1. Meaning of Tribe

In Oxford Dictionary of sociology¹ 'tribe' is defined as a social group bound together by kin and duly associated with a particular territory; members of the tribe share the social cohesion and associated with the family together with the sense of political autonomy of the nation.

The New Encyclopaedia Britannica² defines it as type of human social organisation based on small groups defined by traditions of common descends and having temporary or permanent political integration above the family level and a shared language, culture and ideology. In the ideal model of a 'tribe', members typically share a tribal name and contiguous territory; they work together in such joint endeavours as trade, agriculture, house construction, warfare and ceremonial activities. Tribes are usually composed of number of smaller local communities (e.g. bands, villages or neighbourhoods) and may be aggregated into higher order clusters, called nations.

In the New Columbia Encyclopaedia³ a tribe is defined as 'social group, usually with a distinguishing area, dialect, cultural homogeneity and unifying social organisation. It may include several sub-groups such as sibs or villages.
A 'tribe' ordinarily has a leader and may have a common ancestor, as well as a patron deity. The families or communities making up the 'tribe' are linked through economic, social, religious, family or blood ties.

W.H.R. Rivers defined a tribe as 'a social group of simple kind, the members of which speak a common dialect, have a single government, and act together for such common purposes as warfare'.

The tribal communities represent an important social category of Indian social structure. They are often referred to as 'tribals', 'primitives', 'adivasis' and so on. At present India has the second largest tribal population in the world next only to Africa. It is equal to or even more than the total population of the United Kingdom. The Constitution of India has accepted to use the term 'Scheduled Tribes' (ST), which was introduced for the first time by Simon Commission in 1928. It was Dr. B.R. Ambedkar, the chairman of drafting committee of the Constitution, who preferred the concept of 'scheduled tribe' to 'Adivasis' for it enumerates the tribes and hence has a specific meaning.

2. The Anthropological Definitions

The term 'tribe' is used indiscriminately by different Anthropologists as follows.

Risley V. Elwin and others used the word 'aboriginals' to mean tribals. Sir Bains called the tribal community 'the hill tribes'. Dr. Hutton preferred to use the term 'primitive tribes'. Takkar Bapa called the tribal 'Adi Praja', Dr. G S. Ghurye called them 'backward Hindus'. Gandhi popularised the word as 'Harijan'. Tribes are also known as 'Vanavasis', 'Aranyavasis', 'Vanyajatis' etc.
There is no definition but reference only in the Constitution for the term 'scheduled tribe'. Article 366(25) of the Constitution says that 'scheduled tribes' are the tribes or tribal communities or parts of or groups within such tribes or tribal communities which the Indian President may specify by public notification under article 342(1). The 'Backward Classes Commission' states that the scheduled tribes lead a separate excluded existence and are not fully assimilated in the main body of the people. Scheduled tribes may belong to any religion. They are listed as scheduled tribes because of the kind of life led by them. International Labour Organisation (ILO) used the expression 'indigenous people' to refer to the tribals.

There is no agreement among the sociologists and anthropologists regarding the origin of the term 'tribe'. Some more definitions may be examined here. A 'tribe' is 'a collection of families bearing a common name, members of which occupy the same territory, speak the same language and observed certain taboos regarding marriage, profession, or occupation and have developed a well obligation' defined by eminent sociologist D.N. Mazumdar.

According to Imperial Gazetteer of India 'a tribe is a collection of families bearing a common name, speaking a common dialect, occupying or professing to occupy a common territory and is not usually endogamous, though originally it might have been so'. 'Tribe' is 'an ethnic category, defined by real or putative descend and characterised by a corporate identity and a wide range of commonly shared traits of culture' explained by sociologist S.C. Dube. 'A 'tribe' is a group of local communities, which lives in a common
area, speaks a common dialect and follow a common culture’ said by sociologist Gillin and Gillin.\textsuperscript{15}

Another sociologist W. J. Perry explained that\textsuperscript{16}, a ‘tribe’ can be defined as ‘a group speaking a common dialect and inhabiting a common territory’. Andre Beteille defined ‘we have described the tribe as a society with a political, linguistic and a somewhat vaguely defined cultural boundary, further, as a society based upon kinship, where social stratification is absent.’\textsuperscript{17}

3. Anthropological Meaning and its Limitations

Anthropologist Andre Beteille opined that there are some limitations of the anthropological definition of Indian tribes which stands as follows,

3.1. No Separate Political Boundary\textsuperscript{18}

No tribe in India has a completely separate political boundary, In some cases, in the NEFA for instance, a certain amount of political separateness has been remained within the wider structure. In most cases even this is absent. The large tribes of Chhota Nagpur, the Oraons and the Santhals are territorily disperse. In several instances, the boundaries of different states cut across the tribal divisions.

