CHAPTER 9

LAND ENCROACHMENT IN CENTRAL NICOBAR

They made us many promises, more than I can remember, but they never kept but one; they promised to take our land, and they took it.

—Dee Brown, In ‘Bury My Heart at Wounded Knee’ (2007)

This chapter proffers an analysis of the land encroachments in the central Nicobar, especially Kamorta Island. The ex-government employees and other non-Nicobarese have encroached upon a substantial portion of the Nicobarese land in Kamorta. This issue is a long pending one and has been causing conflicts between the Nicobarese and the non-Nicobarese communities. This chapter discusses the repercussions of land encroachments on the Nicobarese community and analyses the issue in the light of various provisions of the ANPATR (1956) — a legal framework to govern these islands.

9.1 Reaching the Central Nicobar Archipelago via Little Andaman

I reached the Central Nicobar archipelago via the Little Andaman by Samsun — an interisland vessel that plies from Port Blair in the Andaman to Campbell Bay in the Nicobar. While the captain slowly navigated the ship to Kamorta Island, its desolate jetty bustled with outgoing passengers. As the vessel anchored, the passengers on board started jostling one another. Chander, a government servant, was in no hurry to disembark. As usually, he was chewing gutka89 and spitting its residual every now and then. He wiped his lips and posed the same question again, “Are you sure you want to stay here?” I smiled and nodded my head in affirmation. Chander was intrigued to learn that somebody had voluntarily come to the Central Nicobar, all the way from Mumbai, only to stay with the Nicobarese. He was also anxious about his own situation, as he could not avoid his transfer from Port Blair to Kamorta Island, which he had successfully forestalled many times before. His only solace was a fellow government teacher who looked even more anxious. He was transferred to the Katchal — an island that is even more remote and devoid of social amenities vis-à-vis Kamorta.

89 A preparation of crushed areca nut tobacco, slaked lime, catechu and paraffin.
Chander and his friend soon disappeared into the crowd. I was cornered by two police officers, who despite being shown the tribal pass, were reluctant to let me go until Aslam Majeed intervened. Aslam, the President of the Nicobar Youth Association (NYA), belongs to the Rani family of the islands, which has represented the community to the outer world for centuries. Initially, Kamorta seemed just like any other remote place, as the majority of the people I met at the jetty were non-Nicobarese. On being inquired, Aslam abruptly said that the non-Nicobarese have encroached upon the tribal land in Kamorta.

Within less than five minutes, we reached the heart of the island— the Kamorta market, where the Nicobarese were seen purchasing goods from the shops being run by the non-Nicobarese. I had a rudimentary understanding of the issue concerning land encroachments in the tribal reserve. However, the nuances of the matter unfolded only when I lived among the Nicobarese and conducted interviews and focus group discussions with multiple stakeholders. The review of the documents available at the offices of the Tribal Council and the Assistant Commissioner, Nancowry 90 helped me contextualise and analyse the issue.

9.2 Genesis of the Land Encroachment
The issue of encroachments upon the Nicobarese land in Kamorta is a long pending one, which has been in existence for more than five decades. Traditionally, the Nicobarese have lived an isolated life with sporadic cross-cultural contacts. Even long before the annexation of the Nicobar Islands to India, the Nicobarese have had trade relations with the outsiders. The Nicobarese bartered coconuts, areca nuts, tortoise shells, ambergris and edible birds’ nests with the Chinese and the Indian traders in exchange for daily use commodities. Generally, these barter relations were exploitative in nature and kept the Nicobarese in debt. It was only in 1945 that money was introduced in their society. 91 During the Japanese occupation of the islands from 1942-1945, the barter relations were severed with the withdrawal of the traders from the islands due to the Japanese coercion (Rahman 2005:82).

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90 File No. ACN/5-159/2008, entitled as ‘Issue of Tribal Passes/Licenses to the Non-Tribals in the Nancowry Group of Islands’. Office of the Assistant Commissioner, Nancowry (Parallel File), Andaman and Nicobar Administration.
Later, trade in the Nicobar Islands was monopolized by the Jadved Trading Company, which was also known as M/s. Akhooji Trading Company before being renamed as Nancowry Mercantile Company. The Jadved family enjoyed a close relationship with the Nicobarese leadership including matrimonial relations. The company operated without a license and continued to work even after the independence of India. It was the sole undertaking, which supplied commodities and bought the produce of coconut, seashells and other marine products from the Nicobar. The hold of the company on the islands was so strong that even the government administration also depended on it for the supply of essential goods to its employees (Tamta 1992:103-104).

