Chapter II
Frameworks of Recognition: Provisions in Indian Constitution

In the previous chapter, I tried to explain the essence of 'multiculturalism'. The chapter also attempted to address some of the concerns raised by the liberals while simultaneously acknowledging the tasks that multiculturalism must address. This was important because many a time, the value of multiculturalism was neglected as it was pitted against the idea of individual freedom. Having addressed those issues we can now accept that multiculturalism is a 'virtue' and it can reconcile individual value with community value.

As mentioned earlier the question that needs to be raise now is - how should democratic nation-states accommodate cultural diversity while sustaining a sense of collective identity? Further, does public recognition of cultural community differences pose threat to the unity and integrity of the nation-state?

Once we accept that special recognition may be necessary in order to promote this equal treatment' of diverse groups, new 'multicultural' liberal democratic states often resort to three options (or ways) to accommodate minorities. The first says that treating these diverse groups entails identifying cultural or common need of the groups and granting them the necessary institutions or provisions under which they can promote the same common need or live according to their customary laws. This option sometimes entails giving special group status to each distinct group, or preferential treatment to these groups. For instance, Swedish policy of language rights for its five recognized national minorities.¹ It can be also done by creating certain mechanisms through

which the group can promote their interests. This does not necessarily involve representation of the minority group to the National Assembly. Here again the Swedish arrangement for the Sami minorities is a good example.2

The second option suggests that the diverse groups should be represented to the National or State Assembly so that their interests are taken into account at the time of framing national policies. In other words, the political leaders of all relevant segments are represented in the executive organs. According to the model, the "government-versus-opposition" pattern is invalidated, because none of the segments is excluded. Usually the cabinet is the site where this type of elite cooperation takes place. However, other institutional arrangements are also possible. The crucial point is that permanent exclusion of a minority from government is avoided. The grand coalition cabinet is only a prototype; the same function can be performed in different ways.3

The third option involves the demarcation of territorial boundaries on ethnic or group identity lines in order to establish a 'multi-ethnic federalism and sub-federalism'. This sort of arrangement is exemplified by the Linguistic reorganization of States in India.

All the options have strong and weak points (or rather feasibility and infeasibility). If groups are to be given special status, a major

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2The Sami Parliament in Sweden was established in 1993 as a publicly elected body and a state authority, with the overall task of working to achieve a living Sami culture. The Sami Parliament is not a body for self-government. The publicly elected component comprises 31 members who meet three times a year in the Plenary Assembly. Only the President is a full-time employee of the Parliament. The existence of the Sami Parliament entails a kind of recognition of the Sami as a separate people, even though the status of the Sami people is not written into Sweden's constitution. The Sami Parliament Act states that primary purpose of Sami Parliament is "to monitor issues that relate to Sami culture in Sweden". Around twenty government-employed officials work at the office. The Sami Parliament's operations are controlled by the Swedish Parliament and the Government through laws, ordinances and appropriation decisions. As a state authority, the Sami Parliament has to follow the guidelines in the official appropriations documents that the Government adopts for each year. The Sami Parliament in Sweden, both the publicly elected part and the authority part, received resources from the Swedish state in order to conduct its operations. The Sami have no representation in the Swedish Parliament. 'The Sami Parliament in Sweden'. www.eng.samer.se/servlet/GetDoc?meta_id=1103-19k

3The examples of such form of governance are seen in ethnically divided European countries and Canada. See Martin Hering, Consociational Democracy in Canada, archiv.ub.uni-marburg.delsuml84/sum84-6.btml - 50k
question is 'what is to be granted to whom?' Here we need to identify all the groups in the State and determine their 'needs'. This is because, special status should be granted according to their needs and the history of the group in the state. This is a problem especially for those States like India where there are multiple ethnic groups. Again, we should make sure that promoting particular cultural concerns does not contravene basic individual freedom.

Again, regarding the policy of representation, the question is that if equal concern is to be promoted in terms of representation to the Assembly, what would be the right form and basis of such representation? Do all the groups (small and big alike) deserve representation regardless of size? Or shall the State ensure representation of only selected few and refusing to others? These are some of the important questions we need to take seriously before coming to any conclusion. We need to study these questions contextually. Indian case is one of the very interesting and challenging cases. On the one hand, India seems to combine all the above mentioned options of recognition (and thus, it is unique), and on the other hand, the country is still haunted by inequality. Keeping all these challenges in mind I will try to study the Indian case in the following pages.

A Diverse 'Nation'

India is a country of incredible ethnic and cultural diversity. Many cultural practices, languages, customs, and monuments are examples of our diversity. Let's just look at the Northeast; each of the communities in the region has its own distinct identity. Likewise, communities in the South or the North have their own distinct cultures. Almost every Indian state has even carved out its own cultural niche. Its plural languages

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4Their 'needs' include everything common among the group including their culture, customary way of life. 5This is the case in India where seats are reserved for only few groups such as, Schedule Tribes, Schedule Caste, etc and rule out reservation on religious line.
also exemplify our diversity. It is one of the most linguistically diverse countries in the world. There are hundreds of local vernaculars. On top of the linguistic heterogeneity, it is home of many of the major world's religions. India was the birth place of religious systems such as Hinduism, Jainism, Buddhism, and Sikhism, each of which have had a strong influence not only over India but also over the rest of the world. Thus, like many other multicultural states, in India managing diversity is the key to political stability.

These diverse cultural and linguistic communities are not equal, first, in terms of their relationship towards one another; and second, in terms of their influence on the liberal State. Consequently, we also face the problems, which persist in a typical liberal nation-state inhabited by various cultural communities. There are questions of majority-minority conflicts, issues of non-recognition of distinct identities of smaller groups, and cases of ethnic conflict between a large numbers of minorities.

The country is facing many sorts of sub-state nationalisms, such as groups demanding independent States of some form. There are also issues over demand for territorial autonomy within the larger State. There are indigenous people, who cannot be brought to the mainstream by merely assimilating to the larger majoritarian lives. Instead, they put up a variety of demands ranging from exclusive land claims, promotion of cultural rights (including recognition of customary law) and self government rights needed to sustain themselves as distinct societies. There are problems of outsiders-insiders conflicts in many parts of the country. There is, again, the question of the fear of the 'swamping of an indigenous identity in their own States'.

In view of these existing social conditions, the chapter will highlight two major issues; first, the critical assessment of the existing

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6 The case of Tripuris in Tripura is a good example of this.
‘differential treatment modalities’ in India, and second, general overview of the present institutional arrangement in Meghalaya. Concerning the second issue, I am limiting myself here just to the elaboration (and not critical examination) of the provisions of recognition. I will take the task of a critical assessment of these provisions in the next chapter where I will discuss one of the most important questions of my thesis “why ethnic conflicts still looming large in Meghalaya?”

II a: Recognition as a Strategy Used in Dealing with Diversity in India

Providentially, India has incorporated a variety of institutional arrangements to meet challenges of a society that inhabits a large number of cultural and linguistic groups. However, the expressions of ethnic discontent still looming large in various corners of the country. Indeed, several ethnic conflicts have become so rooted that now it is difficult to reconstruct the sense of unity that accompanied independence. This rise of identity politics demonstrates that people mobilize along ethnic, religious, racial and cultural lines, and are demanding recognition of their identity, acknowledgement of their legal rights and historic claims, and a commitment to sharing of power. Many minority groups are asserting their own identity, and there are movements for the recognition of their distinct identities and for being valued by the body politic. The vision of a strong and centralized nation state, which supposedly was free of any particular cultural referent point, is seen by them as a way of devaluing minority identities. On the other side we have a number of safeguards provided for these vulnerable communities. The logic is cleared that plural cultures that composed the

7It is said that most Asian states have responded to minority nationalism with suppression. Asian countries have often used the same tools to suppress minority nationalism that the Western countries historically adopted. See Will Kymlicka, ‘Liberal Multiculturalism: Western Models, Global Trends, and Asian Debates’ in Will Kymlicka & Baogang He 2005, (ed), Multiculturalism in Asia, Oxford University Press, Oxford, New York, pp. 38. Also see, Mahajan, ‘Indian Exceptionalism’ in the same book.
state need to be respected and validated through unambiguous acts of recognition. In this sense, the communities or cultural groups, which have been marginalized, should be revalued and revalidated in the public sphere through, for example, group representation. If some cultural communities are either putrefying because of what has been termed 'benevolent neglect' or if they are subjected to virulent attacks, they should be protected through special measures such as minority rights. This will create a society based on equality of dignity and concern. In this context the case of India is very interesting as it tries to accommodate many of the values necessary for sustaining diversity within the larger system of “strong-centre federalism”.