3.2. Changing Linguistic Boundary\textsuperscript{19}

The linguistic boundary which is supposed to be more explicit, has also been changing. The Bhills, who constitute one of the largest tribes in India, have been using a dialect of Hindi for many years. Several tribes in middle and south India, speak Dravidiyan languages, which have close affinities with the languages spoken by the advanced communities of India. The abandonment of tribal dialects in favour of one of the regional languages appears to have accelerated during the last few decades.
3.3. Vague Cultural Boundary

Cultural boundary of the tribe is also not explicit in the case of Indian tribes. In the culture of the tribal people there are many elements of continuity with the more advanced regional cultures. It cannot, therefore, be considered distinctive in a rigid and clear cut way.

3.4. Vanishing Homogeneity of Indian Tribe

According to Beteille, even regarding the absence of stratification, the situation in India is distinctive. Large sections of tribal population have been entering into the productive system of the country. This has resulted in the breaking down of homogenous nature of the tribal society.

Thus, Beteille conclude that in contemporary India, tribes with these features with anthropological conception of the ‘ideal type’ are rarely found. He remarks, ‘In India, we cannot have a ready-made definition with which to go into the field and locate a tribe. The greatest emphasis has to be placed on an historical perspective. The process by which tribes have been transformed is an historical process. And only by going into the antecedents of a group we cannot say with any confidence whether or not it should be considered as a tribe.

4. Characteristics of Tribe

From the discussions made above regarding various definitions of tribe, the following characteristics may be derived for the tribe including the Indian varieties.

4.1. Common Territory

A tribe is a territorial community. It means that the tribe has a definite territory in which its members reside. For Example, the *Naga, Rengma Naga,*
Sema Naga and other tribals reside in Nagaland; Garos, Khasis, Khasas live in Assam; Bhils in Madhya Pradesh; Soligas in Mysore; Thodas in Nilgiri Hills of Tamil Nadu, and so on. In the absence of a common locality or territory a tribe would lose its uniqueness.

4.2. Collection of Families

As the definitions of tribe cited above clarify, tribals constitute a collection of families. These collections may have various sizes. These families which normally have blood relationships among themselves could be matriarchal or patriarchal in nature.

4.3. Common Name

Every tribe has its own name. Each tribe is known to other tribes by its distinctive name. Example of some Indian tribes: Garo, Khasi, Khasa, Naga, Rengma Naga, Sema Naga, Limbu, Santhal, Munda, Gond, Kota, Badaga, Urali, Thodas, etc.

4.4. Common Language

The members of a tribe speak a particular language. Different tribes speak different languages. These languages are not only different from the language of the civilised people, but they themselves differ from one another. Common language contributes much to the development of community feeling. Since these languages do not have a script of their own, education of the tribals has become problematic.

4.5. Common Ancestor

The tribals claim that they have a common ancestor. A major cause of the sense of communal unity in the tribe is "the tie of blood relationship" between its members arising out of common ancestry. The tribals are bound by kinship bonds.
4.6. Common Religion

Religion plays an important role in the tribal organisation. The members of a tribe usually worship a common ancestor. Also, ‘nature worship’ is common among them. In addition to the Ancestral worship and nature worship, the tribals practise other types of faith such as -festivalism, animism and totemism. Magic is also widespread among them. The tribal social and political organisations are based on this religion. Participation in common religious ceremonies, functions, and festivals contributes to the unity of the group. A sizeable proportion of Nagas, Mizo, Santhals, Oraons, and Munda, etc. have embraced Christianity while some tribals such as Butia, Lepcha Chakma have largely identified with Buddhism.

4.7. Common Culture

Each tribe has a way of life of its own. Each tribe has its own way of behaving, thinking, feeling and acting. Each has its own customs, traditions, morals, values, its own peculiar institutions; in brief, its own culture. The very peculiarities of a tribe reveal that it has a distinctive culture of its own.

