CHAPTER – III

AN OVERVIEW OF TRIBAL PEOPLE AND LAND

3.1 INTRODUCTION

This section describes major concepts that have impacted this research, as well as an understanding of theoretical concepts that are important to the thesis. This chapter tries to understand tribes, land, land access, and the interaction between tribal groups and the land. It examines government, control, administration, and policies; from the other, it explores identities, issues, areas, and the land. As a result, the chapter places the ideas in context and develops a conceptual framework for comprehending the options within the research topic. It centres on government policies and laws, discussing the idea of land and its connection to issues of tribal livelihood impacted by land access concerns.

3.2 TRIBES

Though, there is no commonly accepted definition of "indigenous peoples." It is accepted as a significant catch-all phrase by a significant number of nations, international institutions, and, most importantly, a broad movement of self-identified communities. The description has sparked global disputes over protecting the rights of ethnic minorities, tribal groups, natives, aboriginals, and indigenous peoples who have faced severe oppression and endured unequal treatment and marginalisation due to intervention, post-colonial nation-building, development, and modernisation efforts (Colchester, 2004). However, or maybe because of, rising acceptance of the phrase and growing acknowledgement of indigenous peoples' inherent rights, many governments, particularly in Asia, have objected to its usage. The "Convention No. 169 of the International Labour Organization (ILO), implemented in 1989," includes a wide range of indigenous and tribal communities across Asia and Africa. It accords equal rights to both without distinction and they explicitly identify themselves to be "indigenous" or "tribal" (Colchester et al., 2004; FAO, 2009).

It is significant to mention that almost every tribe community in India and around the world has a distinct history. This consists of their creation stories, essential ties to land, water, and forests, communal stories of inclusion, traditional beliefs, natural governing system, and sense of belonging to the nation, among other aspects (Xaxa, 2008). However, in every corner of the world tribes are now more involved in the struggle for livelihood. They are sometimes

forced to leave ancestral lands to engage in local, state, national, and international institutions. To improve their quality of life, tribes are more conscious about their upliftment than before (Padhi & Panigrahi, 2011).

The concept of "tribe" first appeared in Greek City-States and during the early period of the Roman Empire. The term "tribus" originally from Latin refers to a group of people who form a community and trace their ancestry back to the same progenitor. However, the sheer amount of tribes that are classified as tribal is astonishing, and not all individuals can be considered as part of a tribe or tribal community. More recently, those who refused to accept broader nation-state institutions were labelled as tribes by the nation-states themselves (Sneath, 2016; Leo Th, 2018). The group is a socially united group connected to a certain location or area; each individual is reported to possess a shy personality. A tribal group has its unique language and traditional customs. Tribes often show passive indifference, which may manifest as limited educational opportunities, social engagement, and land access (Sau, 2010; Russell, 2002; Gover, 2010).

The tribes were commended for their status as the initial inhabitants and protectors of the land (von Furer-Haimendorf, 1982). But it is also factual, Morris and Pandey (2007) almost no one does not have close relatives who have been tricked out of their land owing to unlawful/forceful occupation. However, they have to fight and resist safeguarding their lands.

3.2.1 TRIBES/TRIBAL OR SCHEDULED TRIBES IN INDIA

India does not have any tribes or tribal groups aside from the Scheduled Tribes in terms of legal matters. In the Indian Constitution, the term "tribe" is referred to as "Scheduled Tribes" and is used interchangeably with the acronyms "Scheduled Tribes" or "tribal" in my research (Churye, 1980; Chakrabarty, 2018). The tribes/tribals are designated as scheduled tribes through a Presidential order, which is issued after certain conditions have been satisfied. In the Indian Constitution, Article 366 (25) outlines the definition of "Scheduled Tribes" as tribes or tribal communities identified as such under Article 342 of the Constitution. The President of India, in consultation with the Governor, has the authority to declare tribes or tribal communities as Scheduled Tribes for a State or Union Territory through public announcement as per the Constitution (India, 1949; Ambagudia, 2011).

But one thing is sure. A Scheduled Tribe member is recognised in one state or another across the country, but not elsewhere, and sometimes in certain districts but not others within the same state. The order is issued following a thorough inquiry into the economic status,

level of education, and the need for protection, inclusion, or exclusion. However, such measures maintain the principle of protective discrimination all around the country. Part-X of the Indian Constitution contains regulations concerning the management and supervision of Scheduled Areas and Tribal Areas. These regions are mainly populated by native communities and are regulated by particular administrative and legal systems to safeguard their interests and heritage. Article 244 pertains to the governance of Scheduled and Tribal Areas. Article 244(1) and Article 244(2) address the separate governance of Scheduled Areas and Tribal Areas in various regions of India. Article 244(1) is relevant for the management of Scheduled Areas and Tribal Areas in states other than Assam, Meghalaya, Tripura, and Mizoram; the governance of these areas follows the rules outlined in the Fifth Schedule. Provisions in the Fifth Schedule govern the management and supervision of Scheduled Areas and Scheduled Tribes in every state, except Assam, Meghalaya, Tripura, and Mizoram. Article 244(2) deals with the management of Tribal Areas in Assam, Meghalaya, Tripura, and Mizoram, which are regulated by the Sixth Schedule of the Indian Constitution. The Sixth Schedule allows for the establishment of independent districts and regions in these states, each with its own District Council or Regional Council holding authority in specific areas. The purpose of the Fifth and Sixth Schedules is to safeguard the rights of indigenous tribes, preserve their culture, and support their economic and educational progress. The special administrative frameworks offered by these schedules acknowledge the unique social, economic, and cultural customs of tribal communities (Stein, 2010; India, 1949).

A collection of individuals known as “Adivasis” are typically classified as a “scheduled tribe” within the broader Indian governmental system. Nevertheless, in Assam, the term “Adivasis” does not include identification as a tribe or tribal group within the state; instead, it is specifically used for the tea tribes brought from central India during the colonial period (Ananthanarayanan, 2010; Sharma & Khan, 2018). In 1987, during a symposium in New Delhi, the Indian Council of Indigenous and Tribal Peoples (ICITP) recognized that the Scheduled Tribes of India could be classified as indigenous or tribal peoples, as affirmed by the World Council of Indigenous Peoples (Karlsson, 2013; Xaxa, 2016).

Many North-eastern communities seek recognition as Scheduled Tribes, seek development or an autonomous council, and then request a tribal demarcation for establishing a District Council under the Sixth Schedule, potentially resulting in the formation of their own state within India. Many people value strengthening their message by incorporating terms

such as indigenous, tribal, and national to the fullest extent (Shamshad, 2016). The marginalised or underprivileged communities within those tribal groups are currently witnessing a shift in viewpoint and increased access to the process of improvement and its associated transformations. They are not interested in being part of land disputes or identity conflicts (Das, 2005; Brahma & Mushahary, 2022).

The British rulers in India categorised people as "tribes" for administrative reasons, a practice that continues in modern India. In India, the idea of "tribe" isn't just a separate concept from administrative practice, as Indian anthropology has always been more practical than theoretical. Therefore, the concept of tribe was created during colonial times. During the colonial era, individuals residing in remote areas such as hills, forests, and riverbanks in distant location generations were identified as tribes. Some say that it connotes a bleak, unchangeable past. Some people have decided to use the phrases "ethnic group" or "nation" instead of "tribe" to avoid these connotations (Devalle, 1990; Chaudhuri, 2012; Shrinkhal, 2017). Generally, the term "tribe" is used to describe a united group connected to a specific area that is not mixed up with other people, and whose members perceive tribes as politically distinct and autonomous (Crone, 1994). People whose ancestors lived in an area or territory when people from different places or ethnic origins entered and subjugated them by invasion, settlement, or other methods, and individuals who now live farther away because of their distinct social, economic, and cultural traditions and histories, rather than the countries to which they presently belong. However, government officials persist in using the term "tribe" to describe the most underprivileged parts of society. As long as tribal terminology is still being used by the government, non-government organizations, and individuals, marginalization and prejudice in social and economic abuse are likely to persist (Pandey, 2015; Stein, 2010).

3.3 LAND

The land is necessary for all human activity since it is finite in quantity, immovable, and irreversible. It is, without a doubt, a public good by itself (Doebele, 1987) and land is the scarcest resource (Brewer, 1988). So, the land may be viewed as a means of advancing human progress or development (Zarin & Bujang, 1994). Land is fundamental and it is a vital asset. But it is the notion of land that might be perceived from a variety of angles, which may change from society to society and individual to individual (Greider & Garkovish, 1994; Best, 2024).

