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The struggle for land: Tribal land issues and debates

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Abstract

This article investigates the problems facing Tribal peoples in India. It is about the issue of land and the debate over how it arose and persists; it exposes the problems in Tribal societies. The study focuses on the land and Tribal identity, and land issues and debates affecting various interests of Tribal peoples in the Bodoland Territorial Region of Assam. It is necessary to study the causes of land conflicts between Tribals and other groups, and the laws and government policies enacted over the years to protect them and prevent land expropriation. The region is discussed here to keep the issue on track. The findings show that Tribal people consider that the government process has not ensured the secure use of land in the region. The proper administration strategy should maintain Tribal land and the means for Tribal peoples' adjustment to changing conditions.

Keywords

Land; Tribal; issues; secure; debate; identity; Act; government

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Tribal peoples and their land are connected with their survival and identity. Tribal peoples are praised for being the original inhabitants and protectors of the land, but if someone loses their land, they lose their livelihood and identity. For most Tribal peoples, survival is a major challenge in a society that has consistently denied them the right to exist as such. Since they have been historically wedded to the land, they have long struggled to obtain and retain access to this important resource, which is also a fundamental part of their identity as a distinct community and culture (Brahma & Mushahary, 2022; Huggins, 2010; Stavenhagen, 2006). Tribal communities in modern India believe they have experienced a paradigm shift as a result of their increased exposure to the improvement process and its related transformations. They do not want to get embroiled in any land issues or identity crises. A concise perspective is also required, that realises the necessity for an empowering strategy that aids Tribals in their attempts to obtain equitable and adequate land access. The importance of land was translated from the German language by Aufschnaiter (2008):

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, in order 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. (p. 1)

The land is the soul of every Tribal people, including their legal ownership and ability to secure it, their access to land, and their livelihoods connected with rights to the land. The land is integral for their survival and identity (Brahma, 2019b). But Morris and Pandey (2007) found that almost no one does not have close relatives who have been tricked out of their land because of unlawful or forceful occupation. They have to struggle and fight and resist to protect their land.

Many of the Tribal riots that have wracked the north bank of the Brahmaputra may be traced back to land disputes that have displaced significant numbers of people. Local communities must fight tooth and nail to defend their land. There have been multiple accusations, notably from Tribals in riot-stricken regions, about outsiders forcibly occupying their land. Immigrants have also complained that they had leased land and cultivated the plots at their own expense for a half-share of the product, but that when it came time to harvest, the landlords denied them their right and grabbed the whole crop. In north-east India, there have been significant displacement incidents, and the area included in the current Bodoland region is remarkable, partly because of the violence that has accompanied relocation. Massive population displacements have arisen from conflicts between Tribals and immigrants, and Tribals and non-Tribals. There have been important forces acting as a result of violence in other aspects of the north-east region, such as revolts among ethnic Tribals and immigrant Bengalis in Tripura, Naga-Kuki and Kuki-Paite, clashes in Manipur, and confrontations between various ethnic groups and displacements in the Karbi-Anglong district of Assam (Banerjee, 2011).

To understand the causes of the frequent violence and ethnic cleansings in the north-east states, it is imperative to analyse the causes of land conflict between Tribals and other societies, as well as the effectiveness, or lack thereof, of the laws and government policies that have been attempted over the decades to safeguard Tribals and prevent land expropriation. In this context, the issue of the Bodoland region in Assam is discussed here.

In the riots and violence that occurred in the Bodoland region between 1993 and 1998, there was an alarming number of deaths and displacements. In the clashes between Tribals and Muslims in Bongaigaon in 1993, about 50 people were murdered and a total of 18,000 people were affected by the war, which displaced 3568 households (Deka, 2012). In July 1994, violence between Tribals and Muslims in the Barpeta district resulted in the deaths of an estimated 100 people. In

the severe conflicts between Bodos and Santhals in Kokrajhar and Bongaigaon districts in May 1996, at least 200 people were murdered, and over 200,000 were displaced, including Adivasis and Bodos. Many people have been displaced as a result of this violence. This dispute resulted in the displacement of over 42,214 households, totalling 262,682 people from both communities (Hussain & Phanjoubam, 2007; Murmu, 2009; Mushahary, 2019). Between May and September 1998, a series of new skirmishes between Bodos and Santhals claimed the lives of around 50 individuals; as a result, 48,556 households with 314,342 people were displaced. Attacks were also made against relief camps. According to one estimate, 80,000 people were displaced. In conflicts between Muslims and Bodo in Udalguri and Darrang between August and October 2008, 70 people were murdered. The two settlements resulted in the displacement of around 212,000 people due to the conflict, with people from 54 villages directly affected, and around 150 villages where people fled their homes for fear of being attacked (Phukan, 2013). Later, the dispute expanded to other Bodoland districts, including Baksa and Chirang. In Udalguri alone, where the violence began, 31 people were killed: 19 Muslim settlers, 9 Bodos, and 3 others. In Darrang, where the violence quickly spread, 21 people were killed: 17 Muslim settlers, 1 Bodo, and 3 others. Unidentified attackers also killed a pregnant immigrant Muslim woman in the German language Chirang area. In the Baksa district, another adult and a child from the same community were slain (Banerjee, 2011; Pathak, 2017; Talukdar, 2008).