4.8. Common Political Organisation

Each tribe has its own political system. The tribal chief normally exercises authority over all the other members. The chieftainship is normally hereditary. He occupies an important position in the tribal society. The tribals do not possess a government in the modern sense of the term. But, they do have their own tribal government, tribal council, and tribal court or judicial system. Santhal, for example, an advanced tribe, has a village council, the members of which are democratically elected. Nagaland emerged on the first of December 1963 as the 16th State of the Republic of India and Meghalaya in 1972.
4.9. Feeling of Unity

The members of a tribe always feel that they are united. This sense of unity is essential for them to retain their identity. Tribals are normally cohesive and they fight against common enemies as one man. They are ever ready to avenge the injustice done to the group or the individuals.

4.10. Common Economic Organisation

As against 73% national average, 91% of the tribal workers are engaged in agriculture. About 3% of tribals are engaged in manufacturing against the national average of 11%; and 5% in tertiary servicing [against the national average of 16%]. Just 1% tribals are engaged in forestry and food gathering. Their economic position is very poor. Though they are poor, against the national average of 43%, nearly 57% of tribals are economically active. In spite of that, they get very poor returns for their efforts.

4.11. Organisation of Clans

The clan or sib is an important part of tribal-organisation. The clan includes all the relatives of mothers or fathers and the children of one ancestor. People belonging to a clan trace their origin to one ancestor. The descendants of a clan are of either matrilineal or partilineal lineage. The tribal society may include in itself many clans. There exists mutual helpfulness among the members of different clans.


Tribal community has a peculiar feature which is evident in the form of common sleeping chambers or dormitories. Such organisations train the youth in the tribals ways of life. These are the centres which preserve tribal legends, music, dance, paintings, etc. Young boys and girls spend much of their time...
in the night in these dormitories and often they are vested with the responsibility of giving protection to the community people. Till they get married they continue to become the members of the dormitories and are supposed to maintain secrecy relating to their activities. After their marriage their membership of the dormitories get cancelled. Members of the dormitories are expected to follow the rules and regulations strictly.

4.13. Simplicity and Self-Sufficiency

A tribal society is not complex but simple in character. Hunting, fishing and collection of roots, fruits, nuts, berries, honey and forest products are their main means of subsistence. Some have taken to cultivation also. They do not posses, neither do they enjoy the facilities of civilised people. There was a time when the tribals were self-sufficient. Due to the increase in their population and changed economic conditions, their self-sufficiency has gone. They are becoming more and more dependent on the civilised community and also the government help. They are simple, honest, frugal and some of them are very hospitable also. They are not educated neither are they interested in it.

4.14. The Need for Protection

The tribals always experience the need for protection. Hence, they are a cohesive group. The tribe is a homogeneous group also. There is less diversity and more unity and uniformity. Ethnic, political, religious and other kinds of prejudices and mutual distrust between the civilised and the tribal people have made the tribals feel insecure. Hence, they experience the need for protection. Their political organisation is established mainly to protect themselves.
4.15. Endogamous Group(?)

Though not always, the members of a tribe generally marry among themselves. Marrying within one's own group is called endogamy. Each tribe has many clans within itself and these are exogamous in nature. The tribals practise endogamy probably to maintain the purity of blood and cultural peculiarities and to preserve the property within the group. But today, due to the influence of the civilised people and increased contacts, exogamy is also practised. The tribe is not necessarily an endogamous group, though originally it might have been so, says, Imperial Gazetteer of India. All known tribal societies have laid stress on the rule of exogamy. An individual is not allowed to marry inside a definite set of his own kin-group, that is, clan. In conclusion, it can be said that taken together as a unit, each tribe is largely endogamous, but various sub-groups that it consists, namely clans, are mostly exogamous.

5. Stages of Codification of Indian Tribes

In this discussion we shall discuss the three stages of codification relating to tribes in India with special reference to Assam. Here the pre-British, British and post-British period's development have been analyzed respectively in a brief way.

5.1 The pre-British Era

In the early period, before the advent of the British, while in the rest of India (baring tribal areas) disputes were resolved generally according to the principles laid down in the Smriti and Dharmasutras. In the tribal society these were settled on the basis of parental customs. These customs varied from ruthless retribution to peaceful amicable settlement sometimes verging on extreme leniency.
The authorities which dispensed justice were also different. After the Vedic period, either the king or the judges appointed by the king dispensed justice among the people of India, though Panchayats in some areas continued to dispense of certain types of cases. In the tribal areas of the sub-Himalayan region of the northeast, the village council dispense of all cases including those relating to commission of heinous offences like murder, arson, rape, robbery etc. Among them, only a few tribes like the Mizos and the Karbis was the chief, the absolute judicial authority, though even there he used to take the advice of his council of elders.