The notion of land is multifaceted and includes various features in any location from all across the world at any time throughout history. “When one loses their land not only do they lose their livelihood, but they also lose their identity.” Most rural livelihoods rely on the land, but it also remains intricately related to issues of identity and power. Thus, land ownership is a perpetuating aspect (Huggins, 2010). Although land is arguably the most valuable social asset, its unequal distribution reinforces a hierarchical structure. It strengthens the base of domination of the favoured classes by perpetuating inequality and deprivation in many socio-economic sectors (Mohanty, 2001). Land holds great significance for tribal communities just like it does for other communities around the globe. It symbolises their legal rights to land, ability to acquire land, and access to land and the livelihoods that come with land ownership. The land serves as essential to their way of life and identities. As Aufschnaiter (2008) translated the importance of land from German language is that:

“We dream of our land. Everything we perceive, everywhere we tread, everything we feel with our whole body, belongs to our land. We need the land, to be able to imagine our existence, so that we know who we are. Without the land, we are nothing and nobody. The government simply has to realise this. You can’t negotiate this. The land can’t be replaced” (Aufschnaiter, 2008).

The land is more than just an item for trade. It includes the capacity to function as a household or communal asset, a capital asset, or a component of identity. So, every member of the community can acquire access to ancestral land (Tule, 2006).

3.4 TRIBES AND LAND IN THE INTERNATIONAL FRAMEWORK

The international legal system has acknowledged the individual rights of specific groups to access land. The access to land influences a wide range of rights. The basic norms of international law allow for safeguards relating to access to land that consider the legal ramifications of access to land for a wide variety of human rights explicitly (Wickeri & Kalhan, 2010). It is beneficial to be decent. It is essential to exercise adequate judgment and to follow the norms of international law. But it is a reality that there must be something else against uncivilised individuals who do not know and do not respect international law and would take advantage of someone who did (Colby, 1927). The tribes’ people have adequate, decent rights and are legally entitled to utilise the land as secure land, both conditionally and unconditionally.

The tribals’ land rights and secure access are the inheritance rights. The artificial creation of inequality unnecessarily cannot distract the ability to use what they expect as the source of life from it. Internationally, potential actions involved safeguarding or conserving

tribal territories. Convention No. 69 of the ILO on Indigenous and Tribal Peoples in 1989 is important for protecting and advancing the land rights and natural assets of individuals. Convention No. 169 goes further than Convention No. 107 in this aspect. Article 13(1) recognises the special importance of indigenous peoples' customs and religious convictions in their relationship with the lands or territories they inhabit or utilise, especially the communal aspect of these connections, and mandates that governments uphold them. Article 14(1) recognises the rights of indigenous peoples to possess and govern the lands they have historically lived on, emphasising the importance of land as a tangible asset to them (Swepston, 1990; Yupsanis, 2010).

The effort to protect their (tribals) right to live on their lands has progressed from a local to a national and, in recent times, international aspect (Aufschnaiter, 2008). Managing Aboriginal people is complex due to the moral obligation to not isolate them entirely. In the end, being isolated results in a lack of progress and decline. In contrast, indiscriminate engagement is dangerous to tribes, as seen by the rapid decline in the population of aboriginal tribes in Australia, Malaysia, and the United States of America. The correct administration strategy should protect tribal integrity and social organisation while also developing ways and means for the tribal population's gradual adjustment to changing conditions and slow integration into the country's general life without unnecessary and premature interruptions (Guha, 1951).

3.5 TRIBES AND LAND IN ASIA/SOUTH ASIA REGION

In reality, original (tribes/indigenous) inhabitants can gain access to land via various avenues. However, the main point of discussion and protest has revolved around securing communal land titles due to the close connection between ethnic tribes and land resources (Peters, 2004). The significance of the ownership or territorial entitlement to local resources assists aboriginal communities more than simply access and usufruct rights. Strategies for demarcating indigenous/tribes' lands and understanding resource consumption patterns and livelihood systems are now developed and established, employing human and increasingly automated methods. Furthermore, land distribution and resource management by communities with strong cultural identities and customary practices tend to be self-administrative, lessening the need for state involvement to ensure group members' rights to land access (Quan, 2006; Boone, 2014; Bebbington et al., 2008).

Some countries, like in Philippines have implemented the constitutional amendments protecting the indigenous or tribes' right to land, including awarding substantial ownership rights, although communities continue to face significant financial hurdles. Customary rights are considered usufruct rights in Indonesia and Malaysia. Governments have consistently permitted the private sector to develop tribes' land for forestry, oil palm cultivation, and resettlement schemes to settle Javanese, overriding tribal rights on land in Indonesia. The Scheduled Tribes in India have traditionally had enjoyed great access to forest lands, now in present day this has steadily lessened. In Bangladesh, tribal minorities have been subjected to similar discrimination due to administrative and judicial processes that have also harmed Hindus as a minority religion (Colchester, 2004; Srivastava, 2004; Gazdar & Quan, 2004).

According to both national and transnational perspectives, agricultural land is at the heart of economic success. Arguments about non-agrarian coexist hesitantly with popular agitations to provide access to land as a potential source, an alternative for unstable livelihoods, and a symbol of inclusion and sense of self under different categories: impoverished, resident, political organisation, farmer, ethnic, or native community (Akram-Lodhi et al., 2007; Naseemullah & Chhibber, 2024). Furthermore, the contradictions between agriculture's decline and its continued relevance are not only macro-level elements of Southeast Asian societies. They can also be seen in major actors' actions and stated aspirations. Agriculture is encouraged and inhibited by government policies, while people in rural areas struggle for access to farmland and ethnic homelands, even as many forsake the countryside to pursue "post-agrarian" livelihoods (Hall et al., 2011).

3.6 TRIBAL AND LAND IN INDIA

The tribal land problem in India is among the main issues described as one of the leading causes of tribal instability (Bordoloi, 1999). In India, obtaining land without annexation is incredibly challenging (Morris & Pandey, 2007). In a tribal community, the land is the solitary primary resource and form of ownership. However, it is not divided evenly among residents of a specific region or village can affect. In the same way, some people do not have opportunities to own land (Alden Wily, 2018; Yadu, 2015). In most areas, households typically have unequal distributions of landholdings in reality. In India, most tribal families possess small plots of land, with the majority owning some land. It appears that the majority of tribals are influenced by disparities. Tribes are frequently refused access to

inheritance rights and other benefits of the land. They have little rights and very restricted access to land as a matter of survival (Kijima, 2006; Marchang, 2018).

Prior to colonial rule, tribes in India were commonly referred to as "a kind of people" and "*Jana*" as opposed to "*Jati*" was not part in the "Verna hierarchy." In terms of social equality and discrimination, tribes were not considered unequal. Military power exchanged authority between local rulers and chiefs, and they were often a part of the political process in the land (Roy Burman et al., 2004). At the time, they had enough collective power to carve out their own kingdom identities. They were also conceptually separate from the rest of the population. Throughout many years "laws of the land" have been relevant to them, and even customary laws are still applicable solely in domestic matters. The Tribes are made up of diverse individuals who live in various environments and circumstances (Krakoff, 2016; Islam, 2013; Isaacs, 1989).

3.6.1 LAND AND TRIBES DURING BRITISH INDIA

It's crucial to understand how the terms 'tribe' or 'tribal' came to be. The state census was the primary tool for establishing tribal groups in India. In the 1871 Census, these people were classified as either others, religion not known, or Hindus. The word 'category' initially appeared in 1881 during the very first census in India. In 1881, the community of tribal people became recognised as an entirely separate religious category, forest tribes under agriculture and pastoral caste in 1891, animist in 1901, and tribal animist or people following tribal religion in 1911. They were recognised as hill and forest tribes in 1921, primitive tribes in 1931, tribe in 1941, and Scheduled Tribes (ST) in the new Indian statute (Bhuria, 2002).

However, from a tribal perspective, the term tribe encompasses more than just a socio-cultural collective, but also encompasses a cultural, political, and politico-historical identity that is specific to a particular time and place. Several Indian state-designated tribes view tribes as both a socio-cultural group and "organic politically bounded entity" with their own history and sense of nationhood. This is not backwards secluded, primitive, or fearful or shy of other societies. It is also not a caste, a peasant group, or a stratified structure that would eventually lose its sense of nationhood and nationality as additional caste systems emerge. The tribal peoples will not see or see themselves in such specific instances (Xaxa, 1999).

The tribes themselves accept the idea because they belong to people of tribal origin. Fortunately, the majority of non-tribal Indian states do not support treating these individuals as if they are the same as tribal peoples. Hence, the term tribe has persisted, reflecting most

tribes' marginalised and subjugated status. Even with advancements in modernity, development initiatives, and tactics, the level of prosperity for tribal communities in post-independence India remains disappointingly low (Rout, 2014; Macklem, 2017). Things that impact the way tribes make a living are seen as not able to continue in the long term. On the contrary, the tribes have always taken a proactive stance on the matters, with various tribal uprisings demonstrating their determination to safeguard their tribal identity and land rights amid various forms of injustice. If the dominant mainstream does not acknowledge tribes as equal, then tribal land and livelihoods are seen as obstacles to achieving equality in contemporary India. In India, the political characteristics of tribal territories have been important as the government has struggled to enforce compliance among tribes through affirmative action (Levien, 2013; Shah, 2007; Mathur, 2009).