Sensing the exploitative mode of traders and gradual awakening among the Nicobarese, the Union Government enacted Andaman and Nicobar Protection of Aboriginal Tribes Regulation (ANPATR), 1956 that restricted the entry of outsiders in the Nicobar archipelago. The regulation also banned pursuance of economic activity in the islands without permission from the administration (Rahman 2005:82). Some government administrators viewed that the monopoly of the Jadved Trading Company would harm the interests of the Nicobarese. They tried to limit the activities of the company in the islands. The then Chief Commissioner, Mahavir Singh tried to curb the activities and the matter went to the court. The administration and the company made an out of court settlement by which the administration paid compensation to the company to wind up its business in the islands (Tamta 1992:103-104).

In order to maintain the supply of essential commodities in the islands and purchase the produce of the Nicobarese, the Queen of the Nancowry group of Islands, Rani Lachmi formed a cooperative society, Manula Matia Limited\(^2\) (MML) in 1978. It was the first cooperative society that operated in the central and the southern Nicobar Islands. Most of the employees of the Nancowry Mercantile Company were absorbed by MML, which operated for two decades before being shut down in 1998. After the liquidation of MML, the Andaman and Nicobar State Cooperative Supply & Marketing Federation Ltd. (ANCOFED) appointed the Tribal Development Co-operative Society (TDCS) as its sub-agent in 2002 for the

\(^{2}\) *Manula Matia* means united Islands.
distribution of essential commodities, procurement of copra and other produce for the Nancowry group of islands.93

The Nicobarese had maintained intermittent relations with the outer world through trade. Post independence, the government set up an administrative apparatus in the islands and initiated various infrastructural development works and welfare programmes. The non-Nicobarese were posted to the islands as administrators and since the 1960s, a large number of them came as labourers to work with the Forest and the Andaman Public Works Department. The local administration allowed them to set up huts on the tribal land. Gradually the land adjacent to the huts was also encroached upon to raise kitchen gardens. Many of these semi-skilled and unskilled labourers stayed back after the completion of their work. Gradually, more and more non-Nicobarese people came and many of them settled in Kamorta by constructing huts on the Nicobarese land.94

After retirement from government jobs, many government servants also stayed back in the islands and started their own business. Many of these people have been living in Kamorta for the past 35 to 40 years. The encroachments on the Nicobarese land remained unchecked and over a period, the non-Nicobarese people occupied a substantial portion of land in Kamorta.95

The most contentious encroachments in the Kamorta Island are related to Sri Sri Radha Krishna (SSRK) temple. Dakha Ram, a local government employee requested Rani Lachmi to donate a patch of land in Kamorta to government employees for constructing a temple and raising a garden. With the consent of Rani, the deputy commissioner, vide order No. 4/26/41/B-1, dated 4 January 1954, allotted five acres of land at Kamorta for the purpose of constructing a temple and raising a garden.96

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94 Based on the interviews and FGDs conducted with the Nicobarese, non-Nicobarese and the local administration.
95 An undated document at the Office of the Assistant Commissioner, Nancowrie- ‘History of entrance and stay of non-tribals in Kamorta’.
Under Revenue Rule 8 framed under section 26(1), the Andaman and Nicobar Islands Tenure Regulation 1926, the Hindu Community at Nancowry Islands is granted 5 acres of land at Kamorta Island for the construction of a temple and garden.\textsuperscript{97}

However, the government servants could only get 2.64 acres of land in 1969 near the Kamorta jetty and the Navy Complex (Kardip). The SSRK constructed a temple on approximately 200 square meters of land. As per the records, until 1986, only the government employees were the members of the executive committee of the SSRK temple management committee. Thereafter, the committee was taken over by some key businesspersons and the temple management committee allotted land to the non-Nicobarese people (around 50 people) on a rental basis, while some 35 shops were constructed near the jetty. The administration issued numerous orders to the SSRK temple committee to stop further misuse of land and illegal constructions. However, despite the orders of the administration, the temple committee allotted land for construction of houses and shops.\textsuperscript{98} Since 1996, the management committee of the temple comprises people who have business stakes in the Nicobar Islands. Some of these members have managed to construct several houses and shops that are rented out to the non-Nicobarese people.\textsuperscript{99}

While the non-Nicobarese encroached upon the Nicobarese land, the protective provisions of the ANPATR were not enforced by the local administration. Rather, the assistant commissioner (Nancowry) passed an order, dated 12 July 1996, which permitted a particular number of the non-Nicobarese people to reside in the temple complex. The order also permitted the allotment of some shops to the non-Nicobarese people by the temple management committee. Tribal passes and trade licenses were also issued to them that were renewed periodically. The health authorities also granted a license to the non-Nicobarese to carry out the business of eatable items in the islands.\textsuperscript{100} Gradually, the non-Nicobarese became major economic players in the islands. They set-up numerous shops and started taking

\textsuperscript{97} The Note of Assistant Commissioner, Nancowry, Titled- ‘Apprehension of misappropriation of funds by the office bearers of the management committee of Sri Sri Radha Krishna Mandir, Kamorta; dated 11.09.2007’, No-ACN/5-27/07/1730.
\textsuperscript{98} The Note of Assistant Commissioner, Nancowry, Titled- ‘Apprehension of misappropriation of funds by the office bearers of the management committee of Sri Sri Radha Krishna Mandir, Kamorta; dated 11.09.2007’, No-ACN/5-27/07/1730.
\textsuperscript{100} Ibid.
contracts for construction work. It motivated more non-Nicobarese to come to Kamorta, which escalated encroachments upon the Nicobarese land.