Though some may claim that emperor Ashoka was the first one to initiate the process of tribal development by creating the post of Antamahamatya to look after the downtrodden, but nothing is known about the steps taken in this regard. The first concrete mention of tribals is found in Kautilya's Arthasastra wherein it has been mentioned that they knew each and every inch of the areas they live in. Their services can be sought for local tasks including spying, but they are not trustworthy. The comment shows that not much was known about tribals.

5.2 Tribes in Assam During Ahom Regime

The Ahom evolved a distinct policy to deal with the tribes some of whom has been living within their territorial jurisdictions and some have been inhabiting the bordering areas. The distinct policy of the Ahoms had three main aspects, namely; (i) non-interference with the internal affairs of the tribes, (2) supply of essential commodities to meet their day to day economic needs, and (3) regulation of the trade between the plains people and the tribal people living in the neighbouring hills. Ofcourse, those tribes who violated
the agreements and committed raids in the plains were punished by sending soldiers with capable captains.

5.3 Tribes During the British Rule

After the advent of the British, although they initiated tribal development, they never concealed their motive in following the ‘task of mercy’\textsuperscript{43}. The aim was either to keep the tribal isolated from the ‘national’ mainstream, thus keeping them away from the menace of freedom struggle; or by the same process, to convert them to the religion of Christ so that they identify themselves more with the crown and its interests in the Country.

While during the Ahom rule\textsuperscript{44}, there were cordial relationship and free intercourse between the plains and hill people, the introduction of Inner Line Regulation Act, 1873 by the British government which had restricted free intercourse between the plains people and the hill tribals, was infact a policy of isolation which created a feeling of distrust between these two peoples.

The British, however, followed rather a mixed policy\textsuperscript{45}. In principle they more or less followed the policy of Ahoms in respect of some tribes. But, at the same time, they also followed the policy of annexation in respect of majority of numerically strong tribes like the Akas, Daflas (now called Nishis), Miris, Abors, Mishimis, Khamtis and Singhphos living in the northeastern tracts who were also subjugated by annexing their kingdoms, but allowing the tribal kings or chiefs to manage their own internal affairs.

The Assam Land and Revenue Regulations, 1886 was primarily meant for the plains districts only excluding the hill districts. For the hill districts, therefore, there was no land revenue and the British administrators collected house tax only.\textsuperscript{46} House tax collection had given an idea to the administrators
the number of household as well as the approximate number of population that a particular tribal community might have, and this enable them to prepare their own defence as well as administrative strategy.

In India, during the colonial period, the British used forces from time to time, to control the unrest among the tribal people. To deal with the tribal unrest on a long term basis the British promulgated special laws for administering the tribal areas as the simple people were culturally and economically backward from the neighbouring communities. As early as 1874, they enacted the Scheduled District Act, to administer and delinate the schedule areas. These areas were called by different names; such as, backward track, agency areas etc. The Government of India Act, 1935 classified these areas into two categories as (i) The Wholly Excluded Areas (the northeastern Tribal Areas); and (ii) The Partially Excluded Areas.

The idea of administration of underdeveloped areas originated with the British administration in the later half of the 18th century. With the declaration of Regulation 1 of 1976, the concept of having a distinct and special arrangement specially for the isolated tribal regions gained general acceptance and in turn, special laws came into practice for administering these areas.

The Government of India Act, 1919 had separate administrative arrangement for these areas and they were kept out of the purview of the legislatures. Subsequently, on the basis of recommendations of the Simon Commission, the Government of India Act, 1935 provided for declaration by an 'order in council' of ‘Excluded Areas’ and ‘Partially Excluded Areas’ (Sections 91 and 92). Under the provisions, no Act of the federal legislature
or the provincial legislature would apply to these areas except on the direction of the Governor, who was empowered to make such exceptions and modifications, as considered necessary.