The Indian Constitution is seen as a trailblazer in protecting tribal communities, especially in terms of land rights, as land is considered important not only for sustenance and property but also for cultural identity. Despite this protection, the Scheduled Tribes are considered one of the most disadvantaged and potentially at-risk groups in Indian culture (Wahi & Bhatia, 2018). The territory plays a crucial role in tribal culture and enhances overall health. It is viewed as a status symbol in various societies as well. Due to the significance of land in their culture, every tribe has established traditions, similar to land management control systems, based on their customary law (Nongkynrih, 2008). India has a sophisticated defence strategy for its Scheduled Tribes, but it is considered out-dated because it is not fully implemented. The most excluded and poor tribes still depend on land rights for a protective legal and administrative system to be in place. Tribal identity and legacy are defined by tribes and territory. In subsequent periods, the formal safeguarding of tribal and land interests has shifted from the community level to the worldwide level (Panda, 2006).

3.6.2 LAND AND TRIBAL IN NORTH-EAST INDIA

Northeast India has undergone significant changes over the centuries and is now very distinct from its past. Before the early 18^{th} century, India was not politically or administratively connected with the region until the British united them. However, for political and administrative reasons, the region is currently split into seven political entities. Unlike the state creation that occurred in India in the 1950s based on a linguistic basis, created states in Northeast India were centered on ethnic and the tribal boundaries. Thus, the origins of these seven political divisions are based on ethnic and cultural distinctions.

Eventually, due to specific common difficulties, geographical isolation, and similar traditions, the entire region was merged into a single entity known as North-East (Parhi & Riddi, 2021).

The North-Eastern tribes of India make up a significant portion of the Indian tribal community. They are found throughout the North-Eastern states. The tribes in the North-East are descended from Tibeto-Burmese, Proto Australoids, and specific Indo-Mongoloids ethnic groups (Singh, 2009; Ali & Das, 2003). All they symbolise a one-of-a-kind trend and mode of living in the Indian tribal society. The tribes were also the rulers of early North-Eastern Frontier territory. They had kingdoms in several locations at various eras that spanned enormous swaths of land that known as Northeast India (Ali & Das, 2003; Gajrani, 2004; Ziipao, 2020).

As early as the 1770s, tribes in the North-Eastern area were opposed to British occupation (S.R. & Ziipao, 2019). After toppling Nawab of Bengal in 1757, British embarked on a mission to demarcate administrative regions. The East India Company took control of Goalpara and Sylhet, two districts formerly part of Assam, in 1765 after the Mughal Emperor Shah Alam granted the company the "Dewany of Bengal Suba." The local rulers were also involved in the play. India had enormous swaths of empty land between regions (which were, of course, ruled by different kings) known as border zones throughout this time. With the growth of the population and the administrative and economic necessities of the British, such frontiers shrank quickly, and line borders were created (Bose, 1989; Saikia et al., 2016). Beginning with Regulation X of 1822, the normal lands of Assam and tribal people were gradually pushed to the periphery of an increasing settlement. However, from 1839 until 1873, the northeastern region was part of the Bengal province. Assam became an independent province with its chief commissioner in 1874. It formed its unique character. Although there was strong resistance to the merger, Assam was amalgamated with Bengal in 1905 and eventually reestablished as Assam Province in 1921 as a result of inconsistent British policies. Before 15th August 1947, the area currently known as Northeast India was made up of:

1. Assam province
2. Assam Tribal Areas
3. Manipur State
4. Tripura State
5. Khasi States

There were three separate areas within the Assam Province: normal areas, partially excluded areas, and excluded areas. They are in-

1. Normal Areas: in the normal areas-
    (i) Goalpara
    (ii) Kamrup
    (iii) Darrang
    (iv) Nawgaon
    (v). Sibsagar
    (vii) Lakhimpur
    (vii) Cachar
2. Partially Excluded Areas: in partially excluded areas-
    (i) Garo Hills
    (ii) Khasi and Jaintia Hills
    (iii) Mikir Hills within Nowgong and Sibsagar districts, except the mouzas of Barpathar and Sarupathar.
3. Excluded Areas: in the excluded areas-
    ((i) Naga Hills
    (ii) Lushai Hills
    (iii) Cachar Hills Sub-division in Cachar District

Assam Tribal Areas: They were-

1. The North-East Frontier Tracts include the Balipara Frontier Tract, Abor Hills district, and Mishmi Hills District.
2. Naga Tribal Area (Barpujari, 1949; Reid, 1944)

In the Northeastern states many British initiatives had a considerable negative influence on the tribal sections. The most evident is the transformation of land into a commodity. The British government made it clears in the Bengal Decennial Settlement Regulation, 1793 that local people's land may be taxed for revenue. The Bengal Regulation No. 8 of 1793 states:

"A regulation for re-enacting, with modifications and amendments, the rules for the Decennial Settlement of the public Revenue payable for the lands of the zamindars, independent talukdars, and other actual proprietors of land, in Bengal, Bihar, and Orissa, passed for those provinces on the 18^{t} September 1789; the 25th November 1789; and the 10th February 1790; and subsequent dates" (Bengal Regulation 8, 1793).

Apart from controlling the land balance, the state government and tax collectors determined how individuals handled their possessions. The Regulation specifically mentions the year 1793, Regulation: Reg. 8:

"21. The lands of disqualified proprietors, coming within the above descriptions, are to be managed for the benefit of the proprietors by persons appointed to the trust by (State Government).... 22. A further exception has been made to proprietors in balance to Government, and unable to pay arrears due from them; in which instances no settlement is to be concluded with the defaulting proprietors, but their lands are to be let in farm, or held khas, for a period of three years, at the discretion of the Collector" (Bengal Regulation 8, 1793).

Before colonialism and the feudal system, the king or local monarch possessed the land title, and taxes were collected by the village chief or leader for him. British policy stipulated that the landlord or tax collector was the rightful owner of the land (Sarkar, 2003). He had the power to evict or relocate individuals and also to buy and sell real estate. Before, there was no possibility to remove someone, and the tax was based on the number of products manufactured. Furthermore, if an individual deemed the system to be overly complicated in one aspect, they could have purposely moved to another location. Unfortunately, the new British colonial land revenue system mandated that peasants make a fixed payment regardless of their productivity, and failure to do so led to being kicked off their land. Ownership structures for individuals restrict the capacity transfer capabilities of each person. Consequently, individuals were deprived of their belongings and compelled to labour as indentured servants. The people were extremely susceptible, as dishonest traders were acquiring their properties by loaning them money at extremely high interest rates. They then confiscated their lands when tribals were unable to pay (Baden-Powell, 1882; Bhandar, 2018; Bagchi, 1992; Swamy, 2010). In this way, the British Colonial government, Mohanty (2001) rendered land alienable on a significant level, particularly in tribal regions through land tax policy and complicated exploitative bureaucratic methods. Initially, according to Leo Th (2018) during the process of extending their political boundaries, colonial rulers used to grant local tribal leaders specific privileges in exchange for land to the colonial government.

The Scheduled Districts Act was implemented in 1874, leading to the appointment of an Assam Chief Commissioner. The Scheduled Districts Act served as the forerunner to the Sixth Schedule by proposing distinct governance for specific rural or impoverished areas within British India's provinces. The Chief Commissioner of Assam was granted the power to exempt any "Scheduled District" area from the limitations of the Act (Barkakoty, 1949; Patnaik, 2017; Tewari, 2022). In 1918, the Montagu-Chelmsford Report concluded that there was not enough proof to establish political institutions. Before that, special treatment for mountain socio-economic groups originated in the 18th century, during the period when the East India Company oversaw legislation and revenue collection. In terms of trade and business, the Northeast region was placed under British control. However, the objective was to conceal the richness and beauty of the North-eastern region (Rorabacher, 2016; Hazarika, 1995).

Due to its abundant natural resources, the area caught the attention of the British authorities in Bengal, especially after Robert Clive was given the title of "Dewani of Bengal" in 1765. Captain David Scott was sent to the Garo Hills in 1815 and came back with a report in 1816. As per the report, the Governor-General in Council selected a Civil Commissioner for the district of Northeast Rongpur. Regulation X was put into effect in 1822 to regulate the territories of North-eastern India. The British East India Company adopted the Government of India Act of 1833, which had an impact on these areas. The Government of India Act of 1870 expanded control over the Assam Valley and Cachar Hills districts (Barooah, 1964; Misra, 2021).

On February 27, 1947, the Constituent Assembly of India established three committees for minorities, including the Advisory Committee on Minorities' Fundamental Rights as mentioned in paragraphs 19 (IV) and 20 of the Cabinet Mission's Statement dated May 16, 1946. It addressed tribal, excluded, and partially excluded regions in Assam, tribal regions in the North-West Frontier Province and Baluchistan, and excluded and partially excluded regions in provinces other than Assam. The Advisory Committee on Minorities' Fundamental Rights for the Northeast Frontier created the Sub-Committee on North-East Frontier (Assam) Tribal and Excluded Areas. Its secretary was R.K. Ramadhiyani, while its chairman was Gopinath Bordoloi. J.J.M. Nichols-Roy, Rup Nath Brahma, A.V. Thakkar, and Aliba Imti were also part of the committee. Furthermore, the following individuals were appointed: (i) Khawtinkhuma and Saprawng from Lushai Hills (ii) Harrison W. Momin and Mainram Marak from Garo Hills Areas (iii) S.S. Ingti and K.S. Terang in Mikir Hills (iv) Kezehol Khelhoshe in Kohima Area (v) Swat Daulagopu and C.T. Tnanga Biete in Haflong Area (vi) Josing Rynjah and Larsingh Khyriem in Khasi and Jaintia Hills Area. At different stages, the committee integrated "tribes" and "tribal" environments into the dominion state. To negotiate the tribal peoples' future status in India, the committee was tasked with investigating, understanding, and evaluating their sentiments (Kumar, 1976; Zahluna, 2010; Pathak, 2016).