The Nicobarese are displeased with the increased encroachments upon their land. The indigenous leadership argues that Rani Lachmi allotted land only for the construction of temple and for raising a garden. However, the non-Nicobarese people in connivance with the local administration misused the land and constructed residential buildings and shops in the SSRK temple complex. The community has been unequivocally demanding the deportation of all the people who have been staying on the island illegally. The chairperson of the Nancowry tribal council expressed that:

We are not against the non-Nicobarese people per se, but we do not like them to take an unfair advantage of us. The non-Nicobarese people came here as government representatives to implement its agenda of modernization. We cooperated with them and Rani Lachmi allotted five acres of land to the government employees in goodwill for the construction of the temple and raising a garden. However, they cheated us by misusing the land and encroached upon our land and resources. The illegal presence of the non-Nicobarese in these islands is against the interests and the very survival of our community. It is our earnest request to the government that it can stop all the development activities in the islands for a year and spend the same in repatriating these people so that we can live in peace.

The non-Nicobarese people, especially the businesspersons, argue that if they shut down their business in Kamorta, the government employees would not be able to live in the islands due to lack of commodities of daily use. It is only because of the entrepreneurial skills of the non-Nicobarese that a market could be developed on a remote island. The descendants of the retired government employees argue that their ancestors came to the Nicobar when these islands were not habitable. They worked hard to develop infrastructure in the islands and made them inhabitable. These islands could not have developed without the contribution of the non-Nicobarese people. They also argue that Kamorta Island is their home where they have been living for decades and they do not have any other place to go. A young non-Nicobarese argued:

Our ancestors were brought to the islands since the late 1960s. When my grandfather came here, the Nicobarese were reluctant to work as labourers. Nobody wanted to work in these islands due to isolated terrain and lack of rudimentary amenities such as ration shops, medical, schools and so on. Over a period, we developed basic infrastructure and made these islands fit for human habitation. When the tsunami ravaged these islands, we worked tirelessly to normalize the situation. Considering all this, is it right for the Nicobarese to demand our deportation from the islands?
9.3 Regulation and Resistance

Except for the port area, the Andaman and Nicobar Protection of Aboriginal Tribes Regulation (ANPATR), 1956 has recognized the entire Kamorta Island as a tribal reserve. The main sections of the regulation concerning the land encroachment issue are 6 (1), 6(2), 7, 9(1)

Under section 6 (1) of the ANPATR—“No person other than a member of an aboriginal tribe shall, except with the previous sanction of the Chief Commissioner, acquire any interest in any land situated in a reserved area or in any product of a crop raised on, such land, or shall, except under and in accordance with the terms and conditions of a license granted by the Chief Commissioner, carry on any trade or business in any such area.”

Section 6(2) states that the provision of sub-section—“shall apply to any person who, at the commencement of this regulation, is carrying on any trade or business in any such are after the expiration of sixty days from such commencement.”

Section 7 of the Regulation prohibits the entry of outsiders in this tribal reserve. “The Chief Commissioner, by notification, prohibit any person other than a member of an aboriginal tribal or any class of any class of persons other than members of an aboriginal tribe from entering a reserved area except on the authority and subject to the observance of the conditions and restrictions of a pass granted by the Deputy Commissioner or by such other officer as the Deputy Commissioner may authorize in writing in this behalf.”

Under section 9(1): “The Chief Commissioner or any person authorized by him in this behalf may arrest without a warrant any person who has committed or is suspected of having committed, any offense punishable under this Regulation.”

Casper James, the assistant commissioner of the Central Nicobar Islands, argued that the administration issued some orders to check the problem of land encroachment in the islands. For instance:

(1) Order No. 5—27//97/1781, dated 12 September 1997 issued by the SDM, Nancowry, imposed a ban on further construction by the non-Nicobarese people in SSRK temple area, Kamorta.

(2) Public notice number ACN/5-3/2002/100, in January 2002—“cancelling all allotments made by the temple committee or otherwise in any manner shape, process and interest and on such piece of land building/house has not been constructed stand cancelled and declared null and void.”

