violence and ethnic conflicts, to preserve this character it is essential that the state contains the fuelling xenophobic tendencies in the ongoing 'cleaning drive' of outsiders in the state through amicable solutions.

Chapter Four

Land and Rules of Exclusion in Arunachal Pradesh

This chapter delineates the land ownership regime in Arunachal Pradesh and brings forth the implications of these legislations on the nature of economic citizenship in the state. The first section of the chapter outlays the existing laws for land governance in Arunachal Pradesh and explores the ways in which these legislations have paved way for a differentiated nature of citizenship in Arunachal Pradesh. The legislation provides for the protection of indigenous interests in the state by ensuring that Indian citizens who are not listed as Scheduled Tribes of Arunachal Pradesh cannot buy land or build any property in the state, and they cannot be permanent residents of the state. The chapter seeks to examine the implications of pursuing such ‘nativist’ policies on the larger polity and economy of the state.

The section is followed by an elaborate analysis of the changing nature of land relations and land ownership in Arunachal Pradesh. Before the introduction of The Arunachal Pradesh (Land Records and Settlement) (Amendment) Act of 2018, there was no formal recognition of individual land ownership in Arunachal Pradesh, yet an informal system of private property ownership rights has found the place among tribes in Arunachal Pradesh. Through the works of Deepak Mishra, Barbara Harriss White and others, it has been possible to show the changing nature of traditional forms of land ownership in tribal societies. As the state is making transformation towards agricultural modernisation and infrastructural expansion, it is becoming evident that the division of labour in the developmental endeavours of the state is happening along ethnic lines where land ownership is concentrated in the hands of the local elites and labour force is provided by the ‘outsiders’.

This a modest attempt to explore the implications of such informal property rights regime on the land market in the state and the lived experiences of the ‘natives’ and ‘outsiders’ in the state. Through the centrality of land in the life of tribal people of Arunachal Pradesh and their exclusive ownership of land in the state, I seek to engage with questions of economic prospects and aspirations of ‘outsiders’ in the state.

4.1 Historical roots of policymaking in Arunachal Pradesh

The land is central to the life of people in indigenous societies and is inextricably tied to the questions of rights and justice. The importance of land is derived from the multiple meanings and usage it has for indigenous people. Apart from being economic and political resource, on which people are dependent for sustenance and around which claims of sovereignty are asserted, the land holds religious as well as spiritual significance for people. In indigenous societies, the land is seen as a source of the link between the existing generations and their ancestors, so it is part of heritage as well. Deepak Singh notes that “for indigenous people issues of marginalisation, forced assimilation or relocation, political self-determination, protection of culture are all important in themselves but they don’t supersede the importance of land for them” (Singh, 2010, p. 186). The centrality of land in the lives of people of Arunachal Pradesh can be understood from the fact that the state has 68.80 per cent of its population listed under the category of Scheduled Tribes who see land as indispensable part of their life. Emphasising upon the material and religious values attached with the land in tribal societies, Verrier Elwin notes in context of present Arunachal Pradesh that ‘the feeling in NEFA, if anything, is even stronger’, the feeling here Elwin refers to is of attachment to the land (Elwin, 1957, p. 18).

The issue of regulation of land in Arunachal Pradesh is tied with the Bengal Eastern Frontier Regulation Act 1873, discussed in the previous chapter. This chapter will allude to various existing laws relating to land governance in Arunachal Pradesh and discuss its implications on insider-outsider relations and class relations within different tribal communities in the state. The arguments for the differentiated status of indigenous people in the state, is more often than not, built around the need for recognition of the specific history and culture of such communities which demands protective measures for the preservation of their culture. While culture and traditions do acquire prominent status in the concerns of the lives of indigenous people but ignoring their other interests apart from the preservation of culture would be forwarding the prejudiced conception of indigenous societies. Duncan Ivison argues that justification of demand for exclusive indigenous rights is incomplete in itself, as such rights are equally tied with the protection of interests of indigenous people in

land and self-government (Iverson, 2002, p. 125)⁶⁴. He argues in favour of a ‘complex mutual coexistence between indigenous people and the state’ which is embedded in a framework that guarantees constitutional and institutional arrangements for encouraging the basic capabilities of people. The significance of indigenous rights of people, Iverson says is that, “Aboriginal rights protect indigenous peoples’ distinctive and valuable interest in land, culture and self-government, and in doing so, they secure crucial opportunities and freedoms for them to construct and pursue meaningful lives according to their own laws, customs and practices” (Iverson, 2002, p. 140).

Owing to the unique history and distinctive nature of the territory of Arunachal Pradesh, special rights and privileges are extended to the natives of the state. People who are designated as Arunachal Pradesh Scheduled Tribes enjoy exclusive ownership over land and natural resource, maintenance of traditional political and economic institutions, acknowledgment of traditional laws and customs and restriction on the permanent settlement of ‘outsiders’⁶⁵ in the state. This differentiated treatment of the natives of Arunachal Pradesh by the Indian state is remarkable, as Deepak Singh notes that “considering the fact that Indian state has desisted from recognition of the category of indigenous people but the people of Arunachal Pradesh have continued to enjoy special rights and privileges given to indigenous people” (Singh, 2010, p. 188). So, even though at global platforms India refrains from the acknowledgement of the existence of indigenous citizens in its territory, but it endows the local people of Arunachal with the exclusive rights to land ownership and self-determination in matters of culture and local governance which comes with recognition of the indigenous identity of people. According to Singh, for Arunachalis the question of their cultural survival is inextricably linked to ownership of their land but the exclusive claims over the ownership of land given their indigenous belonging stand in conflict with the universal conception of human rights.

⁶⁴ Iverson argues that to establish the class for exclusive indigenous rights on the threat to culture are incomplete. It makes it too dependent on the fact of historical suffering which is vulnerable to be addressed by only remedial rights without any fundamental changes in the structure. The argument that in absence of protectionist measures the indigenous people are incapable of dealing with the greater society they live. The argument finds in Deepak Singh's study of the Arunachalis who claim themselves to be naive and ignorant. But Iverson says that such culturalist defence exposes the argument to criticism of expensive tastes(Iverson 2002 125).

⁶⁵ In context of Arunachal Pradesh the category of ‘outsiders’ in popular usage refers to the Indian citizens who are domiciled in other states of India, as well as refugees, illegal migrants etc

Deepak Singh notes that “The underlying philosophical assumption of the universal human rights which stands on the belief in the existence of a universal man amenable to universal formulations thus fall flat on the account of its inadequacy in addressing such specific local concerns”⁶⁶ (Singh, 2010, p. 204) . In case of Arunachal Pradesh, the Indian state has to a large extent sought to acknowledge the differential historical and societal specifications of the region through several administrative measures and legislations⁶⁷ .

This policy of recognition of specificity of the state and its people has its historical roots in the Nehru-Elwin policy for NEFA, which is present-day Arunachal Pradesh. In the foreword to the second edition of Verrier Elwin’s book ‘A Philosophy for NEFA’, the then Prime Minister of India Jawaharlal Nehru noted five principles for development for NEFA, which should serve as the guiding policy for the administration of NEFA. Verrier Elwin referred to these policies as Prime Minister’s Panchsheel for tribal development.⁶⁸ The second principle “Tribal rights in Land and Forests should be respected” has served as the basis for enactments for protection of land in the tribal areas. The third principle stated that the natives of the state should be prepared for carrying out the work of administration and development. It argued in favour of refraining from the introduction of too many outsiders into the tribal territory. This principle of avoiding settlement of too many outsiders in the state is frequently invoked against permanent settlement of Chakmas in Arunachal Pradesh by granting them citizenship. So, even though the protectionist measures for the

⁶⁶ The local concerns regarding the settlement of Chakma in Arunachal Pradesh and the question of inalienable rights of indigenous people over land resources and water.

⁶⁷ One such measure Bengal Eastern Frontier Regulation 1873 has already been discussed in Chapter 3, others include 80 per cent reservation in employment,

⁶⁸ The five principles outlined by Nehru for tribal development referred to as ‘Panchsheel for NEFA’ were :

1. People should develop along the lines of their own genius and we should avoid imposing anything on them. We should try to encourage in every way their own traditional arts and culture.
 2. Tribal rights in land and forest should be respected
 3. We should train and build up a team of their own people to do the work of the administration and development. Some technical personnel from outside will, no doubt, be needed, especially in the beginning. But we should avoid introducing too many outsiders in the territory.
 4. We should not over-administer these areas or overwhelm them with multiplicity of schemes. We should work through and not in rivalry to their own social, and cultural institutions.
 5. We should judge results, not by statistics or amount of money spent, but by the quality of human character that is evolved.
- (Elwin, 1988, xiv; Singh, 2010, 61)

people of NEFA was ingrained in the policies of British administration but it was advanced by the Prime Minister Jawaharlal Nehru in post-independence India. He emphasized on the need for protectionist measures for the land so that 'no outsider can take possession of the tribal lands or forests or interfere with them in any way except with their consent and goodwill' (Elwin, 1957, p. 10). Elwin says that the essence of entire policy of Prime Minister towards NEFA is in his statement that, "The Government of India is determined to help the tribal people to grow according to their own genius and tradition; it is not the intention to impose anything on them" (Elwin, 1957, p. 11). The Nehru-Elwin Policy towards NEFA didn't favour an assimilationist approach rather they preferred slow integration of this tribal region with the union of India on the basis of friendliness and equality by allowing the specificities of the region to thrive⁶⁹. Elwin noted the importance of such colonial regulations and emphasised on its continuation in independent India, he writes "And indeed for a long time to come it will be necessary to give some measure of protection to the people of NEFA if they are not to suffer the fate of their brethren elsewhere" (Elwin, 1957, p. 17). His emphasis on the need for greater need for the establishment for protection of ownership rights of tribal people over land continues to guide the policies of the state on ethnic lines.

Various protectionist measures for indigenous people of the states in Northeast India were based on the recognition of historical isolation of these tribes and their unpreparedness to face the outside world. These protectionist measures took the form of reservations of a huge share of public employment, business and trade licenses, seats in the political assembly of these states for scheduled tribes in these states, Sanjib Baruah says that "continuation of protective discrimination to ethnically defined historically indigenous majorities is inbuilt into the statutory character of these states". He calls these states as ethnic homelands of particular communities like Mizoram is the ethnic homeland of Mizos who dominate the political, economic affairs of the state (Baruah, 2007, p. 16). However, in Arunachal Pradesh where no single tribal community is dominant, it is not possible to refer to the state as the ethnic homeland of any particular tribe. So, even though in Arunachal there is space for

⁶⁹ Elwin envisaged Nehru's policy towards NEFA as one that would avoid the dangers of assimilation and detribalisation at the same time it will advance the full integration of mind and heart of tribal people with the great society of which the tribal people form a part(Elwin 1957: 9).

several tribal communities⁷⁰ but nontribal are by and large treated as secondary citizens.