Nevertheless, whenever we talk about the recognition policy or strategy for dealing with ethnic diversity in India, the first and foremost question strikes me is that, 'do we have a clear recognition strategy for addressing ethnic problems? 'Are the so called provisions of differential treatment cites (implicit or explicit) in some corners of the Indian constitution enough to address the prevailing questions of politics and movements of recognition?' We need to analyze these questions comprehensively. Though diversity is good and needs to be promoted, Indian State is really having a tough time in dealing with its relationship with the diverse communities, and there is also a lot of contest between various ethnic, cultural and linguistic groups across the country on the other hand. The present social realities in the country show that we need to reexamine the existing policies and provisions of the constitution that deal with diversity. With this urgency in mind, I will try to explore various provisions of recognition given in the Constitution.

The Ideals: Fountainhead
It will be of great help to us if we go back to the ideals, which formed the basis of independent India. From the start of the 20th century, when the struggle for independence start gaining momentum, nationalist leaders
got to know the strength of the large population in diversity. Yet, there had always been the fear of terminating this strength of the large population in diversity if not handled sensitively. And accordingly policies and programme were framed. Thus, reckoning for differential treatment in India started in 1920s when Indian society was rapidly politicized. This was the period when marginalized sections of the society started participating in the national movement. The first instance of national leaders acknowledging the importance of diversity was seen in the Nehru Report, which was the first major attempt by the Indians to draft a constitutional framework for the country.\textsuperscript{8} This report, finalized by August 1928, rejected the principle of separate communal electorates on which previous constitutional reforms had been based. Instead, seats would be reserved for Muslims at the Center and in Provinces in which they were in a minority. The Report also recommended universal adult suffrage, equal rights for women, freedom to form unions, and dissociation of the State from religion in any form.\textsuperscript{9} The Report suggested reservation of seats for minority (read as Muslim) at the Center and the Provinces. It also recommended for creation of 'Linguistic Provinces' and full protection to cultural and religious interest of Muslims. Changla, a member of the Muslim League and close to Jinnah, argued in a pamphlet \textit{Muslim League and Nehru report} that “even without the amendments, the Nehru Report was not prejudicial to the interest of the Muslim community; and was a great document which served the national purpose of the country while safeguarding the rights of minorities”\textsuperscript{10}. Thus, even though the institution of separate electorate was opposed and

\textsuperscript{8}Even before the Nehru Report, the provisions for differential treatment were applied in the administration of the British India. Examples include separate communal electorate provided in 1909 on the basis of Morley Minto reform. However this was not well received by the national leaders and ultimately rejected by the Congress in the Nehru Report itself. For more on this see Bipan Chandra,1989, \textit{India’s Struggle for Independence}, Penguin Books, pp.263-64.

\textsuperscript{9}Ibid.

\textsuperscript{10}Cited in Routledge “India’s Partition the Story of Imperialism in Retreat”, By D N Panigrahi, 2004, Inc NetLibrary, p.49
even rejected, the Report recognizes the significance of freedom of religion and cultural autonomy in order to avoid harassment and exploitation of one group by another. Thereafter, almost all the Charters on fundamental rights reiterated the right to religion and the freedom to profess and practice any religion. For instance, the Report of the Sapru Committee, which was set up by a non-party conference in November 1944, recommended full religious tolerance, non-interference in religious beliefs, practices, and institutions, and protection of the language and culture of all communities. In its recommendation Number 18, the Committee proposed the establishment at the Center and in each of the Provinces a Minority Commission comprising a representative of each of the communities, which would keep a watch over the interest of the minority community in the area. This antecedent of India’s political history makes it clear that from the beginning Indian State was way ahead of other liberal States in recognizing the value of diversity.

This nationalist thinking on cultural diversity was carried over into constitutional discourse that laid the foundation of new India. It will, therefore, be appropriate, at this juncture, to discuss the Constituent Assembly Debates on the issue of minority rights and their safeguards. The Constituent Assembly gave a good insight into the questions pertaining to minorities. In the light of the 1947 partition of the country, many in the Assembly felt that political reservation for the minorities would do more harm than giving any desired result. After independence, even Nehru resisted the idea of reorganizing States along the ethno-linguistic lines, and said that he preferred a more ‘rational’ (and highly centralized) form of federalism which would be purely territorial, like the American or German model, that is, where the borders of the state are not drawn so as to enable minorities to exercise territorial self...

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government. However, faced with increasing restlessness amongst many ethno-linguistic groups, the Government of India accepted the linguistic reorganization of States in 1956. Further refinement of the system has occurred since then - in 1960, 1962, 1966, and 1972 - to accommodate groups left out of the original reorganization.

There were feelings that other rights of the minorities should be protected. In the Constituent Assembly debates, which drew a great deal from the nationalist reasoning, citizenship was a fundamental consideration and citizenship was seen not merely as embodying equal rights and obligations but as differentiated. Under this differentiated consideration, certain groups and communities were identified as deserving different and special treatment. It is said that the expansion of democratic participation in India through elections, identity assertions and mass movements has been in consonance with such differentiated understanding of citizenship. However, it is equally important to see if the emphasis on equal rights and envisaging the preeminent role of the State in giving expression to equality of consideration has undermined such differentiated understanding. Has it bred a "peculiar kind of elitism and has not helped in begetting a civic culture appropriate for the purpose and articulates a domain of duty conducive to such an understanding of citizenship?"

The formation of the Constituent Assembly itself is composite of all sections of society. Although, with the partition of the country, the Congress was left as the overwhelming majority party in the Assembly, it tried to give to the Assembly as broad-based a membership as possible

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12 Kymlicka, op. cit. 2005:39. On Nehru's reservation about the ethno linguistic states, see Banerjee 1992:56. For the shift amongst many Congress members away from earlier federalist ideas to a more unitarist 'strong centre' ideology at the time of the Constituent Assembly, see Bhattacharya 1992; Mukherji and Arora 1992:5
14 This view is incorporated by Prof. Valerian Rodrigues in his unpublished seminar paper "Citizenship and Group Differentiated Rights in Indian Constitution" presented at International seminar on "Multiculturalism in India and Europe", 6-7 November 2003, Delhi.
by nominating and supporting the election of representatives from all the
major communities and from all shades of political opinion. It selected
members from caste Hindus, Harijans, Muslims, Sikhs, Christians,
Anglo-Indians, Parsis, and others. Of the thirty-one Harijan members in
the Assembly, twenty-nine were nominees of the Congress. Such
composite leadership developed an approach directed at eliciting the
maximum consensus on a basic document that was to guide “India’s
tryst with destiny.” What emerged was a federal structure of
Parliamentary government with a cabinet form of executive at the
national levels, directed to liberal democratic goals of individual freedom
and social justice in the fulfillment of which Government was assigned a
positive role. The institutional structure that emerged was essentially
modernist in character but with important departures from the western
model designed to facilitate national integration and social assimilation.

The Basic Document
Whatever the case might be, our important concern at the moment
should be the present provisions in the existing Constitution as it is the
basic document from which we can develop remedies of our problems.
Broadly speaking, our Constitution is not a piece based on individualistic
‘equal citizenship’. It is right that the constitution upholds the ideals of
equal citizenship. Nevertheless, this equality of treatment is
overwhelmingly qualified by according differential consideration to
groups and communities. Thus, Gurpreet Mahajan has to say that “the
path that India adopted self-consciously, therefore, was one that
acknowledged persons as citizens of the state as well as members of
specific cultural communities. While political rights of participation were
extended to all, nevertheless on other matters due consideration was
given to community affiliations and membership.”15 We also need to see

15·Mahajan, 2005, p.289, op.cit.