Land challenges are serious and have been identified as one of India's primary sources of strife, instability, anarchy and disagreements. It was suggested that Tribal peoples' identity may be rooted in their relationship with the land. Tribal peoples cannot defend themselves unless they maintain control over their land and have access to it and other natural resources, as these factors determine Tribal peoples' lives and rights. In general, Aboriginal social customs share land ownership; however, certain sects practise personal clan ownership; despite this, modern land connections and legal regulations recognise only individual land rights. The process of changing land into assets began in India under British colonial power for their own benefit. Throughout the course of history, large swaths of land have been handed to non-Tribal settlers who have relinquished ownership of communal assets and property in favour of Tribal communities. As a result, in many locations, the number of Tribal peoples has diminished. Similarly to Assam, the Bodoland Territorial Region has suffered greatly as a result of these events. In most locations around the region, Tribals are becoming increasingly concerned about their rights to land.

The study reported here is to understand the relationship between land and Tribal identity; and land issues and debates affecting Tribal peoples by various interests in the Bodoland region's four districts, which seem appealing and determined. The actual paradox in land holdings and the emergence of an exciting pitch for a paradigm that allows Native rights will primarily contribute to harmonisation among diverse communities, as well as open long-term development stability in the region. The study concentrates on descriptive and analytical approaches for understanding issues related to Tribal land concerns and debates. The research implemented a mixed method of data collection. Regarding the sensitivity of the topic, structured and semistructured questionnaires were created to collect quantitative data. The qualitative information and data helped find the appropriate direction for reliable information.

Historical analysis of the struggle

Tribes in India were referred to as "a kind of people" before the colonial period, and *Jana* were outside of Verna hierarchy, as opposed to *Jati*. The Tribal groups were not seen as unequal or discriminated against socially. They were frequently a component of the land's political process, in which military power negotiated authority between local rulers and chiefs (Burman et al., 2004).

They had gathered enough strength at this time to form their own kingdoms of identity. They were also conceptually separated from the general public. The “rules of the land” have been relevant to them for a long time, or even customary laws that still function in domestic issues (Brahma, 2019a; Brahma & Mushahary, 2021). The Tribes are not a homogeneous collection of people; they exist in various ecological niches and environments.

The Tribes in the north-eastern region were opposing British colonisation as early as the 1770s. Beginning with Regulation X of 1822, Tribal peoples were gradually pushed to the outskirts of an emerging centre that became known as the normal lands of Assam (Das, 1998; Rhani & Ziipao, 2019;). The British Indian administration covered Assam Province, Assam Tribal Areas, Manipur State, Tripura State, and the Khasi States, which made up what is now known as North-East India. Many of the British policies in the North-East states had a significant detrimental impact on the Indian population’s lowest ranks. The turning of land into a commodity is the most visible. The “Bengal Decennial Settlement Regulation, 1793” allowed the British government to tax the local people’s land for income. Bengal Regulation 8 of 1793 mentions:

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 18th September, 1789; the 25th November, 1789; and the 10th February, 1790; and subsequent dates.¹

The state government and tax collectors made decisions on how individuals managed their land, with the exception of the balance of the land. In Bengal Regulation 8 of 1793:

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 Collectors.²

The king or local monarch was the nominal landlord prior to the colonial administration, and in the feudal system, taxes were collected on his behalf by the village chief or head. The land became the lawful property of the landlord or tax collector as a result of British policy. Under the new British colonial land revenue system, taxes were set so that peasants were required to pay the same amount regardless of productivity, and failure to pay resulted in their expulsion from the land.

It is important to note that the 1873 regulation was expanded, and British control issued another statute, “The Scheduled Districts Act, 1874”, which abolished and amended several rules. By notice under Section 5 of the Scheduled Districts Act, 1874 (XIV of 1874) it was extended to the following scheduled districts:

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.³

The Scheduled Districts Act of 1874 provided local governments the authority to designate which enactments were to be enforced and which were not, and to notify the applicant of any implementation in force in any area of British India with any required changes or limits.⁴ One goal in the scheduled tracts was to protect the Indigenous people’s interests but the main intention was

opaque. Almost all of the hill sections of the then province of Assam were categorised as “backward regions” under the requirements of the previous paragraph of the Government of India Act of 1919. Changes were prohibited in several areas, with both the Central and Provincial Legislatures forbidden from passing new legislation in these areas.

Section 52 A (2) the Governor-General-in-Council may declare any territory in British India to be a “Backward Tract” and may by 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, p. 29)

The Scheduled Districts Act of 1874 and the Government of India Act of 1919 divided Tribal regions into “wholly excluded areas” and “areas with mitigated exclusion”. Following that, the Government of India Act of 1935, based on the Simon Commission’s recommendations, repealed the term “Backward Tract” and renamed these areas “Excluded Areas” or “Partially Excluded Areas”. In its responsibility for the administration of the two provinces, the Governor of the Province was given enormous power. The Governor of the Province had sole authority over the administration of Partially Excluded Areas.