5.4. The post-British Development

In 1946 Cabinet Mission sent by the British government came to India to suggest the ways and means to protect the rights and interests of the religious minority communities and tribes. One recommendations of the 'Advisory Committee' on 'Fundamental Rights of Minorities and Tribals and Excluded Areas' with Sardar Vallabhbhai Patel as its Chairman. The committee set-up another four Sub-Committees one of which was for the 'North East Frontier (Assam) Tribal and Excluded Areas' under the Chairmanship of Gopinath Bordoloi. The Committee came to be known as 'Bordoloi Sub-Committee'. The other members of the Sub-Committee were Rev. J.J. Nichols Roy, Rupnath Brahma and A.V. Thakkar. The Sub-Committee co-opted two members each of the hills districts they visited. When the Sub-Committee studied the problems of the tribal of the region, it realised that these areas needed protection and safeguard so that they might be able to preserve their way of life and at the same time participate in the political life of the country alongwith others.

The Bordoloi Sub-Committee after great deliberations submitted its report on 28.07.1947 to the Chairman of the Advisory Committee on Fundamental Rights etc. Shri Vallabhbhai Patel and Jawaharlal Nehru moved the historic resolution which was adopted on 22 January 1947. Those objectives have actually shaped the making of the constitution. The free Indian Constitution has inserted article 189 (b) and 190(2) of the draft
Constitution into the present article 244(1) and 244(2) respectively. There are two schedules in the Constitution of India, but in a sense are also outside it. These are the fifth and Sixth Schedules, provided for the administration and control of the tribal areas of the country. Some judges have described them as 'codes', but that word is not apposite. The word means a system or collection of law, which these two schedules are not.

6. The Tribal ‘Panchasheela’

Pandit Jawaharlal Nehru in 1957 in his foreword to Verrier Elwin's "The Philosophy for NEFA", laid down five principles known as “Panchasheela”, as part of the policy of integration. The tribal “Panchasheela” as has been enunciated by him are as follows:

(i) Nothing should be imposed on the tribal people. They must be allowed to develop along the lines of their own genius. We should try to encourage in every way their own traditional art and culture.

(ii) Tribals right on land in which they are living and also on the forests must be respected.

(iii) Attempt must be made to train and build up a team of their own people to the work of administration and development. Some technical personnel from outside will be of great help for them in the beginning. But too many outsiders must not be sent to the tribal territory.

(iv) Over-administering the tribal areas or overwhelming them with too many schemes must be avoided. We should not work in rivalry to their own social and cultural institutions.

(v) The results of the work must be adjudged by the quality of the human character that is evolved and not by statistics or the amount of money spent.
In pursuance of article 244(1)\textsuperscript{56}, under the coverage of Fifth Schedule of the Constitution it includes present 10 states of India other than northeastern region, such as, Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa and Rajasthan. Article 244(2)\textsuperscript{56} of the Constitution provides for a Sixth Schedule which shall apply to the administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram. Article 275(1)\textsuperscript{57} of the Constitution also makes a passing reference to the Sixth Schedule. Para 20 of the Schedule provides a list of Tribal Areas covered by three parts\textsuperscript{58}.

Paragraph 20 has been amended in its application to the state of Assam by the sixth schedule of the Constitution and inserted after entry 2, namely—

3. The Bodoland Territorial Areas District.\textsuperscript{59}

The Sixth Schedule introduced the concept of District Autonomous Councils (ADCs) and Regional Autonomous Councils with separate legislative, executive and judiciary powers according to tribe's customary law. Since the formation of Autonomous District Councils (ADCs) for the two tribal majority hills districts of Assam on 27 June 1951, it has undergone changes again and again. The major change was brought by the 1995 amendment. This very amendment has reflected four core aspects that is\textsuperscript{60}—

(1) changing the name of the two Autonomous Councils as North Cachar Hills Autonomous Council (as it was then called) and Karbi Anglong Autonomous Council respectively by omitting the word 'district' from both the councils.

Secondly, the law making subjects of the two councils have been increased from earlier 10 to 15 by inserting an additional sub-paragraph (A)
to paragraph 3 of the Sixth Schedule. The original 10 subjects were the allotment, occupation or use or the setting apart of land other than reserve-grazing-residential and non-residential land, the management of any forest not being a reserved forest, the use of any canal or water course for the purpose of agriculture, the regulation and practice of *Jhum*, establishment of village or town committees or councils, matters relating to village or town administration including police and health, appointment or succession of Chiefs and Headmen, inheritance of property, marriage and divorce, and social customs.  