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Indian case as distinct from those of western liberal democracies. An important point that needs to be noted at this juncture is the impact of institutions, which are essentially modern but were built upon an ancient civilization with a highly differentiated social structure, and long standing traditions and collective orientations.

Preferential treatments have been extended to a variety of groups. And the nature of differential treatments is varied, as the natures of groups are different too. Let me discuss here some of the important groups that receive preferential treatment under the Constitution of India.

The Union of States: Territorial Autonomy
The formation of States along linguistic and ethnic lines and to form the units on the basis of distinctness of the geographical region and its culture and economic interest has worked in favor of the Indian diversity. Federalism plays a big role in ensuring India's unity, stability and survival as a polity in the face of persistent regionalism, often verging on separation, rooted in manifold and complex social and cultural diversity, and mass poverty, illiteracy, extreme regional unevenness in development, and widespread inequality. We need to see Indian federalism as a method of accommodation of diversity. The Constitutional fathers acknowledged the fact that India, right from the dawn of civilization has been a unique case of unity and diversity. The provinces and the local governments in various empires, from the Mauryas to the Mughals, enjoyed considerable degree of autonomy.16 Thus, it seems that the very natural tendencies in India point out towards pluralism and federalism as necessary basis for its governance. However, if one looks at the Constituent Assembly debates, it appears that the design for federalism was not aimed at accommodating diversity

in India. It is clearly seen when Dr. Ambedkar, the Chairman of the Drafting Committee explain the spirit behind the use of the term “Union of States”. He said, “The use of the term is deliberate... I can tell you why the Drafting Committee wanted to make it clear that though India was to be made a federation, the federation was not the result of an agreement by the States to join a federation and the federation not being the result of an agreement, no State has the right to secede from it”.

The constitution of India conceived of the division of the country into states, to repeat Dr. Ambedkar’s words, only “for convenience of administration”. The ideal of a federalism to preserve diversity become in subsequent arrangements with the reorganization of the states. Indeed, India needed federalism as the country is composed of diverse groups and the territorial accommodation of distinct groups of people is of paramount importance. Our federalism is consequently based on recognition of differences.

Thus, states and “sub-states” have been created with autonomous powers in order to accommodate linguistic identity of various groups. For example, many of the languages, except Sindhi, Urdu and Sanskrit, in India are regionally rooted. Thus, states have been reorganized to fulfill the demands made by many of the linguistic groups in the country. That doesn’t mean, however, that all the linguistic communities have got statehood, or political autonomy in India.

India is a State which is formed by incorporating different units through various merger agreements. Goa, Kashmir, Manipur, Sikkim, etc. are some of the parts incorporated into Indian federalism after India got her independence in 1947. Some of these states have been given

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17Constituent Assembly Debates, Vol.7, p.43
18By the mid-1960s linguistic agitations in various parts of the country had resulted in formation of more or less unilingual states such as Andhra Pradesh, Tamil Nadu, Karnataka, Gujarat, Maharashtra, Punjab, Haryana, Himachal Pradesh, Madhya Pradesh and Rajasthan. It may be pointed out here that the Bengal Presidency had already been divided into Bengal, Bihar, Orissa and Assam during the British Raj itself. As Assam witnessed the rise of tribal insurgencies in the 1960s, the state had been divided into different units by the 1970s.
special status so that they can continue with the already existing system of administration. 19 Goa is a good example, as the state is maintaining a kind of universal civil code which is not applicable in other parts of the country; special self-government provisions of Kashmir under Article 370 of the Constitution is, again, of enormous importance in this regard. Thus, it can be rightly said that Indian federalism is founded on a theory of 'unequal federalism' under which all states are not equal and many enjoy a special status. Article 371 contains special provisions for Maharashtra and Gujarat. Then follow a stream of special provisions, including Articles 371A (for Nagaland), 371B (Assam), 371C (Manipur), 371D and E (Andhra Pradesh), 371F (Sikkim), 371G (Mizoram), 371H (Arunachal Pradesh), and 371(l) (Goa). To this may be added the Fifth and Sixth Schedules of the Constitution, which grant special provisions to the Tribal Areas and the Northeastern States.

It is self-evident that the unique treatment given to various states in India was due to either historical factors or because peculiarly placed people needed special treatment. Article 370 is not an anomaly but an exciting example of the infinite possibilities of federal and confederal governance in India. The separate but special status of Jammu and Kashmir does not militate against the State being an integral part of India. Jammu and Kashmir has its own Constitution since 1957 — being the only State in India to do so — within the conspectus of the Indian Constitution. The Indian Constitution applies to Jammu and Kashmir with some adaptations from 1954, which have been further amended some 46 times. However, to enable the 'unequal but special' federalism to work, both the territory and the people of a "special state" have to be defined and identified. 20

The concept of a permanent residential status as a basis for according special privileges to residents of an area is no stranger to

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19 Part XXI of the Constitution of India.
Indian governance. Nor, indeed, is the idea that the ownership of immovable property rights should be confined to certain people in certain areas. Today the hill states of Himachal Pradesh and Uttaranchal have limited land ownership to their residents. In relation to Nagaland and Mizoram, the Indian Constitution permits special laws in respect of "ownership and transfer of land and its resources." The Fifth Schedule of the Constitution contains special provisions to limit land transfers among tribals. This found constitutional satisfaction with the Supreme Court in the Samata Case (1997). Such policies exist throughout the Northeast and tribal areas. Thus the Indian Constitution not only permits, but also ordains various states to enact special laws to limit the ownership of land only to some designated residents.  

Group Safeguards: Rectifying Past Injustice

There are groups whose disadvantage is rooted on grounds like untouchability, caste, community, gender, age, lack of productive resources, physical disabilities, conditions of study and work, lack of skills etc. In India the caste structure provides one of the most important organizational clusters in which the population is bound to live. In such a structure, politics is often made an instrument wielded by a particular stratum in society to consolidate or raise its position; to reproduce, or modify existing state of superior-subordinate relationship. People in these groups, especially in the lower level of caste hierarchy often suffered discrimination on account of social segregation and exclusion. Here in their case the "immediate concern was to set aside existing social prejudice so that they could have accessed to resources that were available to the rest of the population".  

Accordingly, the Constitution provides various sorts of safeguards for the vulnerable groups in the society. These new institutions offer

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21 Dhawa, op.cit.
economic opportunity, administrative patronage and positions of power to the weaker sections, so that the caste as a stratification system in which distances are rigidly maintained through endogamy, pollution, and the legitimacy of rituals and caste as a system of conflict reduces its impact on the modern social system. The differential treatment extended to these groups is mainly aimed at uplifting them to a certain level of livelihood by instituting certain affirmative measures. The constitution, in several parts particularly in parts III, IV and XVI, spells out special considerations for these groups. These Parts grant special privileges to the peripheral groups in society – the schedule castes and tribes and the backward classes – in terms of reserved seats and jobs in the various legislatures and in the administrative services. Although the Constitution envisages withdrawal of these privileges after a stipulated date, it is flexible enough to allow them to continue to be substantial.

At the same time the Parliament passed a number of reform and welfare laws, which include the Untouchability (Offences) Act. Likewise the Governments in the states were encouraged to take action toward the abolition of land lordism, and to guarantee special privileges to the depressed sections of the community. In the same way, measures have been enacted to give concessions to the scheduled caste and tribes and the backward classes in matters of admission to educational institutions and employment, along with other measures to raise their social status, prevented bitterness against the high caste from taking an ugly form. The abolition of feudalism and the redistribution of land rights in the rural areas remove another important root of social cleavage.