As history shows, the current land in the Bodoland Territorial Region (BTR) was also covered, governed or administered by several kings with many aliases. The BTR districts were part of Assam’s “Eastern Duars” and other significant Duars. The Eastern Duars, which included Bijni, also known as Bagh Duar, Sidli, Chirang, Ripu and Guma, was located between the river Manas on the east and the Sonkosh on the west (Bose, 1979). The word *Duar* means “door” in English, and is used to refer to the territories below the foothills. It is similar to the Bhutanese *las-sgo* (work-door), which refers to a border station at the foot of a pass and the territory around it (Aris, 1979). The Eastern Duars were crucial in shaping Bhutan’s connection with Assam and rose to prominence. The Ahom kings, on the other hand, fostered the trading connection with the Tribes by permitting unrestricted economic activity. Several duars (mountain passes) were built by the Ahom administration, and *Duarians* were hired who looked after the interest of traders. Tribes or other peoples from the hills might come to the plains and trade with the lowlands through the duars. The mutual benefits gained from this transaction helped foster a pleasant attitude among residents of the hills and plains and valleys.

The Koch Dynasty is primarily responsible for the Duars. However, it eventually took advantage of the Kingdom of Bhutan. When Biswa Singha (1515–1540) rose to power and the Koch attacked the Duar regions, the local kings who ruled the territory between the Sonkosh and the Barnadi were defeated. Biswa Singha had a considerable impact on Bhutan as well. To strengthen frequent economic ties with the plains through the duars or passes, the Bhutias had to pay tribute to the Koch administration. When the Koch Empire was split into two parts in 1581, the territory between the Sonkosh and the Bharali fell under the control of Koch Hajo under Raghudeb, son of Chilarai. The territory west of the Sonkosh River was under Naranarayan’s command. As a result, the Bhutias were compelled to pay homage to both Koch monarchs. The Bhutias took advantage of the conflict between the two Koch kingdoms, driving the Koch across the hills and into the plains on their southern border (Das, 1998; Gait, 1896).

The southern part of the Duar area and the northern portion of this tract, which reaches the foot of the mountains, are excellent for agriculture. Eastern-northeastern India, south of the Himalayan outer foothills and north of the Brahmaputra river basin, has the most northern portion of the Duar, which immediately borders the hills above all the Duars. In history, the tract was previously inhabited by “Meches” and “Kacharis”, the only tribes reportedly able to live in these malarial zones owing to the Bhutias’ misdeeds (Eden & Pemberton, 1865; Hunter, 1885). On 12 November

1864, by order of the Governor-General-in-Council, H. M. Durand, the colonel secretary to the Government of India during the Indo-Bhutan (known as Bhootan), negotiated a settlement, and issued No. LVIII Proclamation:

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 render assistance to 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 is 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 absolutely prohibited.⁵

It was clearly 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 for ever”.⁶

The Bhutias ruled the Duars region of the northern Brahmaputra River valley until the British forced them to leave in 1865. Following this, several events contributed to the British invasion of Assam. The Eastern Duars district was administered by a Deputy Commissioner with headquarters in the Datma (now in Kokrajhar of Bodoland region). In December of 1866, however, the District of Eastern Duars was merged into Goalpara. The Eastern Duars were exempted from the general Regulation by Act XVI of 1869. The Assam Land and Revenue Regulation governed revenue administration. The Duars and the whole Goalpara area were also added to the Regulation (Assam Land Revenue Manual, 1886; Das, 1998; Eden & Pemberton, 1865; Hunter, 1885).

Those who did not oppose the British were guaranteed life and property protection, a guarantee of all private rights, and strict justice delivered to everyone. All forms of tyranny and extortion were prohibited, and lands were valued fairly. Regarding land reforms, the British administration restricted land access to the bare necessities, which hurt the Kocharis and Meches tribes who resided in the hills of the Kingdom of Bhutan.

Early Census Report of Tribals

It is important to understand how the category “Tribal” emerged. The state’s census was the primary instrument used in the creation of the tribe category in India. These communities were categorised as “others”, “religion not known” and “Hindus” in the 1871 Census. The terms were introduced into the first census in 1881. The Tribal group was regarded as a distinct religious category in 1881, as per the first British Census report of 1881, which was originally published in 1883 (Bhuria, 2002). It was a magnificent administrative and publishing feat of Assam that revealed the Tribals' population and locations of dispersion (Table 1).

Table 1. Tribes' population and locations of dispersion

Sl. no.	Tribe's name	Burma	Bengal	Assam	Total
1.	Cachari	—	—	263,186	263,186
2.	Garo	—	24,949	112,248	137,197
3.	Mech	—	11,101	57,890	68,991
4.	Rabha	—	—	56,499	56,499
5.	Lalung	—	—	46,920	46,920
6.	Tipperah	11	95	3984	4090
7.	Hajong	—	—	1246	1246
8.	Koch	—	5631	—	5631
Total population		11	41,776	541,973	583,760

Source: Report on the Census of Assam for 1881, Office of Superintendent of Government Printing, Calcutta, India, 1883.