However, even after gaining independence, the Indian states' attitudes towards tribes remained mostly unchanged. Many people were exposed to the discussion on assimilation versus isolation, where the topic focused on whether Indigenous communities should be integrated into larger societies or preserved as cultural relics. Currently, there is a wide variety of information about tribes that is easily accessible. The main purpose of the information is

for administrative purposes and the functioning of government programmes. As such, therefore, it could only be somewhat involved (Roy Burman et al., 2004).

3.6.3 LAND ISSUES OF TRIBAL PEOPLES IN ASSAM

The Assam and land were inhabited by "Kiratas" and "Chinas," who were to be Asian-features inhabitants. Assam is regarded as the home of numerous civilizations where we cannot identify with a single historical witness. As the area connected to multiple states and nations in ancient and now in the present time also, many tribal groups travelled to Assam through various routes. So it is not just fact; Assam is an actual mixing of different races, creeds, cultures, and faiths in multiple religions, making it a haven for anthropologists. Several of the world's significant races have migrated to this place with time. However, the world as a whole knows very little about Assam due to its geopolitical exclusivity. The important races that migrated to Assam in ancient times were the Negritos, Dravidians, Alpines, Tibeto-Burmese, and Aryans. They were once called aboriginal people, and they continue to be an important section of today's Assam (Das, 1987; Gait & Gait, 1906).

British India and the Tribes of Assam were also part of the assimilation vs isolation approach. While the Indian state was eager to integrate and assimilate tribes in ways that placed them on par with other citizens by diluting and eliminating any demand for special treatment sought by tribes (S.R. & Ziipao, 2019), the land issues were not utterly exempt from that type strategies. During the rule of the East India Company, the hilly regions of present-day Northeast India were included in the Rongpur territory. The Rongpur District was split to create the North-Eastern Hill Areas by David Scott, sent by the East India Company with soldiers to stop Burmese soldiers from committing crimes against Assam residents. The "Non-Regulated System" was the name given to the newly devised management of these districts. In this contract, the power of Collectors, Magistrates, and Judges was consolidated into one entity. In November 1823, David Scott was appointed as the agent of the Governor-General in the North-East Frontier. He assumed control of Assam's civil administration while the Government of Bengal was still in place. David Scott supported administering the land with the support of the local inhabitants (Barooah, 1964; Dikshit, 2014; Chaube; 1999; Ray, 2013).

There were four important Acts in history that need to be examined concerning Indian tribes throughout the British Empire. Included in the list are the Bengal Eastern Frontier Regulation Act of 1873, the Scheduled Districts Act of 1874, the Government of India Act of

1919, and the Government of India Act of 1935. In Mizoram, Nagaland, and Arunachal Pradesh, the "Inner Line Permit' is a continuous result of the Bengal Eastern Frontier Regulation Act of 1873 in the North-eastern states (Government of India, 1875, Muldoon, 2016). In the Eastern Frontier of Bengal Regulation 1873, or the Inner Line Permit Regulation 1873 for certain districts, the following rules are outlined:

"Whereas the secretary of state for India in council has by resolution in council, declared the provision of 33 Vict., Chap. 3, section 1, to apply to the districts of Kamrru, Darrang, Nawgong, Sibsagar, Lakhimpur (Garo Hills), Khasi and Jaintia Hills, Naga Hills, Cachar and Chittagong Hills" (Government of India, 1873).

The 33rd of Victoria, Chapter 3 required the enforcement of the regulation by law:

"2. It shall be lawful for the local Government of Bengal with the previous sanction of the Governor-General-in-Council to prescribe, and from time to time after by notification in the Calcutta Gazette, a line to be called "The Inner Line" in each or any of the above-named districts. The local Government by notification in the Calcutta Gazette, prohibit all British subjects, or any class of British subjects, or any persons, sending in or passing through, such districts, from going beyond such line without a pass under the hand and seal of the executive officer of such district…" (Government of India, 1873).

"7. It shall not be lawful for any British subject, or other persons not being native of the district comprised in the preamble of this Regulation to acquire any interest in the land or the product of land beyond the said Inner Line without the sanction of the Local Government" (Government of India, 1873).

It is noteworthy that the 1873 regulation was further extended, and that additional legislation known as the Scheduled Districts Act, 1874, which included several policies that were abolished and changed, was passed under British administration. It has been stretched to the following scheduled districts by notice under Section 5 of the Scheduled Districts Act, 1874 (XIV of 1874):

"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 districts..." (Government of India, 1873).

The Act of 1874 gave local governments the power to determine the enforcement of laws within Scheduled Districts. It also provided applicants with information on any laws that are now in effect throughout British India, along with any necessary modifications or restrictions. The scheduled tracts' main purpose was insensibility, but also safeguarding the rights of aboriginal peoples. The provisions of the Government of India Act of 1919 in the preceding paragraph designated almost all of the hill regions of the Assam province as "backward regions" (Sharma & Sharma, 2006). In certain places, the Central and Provincial Legislatures are not allowed to pass new laws. That was the situation:

"Section 52 A (2) the Governor-General-in-Council may declare any territory in British India to be a "Backward Tract" and maybe notification, with such sanction as aforesaid, direct that this Act of

shall apply to that territory subject to such exceptions or modifications as may be prescribed in the notification…" (Sharma & Sharma, 2006).

The Scheduled Districts Act of 1874 and the Government of India Act of 1919 categorized tribal districts into two groups: "wholly excluded areas" and "areas with mitigated exclusion." The Simon Commission recommended changing the term "Backward Tract" to "Excluded Areas" or "Partially Excluded Areas" in the Government of India Act of 1935. The Governor of the Province was given significant authority to oversee the administration of both provinces. The management of Partially Excluded Areas is under the exclusive jurisdiction of the Province's Governor. The Excluded Areas were completely out of the jurisdiction of the Provincial Legislature and were instead under the governor's control for administration (Government of India Act, 1935). The management of Partially Excluded Areas is under the exclusive authority of the Governor of the Province. Under that act mentioned:

"Chapter V of Act 1935 the Excluded Areas and Partially Excluded Areas: 91.-(1) In this Act the expressions "excluded area" and "partially, excluded area" mean respectively such areas as His Majesty may by Order, in Council declare to be excluded areas or partially excluded areas. 92.-(1) The executive authority of a Province extends to excluded and partially excluded areas therein, but, notwithstanding anything in this Act, no Act of the Federal Legislature or of the Provincial Legislature, excluded shall apply to an excluded area or a partially excluded area, unless the Governor by public notification so directs, and the Governor in giving such a direction concerning any Act may direct that the Act shall in its application to the area, or to any specified part thereof, have effect subject to such exceptions or modifications as he thinks fit…(2) The Governor may make regulations for the peace and good government of any area in a Province which is for the time being an excluded area, or a partially excluded area, and any regulations so made may repeal or amend any Act of the Federal Legislature, or of the Provincial Legislature, or any existing Indian law, which is for the time applying to the area in question" (Government of India, 1935).

The Governor-General shall have instant access to the provisions under such a sub-clause, and they shall not have taken effect until approved by him in his sole discretion. The provisions of this Act's section on His Majesty's authority to restrict Acts apply to any such regulatory requirements for Acts of a Provincial Legation that the Governor-General voluntarily submits to (Government of India Act, 1935).

Immediately following the province, the Gazette released the Government of India (Excluded and Partially Excluded Areas) Order Act, 1936. Under this Order, the regions listed in the Schedule are treated with:

In Excluded Areas districts included:

1. In the Northern boundary province: Balipara Frontier Tract and Sadiya Frontier Tract;
2. In the Eastern boundary: Tirap Frontier Tract, the Naga Hills Districts, Manipur State, and the Lushai Hills;

3. In the Western boundary province: a projection from Manipur State and the Naga Hills District;
4. Included one more area, the North Cachar Sub-Division of the Cachar District;

The districts that included in the Partially Excluded Areas were:

1. The Garo Hills district;
2. The Khasi and Jaintia Hills district other than the Shillong Municipality and Cantonment areas; and
3. The Mikir Hills in the Nawgaon and Sibsagar districts; (Government of India Act, 1935; Reid, 1944).