4.2 Land Regulations in Arunachal Pradesh

This section lays out three important laws in Arunachal Pradesh which provides the broader framework for governance of land in the state. Even though the state introduced Arunachal Pradesh (Land Settlement and Records) Act in 2000 for administrative management of land, but the laws discussed in this section continue to be the underlying foundation for subsequent laws. These laws determine the ‘eligible’ owner of land in the state and the nature of ownership, which reflects the differentiated treatment of local people of Arunachal Pradesh. The first Act taken up for discussion in the next section is Chin Hills Regulation, 1896 which prohibits the non local residents of Arunachal Pradesh from any form of permanent settlement in the state. The second Act Bengal Eastern Frontier Act 1873 envisages for an exclusive land entitlement regime for indigenous people of the state by the exclusion of the ‘outsiders’ in the state from any kind of resource ownership in the state. The third Act discussed in this section is the Balipara/Tirap/Sadiya Frontier Tract Jhum Land Regulation 1947 which provides for recognition of traditional modes of communal land ownership and usage.

a) Chin Hills Regulation, 1896

The protectionist attitude of British administration towards the governance of hill tribes in the region informed various regulations which continue to have bearing on the land rights of the people in Arunachal Pradesh. Along with many colonial-era legislation, the state continues to be governed by the Chin Hills Regulation, 1896 which endows upon Deputy Commissioners the power to eject ‘undesirable persons’, who are not native of the area, if their residence in the area is seen as a threat to peace and good administration of the area. The legislation aims at policing the behaviour of the non indigenous people of the state to protect the interests of the tribal communities in the area. The regulation with its provision to extern ‘outsiders’, prevents the non natives of the state from developing any permanent stakes in the state. The continuation

⁷⁰ Arunachal has 26 major tribes and 110 minor tribes residing in the state according to Arunachal Pradesh Human Development Report 2005

of this piece of legislation and its frequent reference with regard to various issues in the state⁷¹ has ensured the maintenance and reinforcement of ‘insider–outsider’ divide in the state. It is the existence of such protective regulations which gives the indigenous people of the state psychological security even in the presence of a large number of non-indigenous people living in the state because they are seen as temporary residents without any scope for permanent interests in the state.

b) Bengal Eastern Frontier Regulation Act, 1873

In the colonial period, the region was witness to constant conflicts between the people from plains of Assam and hill tribes of present Arunachal Pradesh due to the expansion of tea gardens beyond the boundaries of settled population of Assam by the encroachment of hill areas. This confrontation between the British administration with the hill tribes necessitated the introduction of Inner Line Regulation which sought to control the commercial activities of British subjects of plains in Assam with the frontier tribes. The regulation restricted the people from the plains and the hills to their natural space and acted as a protective regime for people from plain and the hills. Even though the Bengal Eastern Frontier Regulation Act, 1873 is widely discussed in the context of the introduction of Inner Line Permit policy but the regulation is also tied to the governance of land in Arunachal Pradesh. Various sections of the regulation restrict the non natives of the state from accessing land and forest resources in the state. The Section 5 of the Act states that any person who is found in the possession of rubber, wax, ivory or other jungle products upon his conviction under this regulation, the articles held by him may be confiscated to the government by an order to be passed at the time of conviction by the magistrate. Section 7 of the Act prohibits a non native to acquire an interest in the land or product of the land beyond the Inner Line without the sanction of the state government by such officer who is appointed by the state government.

⁷¹ From issues ranging from Tibetan Rehabilitation Policy to the introduction of railways in the states. The actions of the state have been criticised for ignoring the special status of Arunachal Pradesh by emphasizing on the existing regulations like the Chin Hills Regulation 1896

c) Balipara/Tirap/Sadiya Frontier Tract Jhum Land Regulation 1947

Regarding the ownership of land in NEFA Elwin remarked that the land in NEFA was held on a corporate basis and it was owned by the villages rather than the individuals. He noted that historically villages in the region have been engaged in fights over the drawing of boundaries between them. So, he referred to the entire area of NEFA as divided into call zones of influence where every village and tribe compete against each other to establish their exclusive claim over land, forests, and streams by asserting their historical traditional ties to these resources. Explaining the special nature of Jhum cultivation, the dominant mode of cultivation among indigenous communities in Arunachal Pradesh, he observes that people often claim shares of vast tracks of land as well as forests without having the manpower to cultivate them (Elwin, 1957). G.N. Sinha notes that in Northeast India in general, the land settlement didn't take place in the initial years of the British rule, unlike in other parts of the country. In absence of the land settlement, the rights of the state on all lands is absolute as per the principle of eminent domain, so lands, until allotted to private individuals, belonged to the state. Under the Assam Forest Regulation Act 1891 the ownership of those forest lands, which didn't fall in the reserved category or village forest, rested with the state government. The forest department of the state government used to issue a permit to local people to use this category of land on payment of royalty and monopoly fee etc. until the permit system was abolished by Supreme Court in 1996 (Sinha, p. 16). However, as in indigenous societies significant emphasis is laid on the recognition of the customary rights of the people, in case of Arunachal Pradesh recognition of customary rights of people over land found place in The Balipara/Tirap/Sadiya Frontier Tract Jhum Land Regulation 1947, which recognises the rights of people over collective use of land resources without actually giving them ownership of the property. While under the Assam Forest Regulation, 1891 jhumming was considered as a privilege and not a right⁷², the Balipara/Tirap/Sadiya Frontier Tract Jhum Land Regulation conferred on tribes

⁷² Section 10 of the Act states that in all cases of claims to jhum cultivation it should be treated as a privilege subject to control, restriction and regulation by the state and not as a right. Section 32 of the Assam Forest Regulation 1891 provided measures for the protection of the unsettled forests belonging to the government and restricted individual's use of forest produce by subjecting it to rules made by the state government. Such rules included rules for the prohibition of cutting of trees for jhum, fire, felling of a tree, quarrying of stone, cutting of grass and pasturing, hunting, shooting and fishing etc.

the right to practice jhum cultivation. The Act vested the members of village or community and individual cultivators as well with the customary rights to jhum lands in fulfilment of certain criteria. Under Section 10 of the regulation, the government may acquire any jhum land for a public purpose but it provides for a reasonable compensation for all land acquired under this section. However, it is interesting to note that this compensation to jhum cultivators arises from their customary rights over the land like cultivation, a collection of forest produce, use of water channels or any other rights traditionally enjoyed rather on account of their ownership right to land (Sinha, p. 7).

d) Arunachal Pradesh (Land Settlement and Records) Act 2000

Post attainment of statehood by Arunachal Pradesh it is the first legislation introduced for comprehensive land governance in the state. Previously the land in Arunachal Pradesh had remained largely unsurveyed in absence of any formal administration, but this legislation sought for land revenue administration for the entire state. Further taking note of the nature of society of Arunachal Pradesh, the legislation also provided for incorporation of the customary rights of the people on land. Even though the act didn't endowed individual ownership of land on the people of the state it specifies about the provisions of allotment of land and leases to indigenous people of the state

4.3 Changing Land Relations in Arunachal Pradesh and the regime of protective discrimination

Post formation of Arunachal Pradesh as a state in 1987, the changes in the wake of western education, new political and changing economy and land relations have brought changes in land laws in some tribal societies. Deepak Mishra traces the changing nature of land ownership with 68 per cent of the tribal population, major civil affairs are guided by the community ownership based customary law, but it is not recognized by the state which recognizes land laws based on individual ownership. In the context of Arunachal, Barbara White and others have noted that "Historically, even though the land ownership was collective, animals, tools and implements were privately owned" (Harriss White, Mishra, & Upadhyay, 2009, p. 5). In indigenous societies the access and usage of resources are primarily seen from the perspective of collective ownership, in case of Arunachal notion of private ownership

over certain resources has historically existed in parallel to the collective notion. These multiple forms of ownership are accompanied by diversity in existing traditional institutions in the state which play a crucial role in the regulation of the land and its ownership among people. So, among some tribes like Nocte and Wanchos, it is the institution of chieftainship which plays prominent role in the governance of the land and village chief is responsible for determination of individual ownership of land, whereas in many other areas it is the village council consisting of all adult male members which are responsible for decision making.

The formal administrative governance of land in Arunachal Pradesh post attainment of statehood came with the introduction of the Arunachal Pradesh (Land Settlement and Records) Act 2000, but it is only with Arunachal Pradesh (Land Settlement and Records) (Amendment) Act 2018 that formal private property rights over land have been given recognition. However, in the absence of a formal mechanism for recognition of property rights the state has seen the emergence of an informal system of rights over ownership and transfer of property in the state (Harriss White, Mishra, & Upadhyay, 2009). Out of the total recorded forest area in Arunachal Pradesh, 61 per cent of forest land is classified as Unclassed Forest. The governance of this section of forest land is the responsibility of the village communities and the village clans, which has swung from collective ownership to private ownership in the past and presently there is an increasing tendency towards privatization of the ownership rights over forests. This has resulted in conflict between gaon burahs who emphasise on the collective ownership over these lands, and individual households who establish their ownership over land based on claims of inheritance (Harriss White, Mishra, & Upadhyay, 2009, p. 12).

In indigenous societies, the significance of land increases because in absence of written accounts of history one's ties with land serves as material proof of their original belonging to the land as it is reflective of their link with ancestral heritage. Ownership of land is not only crucial in establishing historical accounts of belonging, it also acts as an instrument in shaping up future claims of self-determination and autonomy which is woven in the claims of indigenous belonging. As it has already been argued that in Arunachal Pradesh the traditional institutions play determining role in the governance of land, so even though in the absence of formal recognition of

land rights individuals have been successful in establishing their ownership over lands informally, it is constricted by the moral and political authority of the village councils and its representative village chief or gaon burah who continues to enjoy discretion over land sales. So, informal ownership rights for people have not equated to their right to sell or transfer the land within tribes or outside their tribe. Deepak Mishra says that in Arunachal Pradesh, “there exists a clear disjunction between the right to inherit and right to sale.” (Harriss White, Mishra, & Upadhyay, 2009, p. 15). The significance of traditional elites in managing the ownership of land finds affirmation in works of Gurudas Das also. He argues that with the development of monetised economy in Arunachal Pradesh the traditional Chiefs, Gaon Burahs and other leading men have been the principal beneficiaries. The rural elite has been successful in concentrating huge chunks of land under their permanent possession, resulting in shrinkage of land available for the common use (Das, 1995). However, in recent times with the several developmental projects being undertaken by the state, the traditional authority of gaon burahs has undergone erosion. A memorandum submitted to the Chief Minister of Arunachal Pradesh by community groups and Non-Governmental Organisations (NGO) working in North Eastern India on Sept 3, 2004 after the ‘First Consultation Meeting on Planned Dams in Arunachal Pradesh’ organised by Arunachal Citizens’ Right (ACR) states that the authority of gaon burah over traditional rights and land jurisdictions has been ignored in matters of construction of dams (Menon, 2009, p. 134).