It is perhaps important to discuss caste based differential treatment here. It was only the Brahminic section (along with some higher caste groups such as Kshetriyas and propertied land lords) that first enjoyed the benefit of traditional education. Again, they were the first to respond to English education and benefited from political and administrative power. Therefore, space of education should be expanded
in order to incorporate the lower caste people in the mainstream; need to give them reservation in political and administrative posts to uplift them so that the whole society becomes truly democratic. The caste system not only determines the individual social station on the basis of the group to which he is born, but also differentiates and assigns occupational and economic roles. In such a social structure these provisions in the Constitution becomes so important to make the system democratic and equal. "If anything, the constitutional provisions of certain special privileges including reservation of legislative seats and administrative positions have acted as a special catalyst of political mobilization." This kind of special privilege is justified on the idea of rectifying the past injustices, or giving some sort of autonomy to groups that had previously been discriminated against by the social system, or creating a sense of belongingness among marginalized groups. Moreover, recognizing and asserting the value of diversity entailed respecting all forms of differences, whatever the nature of the group and the cultural practices that it endorses. However, it is worth mentioning here that caste mobilization and inter-caste conflict have occurred in India since the late nineteenth century among many such groups. In the 1970s and 1980s, inter-caste conflicts between so called backward and upper caste groups became intense in several states. The following is the ramification of these kinds of groups and corresponding rights:

Special Privileges for Schedule Caste (SC) and Schedule Tribes (ST)

23Kothari, Rajni, 2006. Politics in India, Orient Longman, (reprint), p. 247. The Constitution of India provides a variety of special benefits for the schedule caste and tribes; new government programs have added to these benefits and provided protection against discrimination. The most important of all provisions, of course, is the reservation of seats in the central and state legislatures and in all local institutions where the elective principle works. Sometimes the reservation exceeds the proportional weight of these communities.
“Schedule Castes” include such castes, races or tribes, or parts of groups within such castes, races or tribes as are deemed under Article 341 to be schedule castes; and are so declared by the President by public notification after consultation with the concerned Governors of the several States wherein they reside. The members of a SC can only be such persons who are Hindu or Sikhs, although they may not be Hindu or Sikh by birth. The members of SC are given certain privileges, and enjoy certain concessions under the Constitution. The state is required to discharge some social responsibilities in respect of them. Special provisions may be made for their advancement. Their education and economic interests are given special protection. Giving such protection is a fundamental duty of the State; and is an expressed Directive Principle of State Policy. For them special representation is provided in the House of the People, and the State Assemblies. Again in order to protect their interests and for looking up to their welfare, special Ministers can be appointed in certain States; and the President appoints special officers for the same purpose. The special officer's duty is to “investigate all matters relating to the safeguards provided for the SCs and Tribes under this Constitution and report to the President upon the working of those safeguards at such intervals as the President may direct”. The reports are laid before each House of Parliament.

The Schedule Tribes (STs) and other tribal communities include various tribes and communities which are declared to be such by the President, by the Constitution (Schedule Tribes) Order, 1950; and the Constitution (Schedule Tribes) (Union Territories) Order, 1951. While it

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26 Article 15(4).
27 Article 26.
28 Article 330.
29 Article 332.
30 Article 338.
31 Article 330/ Article 330, 332.
32 Article 365 (25)/Article 342.
is necessary that their cultural heritage should be preserved, they should be made to enjoy the privileges of citizenship, and should be able to take part in the making and strengthening of democratic institutions in the country. They should realize the full advantage of adult franchise; and should enjoy the fruits of liberty, equality and fraternity. In order to realize all this, the Constitution speaks in a special way about these tribal communities. They are classed into two groups, namely:

(a) STs residing in various States and the Union Territories; and
(b) Tribal communities living in the Tribal Areas and Districts in the Northeast States.

The classification was made necessarily because of the difference in the level of development and the backward conditions of the tribal communities inhabiting outside the Autonomous Districts and Autonomous Regions situated in the Northeast region. They need special attention, nay, often special protection. I will talk about this region little later when I study various provisions in the state of Meghalaya.

Protection for Backward Classes (BCs)

Besides the SCs and the STs, there are other sections of the people who also need protection. These are "socially and educationally backward" classes, and labor under various difficulties and conditions of social, economic or educational backwardness. The reason for their backwardness may be historical, socio, economic, poverty, lack of educational facilities; and want of encouragement and want of opportunities to enter Government services and other lucrative jobs have contributed in no small measure to their backwardness manifested as inferiority in status and cultural and social stratification caused and kept up by the supposed impurity of birth and race. The other

33 Kakzi, pp. 1080
manifestation of this involuntary inferiority include socio-religious segregation, denial of opportunity, educational and economic, cultural isolation. They have been politically under-privileged. Some of BCs also occupy low position in the traditional Caste Hierarchy.

The framers of the Constitution thought of improving the position of the BCs. The adequate provisions have been made for securing to these classes educational and economic facilities and improving their conditions otherwise. Special provisions have been made by the First Amendment to the Constitution for ensuring the opportunities in matters of education. For their benefit special provisions may be made by regulating their admission in the educational institutions. In the public services reservation may be made in their favor. The provisions have been made for removal of economic backwardness. The State has a duty to work for a social order which ensures justice to all in respect of social, economic and political matters. The institutions of national life are required to work towards the aim of equality of status and opportunity for all including the BCs. The economic system cannot be such as to operate to the disadvantage of the backward classes and communities. The State should take special interest in matters of assistance and promotion of schemes of cutting down the unemployment amongst the BCs. The State intervention should be to help them acquire a living wage, equal wage for equal work. Their exploitation by others should be put an end to. The protection against economic exploitation should be effective and after their liberation from the century-old burdens, they should be in a position to have equal rights. Small scale industries amongst them should be revived and encouraged. On the cultural field it is provided that their cultural peculiarities should be preserved, while BCs should be made to have access to the centers of modern civilization. Their political rights should be explained to them. The effective political rights flowing

35 Article 15(4)/Article 29(2).
36 Article 16(4)
from the grant of adult franchise should not be exploited by the political parties on grounds of religion, community or caste. They are a special responsibility of the State. The Constitution confers upon them the full immunities of the citizenship.

However, it is not that there is no such difficulty in carrying on the project of diversity. There are a number of questions in and around the slow pace of improvement in the condition of these backward castes and classes. At the time of framing the Constitution, Dr. Ambedkar had envisaged only 10 years taking to improve the conditions of these groups. If not, that is the result of the leaders not wholeheartedly implementing the provisions.\(^{37}\) A student leader of one of the Bahujan Movements has to say “there are so many big gaps between the higher and the lower caste in India. Still caste discrimination is continuing in many corners of the country. Even today, if you were from a lower caste and go to the house of a higher caste family and ask for some water, there is no possibility of getting it”.\(^{38}\) We have taken more time than expected to annihilate the caste system. The lower caste movement leaders have to say that the major problem lies in the fact that the provisions in the Constitution are not implemented sincerely and their main demand is also to implement these provisions in the basic document of the country. “Therefore, it is only when the lower caste people have power in their own hands that the caste can be annihilated”.\(^{39}\)

**Preference to Backward Regions and Historical Obligations**

There are regional groups to whom the differential treatments are extended on the basis of their underdeveloped region or on the basis of certain historical agreements. Examples of the first case i.e. special consideration for their underdeveloped regions may be that of special

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\(^{37}\)This was collected from a personal interview with Raghumath Saket, President of Bahujan Student Front, JNU on 12\(^{th}\) March 2008 at JNU.

\(^{38}\)Ibid.

\(^{39}\)Ibid
provisions with respect to certain regions in the State of Maharastra and Gujarat. This can be best example of managing diversity with redistributive measures. Article 371 of the Constitution clearly mentions that notwithstanding anything in the Constitution, the President may by order made with respect to (the State of Maharastra or Gujarat), provide for any special responsibility of the Governor for the establishment of the separate Development Boards for Vidarbha, Marathwada (and the rest of Maharastra, or as the case may be,) Saurashtra, Kutch and the rest of Gujarat with the provision that a report on the working of each of these Boards will be placed each year before State Legislative Assembly. There are provisions for the equitable allocation of funds for developmental expenditure over the said areas, subject to the requirements of the State as a whole. Similarly, there should be arrangement providing adequate facilities for technical education and vocational training, and adequate opportunities for employment in service under the control of the State Government, in respect of all the said areas, subject to the requirements of the State as a whole.