The additional powers are – industries (subject to entries 7 and 52 of list 1 of the Seventh Schedule), communication (road, bridge, ferries), preservation-protection and improvement of stock and prevention of animal diseases etc., primary and secondary education, agriculture, fisheries, water (supply, storage, canals, irrigation etc.), social security and social insurance, flood control; public health and sanitation, minor irrigations, trade and commerce, library, museum and other similar institutions and alienation of land.

The third impact of this amendment is that, it has reduced the 'discretionary' powers of the Governor by amending almost 13 paragraphs of the Sixth Schedule. These are against the establishment of autonomous regions for the different scheduled tribes inhabited within the autonomous district, a provision relating to include-exclude-create-increase-diminish-unite-alter and define the territory of the council (para 1 (2), (3)), fixation of elected and selected members for the district council within 30 members-constitution of first District and Regional Councils-any changes required in addition to
normal 5 years tenure at the pleasure of the Governor-rules for the fresh constituted district or regional council etc. (para 2(1), (6), (6A), (7)), laws made by the council (para 3(3)), administration of justice (para 4 (4)), conferment of powers under the Code of Civil Procedure 1908 and the Code of Criminal Procedure 1898 (para 5), establishment of primary school, dispensaries-markets-ferries-fisheries-roads-cattle pounds-transport and waterways by the district council (para 6 (1)), management of the council’s fund (para 7 (2)), asessement and collection of land revenue and to impose taxes (para 8 (4)), licenses or leases for the purpose of prospecting for or extradition of minerals (para 9 (3)), regulation for the control of money lending and trading by non-tribal within the council areas (para 10 (3)), appointment of commission to enquire into and report on the administration of council (para 14 (1)); annulment or suspension of Acts and resolutions of the councils (para 15 (1)); and dissolution of councils (para 16 (1), (2)) etc. All these matters which could be exercised by the Governor earlier under his discretion alone henceforth (w.e.f. 12 September 1995) it required the mandatory obligations of consultation with the State’s Council of Ministers as well as the concerned autonomous council.

Finally, all laws made by the earlier council should have only to be submitted forthwith to the Governor for his assent, but the sequel of the 1995 amendment empowered the Governor to reserve the laws for the consideration of the President also.

The Assam Legislative Assembly has passed the ‘Assam Administration of Justice in Karbi Anglong District Bill, 2009’ on 21 July 2009 in order to brought in line the administration of justice of the council with the rest of the
Country. But the Autonomous State Demand Committee (ASDC) alleged the move to be violative of the Sixth Schedule provisions pertaining to sub-clause (2) and (3) of clause 2 of the Bill. The Assam Cabinet has resolved to changed the name of the North Cachar Hills Autonomous Council to ‘Dima Hasao district on 10th February 2010. Accordingly, this has been made on that day.

7. The Differentiation as ‘Scheduled Areas’ and ‘Tribal Areas’

The scheduled tribes of India have been divided and placed under two separate categories by the Constitution as – ‘Scheduled Areas’ and ‘Tribal Areas’. Article 342 prescribe the procedure to be followed in the matter of specification of scheduled tribes. Within the ambit of this article President may, with respect to any State or Union Territory, after consultation with the concerned state government or Governor, as the case may be, notify tribes or tribal communities or parts of these as scheduled tribes. The Parliament is empowered to enact law in this context to include or exclude any tribe or tribal community or in respect of such groups. The President can also issue Ordinance after consultation with the concerned State or UTs respectively in this regard subject to pending approval of the Parliament in its immediate session the failure of which stands automatic cancellation of its effect. Under this provision no scheduled tribes can be listed in all India basis but as State or Union Territory wise only.

The criteria followed for specification of a community as a scheduled tribe are:

(i) indication of primitive traits,

(ii) distinctive culture,
(iii) geographical isolation,
(iv) shyness of contact with the community at large, and
(v) backwardness

This criteria is not spell out in the Constitution but has been well established. It is derived from the definition of 1931 census, report of the Backward Class Commission (Kelelkar) 1955, the Advisory Committee on Revision of SC/ST list (Lokur Committee) 1965, the Joint Committee of Parliament on the Scheduled Castes and Scheduled Tribes Orders (Amendment) Bill 1967, and Chanda Committee 1969. In exercise of powers conferred by clause (1) of article 342 of the Constitution the president has promulgated total 9 orders till this date specifying the scheduled tribes and out of these 8 are in operation at present in their original or amendment form except the Goa, Daman and Diu scheduled tribes Order 1968.