Through notification No. 10/60 dated 18/11/1960, the Chief Commissioner of the islands issued orders in 1960 and relaxed the provisions of the regulation and permitted the government servants on duty to work and stay in the tribal reserve on being transferred to the Nicobar islands. Through this notification, the government servants are exempted from taking a tribal pass for entering the tribal reserve.
(3) Letter No. ACN/5/14/02/891, dated 31 July 2002, which was sent to the chief secretary by the assistant commissioner (Nancowry) regarding the unauthorized construction of building in SSRK temple complex.

(4) Order No. 131, dated 4 June 2007 issued by the assistant commissioner (Nancowry) which restricted new construction in SSRK temple Complex.

The Nicobar Youth Association (NYA) filed a public interest litigation\(^\text{102}\) against the encroachment of land by outsiders in the Nancowry group of islands. The writ petition was disposed by the High Court\(^\text{103}\) vide its judgment and order dated 12 December 2002 whereby the Lt. Governor of the Andaman and Nicobar islands was directed to implement the provisions of the Andaman and Nicobar Islands Protection of Aboriginal Tribes Regulation, 1956.\(^\text{104}\)

The Lieutenant Governor, A&N Island to consider by himself, representation of the petitioner, being Annexure P-11 of the writ petition, if not already disposed of, by passing any order. The office bearer of the association shall be entitled to a reasonable opportunity of hearing before any order is passed or decision taken by the Lt. Governor on the said representation. If however, the representation is allowed then effective steps shall be taken in accordance with law. This exercise must be completed within a period of eight weeks from the date of communication of this order.\(^\text{105}\)

After the order of the High Court, a council of representatives from the Nicobarese community\(^\text{106}\) met the Lt. Governor, Deputy Commissioner (Nicobars), Deputy Commissioner (Andamans) and Director of Tribal Welfare Department at Raj Niwas on 1 August 2003. The Nicobarese council reiterated their demands, which were expressed by the Tribal council of Kamorta and Nancowry on 1 February 2003. The council requested the removal of the non-Nicobarese people from the tribal reserve and strict implementation of the ANPATR. Thereafter, the Lt. Governor had a series of discussions with the administrators and an order was passed on 1 August 2003, whereby the DC (Nicobar) was directed to conduct a

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\(^{102}\) Nicobar Youth Association vs. Union of India and others marked as W.P. No. 110 of 2002.

\(^{103}\) Sitting in circuit bench at Port Blair


\(^{105}\) Order of the High Court, sitting in Circuit Bench at Port Blair in the matter of Writ Petition No. 110 of 2002- Nicobar Youth Association Vs Union of India and others, dated 12th December 2002.

\(^{106}\) P. Joseph (President, NYA), Rasheed (Vice President, NYA), Francis Thomas (Chairman, Tribal Council, Kamorta), Hillary Adkinson (Captain Tapong), Frazer James, Sunil Theophilus and Rognia represented the Nicobarese community.
survey and assess the details of the non-Nicobarese people staying in the tribal reserve (with or without a valid permit) along with the details of the land occupied by them.\textsuperscript{107}

The survey was planned to be completed within six months (1 February 2004). It was decided that after the completion of the survey, a round of discussions with the Tribal council would be held so that an action plan for the repatriation of the non-Nicobarese people could be charted without affecting the economy and interests of the Nicobarese. It was decided that the action plan would be submitted within three months (1 May 2004) and after the approval of the administration, the deputy commissioner (Nicobar) would implement the action plan in a time-bound manner.\textsuperscript{108}

Subsequently, the deputy commissioner of the Nicobar Islands issued an order No. 433, dated 13 October 2004

…unauthorized non-tribals living in the tribal areas as identified in the report may be repatriated by the Deputy Commissioner (Nicobars). Non-tribal employees of tribal cooperative societies, entrepreneurs and those who are required for delivery of essential services may be given pass under PAT rules by Deputy Commissioner, Nicobars…. District administration in Nicobars and Police in the district may take stringent actions to prevent the unauthorized entry of non-tribals into tribal areas….Rigorous checking of passenger at the entry points like jetty/port may be ensured by the police and such of those non-tribals not possessing valid pass may not be allowed to go beyond jetty/port area.\textsuperscript{109}

In compliance with the orders of the Lt. Governor and the subsequent orders of the Deputy Commissioner, Nicobar, the Station House Officer (SHO), Nancowry issued an order to 39 non-Nicobarese on 22 July 2006. These illegal occupants were directed to procure tribal passes from the competent authority; failing which they would have been deported from Kamorta. The order of SHO was challenged by 75 non-Nicobarese people of SSRK temple through various writ petitions before the High Court (Port Blair)\textsuperscript{110} and an order of stay was obtained from the court against the order. The High Court heard both the parties and dismissed the

\textsuperscript{107} F.No. 39-292/2003-Revenue
\textsuperscript{108} F.No. 39-292/2003-Revenue
\textsuperscript{109} Deputy Commissioner of the Nicobar Islands issued an order No. 433, dated 13 October 2004.
writ applications of the non-Nicobarese people vide its order dated 06 December 2007.\(^{111}\)

I have held that the Station House Officer, respondent number 7 had the jurisdiction, the action of the said respondent in issuing the order dated 22nd July, 2006 was a just and proper. Thereafter, the writ applications are dismissed. Interim order is vacated however, as it was submitted that the petitioners may be given liberty to apply for grant of passes, it is always open for them to apply and if such applications are filed those shall be disposed of in accordance with law (High Court Judgment, 6 December 2007).