The second case of special consideration extended on the basis of historical agreements can be exemplified by the case of Jammu and Kashmir. The State of Jammu and Kashmir has been given special consideration under Article 370 of the Constitution. This is, however, temporary in nature.

The cases of these two bases of special considerations are not identical and even look quite apart. But I put them under the same

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40 Sometimes scholars compare the case of J&K with that of the states in the North-East. However, they are quite apart from each other. Though both demand autonomy, the basis of their demand for autonomy and the nature of the autonomy are different. J&K seems to demand political autonomy on the basis of its historical agreement, whereas the demand for political autonomy in the case of North-East are mainly based not only on the idea that they had been independent “States” before India got her independence but also on the idea that their cultural distinctness would be able to preserve and promote only when they have political autonomy.

41 The heading of Article 370 indicates the temporary nature of this provision. Clause 3 of the article also provides that “notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify.”
heading because of the fact that both the special considerations are extended neither to a group of disadvantage people nor to a specific community of a certain region or state. These special considerations are extended to a region (or a state in the case of J & K) as a whole. This implies that the benefit of such considerations goes to all sections of the region irrespective of their caste, religion, sex, etc.

**Safeguarding Religious Minorities**

A deeply divided society with, supposedly, a mainly majoritarian type of democracy, India nevertheless has always claimed to sustain its democratic system. India is, nonetheless, not spared by the problems of majority-minorities tug-of-war. India is a multi-religious country and her society is pluralistic in nature from religious and other points of view. Since a very long time, people belonging to various religious communities have been living together in this country. Not only major religious communities are spread all over the country, but the people belonging to all religious communities reside in each village and town in the country. Still there are questions over the capabilities of religious minority groups in India such as the Muslims, the Christians, the Sikhs, the Jains and the Buddhists, to preserve their group identities and participation in the mainstream of national politics.

The Constitution of India has provided the minority groups with some safeguards. The Preamble of the Constitution describes the concept of secularism in such a manner that it means that the State has no religion of its own, and there is equal respect for and protection to all religions. No one is to be discriminated on grounds of religion and everyone is guaranteed full and equal freedom of religion. Article 30 of the Indian Constitution states that the minorities have rights to establish and administer educational institutions of their choice. This includes the right to choose the medium of instruction, curricula, and subject to be taught. Minorities can impart instructions to their children in their own
languages. The National Commission for Minorities undertakes review of the implementation of the policies formulated by the Union and state governments with regard to minorities. It looks into specific complaints regarding deprivation of rights and safeguards of minorities, and conducts research and analysis on the question of avoidance of discrimination against the minorities.

The word ‘Secular’ in the Preamble to the Constitution of India means a lot in terms of freedom of individuals and religious groups in the country. India is described as a secular state in accordance with the Indian tradition of religious tolerance. The essence of this tradition is that the State is not a theocracy; and it ordains that religious or ecclesiastical consideration must not enter into the affairs of the state. The secularism treats all religions equally, and does not forbid or disregard any religious faith and worship. It practices an attitude of “benevolent neutrality” towards all religions.42

The preamble of the Constitution expresses a resolve of the people to ensure amongst other things “liberty of thought, expression, belief, faith and worship.” The right of freedom of conscience, and the right “freely to profess, practice and propagate religion” that is the religious freedom has been, in view of the expressed intention of the people and the secular principle accepted by them is made a fundamental right. There can be no State religion, and no State Church. The State tolerates all religions, religious groups and denominations.43

Significantly, religion cannot be a subject of direct legislation. That means faith is held too sacred to be a matter of state regulation and temporal control. “The State cannot establish a Church, prescribe any religious test, or restrict the practice of an existing religion. The State must treat the Church, the Mosque and the Temple similarly. In the course of implementation of its purpose it must treat persons of all

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42Kagzi, op.cit, pp.789
43Ibid
established religions equally and non-discriminatively. Any discrimination on ground only of religion, etc. in matters of socio-economic benefits and political privileges is forbidden. Neither, any privilege can be conferred, nor any disability can be imposed on any religious group or denomination. In matters of opportunities for education and public employment no discrimination can be made on grounds of religious beliefs. Persons of all religious groups and denomination have the fullest freedom to maintain their respective faiths subject to “public order, health and morality”.

Propagation of religion is also protected and guaranteed whether it is carried on by a Church, a Monastery, or an organization. Religious freedom covers not only religious beliefs, doctrines, rituals, ceremonies and modes of worship; but also acts done in pursuance of religious beliefs and practices. A person’s right to propagate his religion means and includes his right to take from person to person, or from place to place, and to disseminate and transmit the religious belief, faith and philosophy. But, it does not extend to, and does not include a right to convert any other person to his own faith by coercion- social, economic or political, inducement or by taking advantage of social inequalities based only on birth, caste or race. The practice of religion is immunized from State regulation, unless such regulation is absolutely necessary for compelling reasons of public order, health and morality.

A denomination has right to manage the affairs of religion, to establish and maintain religious and charitable institutions, to acquire and own property, and to manage it in accordance with religious prescriptions and law. The “Matters of religion” include essential

44 Kagzi, op. cit. pp790.
45 Article 26 (b).
46 Article 26 (a).
47 Article 26 (c)-(d)
48 The matters of religion include practices, things, tenets, usages or ceremonies etc. which are denominationally regarded as essential and integral expression of faith. They do not include only matters of
religious practices of the religion. In respect of these matters the denominational right is absolute. Its exercise or the manner of its exercise is unregulated by state authority. However, the question whether a particular matter is a matter of religion is capable of being raised in a court of law, and in case of doubt the extent of a claim based on it can be determined.49 The absolute character of the denominational rights in respect of matters of religion is judicially stressed, although strangely enough, it is mentioned in clause (b) of Article 26, which along with other clauses of the Article is subject to an abstante clause pertaining to the requirement of public order, morality and health. The secular economic, financial and political activities associated with the religious practice can be regulated and controlled under Clause (2) (a) of Article 25. On the basis of the interpretational rule of harmonious construction we are led to the conclusion that the provisions for non-regulation of matters of religion are subject to the provision for regulation of secular activities.50

Nevertheless, the regulatory power of the State knows no restriction in respect of secular activities associated with the religious practice. The individual’s religious freedom does not defeat the policy of social welfare, social change and reform. In consequence of the abolition of untouchability, practice of untouchability in accordance with the abuse of caste can be forbidden, and if committed, made punishable. A programme of social welfare and reform can be inaugurated, and a plea of denial of individual religious freedom must be untenable. For instance, social welfare and reform in personal-family law area cannot be held up by a plea for the continual availability and applicability of personal law—the Hindu law and the Muslim law and their respective schools. The Directive requiring the State to “endeavor to secure for the citizens a

document, belief or the philosophy of the religion, but also experience associated with profession, practice and propagation of religion. For detail on the Matters of Religion see Kakzi, pp791-92.

49Kakzi, p. 805.
Uniform Civil Code throughout the territory of India is an expressly recognized head of social reform, necessary for social welfare, and can as such be read in Article 25 (2)(b). Implementation of Directive is permitted even if it might be restrictive of the individual's religious freedom, because, religion and law can co-exist.51

The temple entry too is an expressed head of social reform. Therefore, legislation to provide for this, and measures to enforce this against entrenched orthodox religious order cannot be challenged on the ground of religious freedom.52 The public Hindu temples, the Sikh Gurudwaras, the Jain temples and the Budh Vihars can be thrown open respectively, to all sections of the Hindus, the Sikhs, the Jains and the Buddhists.

One of the other aspects of religious freedom is that children should not be forced to attend and take religious lessons. "In the educational institutions run by the state, or aided by the public funds there should be no attempts to mould the religious beliefs in any particular doctrinaire direction. To ensure this it has been declared that any religious instruction cannot be organized for children in government schools, and also for the boys and girls studying in government colleges. In the private educational institutions established under trust or endowments organized, or administered by the state no compulsion can be applied to enforce attendance at religious instruction or worship conducted in accordance with wishes of the author of a trust, or settler of an endowment or a settlement".53 However, the prohibition in connection with religious instruction does not mean any hostility to imparting of religious instruction in educational institutions. It only relates to prohibition against forced instruction and against expenditure of public money for imparting such instructions.