Tribal groups might be found throughout India, in various native states, provinces, excluded, partially excluded, and tribal areas. The excluded, partially excluded, and tribal tracts in each province had sizable tribal populations before 1947. Furthermore, some tribes were residing in the customary lands. The 1936 Assam census report notes that the situation in the hill regions, excluding the Naga Hills, Lushai Hills, and North Cachar Hills, is distinctly varied, with a particularly distinctive ambience in these excluded areas. There are about 1.5 million plains tribal people in total, including those in Sylhet, according to census statistics. There were almost 7 lakh labourers from all across the nation working in tea gardens. Despite not being recognized as tribes in Assam, they were not listed in Schedule B of the Legislative Assemblies Order 1936 by the Government of India. Approximately 850,000 tribal individuals reside in areas that are either excluded or partially excluded. There were also frontier tracts and tribal districts where the established government only existed to a limited level and huge portions could not be described as being under regular control in Assam (Reid, 1944; Guha, 1974; Pathak, 2016; Misra, 2017).

Even though Assamese tribal land disputes are the primary area of discussion here, the political system is not safe. So far, the central and state governments have shown little concern for the land issues that tribal people experience. There are numerous examples of tribal marginalisation, exploitation, and neglect in India since independence. Wherever human relocation has occurred in the name of construction programmes, tribals have invariably been forced to take the burden of it (Sharma, 2001). For the purposes, of parleying the plains tribal of Assam regarding land and issues surrounding their livelihoods. The Barman community in Cachar, as well as the Bodo Kachari, Deori, Hojais, Kacharies, including the Sonowals, Lalungs, Meches, and Rabhas, all received adequate land protection. The Plains Tribal Council of Assam sent a memorandum to the Government of India on May 20, 1967, detailing their strategies to protect their land and address related issues. In the predominantly tribal

areas of the northern part of Goalpara, within the combined districts of Kamrup, Darrang, Lakhimpur, and Sibsagar, as well as in other Tribal Belts and Blocks, they were pushing for full independence (Sarmah, 2019; Basumatary & Mushahary, 2023).

3.6.4 LAND AND TRIBAL PEOPLES' ISSUES IN BTR

As history reveals, the modern land the Bodoland Territorial Region (BTR) has been ruled, managed, or administered by many rulers under various names and part with "Eastern Duar." In addition, BTR districts were in the "Eastern Duar" of Assam. Between the river Manas on the east and the Sonkosh on the west, the "Eastern Duars" contained Bijni, also known as Bagh Duar, Sidli, Chirang, Ripu, and Guma (Bose, 1979). The word "*Duar*" which means 'door' in English, is used to refer to the areas below the foothills and is comparable to the Bhutanese *"las-sgo"* (work-door), which always pertains to a border post at the foot of a pass and the area around it (Aris, 1979). The "Eastern Duars" became well-known and played a significant role in enhancing Bhutan's ties with Assam. On the flip side, the Ahom rulers encouraged trade among the tribes by allowing them to engage in unrestricted economic activities. The Ahom Administration built numerous mountain passes known as 'Duars' and hired 'Duarians' to safeguard the traders' interests. Duars provide a passage for tribes or hill peoples to journey to the plains and engage in trade with the lowlands. The earliest inhabitants of hills and plains/valleys benefit from the transaction's reciprocal advantages, which contribute to a positive mindset (Hunter, 1885).

The Duars were essentially the work of the "Koch Dynasty." In the end, it exploited the Kingdom of Bhutan. When Biswa Singha (1515-1540) took control and the Koch invaded the Duar areas, the local rulers governing the territory spanning from the Sonkosh to the Barnadi rivers were dethroned. Biswa Singha had a significant impact on Bhutan as well. The Bhutias had to pay tribute to the Koch regime to establish trade relations with the plains through the Duars or passes. In 1581, the area between the Sonkosh and the Bharali rivers fell under the rule of Koch Hajo, led by Raghudeb, Chilarai's son, after the Koch Empire split into two. Naranarayan was in charge of the region west of the Sonkosh River. As a result, both the Koch monarchs were forced to pay tribute to the Bhutias. The Bhutias took a godsend of the struggle between the rival Koch kingdoms to move the Kochs across the hills and into the plains on their southern border (Gait, 1896; Das, 1998).

Agriculture is possible in the southern area of the Duar region as well as in the adjacent northern part that reaches the foothills of the Himalayas. Situated in the eastern-

North-Eastern part of India, the northern part of the Duar is adjacent to the hills more than any other Duars, lying north of the Brahmaputra river basin and south of the outer foothills of the Himalayas. Because of the Bhutias' misdeeds, the tract was previously occupied by "Meches" and "Kacharis," the only tribes capable of surviving in these malarial zones (Eden & Pemberton, 1865; Hunter, 1885). H.M. Durand, the colonel secretary to the Government of India, issued No. during the Indo-Bhutan (or "Bhootan") negotiated settlement. LVIII proclamation of 1864:

"All Chiefs, Zemindara, Munduls, Ryots, and other inhabitants of the tract in question are hereby required to submit to the authority of the British Government, to remain quietly in their homes, and to help the British troops and to the Commissioner who is charged with the administration of the tract. Protection of life and property and a guarantee of all private rights are offered to those who do not resist, and strict justice will be done to all. The lands will be moderately assessed, and all oppression and extortion will be prohibited."

It was mentioned in the proclamation that "The future boundary between the territories of the Queen of England and those of Bhootan will be surveyed and marked off, and the authority of the Government of Bhootan within this boundary will cease forever" (Brahma & Mushahary, 2022).

The Bhutias were living in the Duars area of the northern Brahmaputra River basin until they were driven out by the British in 1865. Following that, several events took place that enabled the British to conquer Assam. The Eastern Duars district was formed by merging the territories of Guma, Ripu, Sidli, Chirang, and Bijni Duar, with its administrative center in "Datma" (which is now part of the Kokrajhar district in the Bodoland Territorial Region). A district was governed by a Deputy Commissioner. On the other hand, Goalpara incorporated the District of Eastern Duars in December 1866. An exception was made in the General Regulation Act XVI of 1869 for the Eastern Duars. The Assam Land and Revenue Regulation oversaw revenue management. The Regulation also expanded to include the Duars and the whole Goalpara region (Eden & Pemberton, 1865; Hunter, 1885; Assam Land Revenue Manual, 1886). The British rule in Assam province guarantees individual liberty, strict justice, full protection of private rights, and protection of life and property to those who do not resist. Any form of tyranny and extortion will be banned, and land will be properly valued. The Kocharis and Meches tribes, residing in the foothills of the Kingdom of Bhutan, faced hardships as the British administration restricted land access to the minimum needed for land reforms, distribution, and livelihood resources (Eden & Pemberton, 1865; Hunter, 1885).

3.6.4.1 LAND LAWS AND POLICIES SHORTCOMINGS

A comprehensive grasp and familiarity with land laws and other daily issues are necessary. People living in the Bodoland region should be fully aware of the laws and rules

pertaining to current land policies and regulations, as well as the norms that apply to them. The land law regulations that apply to rural tribal peoples, in particular, are somewhat unsettling. It's disputed whether tribal peoples' secure entitlement to land in their native habitat is expected and safeguarded. Analysing governments' incentives over land among tribal people and other groups is crucial to understanding the land regulations in the Bodoland region. Analyze the effectiveness of legislation and government initiatives designed to safeguard tribal and keep them from using safe land throughout the entire year.

The need for legal protection of tribal land from the Tribal League did not become apparent until the 1930s, even though the processes by which tribal people lost ownership of their ancestral land started early. The British government was already considering using the "Line System" to keep some areas of Assam free of immigrant settlements. Under this approach, an imaginary border was formed in the districts under duress to divide immigrants (Guha, 1988). Various communities/inhabitants often fight hard to preserve their lands (Banerjee, 2011), especially for the tribals land is everything and immensely important.

Immigration was exerting pressure on the tribal land. To lessen the seriousness of unauthorised land occupation, British officials introduced the 'Line System' in the Nowgong district and Barpeta sub-division of Kamrup in 1920. This was done to govern and secure the land owned by tribal people. After considering the inhabitants' evidence, a 'line" a boundary was marked on the village map, and immigrants were not allowed to dwell beyond it. This was later referred to as the Line System. This method was widely used to encompass the remaining lower districts of Assam. Village settlements were classified into three categories under the Line System: "Open Villages," where immigrants were allowed to settle without restriction, "Closed Villages," where immigrants were only allowed to live under specific conditions, and "Mixed Villages" where immigrants could establish their residence on one side of the designated boundary on the map. Nonetheless, a lot of people thought that the line system, which was created by British administrators with the best of intentions, would not be able to address the issues of illegal immigration and land encroachment. It was discovered that there were infringements even near close villages. The Line System Committee also acknowledged that hostile immigrants were encroaching on unoccupied land, causing tribal communities to suffer and leading to the demise of many tribal villages. The tribe continued into the "sub-montane" area (Bordoloi, 1999). The public realized the administration's position on the issue of land, and local officials and interested parties came up with strategies

to get around the Line System, which was protected by higher authorities. Locals could not be prohibited from selling land to immigrants at a higher price, even in limited regions (Chowdhury, 1993).