The changing pattern of land ownership in Arunachal Pradesh is accompanied by the development of land lease market in some parts of the state. Primarily two types of land lease markets have been identified as operating in the state. Firstly, within the villages as more educated and able workforce are migrating to urban areas for nonfarm jobs, land leasing has emerged within the clans and village communities to secure their inheritance claims to lands. The details of such land leasing agreement is not specified in many cases. Secondly, land leasing is emerging against the backdrop of agrarian transition in various parts of the state from shifting cultivation to permanent cultivation, which is facilitated by migration of workers from nearby states to rural areas of Arunachal Pradesh who are willing to work as tenants and wage workers in wet rice cultivation fields. So, land leasing involves tribal landowners and tenants from nearby states or countries. Predominantly labourers working in wet rice

cultivation fields are migrant workers from the nearby state of Assam, but in Western Arunachal Pradesh they are mostly migrant workers from Nepal and in district of East Siang migrants are mostly labourers from Bangladesh (Harriss White, Mishra, & Upadhyay, 2009, p. 15). Historically, the tribes of Arunachal Pradesh have engaged in shifting cultivation, apart from few communities like Apatani tribe who practised settled wet rice cultivation, but with the presence of these migrant sharecroppers in the state who belong to plains of Assam, and are well versed in settled cultivation the agrarian economy of Arunachal has embarked upon transformation.

Arunachal Pradesh Human Development Report 2005 states that there has been a high growth of labour in Arunachal Pradesh in recent times due to the migration of workers from rest of the country to Arunachal in large numbers. It identifies the link between the increasing presence of such migrant cultivators in the valleys of the state and their significant role in expanding land under permanently settled cultivation. Nani Bath also identifies this changing nature of agricultural practices in the state as the area under settled agriculture has increased from 28,006 ha during 1970-1 to 1,08,803 ha during 1990-1 (Bath, 2017, p. 15). The stumbling block in this agrarian transformation in the state is the limited period of contract⁷³ between sharecroppers and the landowners which restricts the migrant workers on land from long-term investment and planning in the land. Also Section 90 subsection (3) of Arunachal Pradesh Land Settlement and Records Act 2000 provides that where the landowner is a member of Armed Forces of the Union and discharged from the duty, the landowner can evict the tenant within a short period of three months notice before the expiry of any year. In rest of the cases, the notice period is one year. The short-term lease agreements and uncertainty over eviction from land prevent the migrant tenants from attaining security of their occupation and aspiring for a role in the agrarian transformation in the state. Until the recent amendment in 2018, according to the Arunachal Pradesh Land Settlement and Records Act 2000 as the state was not recognizing the private ownership rights of individuals over land, the lease contracts between the landowners and migrant tenants were also mostly oral in nature which didn't have legal sanction. The migrant tenants in the state thus live on the margins of vulnerability, in the absence of any formal contract and uncertain tenancy period.

⁷³ According to the Arunachal Pradesh Land Settlement and Records Act 2000 the period for the lease of land is five years, at the end of the period it can be renewed again for next five years.

This precarious situation of the migrant workers is further worsened by the limited residential rights of these workers in the state. According to Bengal Eastern Frontier Regulation 1873 'outsiders' are restricted from developing any permanent interest in the land of the state which also means they are not only restricted from ownership of land in the state but also not allowed to permanently settle in the state. Drawing upon the significance of the regulation for non tribal workers employed in private sector of Arunachal Pradesh, Gurudas Das notes that the percentage of tribal workers in the manufacturing sector is very low. The reason being that most of the entrepreneurs in the state prefer to employ non tribal workers because they can be 'controlled' and it is easy to get work done from them. The workers from outside Arunachal enter the state with a Inner Line Permit which is valid for a limited period of time. After the expiry of the validity of their stay most of the workers don't go for the renewal of the permit apprehending legal complications. This makes their extended stay in the state an illegal act because of which despite facing exploitation at workplace they choose to remain silent. For these migrant workers suffering threat and coercion seems to be a better option than deportation. Thus, the impermanent nature of stay of migrant workers in Arunachal exposes them additional vulnerabilities, and the greater scope for exploitation of these workers makes them ideal people for employment in the economy (Das, 2005). Indian citizens who have migrated from other parts of the country to work as agricultural labourers in Arunachal Pradesh, not only suffer from occupational insecurity but fear of uncertainty looms large on their entire existence in the state in presence of protective regulations for the indigenous people of the state.

Sanjib Baruah remains pessimistic about the scope for the improvement of the conditions of the 'outsider' in states where governance is along ethnic lines and favourable to selective ethnic communities of the state. He argues that the migrant sharecroppers in Arunachal Pradesh have 'transient' role to play in the future of the state as envisioned by the official narratives (Baruah, 2007, p. 28). In states with ethnicised polity, the concerns and demands of the natives of the state outweigh the rest, the 'outsiders' in the state who are restricted from contesting in electoral politics are left without any representatives to raise their concerns at the larger political platform. So, Baruah is pessimistic about the ability of these migrant sharecroppers to secure sharecropping rights or improve their terms of tenancy through political action.

However, the amendment to the Section 90 of The Arunachal Pradesh Land Settlement and Records Act 2000, can set the beginning of improvement in the living condition migrant cultivators in the state by securing their tenancy rights for a longer period. According to The Arunachal Pradesh (Land Settlement And Records) (Amendment) Act 2018 the landowner may lease out land to another person or entity for uses which are agreed upon between them, for a period of 33 years instead of five years as under the 2000 Act. The new Act also makes the amendment to Section 90, subsection(2) to insert a provision of renewal of leases for another 33 years after the expiration of the initial period of 33 years on modified terms and conditions as decided between both of them. With these amendments ensuring long-term lease contracts, it has become possible for the migrant cultivators to have a longer presence in the state and has given them some sort of certainty to continue with cultivation for a longer time. So, it is time to reconsider the role of migrant cultivators in the state which Baruah envisages as 'transient' in nature, also the longer presence of migrant tenants practising settled agriculture in Arunachal would ensure that the agriculture modernization in the state is not be aborted at a nascent stage.

In their governance of the tribal societies the priority of Nehru –Elwin policy was to see that in order to boost the agricultural production in these areas it is necessary to ensure that people should feel that they own the land they cultivate (Elwin, 1957, p. 14). This justified the exclusive ownership of land by the indigenous people of these societies who were initially primarily engaged in subsistence cultivation. However, as states like Arunachal Pradesh is witnessing a demographic change in recent times with increasing number of migrant sharecroppers engaged in settled cultivation and leading the transformation of nature the agriculture in the state, it becomes important to reconsider the philosophy of Elwin. Even with amendments to the land Act of 2000 it is important to assert that despite amendments which ensure longevity of migrant sharecropper's presence in the state, under the present mode of land regulation tenants can never become the owners of the land they would cultivate for such long periods because of the prevailing Bengal Eastern Frontier Act 1873 in Arunachal Pradesh. So, in a state which is governed along ethnic lines, the aspirations of 'outsiders' in the state is bound to be limited till the continuance of protective measures for selected ones based on their belonging to the land.

The availability of migrant labourers in Arunachal Pradesh is not only restricted to agricultural activities but has extended to nonfarm activities as well. As Arunachal has embarked upon the path of infrastructural expansion through the building of dams in various districts the state has attracted migrant workers due to lack of workforce in the state. So, traditionally the work which was carried out through mechanisms of collective labour mobilizations in the villages is now done through wage labour arrangements with migrant workers (Harriss White, Mishra, & Upadhyay, 2009, p. 14). Manju Menon worries about the prospects of indigenous people of Arunachal Pradesh against the increasing presence of migrant workers in various parts of the state. She argues undertaking of a large number of dam projects by the state of Arunachal will not only challenge the complex landholding patterns in the state but disturb the demography of the state as well. It is the repercussions of these projects, which include movement of a large number of labourers from outside in the different parts of the state, which makes her fearful of the law and order problem in the state like Sikkim has been facing (Menon, 2009, p. 140).⁷⁴

This transformation of labour relations in farm and nonfarm activities in the Arunachal Pradesh seems worrisome to Sanjib Baruah, from the perspective of what he calls defacto 'two tiered citizenship regime' that favours who are ethnically indigenous to the state but turns out to be nightmare for other people living in the same territory (Baruah, 2007, p. 48). The increasing presence of non-indigenous people in these ethnic states means that despite being Indian citizens the economic and political prospects of their life will be limited by restrictions on claims to ownership of land, carrying out any business with license or presence in electoral politics of the state. In case of states of Northeast India it has been seen that the demand for exclusive claims over resources or autonomy in the form of separate districts, states or nations have been shaped by resentment of 'original' inhabitants of the land against the increasing presence of 'outsiders' in their territory who pose threat to their culture, identity, resources and sovereignty. Baruah calls this carving out states based on the ethnic identity of people as the creation of ethnic homelands which is motivated by the natives of these territories to reserve their share in arising education and employment opportunities and exclude 'outsiders' from accessing these

⁷⁴ She argues that as Sikkim has undertaken several infrastructural development programmes like the construction of roads it has led to an influx of migrant workers in the state which has posed challenges for the administration in maintaining peace and order (Menon, 2009, p. 140).

opportunities(Baruah, 2007, p. 49). This reiterates the earlier mentioned point that the demands and actions of indigenous people should not be limited to examination through the lens of culture and identity, rather their material interests should equally be taken into account to understand what shapes their claims and guide their action.