The term *Indigenous peoples* refers to Aboriginal, Native, Adivasi, Tribe, or the First Inhabitants. The word “Indigenous” is used interchangeably with “Tribes” or “Tribal” throughout my research. The Indian Constitution, on the other hand, uses the term *tribe* as the “scheduled tribe” and it is commonly used in the Indian administrative framework to refer to a group of Adivasis. However, the term *Adivas* does not apply to Assam and the Bodoland region; it is still used to refer to Tea Tribes integrated into central India during the colonial era.

Materials and Methods

In the Bodoland region, the Tribal community makes up the majority of the population, consisting mostly of Bodos, Rabhas, and a small number of Garos. According to the 2011 Census Report, there were 215,672 households, including 4560 urban and 211,112 rural households; 98% of the Bodo, Rabha and Garo Tribal communities lived in rural households, while only 2.12% lived in urban households. The study area is shown in Figure 1.

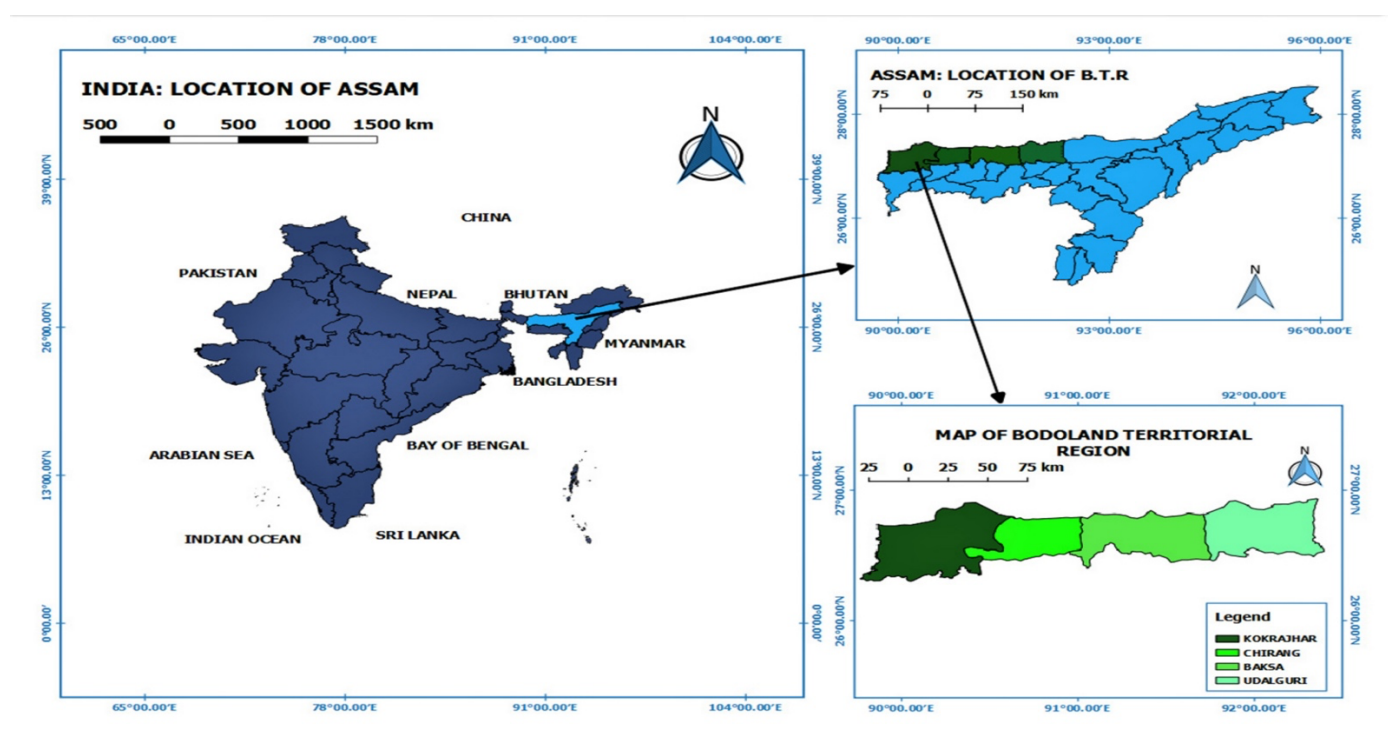


Figure 1. Map of Bodoland Territorial Region showing the study area.

Data were collected from both primary and secondary sources. The primary sources were the official documents and a field study that focused on the rural households of three resident communities of Bodo, Rabha and Garo rural Tribals. The number of rural Tribal households was used to determine the sample size. Random sampling was used to find respondents for this study. Data were gathered from 384 respondent households. The research focused on descriptive and analytical techniques to understand Tribal land concerns and debates. The study used a mixed method of quantitative and qualitative data collection. It aimed for a margin of sampling error of less than 5% and a 95% confidence level. From an ethical perspective, it obtained permission from the household head. Participants who had difficulty answering the questionnaire said a household member helped them. They had access to the relevant information sheet and were encouraged to ask questions. The study respondents were not all well informed on the topics included in the information-gathering questionnaire, and eventually it was decided to make the information available to the public. The study was confined to the Tribal peoples in the Bodoland region and was limited to four districts of remote settlements, focusing on Tribal land access concerns. In comparison to the Bodo Tribes in the vicinity, the sample size of the Rabha and Garo Tribes is quite small, which was also a primary constraint in the study.