51Kakzi, p. 800.
52Article 25 (2) (b).
53Kagzi, ibid, p.804. also see Article 28(1).
It is important to mention here that the constitution of Minority Commission has its own important role in protecting the interest of the minorities. Though a non-statutory body, yet the Minority Commission is intended to provide an agency for effective enforcement and implementation of all the safeguards provided for the minorities in the Constitution, in the Central and State laws, and the Government policies, and administrative scheme.

As mentioned earlier, however, no reservation is provided for the minorities based on region and culture on any general basis. The representation by reservation is taken to be in contravention of, and inconsistent with, universal adult franchise.

But, there is a question that is still undressed. Why the minorities are not able to integrate properly in the Hindu-dominated society? The minority communities have to face several problems in India. There is apprehension among some sections that for enlarging its base, the Christian community is involved in converting the low caste Hindus or tribes to its own community or religion, resulting in the killing and intense conflict between the majority Hindus and the Christian minority. This has created too much insecurity and fear among the Christian minority in India. The minorities claim that unlike their Hindu counterpart, they are relatively deprived in areas like employment, politics and social facilitation. According to them, they are poorly represented in civil services as well as in medical and engineering colleges. The series of communal riots especially after 1960s have instilled a sense of insecurity among the Muslims and tend to push them into their narrow communal shell.\(^{55}\)

\(^{54}\) The Constitution (Forty sixth Amendment) Bill, 1978, provided for constitution of the Commission under Article 338 - A.

\(^{55}\) Jayneswar Sethi, 'Problems of Religious Minorities; A big Challenge to the Secular Democracy in India', Minority Affairs, Vol. XLV No.29, 10-02-2008. Also see Brass, Paul op.cit. p.129
Cultural and Educational Rights

Cultural and educational rights of minorities aim at certain cultural groups in the country. This intends to guarantee special safeguards to the minorities and they are made part of the fundamental rights, with a view to instill a sense of confidence and security in the minorities.\textsuperscript{56} The provision is placed in Articles 29 and 30 and the object of these articles as mentioned above is to preserve the right of religious and linguistic minorities, to place them on a secure pedestal and withdraw them from the vicissitudes of political controversy.

To be very brief and precise, Article 29(1) provides that any section of the citizens residing in the territory of India, having a distinct language, script or culture of its own shall have the right to conserve the same. Article 29(2) lays down that no citizen shall be denied admission into any educational institutions maintained by the state or receiving aid out of state funds on grounds only of religion, race, caste, language or any of them. Clearly enough, Article 29(1) assures that if there is a cultural minority which wants to preserve its language, script and culture the state shall not impose upon it any other culture which may be local or otherwise. Although it is commonly assumed to relate to minorities, its scope is not necessarily so confined, as it is available to “any section of citizens resident in the territory of India”. This may well include the majority, as Ray, C.J. pointed out in the Ahmedabad St Xaviers College Society v. State of Gujarat, AIR 1974 SC 1389. This however aims at providing group rights to diverse communities in the country. One point to be noted here is that this provision empowers communities to preserve their distinct identities on the one hand and at the same time the state’s secular identity is shown when it doesn’t differentiate between individual citizens in matters of admission and by

\textsuperscript{56} Justice Khanna, in the Ahmedabad St. Xavier’s College Society V. State of Gujarat. Judgment on Minority Rights, CBCI Centre, 2\textsuperscript{nd} edition, p.363
distancing itself from such practices of the minorities to promote their identity. Again, since this right is not given only to minority but also to the majority community, it acknowledges the fact that all communities, be it projected as majority or minority based on population, cherish their distinct ways of life and want to promote the same.

Article 30(1) provides that all minorities whether religious or linguistic shall have the right to establish and administer educational institution of their choice. Article 30(2) provides that the state shall not, in granting aid to educational institutions, discriminate against any educational institutions on the ground that it is under the management of a minority, whether based on religion or language. The Forty-Forth Amendment to the Constitution in 1978 added article 30(3). This article provides that in making any law providing for the compulsory acquisition of any property or an educational institution established and administered by a minority, the state shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under Article 30(1). Thus it also categorically acknowledges the importance of promoting diverse groups in the country.

At this juncture, I hope that it will be appropriate to say few words about what this term ‘minority’ means. The word ‘minority’ is not defined in the constitution. Supreme Court has not defined it categorically either. However, Supreme Court held that the term ‘minority’ with reference to article 30(1) must be determined on the basis of population (Re the Kerala Education Bill, 1959, SCR, 995) of the whole state to which the law applies. It is not correct to hold that it refers only to such a community as is in a numerical minority in that particular area or region where the educational institution involved or situated (Cited in Cultural and Educational Rights of Minorities, P.D. Mathew, Legal Education Series, No. 24, Indian Social Institute.). In order to be a ‘linguistic minority’ the community must have a separate spoken language, but not necessarily a separate script (D.A.V. College Vs. State of Punjab, A. 1971 SC 1731, 1737(1742, 1744)). Again, backward classes are not minorities within article 30. As K.M. Munshi (5 C.A.D. page 227) pointed out, “the Harijans generally known as the Schedule Caste are neither a racial minority nor a linguistic minority…. The Harijans are part and parcel of Hindu community” (Cited in the Constitution of India, with selective comments by P.M. Bakshi, 2002, Universal Law Publishing Co. Pvt Ltd). The best for us to have an understanding of the term ‘minority’ is to refer to the definition given by the U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities. In that minority is defined as “The term ‘minority’ includes only those non-document groups in a population which posses and wish to preserve stable ethnic, religious or linguistic traditions or characteristics markedly different from those of the rest of the population; such minorities should properly include a number of persons sufficient by themselves to preserve such traditions or characteristics; and such minorities must be loyal to the state of which they are nationals” (The Year Book on Human Rights, 1950, p. 490).
The reasons for giving minorities special rights under article 30 can be discussed here. It is, first, to inculcate a sense of unity in the country by accepting and tolerating their cultures, and religions. The obvious rationale behind the thinking of the founding fathers, was, that the distinctive ethos, religious and cultural identity of small communities, should not be swamped by the majority, but that they should be carefully cultivated, creating an enlivening mosaic of unity in diversity. It is also to promote the feeling of security by safeguarding the religious atmosphere in which the minority community wants their children to grow up. In Re the Kerala Education Bill, 1957 the Supreme Court said, "the minorities quite understandably regard it as essential that the education of their children should be in accordance with the teachings of their religion and they hold quite honestly that such an education cannot be obtained in an ordinary school, designed for all the members of the public but can only be secured in schools conducted under the influence and guidance of people well verse in the tenets of their religion and in the traditions of their culture. The minorities evidently desire that education should be imparted to the children of their community in an atmosphere congenial to the growth of their culture. Our constitution makers recognized the validity of their claim and to allay their fears, conferred on them the fundamental rights under Article 30(1)".  

Again, to develop a sense of equality among the unequal sections of the nation, freedom has been granted to minorities to prepare their children for careers in life in the way they consider best. In the Ahmedabad St. Xavier's College Society v. State of Gujarat Justice Khanna said, "The idea of giving some special rights to the minorities is not to have a kind of a privileged or pampered section of the population but to give to the minorities a sense of security and feeling of confidence.