In states of Northeast India, the prevalent phenomenon of persistent emphasis on accumulation and concentration of benefits arising from educational, employment and other economic opportunities to the indigenous people of the states at the cost of exclusion of ‘outsiders’ raises questions regarding the nature of development in these states which has not been able to placate the resentment and insecurities of its people. Baruah says that this regime of the creation of ethnic homelands and continuation of mechanisms of protective discrimination is only worsening the crisis of citizenship in the region (Ibid). As Arunachal Pradesh has embarked upon the path of agrarian transformation and infrastructural expansion which is largely dependent on the availability of workforce from outside the state, the increasing presence of outsiders in the state is bound to fuel insecurities among the natives and may bring them in a frequent confrontation with the ‘outsiders’. In such circumstances, the state will have to mediate between indigenous people of the state who have been historically deprived in several aspects and the economically disenfranchised migrant workers whose position as ‘outsiders’ prevents them from any significant economic and political empowerment in the state. In the changing economic scenario it will become imperative for the state to modify its solution of privileging indigenous interests in all questions of conflicts between natives and outsiders, as it can no longer afford to neglect the economic and social rights of its citizens who are leading the state’s ventures in infrastructural development on the grounds that these people don’t trace their origin to Arunachal like other tribes of the state.

It is interesting to note how rules of exclusion operate in Arunachal Pradesh not only through formal regulations and legislation of the state but also through the existence of traditional institutions which forms a large party in governing lives of tribal communities. Even though Arunachal Pradesh had introduced Panchayati Raj institutions in 1967, the role of village chiefs or gaon burahs as functional head of the village have continued to exist under Assam Frontier (Administration of Justice) Regulation, 1945. The role of gaon burah is significant in determining the

‘membership’ rule of the village community. He is responsible for deciding who belongs to the political community of the village. Deepak Mishra and others note in their study on agrarian transformation in villages of Arunachal, in response to their queries on the total households in the village, frequently gaon burahs excluded migrant tenants and state officials in the villages (Harriss White, Mishra, & Upadhyay, 2009, p. 18). This non-recognition of households of migrant workers and state officials in the villages, who in all probability were from outside the state, suggests how tribal communities deny the existence and contribution of ‘outsiders’ to the economy of the state owing to their impermanent existence in the state. While various constitutional and legal provisions exclude non Arunachalees from owning any resource in the state or actively participate in the electoral politics of the state, reinforcement of such exclusion in the social relations through denial of the existence of non Arunachalees or their growing significant role in the economy of the state is driven by the existing ‘insider-outsider’ boundaries in the perception of people which is further strengthened by existing acts of protective discrimination.

4.4 Land market in Arunachal Pradesh

After the perilous Sino-Indo war of 1962, Indian state for the first time realised the strategic necessity to increase its engagement with the frontier territory of Arunachal Pradesh. This active engagement meant choosing a more prudent path of emphasising on building up the physical connectivity of the state with rest of India, instead of aggressive developmental projects and infrastructure building to avoid ethnic flare-up in a state with diverse tribal communities. However, in recent times it seems that Indian state has been hit with the realisation that making slow progress towards developmental projects in the state is no solution to counter the aggressive highway building projects of China on the other side of the border of Arunachal Pradesh. As numerous highway projects⁷⁵ are underway in Arunachal Pradesh, along with construction of several dams the value of land is significantly increasing in present economy of Arunachal and the restrictions on the transaction of land provides an

⁷⁵ In addition to various ongoing road construction projects in Arunachal, in 2017 Indian state promised construction of four highways in the state along with additional road projects worth rupees 50000 crore which includes construction of a Frontier Highway parallel to India-China border. Most importantly there is an undergoing Trans –Arunachal Highway under construction which connects 12 district headquarters out of 16 in the state. Strategically it is important as it connects Tawang in the western Arunachal Pradesh with Kanubari in southeastern Arunachal, and finally connecting the state to Assam in Dhemaji(Kahyap 2017).

advantage to the indigenous people in the state to accumulate an enormous amount of landed property.

With the exclusion of non-tribal in the state from land ownership and transaction market in the state, the native owners have extensively leased out land to non Arunachalees to develop rent economy in the state. The local elites extract rent in four ways; firstly by renting out land to ‘outsider’ tenants for wet rice cultivation, secondly by renting out land to migrant workers for setting up of business and house, thirdly from employees in state government or private sector or migrant businessmen who would require rent houses to stay in absence of any private property in Arunachal , finally by earning commission by leasing out trading licenses to migrant traders who can formally secure trading license only in exceptional situations (Harriss White, Mishra, & Upadhyay, 2009, pp. 22-23). Envisaging the role of local tribal elites in the economy of Arunachal, Gurudas Das writes that tribal elites in the state have become the faithful collaborators of the Marwaris who hold the industrial and merchant capital in the state. He says that local elite often play the role of ‘sleeping’ partner by offering their trade licenses to businessmen from outside the state to earn commission. He further notes that even those tribal elites who show leaning towards entrepreneurship, they also lease out their business to outsiders against receipt of certain payment annually (Das, 1995). This is not to deny the existence of entrepreneurs among tribal communities in Arunachal, but to highlight how the exclusionary measures of ownership shapes the economy of the state, whose members are new entrants to monetised economy. Baruah adds that in this emerging rental economy most of the people leasing out land are mostly agriculturists and share of crops they get as landlords is actually an addition to their economy. However, for many people who are working in private sectors or government jobs leasing out land would mean that they are becoming less dependent on the agriculture income (Baruah, 2007, p. 28).

The changing pattern of land ownership and emergence of capitalist economy in Arunachal Pradesh has led to emergence of prosperous section within and among tribes who at times come into conflict with each other in attempts of accumulating property for agriculture as well as rent (Harriss White, Mishra, & Upadhyay, 2009, p. 22). This phenomenon is not only restricted to tribal communities in Arunachal Pradesh, as H.Srikanth identifies emergence of sections of autochthonous elites within native communities across states in Northeast India who mostly thrive off non

farm income and enjoy political and economic superiority over rest of marginalised members of indigenous communities (Srikanth, 2014, p. 45). It is this section who uses indigeneity to invoke a sentiment of fraternity among the local communities and unite them against the 'outsiders', while masking the increasing social differentiation within the native communities due to the concentration of wealth among few within them. Srikanth questions the appropriateness of the argument which invokes indigeneity to address the questions of marginalisation and domination of natives, as more often than not, the migrants who are seen as a threat by local communities actually live under threat of occupational insecurity at mercy of native employers (Srikanth, 2014, p. 44). Instead of examining the problems of poverty, underdevelopment, scarce resources, unemployment, land alienation through the lens of 'native' –'outsider', it is imperative to question the developmental policies of the states and seek accountability from the state for poor governance. It is also essential to not exempt the politically and economically elite within the society from the mechanisms of accountability as they hold considerable power over the state apparatus. The economic prosperity of this class⁷⁶ is attributed to their ability to access and exploit the resources of the state. In ethnic societies, these people enjoy the state patronage by mobilising members of their communities on ethnic lines for electoral gains and in their role as community leaders they enjoy the legitimacy of people of their tribe by acting as mediators between demands of community and state.

The emerging class of landlords in the state is seen as a consequence of ongoing agrarian transformation and the informal regime of private ownership rights, which has led to a greater differentiation in class within the tribes. For instance in the Tawang district in Western Arunachal Pradesh, where in the non-agricultural season a section of local rural society is engaged in road and other construction activities, mainly for tribal contractors in return of wages (Harriss White, Mishra, & Upadhyay, 2009, p. 16). As outsiders cannot own property in Arunachal Pradesh, the local elites have used this opportunity to develop a rent economy in the states. This development of rent economy by tribal elites is reflective of their capacity to mobilise the ethnic identities and insecurities of natives of the state against 'outsiders' and speak on

⁷⁶ Deepak Mishra and others describe the composition of this class by inclusion of, "politicians, businessmen, traders and bureaucrats who have flourished with the expansion of the state bureaucracy, construction and infrastructural undertakings of the military and civil administration, through timber trading and expansion in business of consumption goods in the state"(White e'tal, 2016, p. 9).

behalf of the tribal communities. It is the existence and maintenance of ethncised citizenship which allows the tribal elites to continue as the representatives of the community (Harriss White, Mishra, & Upadhyay, 2009, p. 22). This is evident in many instances when the local leaders in the state outlive their tenure in administrative positions, the people of the state don't question the leader for misusing and misappropriating the power and position in the hope that the leader being from tribal society of Arunachal will speak for his own indigenous people. Sanjib Baruah says that the stories of growing local elites through the exploitation of resources get lost in the rhetoric of exploitation by the outsiders (Baruah, 2007, p. 39).

As Sanjib Baruah discusses the weak development of state machinery in the states of Northeast India, the relative weakness of the state has created space where various ethnic groups have emerged who mobilise the citizens on ethnic lines with the promise of deliverance of goods which the state has failed to deliver. So, in instances when the state fails to secure the property of individuals these ethnic groups take upon themselves the responsibility of enforcement of property rights of individuals. While in other states in Northeast India several insurgent groups have assumed this responsibility of securing the interest of particular ethnic groups, but Arunachal Pradesh has largely remained a peaceful state.⁷⁷This is because instead of giving space to any armed organisation to voice their demands, various tribal communities within the state have themselves engaged in competition with each other for a greater share of government resources which has maintained sort of balance in the system (Baruah, 2007). This competition over natural resources and resources of the state has made the survival of these tribal elites possible in the state.

Such a mode of governance on mobilizing the ethnic identity of citizens of the state has meant that 'natives' in the state have been successful in creating a narrative of greater need of securing resources against the threat of 'outsiders' in the state, which has resulted in increasing demands for the strengthening of existing protective regime in the state. The Arunachal Students' Federation (ASF) has suggested the State government to upgrade the existing ILP books⁷⁸ with Swipe Identity Card with Aadhar-enabled authentication system and two-direction checking at Banderdewa,

⁷⁷ Apart from few instances of NSCN insurgency in three districts of Tirap, Changlang and Longding in eastern Arunachal Pradesh.

⁷⁸ In present system of Inner Line permit is granted by the administration in a booklet form which needs to be updated after a period of every one year.

Hollongi, and Gumto check gates. The Federation also called for enhancing security surveillance system at the check gates with an around-the-clock monitoring system as well as the installation of CCTV cameras (The Arunachal Times, February 4 2017). The objective of suggested changes is to arrest the crime rate in the state and identify fake ILP holders. The nature of such demands is such that the increasing crime in the state is seen as a consequence of the presence of outsiders in the state. So, non state organisations encourage vigilante citizenship by restricting the role of surveillance of 'outsiders' not only to the state but it encourages the owners of all rental houses to collect details of their tenants including name, identity proof and passport size photo and submit the same to concerned authorities to assist them in arrest of people who flee state after committing crimes.