The judgment of the High Court upheld the order of SHO, Nancowry. The Nicobar Youth Association sent an application to the chief secretary of the islands on 12 December 2007, the content of which read as:

It is to bring to your kind notice that by virtue of the dismissal of the writ applications the order of the SHO, P.S. Nancowry has been sustained and as such appropriate steps are required to be initiated for execution of the order of SHO, PS Nancowry for eviction of the non-tribals who have been staying in the reserved tribal area in violation of the rules and regulations. In view of the aforesaid, your office is requested to direct the authorities concerned to initiate appropriate steps so that all the non-tribals who are staying in the tribal reserved area in violation of the provisions of the Regulations are evicted forthwith.

Despite the order of the court and numerous representations of the Nicobarese, the non-Nicobarese have not been repatriated, hitherto. Their presence in a sensitive tribal reserve has serious implications on the Nicobarese community. The next section discusses the challenges that the non-Nicobarese people pose to the Nicobarese community.

### 9.4 Repercussions

The Nicobarese *tuhests* (extended families) have traditional ownership on land in the Nicobar archipelago, which is being governed by their customs and norms. As per the Census 2011 report, the total population in Kamorta is 3,557. The tribal leaders argue that 800 (approximately) non-Nicobarese live in Kamorta without a tribal pass, whose population has been consistently increasing.

As per the order of the Sub-Divisional Magistrate (SDM) dated 12 July 1996, 34 people occupied land in the SSRK temple complex. After the tsunami of 2004, 62 families/shop owners at SSRK temple complex claimed free rations from the administration, which implies that since 1996, the number of the non-Nicobarese

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\(^{111}\) A document- ‘Issue of Tribal Passes/Trade Licenses to Non-Tribals in Nancowrie group of islands- In the light of Judgment of the Hon’ble High Court order dt. 06.12.2007 in the cases of SSRK Temple Complex, Kamorta’, F. No. CAN/5-159/2008/160.
has increased abruptly. In August 2007, the administration conducted a survey, which recorded that the non-Nicobarese had 81 houses and 42 shops in the SSRK complex. The survey revealed that despite the prohibition from the administration, the temple management committee kept on constructing and renting out shops and residence to the non-Nicobarese.

The presence of unsolicited non-Nicobarese in the tribal reserve, besides being a serious violation of the Andaman and Nicobar Islands (Protection of Aboriginal Tribes) Regulation (ANPATR, 1956), has also posed serious threats to the survival and well-being of the Nicobarese. The issue has become more complex after the tsunami. The post-tsunami construction in the islands led to a large-scale inflow of the non-Nicobarese labourers, who were employed by the Central Public Works Department (CPWD), the Andaman Public Works Department (APWD), private contractors and other government departments. They were issued tribal passes by the competent authority for their stay in the islands only for a specific duration. However, even after the completion of their work many labourers stayed back and settled in the islands.\(^\text{112}\)

The non-Nicobarese have come to the central Nicobar in search of better livelihood opportunities which has serious implications for the traditional and alternative livelihoods of the Nicobarese. These “encroachers” illegally set up booby traps in the forest, hunt wild boar, catch crabs and fish in shallow waters (channels and creeks) which are the major catchment areas of the Nicobarese. An increased commercial fishing by the non-Nicobarese, who use mechanised boats and small eye fishing nets, has depleted catch for the Nicobarese which has jeopardised their traditional livelihood. In his letter to the station house officer (SHO), the captain of Kakana village expressed this problem as:

These encroachers have been stealthily catching crabs and siphoning them off to Kamorta for their business. On many occasions, they have set up booby traps for catching wild boars, which were sold at Kamorta. We have requested them to leave the village, but they return the next day, drunk, and with the sole aim to confront us and take revenge. Some of them had been chased away from Pilpillow village, but they keep on changing their place of stay by taking advantage of the innocence and the gullibility of our people. Please deport these people from Kakana village at the earliest or keep them in custody so that they do not turn up to our villages again.\(^\text{113}\)

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\(^{112}\) Based on the interviews conducted with the Assistant Commissioner, Nancowry.