The secondary data sources used were published and unpublished records, government reports, documents, official district records and other related national and state government publications, such as the *Annual Report* and *Year-End Review of the Ministry of Tribal Affairs*, the *Annual Report of the Department of Commerce and Economic Survey of India*, and the *Census Report of the Government of India*. Several Memorandums of Understanding, Accords and Agreements between the Government of India, North-East India and Assam were also employed for data collection and analysis. To achieve the study's objectives, all original data sources, such as colonial reports, secretariat files, private letters, official minutes, diaries, land and revenue files, and gazetteers, were thoroughly reviewed and analysed. Furthermore, a method was used in the historical research to integrate the study's processes. In the study, secondary sources allowed us to obtain basic information about previous researchers' work, from which we could identify research gaps in a specific area. Resources from the Assam State Archive, Bengal State Archive, National Archives, Delhi, Department of Historical, Antiquarian Studies, and other libraries were evaluated to complete the research work. Likewise, Shodhganga, a thesis depository website that has relevant theses, was used.

Findings and Discussion

The research field survey was conducted from January 2021 to January 2022 in all survey areas of four districts of the Bodoland region; a representative of the head of the household was questioned at each household.

Contextualising inequality was reflected in the structure and concentration of landholdings in the study area. The extent of Tribal peoples' holdings had been divided according to inheritance rights and socio-economic systems; the history of settlements and land ownership transfers regulate the size and availability of plot holdings in the Bodoland region. The rural land of Tribal peoples is the subject of a contentious debate. As per the field survey, the landholdings size in the area are 71.86% marginal (Bodo: 71.35%; Rabha: 71.42%, Garo: 73.75%), 9.65% small (Bodo: 11.45%; Rabha: 8.92%; Garo: 6.25%), 4.16% semi-medium (Bodo: 3.64%; Rabha: 4.46%; Garo: 5.00%), 2.61% medium (Bodo: 3.12%; Rabha: 1.76%; Garo: 2.5%), and 0.26% large (Bodo: 0.26%; Rabha: 0.00%; Garo: 0.00%). The remaining 11.46% of Tribals (Bodo: 9.89%; Rabha: 13.39%; Garo: 12.5%) live without a landholding (no land between Patta and Daag numbers)⁷ meaning their households fell into the landless category.

The respondents were asked who owned the land where their family currently resides and the majority of respondents described their land as owned by private individuals; ownership differed among spouses and wives, joint ownership, land owned by nomination, land registration in progress, and finally, Tribal people who did not have a Patta or Daag number. The study found that the 64.32% of the land was owned by men (Bodo: 65.10%; Rabha: 62.5%; Garo: 65.00%), while the individual land ownership of women was just 4.68% (Bodo: 4.68%, Rabha: 5.35%; Garo: 3.75%). The Tribal people without land in Patta and Daag, where they live on forest land, were reported at 11.45% (Bodo: 9.89%; Rabha: 13.39%; Garo: 12.5%). The land nominated as minimal was documented at 1.56% (Bodo: 1.04%; Rabha: 1.78%; Garo: 2.5%), and there was no evidence of any joint ownership of land registration. The study found that the Tribal peoples applying for land registration was significant at more than 17.96% (Bodo: 19.27%; Rabha: 16.96%; Garo: 16.25%). This was the most evenly scattered among the four districts. Regarding land ownership, most Tribals replied that the land was either managed or held by parents or other household relatives.

Concerning the land and laws of the Tribals, the question was asked: Do you know what land laws govern the Bodoland Region? However, Tribal peoples were unaware of the land laws that applied to them and were being implemented in their areas. According to the survey, 71.87% of respondents (Bodo: 67.18%; Rabha: 74.16%; Garo: 72.5%) did not know the laws. Only 18.75% of respondents (Bodo: 18.22%; Rabha: 19.16%; Garo: 18.75%) said they were aware of it; 6.51% of respondents said they had no idea, and the remaining 4.94% were still unsure about what land laws were in effect and what was going on in the region.

Tribal land in the Bodoland Region

It is important to have a thorough understanding and awareness of land policies and other challenges that are confronted daily. Regarding the policies and regulations of the land, the 71.87% of Tribals who are citizens in the Bodoland region had no clear concept of what rules applied to them and the laws they follow. So, to comprehend the aims of the land laws and regulations of the Bodoland region, the motives of governments regarding Tribals' land and specific other communities must be analysed.

Land and Tribals in the Act of Bodoland Autonomous Council (BAC), 1993

The notion of constructing Tribal Belts and Blocks to safeguard Tribal lands as part of the Chapter-X amendment in 1947⁸ was noble. However, the state administration did not carry out the law in its entirety. As a result, throughout succeeding state and local governments, large-scale land alienation persisted. The Tribal Belts and Blocks have not yet reached all Tribal communities, areas and villages. Reality has been preserved in the procedures, but not through the application of law. In Assam, many Tribal organisations have spoken out against the failure to enact rules that protect the secure use of land, access to land and tenure security. As to the Tribals' organisation in the Bodoland region, they opine that non-Tribals have encroached and unlawfully occupied these areas and have also received land pattas in collusion with some of the government authorities.