The earliest known conception of Tribal Belts and Blocks was initially proposed in a resolution approved by the Gopinath Bordoloi administration in 1939. The Resolution's paragraph 4 states the following:

"A. The restrictions constituting the so-called Line System, which have been in existence in the province... inhabited predominantly by backward and tribal classes in "prohibited areas"...Within the prohibited areas as constituted, immigrant cultivators shall not be allowed land either by settlement or by transfer of annual pattas, and any immigrant as taking up land or by squatting shall be evicted" (Bordoloi, 1999).

However, the Bordoloi Ministry was unable to execute the decision. The land policy of the Bordoloi Ministry was kept when M. Sadulla came to power in 1939. Rather, the Sadulla government put into effect a development plan that, much to the dismay of the native population, "called for all wastelands to be divided into blocks" and given diverse categories, including immigrants. This approach exacerbated the issue because many immigrants were allocated settlements even where the tribals were the majority (Bordoloi, 1999).

In the same way that the Sadulla government fell in 1941, Sir Robert Reid, the governor of Assam, instantly rejected the "Development Scheme," fearing that it would cause a conflict of interest between the locals and immigrants and that the challenges faced by the immigrants would endanger the internal lives and habitats of the native inhabitants. It was also revealed that in the sub-montane areas, individuals from the tribal and backward classes dominated the majority. M. Sadulla was re-elected to power in 1942. The Muslim League Ministry rose the "Pandova's Box" once more. The "Grow more food" initiative's tagline urged the establishment of new immigrant communities even in sub-montane areas, which were mostly inhabited or occupied by tribal people. No doubt, Sir Reid gave his approval to the Line System idea and instructed the Deputy Commissioner to put it into action (Bordoloi, 1999). In order to promote peace and effective governance, immigrants should be encouraged to settle near their original settlements, potentially prohibiting their presence on tribal lands. However, it was only an announcement, and no proper judgment was rendered. In 1945, Sadulla created a coalition government and pursued a radical land policy that favoured immigration. The policy included:

"Planned settlement of waste land; recognition of landless immigrants from other provinces who came to Assam before 1st January 1938 as being equally entitled landless indigenous persons to waste-land settlement; protection of tribal classes in areas predominantly occupied by them against

aggressive elements which are apt to endanger the normal economic and social basis of village life; and maintenance of grassing and other reserves by evicting encroachers" (Reid, 1944; Bordoloi, 1999).

As for the protection of tribal classes, information was gathered from all villages. The percentage of people from the tribal classes exceeds 50%, as well as from locations mainly occupied by the tribals and other sections of people in those villages as in the "Tribal belt or belts," as described in the Census Instructions 1940. In the sub-montane areas, a tribal belt or belts will be formed, with the limits set either by plainly discernible geographical features or by following the lines of "Mauzas." It was also essential that provisions be made to develop tribal blocks alongside other community blocks, where tribal people's villages and households could be found (Bordoloi, 1999, Sarmah, 2023).

In order to preserve the projected belts and blocks' compactness and continuity, non-tribal majority communities have to be included. Hence, any non-tribals living in the specified belts and blocks at the time of their establishment were considered as tribals for future waste-land settlement and Patta land transfer. However, after the tribal belts and blocks were set up, only tribals and specific classes were allowed to reside in those areas. The Assam Land and Revenue Regulation Act 1886 was modified in 1947 to incorporate these protections, and Chapter X (Assam Act XV of 1947) was added. To protect the groups who rely on having enough land for survival and who are unable to care for their well-being due to their low education, lack of resources, or social status. It is a significant legislative act that merits close examination. However, the belts and blocks, like the "Line System," suffered from a tragic destiny, partially due to government officials' disinterest and partly due to flaws in the guidelines themselves (Land Administration in Protected Belts and Blocks in Assam, n.d.; Banerjee, 2011).

Upon closer inspection, the regulations in Chapter X of the Regulation showed numerous severe issues, despite the government's seeming honest wish to preserve tribal land. Chapter X mentions that:

"...Amendment Act led to the creation of Tribal Belts and Blocks intending to protect the interest of the backward classes especially those of the tribal on land. Transfer, mortgage, lease, etc. to non-protected classes under the provisions of Chapter X have been prohibited" (Bordoloi, 1999).

It still indicates difficulties in the legal regulations regarding the use of "Backward Classes" in the Section. Some analysts argue that the contradiction lies in the removal of the word "tribal" from the Chapter X title, which was meant to protect tribal land. One has to ask if the adjustments were intended to help the tribals or if they were aimed at a far larger group

(Banerjee, 2011). This raises a larger concern about the "Protected Classes" included in Chapter X, because they (protected classes) are equally treated with tribals, and in the belts and blocks there is also a reveal regarding the inclusion of entitled tribal groups as protected classes:

"As per section 160 (2) of the Amendment Act of the State Govt. may by notification in the Official Gazette specify the classes of t people whom it considers entitled to protection…vide its notification No. RD. 2/47/43, dated 20.4.49, declared six classes of people as protected classes within the jurisdiction of Belts and Blocks and they are: Plain Tribals, Hill Tribals, Tea-garden Tribals, Santhals, Nepali Cultivator Graziers, Scheduled Caste…vide its notification No. SD. 1/85/17 Dtd. 29.4.85 had included the Koch-Rajbangshis of erstwhile Goalpara District (the present districts of Goalpara. Dhubri and Kokrajhar) as one of the protected classes under the purview of section 160 (1)…vide its notification No. RSD. 26/64/PT/15, dtd. 27.6.69 had excluded the Nepali Cultivators Graziers as one of the protected classes. However, it was later clarified by the Govt. vide its notification No. SD. 12/80/5, Dtd 30th October 1980 that Nepali Cultivator Graziers who were within the jurisdiction of the Belts and Blocks before June 1969, were to be treated on the same footing as other non-protected category residents from before the constitution of the Belts and Blocks" (Assam Land Revenue Manual, 1886; Bordoloi, 1999).

The Deputy Commissioner was granted the authority to rule on the restriction on acquiring, possessing, or transferring land inside the belts and blocks. Regardless of any laws, customs, contracts, or agreements, no one is allowed to acquire or possess land in designated areas organised into belts and blocks against the regulations of the Act through transfer, exchange, lease, agreement, or settlement. Section 164(2)(b) of the Tribal Belts and Blocks Constitution, as revised in 1981, stated that:

"*No such landholder shall transfer his land in a belt and block to a person who is a permanent resident of that belt or block who does not belong to the notified... except with the previous permission of the Deputy Commissioner"* (Banerjee, 2011, Bordoloi, 1999).

Hence, an individual who holds permanent residency in the belt and block but falls outside the regulations covering their class such as tribals or backward classes, may receive land transfer authority from the Deputy Commissioner. It is easy to see how more entrepreneurial groups may use the money to encourage deprived tribals to hand over possession of their land (Banerjee, 2011). The Deputy Commissioner was assigned extensive control over the restitution of land to landowners. The Deputy Commissioner, who also serves as the collector, has the authority to seize or release unauthorized persons from the land once they have been compelled to depart or removed by force. However, he needs to provide the landowners with a fair chance to sign a written agreement promising to do all within his power, committing to make every effort to avoid future unauthorised occupation by other staff members. Still, if he continues to fail to do so, he will lose his entitlement and status. If the written assurances satisfy the Deputy Commissioner, he will accept them and return the land

to the landowners. In case the agreement is broken, the Deputy Commissioner is entitled to take back the land from the proprietor and allow new settlers to establish themselves on it. However, at that time, people could not do so or impress the Commissioner, so ultimately the power rests with the policy.

The Tribal Belts and Blocks constitution states that those who are temporarily residing there will eventually become permanent residents. In section 163(2)(b) of the Chapter-X, laid down that:

"…the bonafide needs of the persons belonging to such classes who are temporarily residing in such areas from before its constitution but who are settlement holders of land within the area on the date of the constitution and who are likely to become permanent residents therein within a reasonable time" (Assam Act XV of 1947).

All laws and regulations on land management in the belts and blocks might be implemented by the government. The indigenous communities were equally confused by the implementation of land policies that did not benefit them, as Chapter X did not clarify the eligibility criteria for "eligible non-protected classes." To evaluate their claims for land allocation or settlement, lists of the genuine landless for each belt and block, one for protected classes and another for eligible non-protected groups, should be created (Banerjee, 2011, Bordoloi, 1999).

With the support of the Tribal League, Sir Md. Sadulla rose to power as Chief Minister in Assam. However, he dramatically failed to hold up to his promises to the tribal people, and he brought in a significant number of Muslims from East Bengal to the tribal areas of Assam. Numerous factors indicate that the Assam government has been a failure in many ways. Tribal people have been attempting to settle on these belts and blocks as a solution, while residents of Assam have long been dealing with an abundance of difficulties. To resolve issues or intensify the provisions were implemented. Despite the Government of Assam's utmost measures, the altered Chapter X has still not been strictly implemented to date, and its implementation has been deemed far from adequate. The alertness regarding the total prohibition of encroaching on unsettled government land, the ejectment of all illegal individuals, and the complete prohibition of transfers by lease, mortgage, or sale to anyone who is not qualified has remained almost entirely unchecked inside the belts and blocks ((Assam Act XV of 1947; Bordoloi, 1986).