The President is empowered to notify any area as 'Scheduled Areas' specifying the criteria under Fifth Schedule as— preponderance of tribal population, compactness and reasonable size of the area, viable administrative entity such as district block or taluk and the economic backwardness of the area as compared to neighbouring areas. The same applies for altering, increasing, decreasing, incorporating new areas or rescinding any order for the purpose.

In the 'Scheduled Areas' Governor is empowered to make regulation for the area, prohibit the application of any Central or State Act in the area, restrict transfer of land from tribal, regulate money lending and excise policy and execute any administration of the area. Tribes Advisory Council (TAC) may be established having 'Scheduled Areas' and 'Tribal Areas' by the
State to advice the government on matters pertaining to the welfare and advancement of tribes in the State. Tribal Areas generally means areas having preponderance of tribal population. However, the Constitution refers Tribal Areas within the States of Assam, Meghalaya, Tripura and Mizoram specified in para, I, II, IIA and III of the table appended to paragraph 20 of the Sixth Schedule. These councils are elected bodies and have powers of legislative, executive, administration of justice, and financial responsibilities.

8. The Tribal Zone

There are over 500 tribes (with many overlapping communities in more than one State) as per notified schedule under article 342 of the Indian Constitution spread over different States and Union Territories of the Country.

Dr. B. S. Guha has given a three-fold territorial distribution of tribals as follows;

1. the north and northeastern zone,
2. the central or the middle zone, and
3. the southern zone.

C. B. Memoria adds to this list the fourth zone a small one, consisting of Andaman and Nicobar Island.

The north and northeastern zone consists of the sub-Himalayan region and the hills and mountain ranges of northeastern frontier of India. It includes Himachal Pradesh, northern U.P., Sikkim and seven States of northeast consisting of Arunachal, Assam, Meghalaya, Mizoram, Nagaland, Manipur and Tripura. The tribal of this zone mostly belong to the Mongoloid race and speak languages belonging to Tibeto–Chinese family.

The central zone scattered all over the mountain belt between the
rivers Godavari and Narmada covering West Bengal, Orissa, Bihar, Southern U.P and Rajasthan, Gujarat, Madhya Pradesh and Maharashtra. The southern zone falls south of the river Krishna and includes Andhra Pradesh, Tamil Nadu, Karnataka, Kerala along with two Union Territories Andaman Nicobar Island and Lakshadeep. The anthropologically important India’s aboriginal smallest tribes are Tarawas, Onge, North Sentinelese, the Andamanese and Nicabarese. As per 1991 census they constitute 9.34 pc. out of the total population of 27,000 of the Island.

In addition to these divisions B.K. Roy Barman classified five territorial grouping, such as; northeast India, sub-Himalayan region, central and east India, south India and western India region taking account their territorial, ethnic and socio-cultural relations. Moreover Verrier Elwin classified the tribal groups into four classes according to their cultural development and Ghurye also categorised tribal on the same basis into three classes. According to A.R. Desai such classification suggests that the problems of tribal population belonging to various categories qualitively different and demand different solutions.

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   Also, see G.S. Narwani, 'The Tribal Problem', in Tribal Law in India, Rawat Publications, Jaipur-Delhi, 2004, p.11

6. Ibid. pp. 342-343

7. Ibid., p. 343

8. Article 366(25) of the Indian Constitution defines 'scheduled tribes' means such tribes or tribal communities as are deemed under article 342 to be scheduled tribes for the purpose of the Constitution.

9. Article 342 of the Constitution of India explains 'scheduled tribes' as --
   (1) The President may with respect to any State or for Union Territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities which shall for the purpose of this Constitution be deemed to be scheduled tribes in relation to that State or Union Territory, as the case may be.
   (2) Parliament may by law include or exclude from the list of scheduled tribes specified in a notification issued under clause (1) any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