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58 Mathew, op.cit.
Special rights of minorities were designed not to create inequality. Their real effect was to bring about equality by enshrining the preservation of the minority institutions and by guaranteeing to the minorities autonomy in the matter of the administration of those institutions. The differential treatment of the minorities by giving them special rights is intended to bring about an equilibrium, so that the ideal of equality may not be reduced to a mere abstract idea, but become a living reality and result in true, genuine equality and not merely in theory but also in fact.\textsuperscript{59}

This particular freedom has another very important aspect. Apart from individual's rights and freedoms the Constitution recognizes certain non-political rights of the religious, cultural and linguistic minorities, groups or sections of the people. A religious, cultural and linguistic minority e.g. the Muslim, the Christians, the Anglo-Indians, the Parsees, the Arya Samaj, or Brahma Samaj, having a distinct language, script or culture, are given a collective group right to conserve their languages, scripts and cultures. The means to conserve them can be such as the given minority community deems proper. It can establish and maintain educational institution of its own choice. The right to establish and administer educational institutions is an off-shoot of the right to conserve the distinct language, script and culture; as such is guaranteed to each of the religious minorities. This is an effective means of preservation of cultural and linguistic characteristics of the minorities. Therefore, special care seems to have been taken by the framers to put substance in the right to establish and administer educational institutions. The right is broad based and extends to all types of educational institutions including institutions for imparting general education through the language of the administering minority. It is not limited to the institution established after the commencement of the

\textsuperscript{59}Judgments on Minority Educational Rights, C.B.C.I. Centre, Goldakhana, New Delhi, p.362.
Constitution, but extends also to the administration and the running of the old established institutions.

However, there are many issues on this very subject of minorities and their rights too. One of the "four understandings" developed by the central government in course of addressing regional demands is that the government will not accommodate regional demands based upon religious differences. 60 This rule, heritage of the bitter feelings, which remain from the partition of India, was applied especially to the Punjab, the last large Indian state to be reorganized in 1966. The government of India resisted the linguistic reorganization of the Punjab more strongly than it did the reorganization of the former Madras and Bombay provinces for several reasons, but one important point was the initial perception that the demand from the Sikhs for a Punjabi-speaking state was merely a cover for a demand for a Sikh-majority state. Only when a leadership change occurred in the Punjabi Suba movement in the early 1960s to Sant Fateh Singh, in whose sincerity the Central Government leaders professed to believe, was the decision made to reorganize the Punjab province and create a separate Punjabi-speaking state. Thus, the approach to accommodate religious minorities in the country has left with certain questions unaddressed.

Accommodating Language: A Way of Recognition
It needs to be understood that India has always been a multi-lingual civilization with a complicated system of communications both literally and vertically, especially elite languages, and a constant interplay

60Brass, Paul, op.cit. p. 172. Four understandings have been explained by Brass in this book. The first rule is that the central government would not recognize groups which made secessionist demands, but would suppress them by all means necessary, including force. Second, the government will not accommodate regional demands based upon religious differences. Third, demands for the creation of separate linguistic states would not be conceded capriciously or on the merely "objective" grounds that a distinctive language was the predominant spoken language in a particular region. Finally, the central government would not agree to reorganization of a province if the demand was made by only one of the important language groups concerned.
between local, regional, and all-India languages. Patterns of language development in different historical group cohesion, secular accommodation, and emulation of dominant cultural standards have characterized India’s general approach to unity and assimilation. The hesitant, groping character of contemporary language policy reflects the same approach and underlines both the inherent difficult of enacting an easy solution and the imperative of moving slowly towards some negotiation agreements.

In countries like India where a large number of languages are spoken, various sorts of problems persist. For instance, India’s national leaders had to confront several language problems in the first two decades of Independence and what appeared to some of them in the aftermath of Partition to be a real threat of the “balkanization” of the country. Most of the language conflicts in the Nehru period, some of which became at times bitter and violent, was ultimately resolved through pluralistic solutions. The central government and the national leadership of the Congress sought to avoid direct confrontations with the language movements and their leaders and adopted instead arbitrating and mediating roles whenever possible. In the case of the movements for linguistic reorganization of states, until mutual agreements were reached among contending language groups and their leaders, the Center attempted to ensure that the state governments were under the control of strong leaders whom it supported in efforts to maintain civil order. However, in the post-Nehru period, several linguistic, ethnic, and regional movements have escalated to levels of bitterness and violence.

61 The Linguistic Survey of India, published in 1927, spoke of 179 languages and 544 dialects (and in all 1652 “mother tongues”), while the 1961 Census of India recorded speakers of 1018 different languages. For more details see, Rajni Kothari, 2006, op. cit, pp.326-27.
62 The Constitution makes provisions for the protection of linguistic minorities too. A linguistic minority can be a class of people whose mother tongue is different from that of the majority in the state or part of a State. Provisions for their welfare are given in the chapter on Official Language and other parts. The Constitution provides special directives to protect the interest of the linguistic minorities in the country.
63 Brass op.cit.p.157.
The problem still persists, despite various provisions of safeguard for linguistic minorities. One of the reasons for this problem is too many linguistic communities in the country as well as within each state. It is said that our diversity is nowhere more emphatically presented than in the multitude of languages, which are spoken through the length, and breadth of the country. They come from different language groups – Indo-Aryan, Dravidian, Austro-Asiatic and Tibeto-Burman. And these languages are spoken by people whose number ranges from a few hundred to many crores. Some have a recognized script and a long tradition of literature, secular and religious, while some are struggling to find a script and have only the folklore to keep the language going. And all linguistic communities want to preserve their languages. Following the reorganization of the states on the linguistic basis, there was a conscious effort to reassure the linguistic minorities in the various states that their interests will be safeguarded. The safeguards arrived at through Constitutional provisions and by evolution of consensus amongst the states can be listed as (a) translation and publication of important rules, regulations, notices, etc., into all languages, which are spoken by at least 15% of the total population at district or sub-district level; (b) declaration of minority languages as second official language in districts where persons speaking such languages constitute at least 60% of the population; (c) Receipt of, and reply to, representations in minority languages; (d) instruction through mother tongues/ minority languages at the Primary stage of education; (e) instruction through minority languages at the Secondary stage of education; (f) linguistic minority pupils, and inter-school adjustments; (g) provision for text books and teachers in minority languages; (h) implementation of Three-language Formula; (i) no insistence upon knowledge of State’s Official Language at the time of recruitment. Test of proficiency in the State’s Official Language to be held before completion of probation (j) issue of Pamphlets in minority languages detailing safeguards available to linguistic
minorities; and (k) setting up of proper machinery at the State and district levels.64

The Forty Second Reports of the National Commissioner Linguistic Minorities further stated that “In the beginning the concern was repeatedly expressed and whenever there was a deviation, remedial steps taken. As the system evolved, the attention wavered and all these concerns became commonplace. Gradually a slackening was noted and needless to say the implementation of the safeguards at present is not uniform over the various states. With the passing of time the priorities have changed. A general sense of apathy seems to have taken hold of some of the states for various reasons. Perhaps one of the reasons is the growing complexities of the administration. The harassed administrator is far too much occupied with fire fighting operations to take a look at the other issues which can be left alone to take care of themselves. At the higher level, there are other problems which are of much more urgency to them”.65

The heart of the controversy on the language problem derives from three important issues. These include the official language issue that what should be independent India’s official language, English – the ambivalent legacy of the British Raj – or Hindi as proclaimed in the Constitution? The second issue is in regards to the demands for the linguistic reorganization of the provinces of India whose boundaries during British rule did not conform to linguistic divisions. Finally we have the issue of the status of minority languages within reorganized states.

After some crisis and negotiations between various groups in the government and Congress Party, “three-language formula” was announced. Every state was to have freedom to transact its own business

64 Forty Second Report of the National Commission of Linguistic Minorities Year July 2003 to June 2004
65 Ibid.
in the state language, which was also to be the medium of instruction in the state universities; English was to continue as the language of inter-state communications (if these were written in Hindi they would have to be accompanied by an official English translation); non-Hindi states were to continue to correspond with the Center, including the Parliament; official examinations were to be conducted in English, Hindi, and all the regional languages; and there was to be a phased program for the development of Hindi. Although no section was fully satisfied with this compromise formula, the announcements – became the basis for a slow process of consensus. The Constituent Assembly resolved to recognize the major regional languages as “national” languages through their incorporation into the Eight Schedule of the Constitution.