\(^{113}\) An excerpt from the letter- “Request for eviction of non-tribal from Kakana” (24 September 2014) of James Frazer, which he wrote to the Station House Officer, Kamorta Police Station, File No. 1-20/Captain/KVC/2014-15/29.
Before the tsunami, the Nicobarese were little interested in alternative source of livelihoods. The tsunami destroyed their traditional livelihoods, which could not be regenerated even a decade after the catastrophe. With limited livelihood engagement, the community has been mainly subsisting on the compensation money. There has also been a sudden increase in the needs of the Nicobarese due to the consumerist behavior that they have acquired post tsunami. The community has spent a large chunk of its compensation money on the purchase of alcohol, automobiles, mobile phones, TV and other electronic gadgets. This money is almost finished and their new coconut plantations have not yet borne fruit to resume copra production.

In order to sustain, the Nicobarese have been looking forward to alternative livelihoods. Post tsunami the community was imparted vocational training by various government departments, NGOs and INGOs. For Instance, the Tata Institute of Social Sciences formed a ‘dosti group’ and gave training to the youth of the community; the Industry department gave training of carpentry; and some NGOs gave training in bike repair, carpentry, and so on. Several self-help groups were formed among the Nicobarese to develop entrepreneurial skills in the community.

With the changed situations in the islands, it is imperative to support the Nicobarese in their engagement with alternative and unconventional sources of livelihoods such as daily-rated mazdoor (DRM) work and small-scale business (shops and so on). However, the non-Nicobarese have pre-empted the possibilities of alternative livelihoods for the Nicobarese by cornering the government daily rated mazdoor (DRM) work and small-scale business. The non-Nicobarese have set up grocery shops, tea stalls, construction agencies and so on in Katchal and Kamorta. The unemployed tribal youth cannot get employment, as the non-Nicobarese have cornered all the limited opportunities. The Nicobarese want to take contracts in groups so that they can run a successful business with minimum risk. However, they cannot compete with the non-Nicobarese and the bureaucratic procedures discourage them. Generally, the local administrators also prefer a non-Nicobarese person to the Nicobarese for DRM work.

The business of the non-Nicobarese people has been flourishing at the expense of the Nicobarese who have to buy commodities at exorbitant rates. Many non-Nicobarese people expressed that they swindle the Nicobarese by scratching off
the maximum retail price of the commodity, especially the electronic gadgets, and sell it at an arbitrary price. The credulous Nicobarese easily fall prey to the dishonest activities of the non-Nicobarese shopkeepers. Even if they express their displeasure, the shopkeepers rationalize it on the pretext of cargo charge. The shopkeepers have a strong union that fixes the price of commodities. Since the non-Nicobarese run almost all the shops, the Nicobarese have no choice but to purchase commodities at exorbitant prices. The non-Nicobarese have a monopoly on business and their malpractices go unchecked.

The Nicobarese are peace-loving people and there is almost negligible crime in their society. However, the non-Nicobarese cause law and order related problems in the islands, many of them regularly commit excise and ANPATR related crimes. The non-Nicobarese presence in the tribal reserve poses a threat to the peaceful existence of the indigenes. The records accessed from the office of the assistant commissioner (Nancowry) revealed the involvement of the non-Nicobarese in numerous Indian Penal Code (IPC), excise and PAT related crimes. Table 8 shows crimes committed by the non-Nicobarese people in the central Nicobar from 2008 to 2011. Besides excise related crimes, the number of PAT related crimes have increased exponentially over time.

<table>
<thead>
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<th>CRIMES</th>
<th>YEARWISE NO OF CRIMES ( No of non-Nicobarese involved )</th>
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<tr>
<td></td>
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<tr>
<td>IPC RELATED CRIMES</td>
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<tr>
<td>EXCISE RELATED</td>
<td>8 (9)</td>
</tr>
<tr>
<td>PAT REGULATION</td>
<td>6 (6)</td>
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</tbody>
</table>

Source: The office of Assistant Commissioner, Nancowry

Alcohol is strictly prohibited in the tribal reserve, but the non-Nicobarese have been found smuggling alcohol in the central Nicobar and facilitating its procurement to the Nicobarese from the government outlet in Campbell Bay. A
document (undated) accessed from the office of the AC (Nancowry) revealed that
the non-Nicobarese are involved in smuggling alcohol in the central Nicobar.

(1) Letter No. ACN/5-27/02/747, dated 9 August 2002, sent by AC, Nancowry to
the chief secretary, reported that 7 non-Nicobarese were found doing IMFL
business and 9 non-Nicobarese people were found doing illicit liquor business.

(2) In October 2006, the AC seized 21 bottles of IMFL from the vegetable shop of
a non-Nicobarese trader at SSRK temple complex.

(3) In October 2006, the AC seized 55 bottles of IMFL from a non-Nicobarese
shopkeeper at SSRK temple.