According to the Sixth Schedule of the Indian Constitution, district councils can make laws about land use in their areas for agriculture, grazing, residential, or other non-agricultural

purposes to benefit town or village residents. The regulations and legislation for the plains districts of Assam are not enforced in the sixth schedule region unless authorised by the district councils. In the State Legislature could not enact any laws regulating the District Councils' land policies because of land regulations about the Sixth Schedule Areas. Similarly, the Assam Government lacks the authority to issue directives impacting the District Councils' land policies.

3.6.4.2 LAND LAWS AND POLICIES OF BAC, 1993

Creating Tribal Belts and Blocks as a provision in the 1947 Chapter X amendment was a beneficial decision to protect tribal territories. Nevertheless, the state administration did not fully implement the clause. Large-scale land alienation thus persisted unchecked under succeeding state and local administrations. Most of the tribal lands are now occupied by legal or illegal non-tribals. The legislation is illogical since it has not adequately safeguarded the interests of the tribal people. The laws and policies of Tribal Belts and Blocks have not been implemented in any tribal villages, or communities. The processes have failed to maintain reality intact by upholding the law, though. Many tribal organizations of Assam have raised their opposition to the absence of laws governing safe land use, land policy, land tenure security, and access. Tribal groups in the Bodoland region allege that individuals who are not part of a tribe have trespassed and illegally taken over the land. They have also obtained land deeds, known as *pattas* (land deeds) through connections with certain government officials.

The land issues are the most severe concern for tribal people. In reality, tribal people are unable to survive without land, and a lack of land makes life exceedingly tough for tribal people, as is the situation in Assam's tribal groups. However, reacting to the Tribal League's request, the Assam government proactively created Belts and Blocks to protect tribal territory. The local community appears to be angered by the disturbance of the belts and blocks, as well as the transition of land from tribal reserves to non-tribal areas. Lands of tribal blocks were dug up to allow for immigration from East Pakistan. The Plains Tribal Council of Assam (PTCA) addressed the issue in various forums to protect tribal goals and economic interests, specifically concerning land-related matters, and to promote their community. Tribal belts and blocks do not effectively protect tribal interests, including those of individual villages, lands, or areas, and are essentially a façade (Sarmah, 2019). The Bodos, who obtained land *pattas* (land deeds) through their relationships with government officials in Bodoland, took the land rights concerns of tribal and non-tribal people who had illegally occupied these areas very

seriously. The Bodos and other native populations in Assam and the Bodoland region want access to secure land and the opportunity to own it (Sarmah, 2023).

Tribal instability resulted in the signing of the "Bodo Accord" on February 20, 1993, addressing tribal interests of the Bodo movement. This led to the creation of the Bodoland Autonomous Council (BAC). The establishment of the Bodoland Autonomous Council was intended to enhance the general well-being of the Bodo community. The Assam parliament has recognised an essential tactic to stabilise the situation on the north bank of the Brahmaputra. On the other hand, there were issues with the BAC journey due to vulnerabilities right from the start. The Assam government gave exclusive executive authority over land and land revenue to the General Council after passing the Bodoland Autonomous Council Act (Memorandum of Settlement (Bodo Accord) signed in Guwahati, Assam on 20 February 1993).

A special provision was provided in Clause 7 in the BAC region as per the Bodo Accord Memorandum (1993):

"The General Council shall be consulted and its views shall be given due regard before any law made on the subjects is implemented in the BAC area...the ownership and transfer of land within the BAC area."

According to section 51 of the BAC act, it states that:

"*All rights and interests of the non-tribal Indian citizens on the date of constitution of the Bodoland Autonomous Council within the Council Area shall be protected in matters about land and their language."*

Clause 64 of the act included a particular statement:

"The General Council shall, within the laws of the land, take steps to protect the demographic complexion of the area falling within its jurisdiction" (The Bodoland Autonomous Council Act, 1993).

The council was merely given a consultative role in the development of land laws, with no statutory authority. The act does not include this section of the Memorandum of Settlement, rendering it just a declaration of the Assam state administration's intentions. Due to the insincerity of the government, the problem of the BAC Act's delineation persisted even after the settlement. Unacceptably severe conditions were imposed by the central authority, causing chaos. First, it was declared that border security considerations prevented a ten-kilometer stretch of land from being included in the BAC area. Second, it was not possible to include the reserved forest within the region since it is a central subject. The third for instance, the border gate of Srirampur between Bengal and Assam, would exclude certain

important community settlements from out of the Council, including Darrang and Tangla. It is important to remember that there is no constitutional basis for the government's exclusion of any particular region or location. The Bodos and other indigenous communities in the area occupy lands with secure land usage, secure land access, and secure tenure, all of which the legislation was unable to ensure (Brahma et al. 2001; Banerjee, 2011). The people overwhelmingly opposed the agreement.

3.6.4.3 LAND LAWS AND POLICIES OF BTC, 2003

The BAC Act was approved in 1993, but regulations and protections for tribal land rights have not been upheld since then. A large number of individuals entered the Bodoland area and settled there. Section 51 of the BAC Act safeguards language and land for non-tribal Indian citizens. Since the law was put into effect, many undocumented immigrants have been able to claim their right to reside in the area. Therefore, it is evident that safeguarding tribal territories from non-tribal persons, particularly outsiders, and defending land rights are significant concerns in the region. After failure, the Bodoland area signed a second Bodo Accord in 2003. According to the Bodo tribes in the area, the BAC legislation became unsustainable due to its failure to be implemented in text and spirit. A Memorandum of Settlement was signed on February 10, 2003, marking the creation of a long-term settlement focused on tripartite negotiations.

The legislation is identified as the Sixth Schedule to the Constitution (Amendment) Act, 2003 (Act 44 of 2003). District Councils or Regional Councils manage the administration of tribal areas in Assam, Meghalaya, Mizoram, and Tripura as outlined in the Indian Constitution. The Tribal Areas in Assam align with the regions in Part-I. The Sixth Schedule designates any one of these areas as an autonomous district. The rules governing the administration of autonomous districts are specified in paragraphs 1 through 17. The Councils are given legislative power over specific issues and are given the power to impose taxes. It has been permitted to create and manage its own legal system as well as to administer and offer welfare services related to land, revenue, forests, and other resources (BTC, Act 44 of 2003).

The functions of District Councils and Regional Councils are specified in Paragraph 3 of the Sixth Schedule of the Constitution. As a result, District Councils and Regional Councils should be given the authority to create regulations regarding:

"the allotment, occupation or use, or the setting apart, of land, other than any land which is a reserved forest for agriculture or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interests of the inhabitants of any village or town" (BTC, Act 44 of 2003).

However, the true authority lies with the central and state governments. These types of laws do not stop the state government from taking land for public purposes using the existing legal framework, regardless of whether the land is currently being used or not.

The ability to pass laws pertaining to "Land and Revenue" was granted to the Bodoland Territorial Council by Amendment Act 44 of 2003, paragraph 3-B, section (1) clause (xv). Clause (xl) "Welfare of plain tribes and backward classes" includes the following pertinent capacity in subsection 3-B:

"(a) Extinguish or modify the existing rights and privileges of any citizen in respect of his land at the date of commencement of this Act."

"(b) Disallow any citizen from acquiring land either by way of inheritance, allotment, settlement or by any other way of transfer if such citizen is otherwise eligible for such acquisition of land within the Bodoland Territorial Areas District" (BTC, Act 44 of 2003).

The BTC was granted extensive land-related powers with one remark. They were provided prospectively rather than retroactively. Non-tribals will keep ownership of their land plots if they have possessed them since before the Act was implemented, as long as they are Indian nationals (Banerjee, 2011). The Governor will be presented with sub-paragraph (1) of paragraph 3-B right away, and it will not take effect until he gives his consent, per paragraph 3. Hence, it appears in sub-section (2) of paragraph 3-B to the effect of:

"(2) all laws made under paragraph 3 or this paragraph shall insofar as they relate to matters specified in List-III of the Seventh Schedule, be submitted forthwith to the Governor who shall reserve the same for the consideration of the President."

"(3) when a law is reserved for the consideration of the President, the President shall declare either that he assents to the said law or that he withholds assent therefrom: provided that President may direct the Governor to return the law to the Bodoland Territorial Council…when he law is so returned, the said Council shall consider the law accordingly within a period of six months from the date of receipt of such message and, if the law is again passed by the said Council with or without amendments it shall be presented again to the President for his consideration" (BTC, Act 44 of 2003).