Although the Government of Assam took the initiative to create Belts and Blocks to defend Tribal land at the recommendation of the Tribal League, it appears there was little outcry on the ground when the Belts and Blocks' protection was destroyed and land in Tribal reserves was transferred into non-Tribal hands. Lands were carved out of Tribal blocks to settle East Pakistani (now Bangladesh) immigrants. The Plains Tribal Council of Assam (PTCA) took up the problem. It

began to raise it in various places to defend Tribal aspirations and economic interests and bring about progress in their society, including land issues.

Consequently, Tribal interests were secured, and the Tribal unrest (Bodo movement) led to the signing of the “Bodo Accord” on 20 February 1993, created to develop the Bodo community in particular and in general. However, the BAC experiment suffered flaws from the beginning. The Act, enacted by the Assam government, only provided the General Council executive authority over land and land revenue. As included in Clause 7 of the BAC area:

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

Section 51 of the BAC Act 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 pertaining to land and their language.”

Clause 64 of the Act has a specific remark: “The General Council shall, within the laws of the land, take steps to protect the demographic complexion of the area falling within its jurisdiction.”⁹

As a result, the council was granted only an advising role in formulating land laws, with no legal authority. Even after the accord, the problem of the demarcation of the BAC Act never ended due to a lack of seriousness on the part of the government. The central government wreaked havoc by imposing unacceptably harsh conditions. First, it was announced that a strip of land ten kilometres from the international border would not be included in the BAC region due to border security concerns. Second, because the reserved forest is a central area, it was impossible to include it in the region. The third instance, the Srirampur border gate between Assam and Bengal, would exclude certain key settlements such as Darrang, Tangla and others from the Council. It is critical to note that the government’s grounds for excluding specific districts and places are without constitutional support. The people overwhelmingly opposed the agreement.

Land and Tribals in the Act of Bodoland Territorial Council (BTC), 2003

Even after the creation of the BAC Act in 1993, there was still a failure to keep the situation under control or to preserve Tribal land rights. A significant number of individuals infiltrated the Bodoland region and took up residence. Under section 51 of the BAC Act, the non-Tribal Indian citizen shall be safeguarded in areas of land and language. Due to the commencement of the Act, many people who had entered the region illegally continued to enjoy their right to land. It is clear that land rights and the preservation of Tribal land from non-Tribal people, particularly non-residents, was the region’s major issue. This failure resulted in a new Bodo Accord being signed in the Bodoland region in 2003. On 10 February 2003, a Memorandum of Settlement was agreed for a protracted solution centred on the tripartite negotiations.

The Act is known as the Sixth Schedule to the Constitution (Amendment) Act, 2003 (Act 44 of 2003) Brahma, 2018b).¹⁰ The Bodoland Territorial Council was given the right to make laws regarding “Land and Revenue” within its jurisdiction Amendment Act 44 of 2003, paragraph 3-B, section (1) clause (xv). The relevant capability is also included in subsection 3-B of clause (xl) “Welfare of plain tribes and backward classes”, to:

(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.¹¹

The considerable powers granted to the BTC over land came with one condition: that they were granted prospectively rather than retrospectively. Non-Tribals, as long as they were Indian nationals, would retain ownership of their land plots if they had had them since before the legislation was enacted (Banerjee, 2011). As subparagraph (1) of paragraph 3-B shall be submitted immediately to the Governor and shall have no effect until he assents to it, subsection (2) of paragraph 3-B mentions that:

(2) all laws made under paragraph 3 or under 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 the 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.¹²

The BTC aspires to bring fast improvement to one of the most backward regions of Assam (Brahma, 2018c), focusing on development, land rights protection and ethnic identity. Through the agreement of Council clauses, it is now able to protect new non-Tribal settlements of Tribal lands, but it cannot erase what has already occurred. Fresh transfers are also permitted, as long as they are legal. The regulations were not granted retroactive effect since many individuals were previously established on Tribal land. The attempt to reclaim these territories from non-Tribals may have ended in a human catastrophe. However, the amended clauses of the Sixth Schedule of the Constitution, which paved the way for the formation of the BTC as a territorial council, specify the rights to the land of non-Tribal people residing in the region within the control of the Tribal autonomous council. The protections for “settlement rights, transfer, and inheritance of property, etc. of non-tribal people” are addressed in clause 4.3 of the Memorandum of Settlement of the Act.

Since the founding of the Council, the BTC has attempted to prevent further transfers of Tribal lands to non-Tribals (Brahma, 2018a). Under no circumstances is it permissible to transfer Tribal lands to non-Tribals. It also closes the range of possible sorts of land transfers: Tribals to Tribals, non-Tribals to non-Tribals, and non-Tribals to Tribals. The landholder must prove to the administration that he/she is a bonafide inhabitant of the region, with household land and a patta. If the receiver is a non-Tribal, the Council authorities take further actions to ensure that he is constitutionally allowed to acquire the land. The authorities use the criteria outlined in the Tribal Belts and Blocks Regulations to determine lawful eligibility. The individual must confirm that he or his descendant lived in the region prior to the announcement of the Belts and Blocks criteria and that he may be eligible to receive land as a member of one of the “Protected Classes” under the Belts and Blocks guidelines or regulations.