The introduction of alcohol to the Nicobarese after the tsunami has not only
drained a large chunk of their compensation money but has also caused violence
and conflicts within the community. Many Nicobarese have become addicts. In the
absence of alcohol or lack of money to procure it, they consume jangali
(homemade alcohol) that the non-Nicobarese have introduced to them. The
Nicobarese expressed their concerns over this issue as:

Such practices have brought money to them (non-Nicobarese). Many of these
people made a lot of money through smuggling alcohol in the tribal reserve.
However, such illicit practices made our people alcohol addicts and drained off
their compensation money.

A note of the AC (2007) reveals that the temple management committee has been
misusing the money collected by it as rent. Some committee members are involved
in an illicit sale and allotment of land for construction of new shops/residential
buildings. They have numerous houses and shops, which they have allotted in their
own names or in the names of their family member. They sublet these houses and
shops, while the rent goes unrecorded in the account of temple management
committee.114

The note further revealed that either the members collect rent without issuing a
rent receipt or they issue receipts against lesser amount while the excess amount is
collected by the members unaccounted and for their own benefits. The committee

114 The Note of Assistant Commissioner, Nancowry, Titled- ‘Apprehension of
misappropriation of funds by the office bearers of the management committee of Sri Sri
takes heavy security from the tenants, for instance, a *pan*\textsuperscript{115} shop was auctioned against a security deposit of Rs. 20,000 and a monthly rent of Rs. 2,800. A shop in the temple complex was sold for 18 lakhs. Many members of the temple management committee are contractors and one is an ex-Block Development Officer.\textsuperscript{116}

In a complaint to the LG, a complainant argued that the treasurer of the temple management committee was involved in a large-scale sale of land and shops. On top of several houses, the treasurer owned three shops in the market. One member of the committee, who ran a vegetable shop, was caught with illegal liquor in his possession. The key positions of the temple management committee have long remained in the hands of few people who have misused the same. The non-Nicobarese execute these illegal practices with the connivance of local police.\textsuperscript{117}

The presence of unsolicited non-Nicobarese in the tribal reserve, whose number has swollen post tsunami, has triggered serious discontentment within the Nicobarese society. The Nicobarese leaders have requested the island’s administration to deport the non-Nicobarese living in the islands without a tribal pass. However, the unity among the non-Nicobarese and their political influence in Port Blair has always forestalled their eviction, which has created social tension in the islands. A Nicobarese leader argued that:

> The presence of the non-Nicobarese in the tribal reserve caused numerous problems. These people are politically well connected and they have illegally managed to stay in the tribal reserve for decades. We moved the matter to the High Court, which directed the LG\textsuperscript{118} to implement the provisions of the ANPATR. However, we have still been looking at the administration to correct the injustice being done to us.

While commenting on the decades-long social tension between the Nicobarese and the non-Nicobarese people in Kamorta, a former assistant commissioner of the Nancowry islands said:

> The social tension in Kamorta is a repercussion of violation of ANPATR. The construction of houses and shops in the temple complex contravenes the terms and conditions of the land allotment order. However, the non-Nicobarese are not solely responsible for these infringements, but the administrators as well with whose patronage the Nicobarese land has been systematically encroached upon.

\textsuperscript{115} Betul nut
\textsuperscript{116} Ibid.
\textsuperscript{117} Ibid.
\textsuperscript{118} Lieutenant Governor
9.5 Discussion

It is evident that the unsolicited presence of the non-Nicobarese people has serious economic and cultural implications for the Nicobarese. Before the independence of India and promulgation of ANPATR, the non-Nicobarese traders economically exploited the Nicobarese for centuries. The regulation was promulgated to prevent exploitation and save the diverse culture of the Nicobarese. Among the six indigenous groups of the Andaman and Nicobar islands, the Nicobarese is the only community whose population has increased. The community easily adapted to the changes introduced by the modernization drives in the islands. However, the Nicobarese have come under immense pressure due to encroachments upon their land, which is a limited and an invaluable source of livelihood for them.

As per the terms and conditions of land allotment to SSRK temple in 1954, the land was allotted only for the construction of a temple and raising a garden for the government servants posted in Kamorta Island. However, the temple committee members, with the patronage of Assistant Commissioner, constructed shops and rented them out. Despite orders from administration against construction, the SSRK temple committee illegally kept on allotting land in bits and pieces to the non-Nicobarese for construction of shops and residential buildings. The committee has not only violated the terms and conditions of the land allotment order but has also violated the provisions of the ANPATR, 1956 and the Andaman and Nicobar Islands Land Revenue and Land Reforms Regulations, 1966. The decision of the then assistant commissioner is also a clear violation of these Regulations.