With reference to tribal societies Verrier Elwin writes that "In areas where free commercial penetration has been permitted, there has been much commercial exploitation inevitable among a people who but yesterday learned the use of money and who are simple and trusting" (Elwin, 1957, p. 4). In societies with indigenous people more often than not, the narratives of 'outsiders' exploiting the simple natives have prevailed over any other. However, in the case of Arunachal Pradesh, the proliferation of capitalist economy with commercial agriculture and the land rental market cannot be simplified as tribal shifting cultivators losing land to clever non-tribal settlers. Here, the elites have exploited the absence of legal recognition and safeguarding of common property to seize large chunks of land for plantation as well as agricultural purposes and make use of the emerging informal regime of private property rights (Harriss White, Mishra, & Upadhyay, 2009, p. 20). However, as the problem of lack of workforce to work on these lands continues, landlords have resorted to the mobilization of labourers from outside the state, but their entry to the state and its labour market is restricted by existence of Inner Line Permit Regulation which subjects the entry of 'outsiders' in the state to certain legal mechanisms and surveillance. The institutional specificities i.e, Indian citizens who are not listed as Scheduled Tribes of Arunachal Pradesh cannot buy land in the state or build any property in the state and cannot be permanent residents of the state, have larger implications for the polity and economy of the state. Deepak Mishra argues that these two instruments ensuring the protection of exclusive indigenous right together is determinants of employment growth and migration patterns in rural Arunachal

Pradesh. These regulations restrict the mobility of the migrant workers in the state as it makes them apprehensive of moving into interior rural areas for work. The settlement of these workers is usually restricted to the urban area or nearby rural settlements next to urban areas. They also tend to reside at their workplace, which in this case is construction sites where they are provided shelter by the state or its institutions like the army who have a crucial role to play in the maintenance of strategically important territory of Arunachal Pradesh (Ibid.).

As earning from rents is very high landowning elites engage in the accumulation of vast tracts of land either to lease it out for cultivation or business to mostly 'outsiders' in the state who despite being interested in these occupations cannot carry it out without the assistance of local people in absence of ownership rights. But the ambiguity over the contract between the migrant tenants and the tribal landowners often puts the former in a precarious position. Also, tenants and dependent labourer's access to the village commons are often unspecified; this denies them the support of community resources even though they might have been living in that place for a long time. These migrant tenants face the double disadvantage due to their economic vulnerability and due to their identity as outsiders. In his work on agrarian transformation in Arunachal Pradesh Deepak Mishra and rest notes that in many situations the tenants and migrants living in the village are charged fees by the village councils for their settlement there. So, in absence of formal mechanisms, this is like local protectionist regime operating in the villages by the tribal chief. While in few cases tenants have access to common property resources, in others the rights of the tenants are tied to the social and political status of landlords for whom they work (Harriss White, Mishra, & Upadhyay, 2009, p. 23). In absence of formal recognition of the rights of the tenants, migrant workers are left at the mercy of the tribal landowners for their treatment.

It is the existence of such protectionist measures in place for the tribal population of Arunachal Pradesh which has ensured that even in the wake of commercialization of agriculture in the state, it has not seen landlessness among native citizens. In Arunachal Pradesh, it is the tribal agriculturists who are employing the migrant non-tribal sharecroppers as temporary tenants. While migrant sharecroppers are responsible for cheating and taking advantage of the poor tribal people, but the labour market in Arunachal Pradesh shows that the tribal landowners

colluded with political power are in a position to exploit both tribal and non-tribal tenants as the latter doesn't possess any secure rights over land in absence of legal leases. Despite these existing vulnerabilities and precarious situations Sanjib Baruah argues that there is a proliferating number of migrant families in Arunachal Pradesh because of the existence of unlimited land in the state, which he calls as such non-state⁷⁹ spaces that encourage these tenants to invest in the land and agricultural assets as they can shift from one leased land to another. He acknowledges the pattern of losing land by tribal to non tribal people but says that with rules of exclusion in place in states like Arunachal Pradesh the loss of land is intra tribal that is poor tribal people losing land to rich tribal (Baruah, 2007, p. 29). Baruah says that even though the current development paradigm in Arunachal shows that migrant labour is prerequisite in the state but the 'prevailing rules that define local citizenship raise troubling questions of unequal citizenship'(Baruah, 2007, p. 35).

Even with the existence of protective regulations securing the economic and political interest of the natives of Arunachal Pradesh, the student organizations, political parties, and civil society groups continue to demand more stringent measures to protect the interest of the local people. These bodies are often involved in conducting private drives to check ILP of people in the region or eviction of allegedly illegal migrants working as tenants in the state. In such circumstances, it becomes essential to understand the complex multiple realities associated with the problems of land, rather than reducing it to a question between 'outsiders' and 'insiders'. Such questions need to take into account the widening economic gap within the tribe as well as the legal and economic vulnerability of the migrant labourers and tenants in Arunachal Pradesh. So, with regard to new settlers in Arunachal Pradesh, who are Indian citizens, conflating the issue of illegal; migrants with migrants from rest of the country to Northeast states does not give a real picture(Baruah, 2007, p. 36). With the new amendment there is apprehension regarding landlessness among the indigenous people of the state, the new Act which confers individual ownership on individual, the process and cost involved in registration of land would mean that most people may not afford it and most of the land will remain unclaimed which could be taken over by

⁷⁹ By term non-state spaces Baruah refers regions in Northeast India where there is the absence of formal land records which is reflective of limited penetration of the state

the government to realise its development projects waiting in the line. The amendment is also seen as paving way for the permanent settlement of 'outsiders' in the state with such long-term of the lease agreement.

The tribal elites prospering through rents try to escape the formal accountability mechanism of the state. In event of the public complains of wrongdoing these elites resort to the community support to save themselves from prosecution. This is peculiar to ethnic societies which are based on the ethos of community belonging. In such societies existence of such diverse protective institutional mechanisms is not only favoured by the tribal elites in the states whose prosperity depends on its existence, but by people belonging to various tribal communities as well. The enforcement of protective policies is supported by the tribal people of the state as these policies are 'nativist' in nature which prioritises the interests of indigenous people of the state over labourers, businessmen or government officials from other states in Arunachal. In a general framework of an ethnicised polity, the support of the elites is considered to be in the best interest of all the members of the tribe. As tribal societies are governed by the ethos of community belonging, people's claim to state's resources of the state is voiced by leaders from their tribe. Even when elites within these tribal communities exploit the existing regime of exclusive rights over land and resources to accumulate unaccountable wealth, people don't want to challenge such acts of their leaders as they don't want to weaken their claims over resources (Harriss White, Mishra, & Upadhyay, 2009, p. 23).

The popular understanding that in tribal societies there is community ownership of resources and it is a loss of this ownership which leads to loss of control over resources, is challenged by Deepak Mishra and BG Karlsson. They bring forth in their works that it is in the absence of community management and growing nexus between state and tribal elites within society, some people successfully accumulate vast tracks of land. In the context of tribal societies, Karlsson brings the paradox of ban on land sales to the non tribal to protect the interests of indigenous people and their claims over collective ownership to resources, but at the same time allowing for transfer of land among the tribal people and unequal accumulation of land by tribal leading to class differentiation within the tribal societies. So, when in Khasi hills a

land commission argued in favour of cadastral mapping of land it was opposed on the grounds that it will lead to taxation and greater control of government over land controlled by the people historically (Baruah, 2007). However, B.G.Karlsson says that such arguments are put forward by the landholding elites to avoid public scrutiny of their assets. As Arunachal Pradesh is pushing forward for recognition of private ownership of the land it will require cadastral mapping of the land, so voices of opposition against this decision of state are already rising. A property rights regime with no official land records has contributed to armed conflicts in the region. The determination of indigenous belonging of people to a region is a complicated task in the absence of written history and overlapping claims of various ethnic communities to the same territory. Baruah says that establishing the identity of indigenous belonging of individuals becomes a difficult task, “given the dominant political imaginary where the questions of justice and territoriality have become inextricably intertwined” (Baruah, 2007, p. 34). The situation is complicated in these places as most of the lands are not surveyed and people don’t have the legal papers to prove their property rights. It is difficult for the state to support or deny property claims in such areas which are not surveyed or formal forests occupied by local people and “in such circumstances the state has to accept the settlements as *fait accompli*” (Ibid.).

As Arunachal Pradesh has decided to give ownership rights to people having land possession certificates, it will have a mountainous challenge in front to deal with in absence any cadastral survey of the land. According to many economists, the absence of a formal land market in hill regions which is the consequence of existing strong limits on transfer of land to non-STs deters investment. A new amendment to act though will not lead to the transfer of land but long to term lease would serve the developmental plans of the state, on the other hand, individual ownership of land would ease the land acquisition process. The move of vesting individual with private ownership of land is seen as a positive step by some people towards strengthening the claims of individuals over the use of their land and has granted them greater bargaining power. Recording the diverse views of the indigenous people of Arunachal Pradesh Arunabh Saikia notes the opinion of general secretary of the Siang Indigenous Farmers’ Forum, Tasik Pangkam who said that individual ownership would give people more bargaining power in land acquisitions as people will not give away their land to the PSUs if they don’t fulfil the demands of local people. The move

is also seen as strengthening the economic status of the people who can now use the land as collateral to gain a loan from the banks, and it is expected that economically empowered people are better positioned to deal with the potential land acquirers. Even among the activists' opinions are divided as many others are apprehensive of this move of the government which is seen as a plan to weaken the position of people's claims to large tracks of land and make these lands easily available for the big dams. Farmer and social activist and general secretary of the Siang People's Forum Oyar Gao, an indigenous of Arunachal Pradesh views the amendment as causing dispossession among tribal people. The amendment is seen as an evil plan by government to snatch people's land because formal allotment of land will require registration of land as well, and in event of failure of payment by the people state would classify these land as Unclassed forests and will take over the land to be allotted for developmental projects in the state (Saikia, 2018).