Land and Tribals in the Act of Bodoland Territorial Region (BTR), 2020

Pursuant to the BTR Act 2020, the Assam government issued the Land Policy 2019, which regarded the idea of protection of the land rights of the Indigenous people as repeated by the state. However, Tribal people in Assam, particularly in the Bodoland region, are again confused, as mentioned above. The Land Policy 2019 clauses use the conflated terms “Indigenous

Backward Classes” and “Scheduled Castes and Scheduled Tribes, and Backward Communities” in the rights of the Indigenous landless eligible citizens, as in 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 at 25% of the premium of settlement of land and conversion of annual patta land through periodic will continue as usual.¹³

It is important to note that the premium for settlement must be paid during the revenue year in which the decision for settlement is released, or within a period as determined by the government, failing which the directive for such settlement will be withdrawn. This will have an adverse impact on Tribal settlements in the Bodoland region.

The third Bodo Accord 2020, known as Bodoland Territorial Region (BTR) Accord 2020, was signed on 27 January 2020 as a continuation of the 2003 Act. The core clauses of the former Accord, specifically the section on non-Tribal land claims, were left unchanged. In the new agreement, the non-Tribal majority settlements on the BTR boundary are excluded, while close Tribal-majority villages outside of it are included in the BTR. Regarding the alteration of the Bodoland Territorial Area District, under paragraph 14 of the Sixth Schedule to the Constitution, a commission will be constituted through clause 3 of the Memorandum of Settlement (MoS) of 2020 to examine and provide recommendations on the ability to guide:

(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.¹⁴

Anomalies surround the process of exclusion of several communities from the already notified Sixth Schedule region based on population ratios. The boundary was already established by constituting a panel under paragraph 14 of the Sixth Schedule of the Indian Constitution, whose report was agreed by both the state and central governments and included as the BTC area in Act 44 of 2003. The area enclosed by the recognised Tribal Belts and Blocks under the Assam land amendment in 1947, the notified Tribal area for special promotion and development under the Tribal Sub-Plan Programme, and the traditional historical tribal inhabited region have previously been identified. The Tribal area is decided based on the once-notified Tribal region in the land legislation and other administrative improvement initiatives, and the traditional Tribal occupied land. In terms of size, there is a considerable population of encroachers in tribal Belts and Blocks who are liable to eviction under the land regulations in Assam. In the Bodoland region itself, a significant area of around 3 lakh bighas is under threat of encroachment. As a result, these unlawful encroachers do not have the right to exclude villagers' settlements from Tribal regions in terms of population proportions. The sentence added in the MoS of the BTR Accord 2020, Clause (1) that the negotiations were held with Bodo organisations for a comprehensive and final solution to their demands while keeping intact the territorial integrity of the State of Assam, is not agreed upon by many Bodo Tribals, which destroys the separate statehood demand. It prioritises the Assam government's provision of legal safeguards for Tribals' land rights beyond Tribal Belts and Blocks. The issues relating to land rights are mentioned in clause 7 of the MoS of the 2020 accord:

(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.¹⁵

This provides an opportunity to rectify a subject ignored as a non-issue earlier. The present agreement continues to place a premium on the Government of Assam's capacity to establish legal safeguards for Tribal land rights beyond Tribal Belts and Blocks. Notably, the authorities at the hand of the state government mention one of the objectives in the MoS 2020, "to provide legislative safeguards for land rights of tribals", which reduces the power of the Act to the Tribal aspect (Suan Hausing, 2020). The Bodoland autonomy approach is far less secure than that of the Nagaland structure, which enjoys broad sovereignty over land and resources within Article 371-A of the Constitution of India. Essentially, the Bodoland autonomous strategy is still based on development.

Conclusion

The study found that the Tribal peoples are related to the land, as is their legal land ownership and potential to acquire land, and access to land is linked to Tribal rights on the land. The government must realise that the land is essential to Tribals' life and identity. However, they must struggle and face resistance on their own to protect their land.

Many ethnic groups are struggling for land rights, protection and secure access in the Bodoland region; the land issue in Assam in general and the Bodoland region in particular is a long-running one that is unlikely to end any time soon. The fight for land in Assam began not just as a result of the federal polity inadequacy, but also as a result of the Indian state's incapacity to give political and constitutional resolutions to the land issues and debates. The effort to safeguard land, political, social and territorial spaces has contributed to an increase in community conflicts. Conflict and violence have become chronic and all-pervasive in Assam due to a lack of effective governmental policy and civil society interventions. As per the survey, the majority of tribals think that their land is something they want for. The land is all they see, walk on, and feel with the entire body. People cannot imagine life without their land, and they cannot comprehend who they are without it. They are nothing if they do not have the land. It is not negotiable, and land cannot be replaced. Tribal people's spirits, as well as their legal land ownership and capacity to purchase land, land access and livelihoods connected to Tribal rights on the land, are all linked to the land. The authorities must accept that the land is essential to Tribals' life and identity. It is suggested that exploitation be minimised by banning the transfer of Tribal rights to non-Tribals and illegal immigrants (excluding protected classes) from outside the four districts (Kokrajhar, Chirang, Baska and Udalguri) of the region and ensuring Tribal rights on Tribal lands.