The judgment of the High Court concerning this matter was in congruence with the provisions mentioned in section 7 of the ANPATR, which restrict the entry of outsiders in the tribal reserve. As per section 6 of the ANPATR, the non-Nicobarese are not allowed to carry business/trade in the tribal reserve without a license issued by the competent authority. However, the non-Nicobarese and the local administrators of the islands have ignored the abovementioned provisions of the Regulation. The majority of the non-Nicobarese people in Kamorta do not have tribal pass or license to do business.

The records concerning the non-Nicobarese people living in the temple complex show that their number has increased regularly. The AC, Nancowry allowed only 34 persons to construct hutments/shops in December 1996 and there has been no subsequent order of such type. However, the record, dated 16 January
2005, of the non-Nicobarese people affected by the tsunami in SSRK temple complex shows that the number of families/shop owners has doubled (62 families/shop owners) since 1996. As per the survey conducted in August 2007, the number of non-Nicobarese tenants at the SSRK temple complex further increased to 81 (including 42 shops). Besides this, there were 23 illegal non-Nicobarese people working at the shops of the temple complex.119

The non-Nicobarese argue that if they shut down their business and leave the island, the government employees would not be able to stay in the islands because of lack of supply of household commodities. The government officials also argue that the Nicobarese in the past were little interested in running shops and carrying any non-conventional activities. The decision taken in 1996 by the then AC, Nancowry was influenced by this rationality. However, the Nicobarese opinion differs, especially ever since they have received vocational training. The Nicobarese community has been going through a steady transition post tsunami and it has been looking for alternative employment opportunities.

The Nicobarese expressed that they are keen to look forward to unconventional means of livelihood. They want to set up shops and start their own small-scale business, but the non-Nicobarese monopoly on business and the apathy of administrators have preempted such possibilities. During several rounds of discussions with the chairpersons and the captains of tribal villages, they argued that the non-Nicobarese presence in the reserve is significant for administrative, defence and infrastructural development purposes. However, the presence of unsolicited non-Nicobarese, especially businesspersons is against their interests.

The Nicobarese leaders argued for an assessment in the islands to ascertain the business or trade activities that could be performed only by the non-Nicobarese people. While granting and extending tribal passes/licenses, the nature of business and its importance in the tribal reserve should be kept in mind. Only those non-Nicobarese should be issued passes whose work/business is significant both for the Nicobarese and the government servants living in the islands. While granting tribal passes each case should be objectively examined by a team comprising the

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119F.No. ACN/5-159/2008/160, Subject of Note- ‘Issue of Tribal Passes/Trade Licences to Non tribals in Nancowrie group of Islands- In the light of the judgement of the Hon’ble High Court Order dated. 06.12.2007 in the cases of SSRK Temple Complex, Kamorta, Andaman and Nicobar Administration, Office of the Assistant Commissioner, Nancowrie, (Kamorta, dated 30th January 2008).’
Assistant Commissioner, Tribal Council of the concerning island, SHO, Block Development Officer (BDO) and so on. The report of these people should be sent to the DC, who could take the decision as per the report.

In order to maintain transparency in the whole process, the rejected applicants should be intimated about the reasons for rejection of their applications. While granting and extending tribal passes/licenses, the police report from the local station house officer should be obtained so that a background check is done. The tribal passes/licenses should be renewed only after taking a no objection certificate from the tribal council of the concerning islands. The malpractices (alcohol smuggling, poaching and expensive selling) of the non-Nicobarese need to be monitored and the guilty should be immediately deported from the tribal reserve.

The Nicobarese also expressed that the community does not have any issues with the notification No. 10/60 issued by the chief commissioner which relaxed the provisions of ANPATR, 1956 for the government officials posted in the tribal reserve. However, they argued that such a provision should not be misused. To check the encroachments in the reserve by the government servants, transfer policy should be properly implemented and the government employees should not be allowed to stay in the reserve after their retirement.

**9.6 Conclusions**

The non-Nicobarese encroachment upon the Nicobarese land in the Nicobar Islands is a long-pending issue that needs to be settled quickly. It has serious socio-economic and cultural repercussions on the Nicobarese. It is evidenced that the non-Nicobarese number in Kamorta has consistently increased and they have been continuously challenging and violating the provisions of ANPATR, 1956. The Nicobarese leadership views it as a deliberate attempt of the SSRK temple complex committee to concentrate the non-Nicobarese people in Kamorta so that they can stay in the islands by the strength of their number.

Despite the seriousness of the issue, the administration has not shown strong willingness to tackle this problem, which has caused social tension in the islands. In the interest of the indigenous people, the protective provisions of the ANPATR, 1956 need to be enforced and appropriate action should be taken against those who have been violating the regulation. The suggestions given by the Nicobarese leadership are significant to resolve the issue. A survey needs to be done to get a
ground report on the same so that the non-Nicobarese could be systematically repatriated without affecting the governmental apparatus or the local economy.