4.5 The issue of Trading Licenses in the state

In this regime of exclusive indigenous rights, the restriction on ownership of land and permanent settlement is supplemented by the restriction on trade licenses as well. The rationing of trade licenses is restricted to the local population of Arunachal Pradesh Scheduled Tribes. The Department of Trade & Commerce, which is Nodal Department for the issue of Trade Licences, states that normally trade license is issued to Arunachal Pradesh Scheduled Tribe (APST) entrepreneurs only. So, for obtaining trade licenses the applicant should be a bonafide Arunachal Pradesh Scheduled Tribe (APST) which should be certified by the APST certificate and who has land possession Certificate/ along with up to date land revenue payment documents. However, in exceptional cases where there is no APST entrepreneur forthcoming, non-tribal are also issued trade license by the Government which needs a recommendation by the Deputy Commissioner as a special case. In case any APST or non APST applicant has no land/building of his/her own, the person is required to should produce Deed of land Lease (Agreement) along with up to date land revenue payment papers of the landlord/building owner. So, the possibility of Indian citizens living in Arunachal Pradesh, who are not listed within Scheduled Tribes of the state, obtaining a trading license is an exemption within the protective regime rather than a right. As Article 19(g) of Indian Constitution guarantees all Indian citizens the

fundamental right to practice any profession, or to carry on any occupation, trade or business, the legal restriction over issuing trade licenses to non-tribal is an exception to this right. While trade licenses for capital investment till 10 lakhs are issued to non APSTs on the basis of exemptions to the rule, trade licenses for non APST investors involving a minimum investment of Rs. 5.00 crores and in case of service sector minimum investment in equipment Rs. 2.00 crores are allowed within the Industrial Policy of Arunachal Pradesh in 2008. So, the policy of the state while restricts the direct ownership of the business for non-indigenous people in small investments to protect the interests of the native investors, but it allows for large investments by outsiders in the state within due to the economic compulsions of lack of availability of huge funds within the state.

The state government is earning huge revenue from the Trading License fees and its subsequent renewal fees. The revenue earned by government has significantly increased from Rs 83,04,563 in 2002-03 to Rs 2,50,93,920 in 2012-2013.⁸⁰ These restrictions have allowed the emergence of a section of elites within the tribal communities and among the tribes as well, who have been successful in gaining licenses from the administration. There is another section who has prospered through rents by outsourcing their licenses to other parties. This exclusive ownership of land and trade license has set up conditions of monopoly or oligopoly where the local leases out the trade licenses to ‘outsiders’, who are mostly into the capitalist ventures in the state, to earn rent. Sustenance of this rent economy is important significant for the leaders of the state because, “for the politicians of Arunachal Pradesh this has been a key instrument of patronage and control” (Harriss White, Mishra, & Upadhyay, 2009, p. 24). The issuance of trade license policy of the government of Arunachal Pradesh says that The trade licence issued to some of the non-tribal businessmen on or before 5th August 1977 in the state for their active participation in the development of the State from the very beginning may be continued to renew till further order, but businessmen from outside who had managed to obtain licenses through negotiation of exemptions have increasingly found it difficult to renew these license.

⁸⁰ The government of Arunachal Pradesh Department of Trade and Commerce

Sanjib Baruah is critical of such continuation of ethnicised governance of privileging certain ethnic communities within the state. While these protectionist policies for ethnic communities of these states were justified in British era because of their minority and disadvantaged status. He questions the justification of these policies in the post-independence era when these tribes have successfully secured a state for themselves and hitherto minorities have become majorities in their state. However, such protective mechanisms have continued to exist on the grounds of protection of tribal people from the threat of demographic change (Baruah, 2007, p. 16). The situation here is more complicated than Baruah thinks it to be. This privileging of ethnic identities in the state doesn't only operate across the axis of insider and outsider divide. Even within the tribal communities of Arunachal Pradesh practices of economic exclusion of each other exists. A case in point is the Apa Tani community of Arunachal, who are relatively more economically and politically prosperous than other communities in the state. The Hapoli Bazaar committee of Apa Tanis not only prohibited the non-tribals from undertaking any new commercial venture in their area, but except Nishis they excluded every other tribe from economic participation in the area. Contrary to this situation, in the capital of the state Itanagar, where Nishis dominate the territory it becomes very difficult for Apa Tanis to gain land for business (Das, 1995). It is these kinds of exclusion which becomes the source of inter-tribal conflict.

It is essential to understand the implications of such forms of ethnicised governance amidst the changing nature of the economy and demography of the state. Verrier Elwin says that 'The people cannot be spoon-fed and coddled forever. If they are to be strong, they must emerge one day from their seclusion and battle on equal terms with the outside world'. However, he says that the people of NEFA cannot be protected forever by the government but before they emerge to confront the world they should be provided with clear titles over their lands and forests so that even when the protective hand of administration is withdrawn they are secure (Elwin, 1957, p. 20). So, the existing regime of protective discrimination prevailing in Northeast India which seeks to solve the questions of social justice by reducing it to question of ethnic belonging by division between Scheduled Tribes and Non Scheduled tribes of the state, and accordingly privileging of former in the policies of the government needs critical examination (Baruah, 2007, p. 28). It has become imperative to take into

account the changing nature of the economy in the state which is shaping the contours of development in the state and labour relations between natives and 'outsiders' in the state. It is important to examine the existing regime of differentiated economic citizenship not only to assess the position of migrant wage labour within it but also to see the existence of subtle differentiated economic citizenship which exists within the indigenous people of Arunachal Pradesh. As the process of agrarian transformation and prospering rent economy in the state has also led to social differentiation which is masked by the narrative of 'insider' and 'outsider'.

4.6 Contemporary conflicts over land in Arunachal Pradesh

It is often assumed that there exists an inherent dichotomy between the formal law and the customary law. This dichotomy has become evident to people in Arunachal in wake of formal individual recognition of land rights with amendment to 2000 Land Act. As most of the indigenous communities in Northeast India govern their land relations by customary laws which are based on the collective ownership of the resources, it often stands in contradiction with the existence of formal laws which is based on individual ownership. This contradiction arises from non recognition of the multiple identities of indigenous people, as citizens of the state and members of indigenous communities with specific norms, rules and laws. Duncan Ivison argues that this multiple identities of indigenous people should serve as the basis to make claims with reference to liberal democratic order as well as their own customs (Ivison, 2002, p. 141). As in indigenous societies, the liberal and indigenous normative order intersect with each other, Ivison postulates three models⁸¹ which allows for the exemptions from general laws and institution to recognise the specificity of indigenous belonging. Even though the character of rule of law is uniformity in its application, which excludes the scope for arbitrary exercises of power to serve some narrow interests, the need for recognition of specificity in societies with deep diversities calls for exemptions from the general application of the law. This has

⁸¹ The first model is the core-periphery approach to consider the authenticity of claims for variation or exemption from general laws and institutional set up by individuals. These claims are only validated if general law or institution has a special kind of impact on the claimant which it does not have on others. The second is the deliberative model which proposes various claims for exemptions and variations to existing laws and institution which can be defended on the basis of public reason. on the third model, he talks about is the institutional design model which accepts multiple jurisdictional authorities and interaction between them. So, individuals can resort to different jurisdiction dependent on the subject matter to restrict the monopoly of state or group over contested social issues which bear implications on individuals life as group members or as citizens. (Ivison 2002 143).

formed the basis for claims of recognition of customary laws in the formal system of administration by various ethnic communities. While Jacob Levy is wary of incorporating elements of the indigenous legal system in the formal legal framework, Duncan Ivison argues that denying of customary laws of indigenous would mean denying them the agency to address the political social and economic problems specific to their community. At the same time, non-incorporation of such laws may mean promoting common citizenship rights at the expense of distinctive circumstances. But this may undermine the goal of forging social unity through citizenship if it makes the forms and content of that citizenship burdensome for some people (Ivison, 2002, p. 146).

The significance of customary ways of governance of land with respect to the tribal communities is evident from the amendment of the Constitution in 1963 and 1987 to give recognition to the customary laws of the land in Nagaland and Mizoram under Articles 371 A and 371 G respectively. The people falling in Sixth Scheduled Areas of Indian Constitution are endowed with the privilege of community ownership and governance of land and resources. In Arunachal Pradesh, in absence of any such constitutional recognition of community rights under Sixth Schedule, the tribal communities have continued to govern the land on the basis of community-based customary law. Walter Fernandes notes the implications of interaction of formal law with the customary laws. In case of jhum practising Aka tribe of West Kameng district in Arunachal Pradesh, the tribe practices traditional form of community control over land which is in consonance with its practice of jhum cultivation. Fernandes in his study of such jhum practising tribes in Arunachal Pradesh observes that there is very less landlessness among them. He attributes this feature of the absence of landlessness in tribal societies to their limited and recent contact with the world. However, he misses the point that in case of such tribes of Arunachal Pradesh who live under the protective regime of legal regulations which prohibit ownership of land to outsiders, greater contact with the world cannot easily lead to stripping these tribes of their ownership over land. The dispossession of several tribes of their land is an undeniable reality, but in case of Arunachal, the existence of protective measures for the tribes which have historically existed should be noted. Fernandes notes that the changing pattern of land ownership in Arunachal Pradesh is due the increasing assertion of individual rights over lands which were under collective ownership or

switch to nonfarm occupations which have led to waiving of their rights over collective lands⁸² (Fernandes & Bharali, 2002, pp. 7-8).

The conflicts over land in most of the states of Northeast India have been shaped by identity conflicts of ‘insider’ and ‘outsider’⁸³. In the absence of productive jobs and due to scarce resources, the conflict between the ‘insider’ and ‘outsider’ is deepened to establish exclusive claims over land, jobs and other resources. This often results in hardened identities and exclusive claims over the resources of an area to establish their exclusive claims over the resources people engage in rewriting history to declare themselves as the original inhabitants of a given region. In absence of land records the claims over land based on the ancestral heritage act as justification for their rights over land. As the lives of people are inextricably tied with the land, Sanjib Baruah argues that the conflicts in these societies over land are in defense of its culture, identity, and livelihood (Baruah, 1999, 29-32). So, any issue involving lands such as inter and intra ethnic conflicts, illegal migration, land encroachments or introduction of formal land laws in the region triggers conflicts among communities. The conflicts harden the existing rivalries between communities and create new ones as well.

It is interesting to note that how even in a state like Assam which doesn’t have significant tribal population the question of ownership of land is being associated with the indigenous identity of the people. A committee headed by former chief election commissioner H.S. Brahma recommended that in order to protect the land rights of the ‘indigenous people’ of the state it is essential to ensure that in Assam the transfer of agricultural land is restricted to people indigenous to the state. Further, the committee suggested that in allotment of non agricultural lands in towns and cities the indigenous people of the state should be given priority over rest. This brings us back to the question raised in Chapter 2 about identification of indigenous people. Rejecting the 1951 Census report’s definition of an indigenous person as anyone “belonging to the state of Assam” and speaking any one of the languages and dialects spoken in the state, Brahma committee redefined the category for Assam. It asserted

⁸² As people in Arunachal Pradesh are shifting towards nonfarm occupations they have stopped practising jhum cultivation over the community-owned lands which has meant loss of their claim over these lands, So, these people find themselves landless (Fernandes and Bharali 2002: 7-8).