The study found that the Tribals wanted to protect and preserve their land, but they needed proper government processes to help them secure the use of land that others cannot easily access. The present laws in the Bodoland region prohibiting the transfer of land from tribals to others are deemed to be both suitable and adequate. Land conflicts in the Bodoland region are caused by a variety of factors, including illegal immigration, both from inside India and from crossing the border. The inflow of immigrants into the areas of Bodoland is not surprising. The former Goalpara includes Kokrajahr, the heartland of Bodoland. Goalpara has long been recognised as the main entrance point for persons attempting to access Assam. Immigrants from Bangladesh, mainly from Mymensing, Pabna, Bogra and Rongpur, arrived in Goalpara as early as 1901, settling on burned land tracts, and the immigration is still occurring. In this respect, the land concerns and tensions that arise today in tribal regions between immigrant Muslims and Tribal inhabitants are not new in Kokrajhar and the other three districts of the region. Other reasons are the purchase of land for

government development, the effect of land division in protected areas, failure to respect a legal right to use the land, and unauthorised use of other lands.

Even though the Bodoland region is regulated under the provisions of the Sixth Schedule of the Indian Constitution, land has become a lasting and seemingly intractable issue. However, the Bodoland Territorial Region (BTR) Accord 2020 has pledged Indigenous groups' rights to land, a new land policy to protect the land rights of "protected classes" of non-Tribal groups, and equitable land rights for all Tribal communities. It will be interesting to see how development projects and democratic constituency delimitations increasing encroachment in Bodoland alter power dynamics and reshape not only the autonomy and power but also inter- and intra-ethnic interactions, as stated in the objective number (v) of the MoS of 2020, "to ensure accelerated development of tribal areas". But the absence of government equity, justice and reciprocity procedures on tribal land will destabilise the region. The state government should develop measures to involve all residents in the region and provide power to the local government to utilise the right way to bring about the land mortgage prohibition, redemption of equity, and provide land access and legal protection of Tribal land as well as giving due emphasis to protected classes. This will help develop solidarity, togetherness and integrity among all segments of the Indigenous people of the Bodoland region, allowing them to live in peace and security.

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¹ 1-3. Re-enactment of code of the rules passed on 23 November 1791; term settlement; to be perpetual with approbation of Court of Director. Rep. by the Repealing Act, 1874 (16 of 1874), p. 25.

² Bengal Regulation 8 of 1793, p. 27.

³ This regulation has been declared by notification under the Schedule Districts Act, 1874, (XIV of 1874), s.3, to be in force in the Districts of Goalpara (excluding the Eastern Duars) and Sylhet—see Notification Nos. 1152-J., date 3 September 1879 and 1242-J., dated 1 April 1897 in the Manual of Local Rules and Orders, Vol. I, together with Notification No. 713-L., dated 27 September 1937.

⁴ In Assam, the Deputy Commissioner, as to exercise of functions of Deputy Commissioners, see- the Assam Land Revenue Regulation, 1886 (I of 1886), Chapter VII.

⁵ See – by order of the Governor-General-in-Council, Fort William, 12 November 1864, (Sd.) H.M. Durand, *Colonel, Secy. to the Government of India, No. LVIII Proclamation*, pp. 156–157.

⁶ The British Government, ever sincerely desirous of maintaining friendly relations with neighbouring States, and especially mindful of the obligation imposed on it by the Treaty of 1774.

⁷ Assam landholding measurements are: 7 bighas, 2 kathas, and 6 lessas = 1 hectare; 1 bigha = 0.1337 hectare; 1 bigha = 5 katha and 1 katha = 20 lessa.

⁸ Just after the independence of India on 15 August 1947, the Congress Ministry in Assam headed by late Gopinath Bordoloi had taken steps for the creation of Belts and Blocks for tribals and backward classes by amending the Assam Land and Revenue Regulation Act 1886 by adding Chapter-X in 1947.

⁹ See the Memorandum of Settlement (MoS) of Bodoland Autonomous Council (BAC) Accord Act, 1993 on 20 February 1993.

¹⁰ See the MoS of BTC Accord Act, 2003.

¹¹ See the Gazette of India No. 48 dated September 3, 2003 (Sixth Schedule), The Sixth Schedule to the Constitution (Amendment) Act, 2003 (Act 44 of 2003), (Part II-Sec 1).

¹² The Gazette of India No. 48, dated September 3, 2003 (Sixth Schedule), The Sixth Schedule to the Constitution (Amendment) Act, 2003 (Act 44 of 2003).

¹³ Land Policy-2019 of Assam, RDM-15023/7/2018-LS-REV/20, ECF No. 77629/2018/20, dated Guwahati, 13 November 2019. p. 16.

¹⁴ MoS of Bodoland Territorial Region (BTR) Accord, 27 January 2020.

¹⁵ MoS of BTR Accord, 2020, pp. 4–5.