The Bodoland Territorial Council aims to enhance one of Assam's most backward regions by concentrating on development, land rights protection, ethnic identity, and other issues. It is now feasible to protect future generations against land-hungry settlements on tribal territory, because of the provisions made by the Council. It still is unable to reverse what has already occurred. As long as they are lawful with the rules and regulations, new transfers are permitted. The guidelines did not apply to those who had previously established

themselves on tribal land because of this. It is possible that a terrible catastrophe happened in the endeavour to retake these areas from non-tribal people (Doe, 2021). The Sixth Schedule of the Constitution updated the provisions, allowing the establishment of the BTC as a territorial council and clarifying the rights of non-tribal individuals to land in the region under the tribal autonomous council's governance. Clause 4.3 of the Act's Memorandum of Settlement outlines the regulations regarding settlement rights, transfer, and inheritance of property, etc., of non-tribal individuals (BTC, Act 44 of 2003).

The BTC has prevented further transfers of tribal lands to non-tribals since its establishment. Under no circumstances can tribal lands be transferred to non-tribals. Moreover, it eliminates the possibility of non-tribals to non-tribals, tribals to tribals, and non-tribals to tribals transferring land. The landowner must submit paperwork to the authorities to establish his status as a legal inhabitant of the region, which should include proof of property ownership and a *patta* (land deed). The council officials are taking additional measures to verify that non-tribal individuals are legally allowed to buy the land. To verify proper qualification, officials rely on the criteria outlined in the Tribal Belts and Blocks Regulations. To qualify for land as a "Protected Class" member under the Belts and Blocks guidelines, one must confirm that either they or their ancestors lived in the area before the criteria were issued (Banerjee, 2011; Brahma & Mushahary, 2022).

3.6.4.4 LAND LAWS AND POLICIES OF BTR, 2020

Before the BTR Act 2020, the Assam government introduced the Land Policy 2019 to uphold the land rights of indigenous people throughout the state. The processing of several land settlement petitions would render the long-term possession of government land by landless indigenous peoples ineffective and unsatisfactory. Ineffective approaches can also be used to deal with illegal occupation. The state government also mentioned that a comprehensive review is necessary to update the state's land laws and policies.

Clause 17.4 of the Land Policy 2019 specifies the following for land conservation in Belts and Blocks:

"Further, purchasing of land in a protected belt/block by a non-protected person in the name of a person of a protected class under any partnership and keeping the land under his occupation and if it appears to be a Benami one, it shall be strictly prohibited. In such cases, appropriate procedure as defined by law shall be restored to evict the unauthorised occupier. Further, endeavour shall also be made to check any attempt to possess the land in a protected belt and block by an ineligible person by executing Power of Attorney" (Assam Land Policy 2019).

When it comes to issuing approval for land transfer within protected belts and blocks, the power of Deputy Commissioner should be exercised to the utmost degree feasible. Land acquisition within protected belts and blocks will be prohibited for anyone who are not eligible. To preserve indigenous backward classes' right to land, the government will investigate whether it is essential to identify new people groupings as protected categories. In this case, the government may form a high-powered committee to provide suggestions. However, as was previously said, there is confusion among the indigenous peoples of Assam once more, particularly in the Bodoland region. The Assam Land Policy 2019 sections that pertain to the rights of qualified Indigenous landless citizens employ the terms "Indigenous Backward Classes" and "Scheduled Castes and Scheduled Tribes, and Backward Communities," which are sometimes used interchangeably. One example of this is clause 16:

"(16.1) Preference may be given to indigenous landless eligible persons of the Scheduled Castes and Scheduled Tribes, and Backward Communities in the matter of allotment/settlement of land in rural and urban areas."

"(16.2) The existing concession to persons of Scheduled Caste and Scheduled Tribe @25% of the premium of settlement of land and conversion of annual patta land through periodic will continue as usual" (Assam Land Policy 2019).

Interestingly, the settlement directive will be overturned if the premium is not paid within the government-mandated deadline or within the fiscal year in which the settlement decision is made public. This will adversely affect the tribal communities in the Bodoland area.

There were a total of 3,079 villages in the area in 2019–20, of which 2,890 were revenue villages. Most notably, there are a maximum of 2,272 falls inside the communities of the Tribal Belt and Block, and there are 618 villages outside of these boundaries. The region has 189 villages and has 3,234 square km of forested areas. Within the total area of 8,970 sq. km., the Bodoland region covers approximately the equivalent revenue area of 5,736 sq. km. Land remains an ongoing and unresolved problem, even though the Bodoland Territorial Region is under the control of the Sixth Schedule of the Indian Constitution (Bodoland Territorial Council, 2020). Nevertheless, the BTR Accord 2020 has pledged equitable land rights for all tribal groups, a fresh land policy to protect the land rights of non-tribal populations designated as "protected classes," and the rights of indigenous tribes to their traditional lands. The third Bodo Accord was implemented to enforce the 2003 Act, keeping

the key provisions of the previous Accord intact, especially the part concerning non-tribal land claims.

The new agreement stipulates that tribal-majority communities located near the BTR line are encompassed within the BTR, while non-tribal majority settlements along the BTR boundary are not included. Paragraph 14 of the Sixth Schedule to the Constitution will set up a commission under the MoS of 2020 to evaluate and suggest changes concerning the Bodoland Territorial Area District adjustment's ability to govern.

"(i) Inclusion of villages contiguous to BTAD and having majority tribal population, as demanded by Bodo organisations."

"(ii) Exclusion of villages currently under BTAD which are contiguous to non-Sixth Schedule areas and have majority non-tribal population" (BTR MoS, 2020).

There have been irregularities in the process of removing several places based on population ratios from the already-designated Sixth Schedule area. The boundary was established by the establishment of a panel pursuant to the sixth schedule paragraph 14 of the Indian Constitution. The panel report was approved by the national and state governments and was included in Act 44 of 2003 as the BTC area (BTC, Act 44 of 2003). The region traditionally inhabited by tribes, the area bounded by officially recognised tribal belts and blocks created by the 1947 Assam land amendment, the notified tribal area designated for special development and promotion under the Tribal Sub-Plan Program, and the notified tribal area designated for special development and promotion under the Tribal Sub-Plan Program have all been broadly identified previously. According to land laws and other administrative reform initiatives, the traditional tribally occupied land as well as the previously informed tribal territory is defining the tribal area. In terms of population, Assam land laws threaten to remove a large number of encroachers in tribal belts and blocks. An estimated 3 lakh bighas in the Bodoland region are in danger of being encroached upon (Pratidin Bureau, 2021). Because of this, these illegal encroachers lack the legal right to prohibit communities from tribal lands based on the population size. Many Bodo tribes themselves oppose the statement added in the Memorandum of Settlement (MoS) Clause (1) that negotiations were held with Bodo organisations for a comprehensive and final solution to their demands while maintaining the territorial integrity of the State of Assam, which destroys the demand for separate statehood (BTR MoS, 2020).

The statement underscores the dedication of the Assam administration to safeguarding the land rights of tribal people beyond their traditional boundaries. Clause 7 of the

Memorandum of Settlement (MoS) under the 2020 agreement covers the following land rights.

"(7.1) Government of Assam may consider enacting a special legislation to provide adequate safeguards to land rights of STs living outside tribal Belts and Blocks in areas outside BTAD."

"(7.2) Government of Assam will take effective measures to protect khas land, grazing land and water bodies from illegal encroachment" (BTR MoS, 2020).

It provides a chance to tackle a previously disregarded aspect. The ability of Assam to provide legal protection for tribal land rights beyond tribal belts and blocks is still greatly esteemed according to the current agreement. As stated by state authorities, one of the objectives of MoS is "to provide legislative safeguards for tribal land rights." The Act's potency is thus restricted to the tribal aspect providing power to the legislative choice (BTR MoS, 2020). According to Suan Hausing (2020), Bodoland lacks the same level of autonomy as Nagaland, which is guaranteed total sovereignty over land and resources by Article 371A of the Indian Constitution. That indicates that Bodoland's independent policy of Bodoland is largely focused on development.

Despite being under the governance of the Sixth Schedule of the Indian Constitution, land issues in the Bodoland region persist as an ongoing and unresolved issue. On the other hand, the BTR Accord 2020 has promised to uphold the land rights of indigenous people, with a new land policy to safeguard the land rights of non-tribal populations, protected classes, and ensure fair land rights for all tribal communities. Objective (v) of the MoS of 2020 is to guarantee speedy progress in tribal regions. It will be intriguing to see how development initiatives, democratic boundaries, and a growing presence in Bodoland impact power dynamics and transform autonomy, power, and interactions among ethnic groups. On tribal belongings, however, the lack of government equality, justice, and reciprocity procedures will cause instability in the area.

3.7 CONCLUSION

The tribe people believe that we dream about our land. Our land is all we can see, walk on, and feel with every part of our being. To imagine ourselves and to know ourselves, we need the land. Without the land, we are nothing at all. Land is irreplaceable and cannot be traded. As for others, the land is also essential to the tribal people's existence; they have legal ownership rights over it, the ability to get land, access to it, and means of subsistence that are

dependent on their tribal rights. This has to be acknowledged by the administration. The land is essential to their identity and existence. As per the Bhuria Report (2002), protecting tribal rights within tribal territories and preventing the transfer of these rights to non-tribal individuals are strategies to reduce exploitation.

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