⁸³ Naga-Kuki conflict, the Bodo-Santhal and Dimasa-Hmar tension in Assam or the Tripura tribal demand for a homeland all have their origin in competition for land.

that an indigenous Assamese is one who has lived in the state for “several generations” and should belong to an “ancient tribe/ethnic clan”, which has “originated” in Assam. It argued that such people should be “determined to save his ethnic, linguistic and cultural identity” and “believe that his culture, language and identity is different from others inhabiting his land” among others. At the same time it has cleverly inserted the clause that people who speak the language of the “state of his origin” and has “retained his original culture cannot be called an indigenous person of Assam” (Saikia, 2018). It is evident that this definition of indigenous identity while makes residency as a criteria of identification but seeks to exclude the tribal communities of other states, as Santhals, who have retained the language of their ‘state of origin’, from ownership of resource. So, it can be seen that the definition of such criteria of identities is woven with question of resources.

Walter Fernandes argues that in the context of Northeast with a significant number of indigenous people, the conflict over land emerges from different worldviews about its usage and ownership among ethnic communities and the state. For the present state leadership of Arunachal Pradesh, the prime use of land is for expansion of infrastructure development projects, but for tribal people of the state land has multiple uses other than that of an economic resource. The conflicts also emerge from the different nature of ownership put forward by the indigenous people and the state. As most of the tribes are community-based they follow the model of collective ownership of land which is used as common property resources but the formal land laws of the state are individually based and are founded on the principle of the State’s eminent domain. (Fernandes, 2002, p. 2)⁸⁴. The two systems of ownership based on two different normative orders leads to a contradiction between customary and formal laws and confrontation between the tribal communities and the state. In Arunachal Pradesh as state doesn’t recognise the customary laws of people over land and asserts its eminent domain, it is this underlying logic of the theory of eminent domain which empowers the Indian government to appropriate private

⁸⁴“The meaning of eminent domain is evident as its first facet is that land without an individual *patta* is State property. The second is that the State alone has the right to decide a public purpose and deprive even individual owners of their assets. This State power is overriding”(Ramanathan, 1999, pp. 19-20).

property in the name of public good without seeking the prior consent of people which is being challenged by the people against settlement of Chakmas in the state.

The land tenure system in Arunachal Pradesh is marked with a lot of contradictions. In the context of land regulation in Arunachal Pradesh Walter Fernandes says that 'in theory, the formal law applies but in practice customary laws holds sway' (Saikia, 2018). The parallel existence of formal and customary laws in the state has led to confusion in the process of acquisition of land for various developmental projects in the state. The state is seeing the expansion of hydropower in the region with a number of projects operating in the state presently. For Sixth Schedule states like Nagaland and Mizoram under Article 371 A and G respectively land acquisition is done by taking into account the customary laws and the with the approval of the tribal bodies⁸⁵. In Arunachal Pradesh no such formal protection exists but the existence of customary laws makes it difficult for the acquisition of land. The acquisition of land for developmental projects by the state is one of the major ways through which state has began to recognise individual ownership of the land and the present amendment is seen advancing this interest of the state. So, changing ownership rights in Arunachal Pradesh should be seen against this background of infrastructural expansion of state over lands which are community property resources. In Arunachal Pradesh, as the state recognises individual ownership of land, the absence of recognition of rights of people over communal lands would mean that people may not be compensated for their displacement during construction of dams. In case of NHPC's Lower Subansiri dam on the Assam-Arunachal border, the project-affected families are to be given one hectare of land each, amounting to a total of 38 hectares, since according to detailed report of the project that is the number of families to be displaced ignoring many more families who will be displaced. This and some monetary compensation is the entire proposed compensation for 960 hectares of agricultural land (jhum and rice cultivation) that they will lose. The project has decided on this amount despite all the families surveyed had asked for 'land for land'

⁸⁵ When the state recognises the community rights then acquisition of land and resources is not an easy process as in the case at Domiasiat in the Khasi Hills of Meghalaya where the state has been trying to acquire the land for uranium mining but the local community has been opposing it for it will lead to loss of its livelihood. There has been a stalemate on this issue for seven years with the State speaking of the need to get hold of that land and the people refusing to part with it by asserting their right to security of life and livelihood.

i.e. an equivalent area to sustain their agricultural livelihoods (Menon, 2009, p. 135). So, in Arunachal Pradesh, the regulations from British era continue to operate but the Sixth Schedule status is not given to it, consequently, community ownership is not recognised though it is its social reality.

4.7 Conclusion

The changing framework of economy and land governance in Arunachal Pradesh calls for revisiting of the provisions which have shaped the land regime in the state. Given the existence of ample of examples of marginalisation of tribal communities in other parts of India, it becomes essential to ensure that the people of Arunachal Pradesh don't have to undergo a similar experience of dispossession. To an extent this has been ensured by the existing regulations which provide for exclusive land ownership among the tribal people, but with the introduction of formal recognition of individual land ownership rights and leasing out of land to 'outsiders' in the state is bound to raise apprehensions among the tribal communities of the state. These concerns need to be informatively addressed by the state to avoid further reinforcing of insider-outsider divide among people residing in the state. As the state has passed the law without proper deliberation it needs to spell out the purposes for which land can be leased out to 'outsiders', in absence of which the new law can become a tool of further marginalisation of the indigenous people of Arunachal.

While recognising the significance of land in tribal societies and the need for ensuring its exclusive ownership among tribal people, it becomes essential to not gloss over the emerging stratification among tribal communities in the present economy of the state. It is argued that the state should also take note of the politically and economically disenfranchised non tribal migrant labourers in the state. As these workers don't have any bondage with the local tribal institutions they are not in a position to mobilise the necessary social political support for their cause. The situation is worsened by their absence in official positions in trade unions of the state, which is dominated by the local tribal people of the state. The political forces in the state are also not keen on taking up the issue of 'outsider' workers in the state because it may disappoint their own tribal vote base. However, the changing demographics of the state of Arunachal Pradesh, with migrant workers participation agricultural and

infrastructural expansion, demands change in the existing power structure and representative institutions of the economy to at least ensure the inclusion of interests of 'outsider' Indian citizens in polity of Arunachal Pradesh.

Chapter 5

Conclusion

Contemporary contestations and questions of indigeneity and differentiated citizenship

In this dissertation, various discourse and practices of indigeneity, citizenship and state have been interrogated. The northeast India as the site for exploring the practices of citizenship in societies with dominant indigenous population has made us familiar with the conception of citizenship which is permeated with narratives of indigenous belonging. The 'native' citizens in states of Northeast India have been vocal in their demand for establishing the entitlements of political and economic citizenship dependent on legal recognition of individuals as members of 'indigenous' communities. This reflects the limitations of the individual based liberal framework of citizenship in recognition and accommodation of diversities in indigenous societies. So, it has been argued that such demands necessitate the broadening of liberal framework of citizenship to recognise the specificity of individuals which arises from their belonging to indigenous communities and having a history of marginalised isolation. However, it has also been acknowledged that such processes of recognition are fraught with challenges of identification of 'deserving communities'. In the first chapter with reference to the experiences of tribes in Arunachal Pradesh as Lisus, Mikirs, and Deoris the complexities involved in the recognition of indigenous identity as a legal category and as a determinant in the endowment of several entitlements has been explained. The challenges in the process of recognition of 'natives' of the state for designating them with Arunachal Pradesh Scheduled Tribe status arises from absence of a written history of tribes, obscure official records, and the evolving identities of communities. It has been argued that as identities of indigenous communities of Northeast India are evolving, the process of recognition is also a continuous one in such societies and it is impossible to fixate their number once and for all. Further, it has been argued that while working within the framework of indigeneity, it remains a continuous challenge for us to honour those rights of indigenous and non indigenous people to which they are entitled to irrespective of their residence in any part of the country. Thus, such processes of recognition of

diverse identities of people have implications for lived experiences of citizenship of individuals.

In the third and fourth chapter, the exceptionalism of Arunachal Pradesh has been discussed which has shaped the contours of political and economic citizenship in the state. The exceptionalism which envisages differentiated and asymmetrical structures of political, economic and social citizenship in the state is based on the recognition of the ethnic identity of natives of Arunachal Pradesh and the historical specificity of the territory. It has been seen that in Arunachal Pradesh the formal structure of citizenship is informed by claims of privileging of indigenous identity of the 'original' residents of the state over 'outsiders' in the state which results into a regime of differentiated economic and political rights which is enforced through various colonial-era administrative measures, state laws and customary laws. In recent past, Arunachal has seen the emergence of an informal regime of private ownership rights over land which has now found official recognition with the recent amendment to the Arunachal Pradesh (Land Settlement and Records) Act 2000. The changing pattern of ownership has meant changes in the operation of the agricultural economy in the state where a land lease market has developed spearheading the state towards settled agriculture. This has brought increasing number of migrants to the state and these sharecroppers hold a significant position in leading the state towards this transition. However, the existence of these migrant sharecroppers in the state is marked with discrimination and vulnerability where their existence is not recognised by the political authority in the villages, and in absence of formal leases, they live under the constant threat of eviction from the land.

It has been argued that in an ethnicised polity with the differentiated structure of citizenship enforced through protective measures those who have migrated to the state would remain perpetual 'outsiders' in the state, whose aspirations will be limited as they are restricted from developing any permanent stake in the land and resources of the state. This exclusion of 'outsiders' from ownership of land and access to trading licenses was meant to prevent land alienation among the tribal people and encourage entrepreneurship among them, but this has meant the development of rent economy and the emergence of tribal elites who have been successful in exploiting the existing rules of exclusion. However, as the narratives of infiltration of 'outsiders' to encroach the resources of 'natives' dominate the public and political discourse, it has enabled

the leaders in the state to mobilise the ethnic identity and sentiments of people in favour of increasing protective measures against the forces of development and migrants in the state. The prevalence of such narrative overshadows the growing inequality among and between tribes in Arunachal Pradesh.