11. Id.

12. Ibid, p. 344

13. Id.

14. Id.

15. Id.

16. Id.

17. Id.

18. Id.

19. Id.

20. Id.

21. Id.

22. Ibid.’ p. 345, Citing from Dr. M.A. Chingumani’s pp. 281-282

23. Ibid. p. 345

24. Id

25. Id.

26. Id.

27. Id.

28. Id.

29. Ibid. p. 346

30. Id.

31. Id.

32. Id.

33. Id.
34. Id.
35. Id.
36. Ibid p. 347
37. Id.
38. J.N. Das, 'General Background or Basic concepts', in A study of Administration of Justice Among the Tribes and Races of North-Eastern Region, Law Research Institute, Eastern Region, Gauhati High Court, 1990, p 1
39. Id.
40. Id. chp. I
41. Id.
42. Dr. B.N. Bordoloi, Transfer and Alienation of Tribal Land in Assam with special Reference to the Karbis of the Karbi Anglong District, Western Book Depot, Guwahati, 1991, p.12, cited from P.N. Dutta’s Glimpses into the History of Assam, Shillong, 1988, p. 241
43. Supra note, 38. p. 23
44. Bordoloi, op. cit. p. 13. Also see Kusumbar Bhuyan, Sixth Schedule in North East India, DVS Publishers, Guwahat - 1 2008, p. 94
45. Ibid. p. 12
46. Id.
Also, see B.L. Hansaria, Sixth Schedule to the Consitution of India: A Study, Guwahati, 1983, pp. 1-2


50. Supra note. 42. p 100

51. The complete Constituent Assembly Debates on Sixth Schedule was held on 5–7 September 1948. This was printed by the Lok Sabha Secretariat, Vol.9, pp. 1001–1082. Gopinath Bordoloi, Kuladhar Chaliha and Ruhini Kr. Choudhary participated in this debate.

52. Supra note, 48 pp. 1-2

53. Ibid., p. 2

54. Supra note, 5, p. 385

55. Article 244: Administration of Scheduled Areas and Tribal Areas —

(1) The provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and scheduled tribes in any State other than the State of Assam, Meghalaya, Tripura and Mizoram.

(2) The provision of the Sixth Schedule shall apply to the administration of the Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram.

56. Id.

57. See infra note, 49, at chp. 5. p. 116

58. Paragraph 20 (3) of the Sixth Schedule of the Constitution of India has contained a Table comprising three parts as follows;
### TABLE

**Part - I**

1. The North Cachar Hills District (Now Dima Hasao)
2. The Karbi Anglong District

**Part - II**

1. Khasi Hills District
2. Jaintia Hills District
3. The Garo Hills District

**Part - IIA**

Tripura Tribal Areas District

**Part - III**

1. The Chakma District
2. The Mara District
3. The Lai District

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51. Id.

62. Id.

63. Id. Also, see Paragraph 20B A of the Sixth Schedule of the Indian Constitution. After Paragraph 20B, the following Paragraph has been inserted in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 1995 (42 of 1995), sec, 2 (w.e.f.
12.9.1995), namely—'20B A, exercise of discretionary powers by the Governor in the discharge of his functions,—The Governor; in the discharge of his functions under sub-paragraphs (2) and (3) of Paragraph 1, sub-paragraph (1), (6), sub-paragraph (6A) excluding the first proviso and sub-paragraph (7) of Paragraph 2, sub-paragraph (3) of Paragraph 3, sub-paragraph (4) of Paragraph 4, Paragraph 5, sub-paragraph (1) of Paragraph 6, sub-paragraph (2) of Paragraph 7, sub-paragraph (4) of Paragraph 8, sub-paragraph (3) of Paragraph 9, sub-paragraph (3) of Paragraph 10, sub-paragraph (1) of Paragraph 14, sub-paragraph (1) of Paragraph 15, and sub-paragraphs (1) and (2) of Paragraph 16 of this Schedule, Shall, after consulting the Council of Ministers and the North Cachar Hills Autonomous Council (as it then existed) or the Karbi Anglong Autonomous Council, as the case may be, take such action as he consider necessary in his discretion.'

64. Id.

65. The Assam Tribune, Guwahati, 10 August 2009. Also, see Infra notes, 42 and 43, at chp. 6, p. 142

66. The Assam Tribune, Guwahati, 11 April 2009

67. The Assam Tribune, Guwahati, 11th February 2010

68. Dainik Asam, Guwahati, 11 February 2010

69. Supra note, 9

70. Supra note, 1, at chp. 2, p. 3

71. Id.

72. Id.

73. Id.
74. Ibid, p. 21
75. Ibid., pp. 21-24
76. Ibid., p. 22
77. Ibid., p.6
78. Supra note, 5, p. 351
79. Id.
80. Ibid., p. 352
81. Id.
82. Id.
83. Id.
84. Ibid. p. 353