The state of Arunachal Pradesh is enveloped by several administrative measures as Bengal Eastern Frontier Regulation 1873, Chin Regulations Act 1896 which gives special status to Arunachal Pradesh within Indian state, but the state is not covered under the Sixth Schedule of Indian constitution meant for the administration of tribal areas in Northeast through special provisions. The tribal areas of Assam were divided into two part; Part A and Part; B. The North-east Frontier tract was mentioned under Part B of the Schedule and extension of the central rule was made possible in the area. The trajectory towards the attainment of statehood for NEFA didn't involve any stage of creation of Autonomous District Councils.

In past decade the demand for creation of Autonomous District Councils under the Sixth Schedule has come from two districts in eastern Arunachal Pradesh-Tirap and Changlang, and two districts located on the western periphery of Arunachal Pradesh.-Tawang and West Kameng. To address the demand two committees were constituted namely Patkai Autonomous Region Committee and Mon Autonomous Region Committee to advocate for the creation of Autonomous Councils under Sixth Schedule in Patkai (Tirap and Changlang) region and Mon (Tawang and West Kameng region). The Legislative Assembly of Arunachal Pradesh unanimously approved the proposal for the creation of Autonomous councils twice in 2004 and 2007, after that the proposal was sent to the Union Home Ministry and the matter has been pending there since then. In response the 19 legislators from the four districts demanding Autonomous Councils formed a Joint Legislature Forum to pursue the matter with the Government of India and the state government. It is interesting to note that while the politics of states of Assam, Mizoram, Manipur, and Tripura is dominated by the demands for creation of Autonomous Councils by several ethnic communities; such a demand has emerged in Arunachal only recently. However, the contours of demand for Autonomous Councils have been shaped by arguments for development and cultural preservation, a language which has been used in other states of Northeast India to formulate the same demand. The demand for ADCs in Arunachal is based on the underdevelopment of these districts as they have not

received equal resources from the state to prosper on the path of development. The creation of autonomous councils is seen as significant in ensuring financial empowerment and autonomy to these districts. Also, the autonomy of the region is seen as significant from the point of preserving the culture and identity of the people (Bath, 2016, 73). The constitutional protection under Sixth Schedule for Arunachal Pradesh is being advocated as protective mechanism for land, identity and ensuring development of the people. Thus, the existing feeling of unfair treatment among the people of the aforementioned districts of Arunachal is sought to be addressed through the similar means as adopted in other states of Northeast India.

However, this view is not shared by everyone in the state as student body SUMAA opposed this move of the state for fuelling divisive tendencies among other districts of the state as well. Nani Bath questions the legitimacy of such demands in Arunachal Pradesh as he writes that, “voicing such demands in order to authenticate rights over territory seems highly political and devoid of any rationality”. He finds such demands as politically motivated acts are ways to exploit the sentiments of people and use it as leverage over the Government of India and State government. He argues that is a way of administration to cover up their failure in arresting law and order problems in the Tirap and Changlang districts due to the insurgency. The need for an additional protective cover is not needed given that the indigenous tribal people of Arunachal Pradesh are already citizens of India who are living under protective regulations like Bengal Eastern Frontier Act that ensure that ownership of land is restricted to people of the state only (Bath, 2016). Thus, the pervading language of the necessity of differentiated status to indigenous people in Northeast India propelled the people of Arunachal also to assert the demand for such institutions without any clear purpose or need for it.

The demand for ADCs becomes significant if we see it in the larger context of Naga insurgency which looms large over eastern Arunachal. In a region where states are mired in perpetual conflict and violence, Arunachal Pradesh successfully comes across as a peaceful state. This fragile peace of Arunachal Pradesh in the eastern border is tied to the fate of Nagaland as well as Assam, and on western frontier, it is tied to the actions of China. In past few decades with increasing incidents of insurgency in Nagaland and Assam, territory of Arunachal Pradesh has become a conduit to the hideouts in Myanmar and Bhutan for the insurgent groups like National

Socialist Council of Nagaland (Isak –Muivah group), National Socialist Council of Nagaland (Khaplang group), the United Liberation Front of Assam (ULFA) and National Democratic Front of Bodoland (NDFB). The Tirap and Changlang districts in eastern Arunachal Pradesh which is contiguous to Kachin Independence Army-controlled territory in adjoining Myanmar have been used as bases for operations by Naga insurgents. As these districts are also economically and socially backward districts in the state it has facilitated the insurgents in securing the support of the local people. The territorial contiguity between Nagaland and Arunachal has meant that the latter has been a victim of the cross-border insurgency and has become the medium for trans border movement of the insurgents. The interference of the rebels has not only meant a threat to the peaceful social fabric of the state but they have not been hesitant to interfere with the political affairs of the state.⁸⁶ The insurgent groups in the state have been accused of involvement in toppling the elected government in the state and have also been charged for demanding extortion money from the elected representatives of Tirap and Changlang and pressuring government employees to pay 25 per cent of their salaries regularly to them (Hussain, 2005, p. 79). In wake of increasing insurgency-related killings⁸⁷ the state enacted the Arunachal Pradesh Control of Organised Crime Act, 2002 to clamp down on terror.

The history of Naga independence has been one of the longest in the pre-independence India but over the years the demand for independent Naga homeland has given way to a greater territory for Nagas within the Indian state encompassing Naga-inhabited areas in Assam, Manipur and Arunachal Pradesh. So the interest of NSCN in Arunachal Pradesh also arises from its significant role in the realisation of their dream of Greater Nagalim. This demand is framed against a context when the rest of the three states who are stakeholders in the issue are not ready to discuss the possibility of ceding any territory to Nagaland at any cost. The central government's interlocutor RN Ravi who signed the framework agreement with NSCN(IM) has

⁸⁶ In 1999 the elected government of Chief Minister Gegong Apang in the state was overthrown as the legislators from Tirap and Changlang resigned from the assembly in protest of neglect shown to the two districts. This was followed by resignation by legislators from other districts as well. The then Chief Minister Gegong Apang claimed that the ousting of his government from power was a politically motivated act of NSCN insurgents. While the claim could not be verified but subsequent Chief Minister Mukut Mithi also acknowledged the constant threats from NSCN(IM) for toppling his government (Hussain, 2005, 79)

⁸⁷ After decades of peace in the state in 1997 nine civilians, one security personnel and three insurgents were killed and in 2001, five civilians, 18 security personnel and 17 insurgents were killed (Hussain, 2005, p.81).

stated that finalisation of Naga Accord between the central government and various Naga insurgent groups is on its last league. According to various media reports the Accord provides for the creation of autonomous Naga territorial councils in Naga-majority areas of Arunachal Pradesh and Manipur without any changes in the boundary of these states. It envisages a common cultural platform for various Naga tribes across states which will be served as a socio-political platform for them through their representatives. The Accord also provides for political solutions through changes in the structure of legislature by the creation of bicameral legislature and increase in a number of parliamentary and assembly seats from the state. It mentions about the creation of institutions in the state which will further the development process in the state (Singh, 2018). So, the question of Naga autonomy is sought to be resolved within the framework of Indian federal structure which has solutions involving political, economic and symbolic measures. The deal of centre with Nagaland is bound to spiral insecurities in the neighbouring states of Arunachal and Manipur. Arunachal Pradesh is already dealing with the Chakma refugee crisis, and fresh threats to its territoriality have emerged with increasing fears regarding infiltration by Bangladeshi and Rohingya Muslim migrants. It will be interesting to know in such circumstances how the state chooses to protect its territory and its citizens in contiguous Naga acclaimed areas.

T.H. Marshall writes about political, economic and social citizenship as universalistic in nature whose realisation is possible in a liberal state. However, the rights and responsibilities of individuals are not abstractly defined and guaranteed rather they are shaped by the social and cultural set up of the polity where the individual resides. The inclusion or exclusion of citizens in the polity is dependent on other identities of belonging as well. In Arunachal Pradesh, the identity of individuals which is associated with their belonging to indigenous communities of the state and make them eligible for recognition as Scheduled Tribes for administrative purposes, gives them an advantage over those who don't belong to such groups and are identified as 'non-natives' or 'outsider' in the state. The participation in the market is not only determined by the skills of the person but also their ethnic cultural identity which in turn becomes the basis of the exclusion of individuals from the market. Such a conception of citizenship stands in variation to the notion of citizenship promoted by Marshall which is informed with individualistic principles. After we understand

the nuances of the economic market in Arunachal Pradesh, it becomes evident to us that the attempts of state to ensure the fruits of economy is restricted to the indigenous people has resulted in the concentration of wealth in hands of certain sections the society and emergence of elites tribal communities and elites within tribal communities. It was this economic marginalisation of the tribal people in present-day Arunachal Pradesh which had moved the Constitution Assembly members in favour of exclusion of non tribal people from contesting elections in these areas⁸⁸. Now with changing demography as well as economy of the state and with emergence of economic elites within tribal communities, it has become essential to revisit the underlying foundations of exclusionary measures which envelop the people of Arunachal Pradesh. Rajesh Dev captures the essence of the argument when he writes that regarding outsiders' in Northeast India "others' are not denied juridical confirmation as citizens, but the performative aspect of this right is nominal and formal, without a substantive basis because the 'constitutive rules of social and political relations in many of these states are mostly factored by ethnic identity and status" (Dev, 2004, p. 4751).

The conception of citizenship informed by recognition to the cultural belonging and historical particularities is expansionary in nature, but it becomes important to examine if such a differentiated experience of citizenship which gives an edge to the natives of the state over 'outsiders' is also successful in ensuring similar socio-economic citizenship experiences within the 'natives' of the state. As the goal is to have a rich lived experience of citizenship for people the questions of inequality and injustice should not be framed in the traditional binaries of 'insider' and 'outsider'. With changing development and demographic scenario in Arunachal Pradesh where development and division of labour in the state is happening on ethnic lines it has become imperative to not reduce the questions of justice in such ethnicised polity to questions of indigenous belonging or simply use the categories of Scheduled Tribes and non Scheduled Tribes to solve questions of justice. It has become

⁸⁸ The Section 10 of the State of Arunachal Pradesh Act, 1986 provides for amendment of the Representation of the People Act, 1950 to provide for reservation of 59 seats out of total 60 seats in the state Legislative Assembly⁸⁸. Such provisions find justification in the Constituent Assembly debates which acknowledged the prevailing sentiments among tribal people in the frontier tracts, which is present –day Arunachal Pradesh. It was argued that even though non tribals who have been residing in the hills for more than one generation would seek rights to participate in electoral contest, but the tribal people in the hills are extremely against it. It was felt that even in tribal constituency non tribal candidates with their financial strength would turn electoral results in their favour.

imperative to take into account the changing realities of society and economy in the state

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