A listing on the Eighth Schedule carries symbolic and material advantages: a presumptive right to recognition as a minority language in states where other languages are dominant, including a presumptive right to recognition as medium of instruction in both primary and secondary education classes in such states, a right to the protection of the President of India (i.e. the central government) on the advice of the Commissioner for Linguistic Minorities against discrimination in use of the language, and representation on language development committees appointed by the central government.

It will be appropriate to mention very briefly here that there are Articles in the Constitution of India which protect the rights of linguistic minorities. Article 350A obliges every state and local authority “to provide adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups.” Article 20, 30, and 350, which refer to “languages”, confer broader rights upon linguistic minorities to preserve their “distinct language, script or culture” (Article 20), “to establish and administer educational institutions

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of their choice" (Article 30), and to submit representations for redress of grievances to any central or state authority in any language (Article 350).

The original linguistic policy (e.i. before the reorganization of State on the basis of language) is in fact a non-territorial measure to accommodate the ethno-regional identity in India. First, the right to language forms part of the fundamental 'cultural and educational rights of minorities' (Article 30) which stipulates that the minorities shall have the right to establish and administer educational institutions of their choice. The State shall not impose upon it any culture other than the community's own culture. Secondly, there is provision (Art. 345 & 347) for 'officially recognizing' languages by placing a particular language under the 8th Schedule of the Constitution. So far, 22 languages have been 'officially recognized' in India. This method seeks to accommodate linguistic group(s) in many ways. It satisfies the need for identity (linguistic) for the aggrieved community. Again, it entitles the linguistic community to demand to read, among others, all official communication and documents in their language. Moreover, such languages as 'officially recognized' and placed under the Eight Schedule, become the third language in India's so called 'Three-language formula' i.e. Hindi (national language), English (link language), and the Eight Schedule language, as mentioned above. In actual political process, the demand for the official recognition of languages has most often been intertwined with the movements for the political recognition of identity.

The process of Linguistic reorganization of states in India was far more prolonged and divisive than the controversy over the official language of India and raised more fundamental questions of center-state relations. A major movement in Andhra region of the old Madras province led to the appointment of the State Reorganization Committee. Following the States Reorganization Act of 1956, the boundaries of the southern States were reorganized in the closer conformity with traditional linguistic regions. The bifurcation of the Bombay province into the
present States of Gujarat and Maharastra followed in 1960. In 1966, Punjab was reorganized and its several parts distributed among three units: the core Punjabi Suba, the new states of Haryana, and Himachal Pradesh.67

However, this reorganization of some of the larger States in the country is not the end of the linguistic problems in the country. It is only in the regions where the strong base of popular support has been established that the reorganization of the States on linguistic difference was considered. It is demonstrated, for example, in the northern part of the Bihar province, where cultural and literary elites demanded the creation of a separate province for speakers of Maithali, a language distinct from both its neighboring communities of Hindi and Bengali speakers.68

Further, it is being said that the struggle for the demands for enforcement of Article 350A and demands to be recognized, as for example in the Eighth Schedule, as a “language,” faced strong resistance from state governments which wish to avoid the administrative cost of implementing mother tongue instruction for a multiplicity of minority languages and, even more important, from those in and out of government who wish to secure the dominance of the major regional languages in their states and seek to assimilate the speakers of such mother tongues to the dominant language.69

There are two very important issues regarding the present way of recognizing linguistic minorities in India. First, in India there are both Stateless linguistic minorities which speak a language, which is not ‘officially’ recognized, and which do not have a State. Second, there are States, most notably in India’s northeast where the local language/dialects spoken by overwhelming number of the people are not

68Brass, Ibid, p.173
69Ibid. pp.178-79. Also see Commission of Linguistic Minorities, Report, XXIII, pp.201.
yet 'officially' recognized. This is, for instance, the case in Meghalaya, Mizoram and Nagaland where the state level official languages are not those spoken by the majority of the people in the states.

**Recognition through Special Representation: The Anglo-Indian Case**

Another important provision in the constitution that can be of our interest is that of Anglo-Indian community. The Anglo-Indian community in its proper sense is a distinct (and statistically very small) minority community (0.00018%-0.00036% of the total population in India) originating in India, consisting of people of mixed British and Indian ancestry whose native language is English. An Anglo-Indian's British ancestry was usually bequeathed paternally.70

During colonial rule Anglo-Indians were usually afforded protected political, economic, and sometimes social positions by the British. They were often guaranteed jobs in certain strategic occupations — customs, communication, transportation, and the police. However, with the coming of national independence in 1947, the reference group and protector of this Community, the British, were no longer present. It was then necessary that they stand alone or simply cease to exist as a

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70Article 366(2) of the Indian Constitution defines an Anglo-Indian as "a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is domiciled within the territory of India and is or was born within such territory of parents habitually resident therein and not established there for temporary purposes only". Under this definition, the Mesticos (mixed Portuguese and Indian) of Goa are also included. There are also no means of accurately indicating the number of Anglo-Indians remaining in India. The last census that enumerated the Community (1931) as a distinct category indicated a total Anglo-Indian population of 138,895 (including 19,200 in Burma). Many Anglo-Indians appear to have listed themselves as "European," thus confusing the issue further. There is, therefore, no way of knowing the actual number of Anglo-Indians remaining in India, but a rough estimation of between 80,000 and 100,000 is normally used. The President of the All-India Anglo-Indian Association, in a 1964 interview with the senior author, estimated the number having departed India at that time to be between 100,000 and 150,000. The number he cited is undoubtedly too large; however, an estimate that migration has encompassed upwards to one-half of the original community is probably close to being accurate. Thus, Figure of Anglo-Indian Community in India is very difficult to find out. Most of the Anglo-Indians are based in the cities of Delhi, Kolkata, Bangalore, and Mumbai, and also live in Kochi, Chennai, Goa, Pune, Daund, Lucknow, Agra, and in some towns of Bihar, Jharkhand and West Bengal. My account on the community is mainly based on J R. Dean Wright and Susan W. Wright. 'The Anglo-Indian Community in Contemporary India', *Midwest Quarterly* XII (winter, 1971) 175 – 185; Wikipedia, the free Encyclopaedia, en.wikipedia.org/wiki/Anglo-Indian; and Bakshi, 2002.
cultural entity. Constitutional provisions in 1950 guaranteed all Anglo-Indians certain continue privileges for a period of ten years so as to assist them in their adjustment to the new social order that was destined to inevitably develop after independence. At the end of that protected period they were to be placed in open competition with the remainder of the indigenous population. As a result of their obvious social and cultural emulation of Europeans, making them uniquely identified in the culture of India and their insecure position in a society becoming increasingly nationalistic, they found themselves occupying a truly marginal status.

There is no evident official discrimination against Anglo-Indians in terms of current government employment but it is widely perceived that their disinclination to master local languages does not help their employment chances in independent India. Constitutional guarantee of the rights of communities and religious and linguistic minorities permit Anglo-Indians to maintain their own schools and to use English as the medium of instruction. In order to encourage the integration of the community into the larger society, the government stipulates that a certain percentage of the student body come from other Indian communities. Thus, they also have the rights provided in the Articles 29 and 30 of the constitution.

Besides these rights, the Anglo-Indian community is the only Indian community that has its own representatives nominated to the Lok Sabha (Lower House) in India's Parliament. This right was secured from Nehru by Frank Anthony, the first and long time president of the All India Anglo-Indian Association. The community is represented by two members. This is done because the community has no native state of its own. States like Andhra Pradesh, Tamil Nadu, Bihar and Kerala also have a nominated member each in their respective State Legislatures. A

\[71\text{Articles 331 and 333.}\]
very interesting point is that this group is the only group in India, which gets political representation on the basis of distinct identity.

Ethnicity and Policies of Recognition in India

Of course, linguistic federalism has proved, more or less, to be an effective means of maintaining the unity of India and the loyalty of the citizens of its principal linguistic regions. In the case of Northeast, territorial boundaries have been reorganized and created separate states setting aside linguistic basis of territorial demarcation used for a majority of other states and recognizing instead “cultural autonomy/ethnic identity as a sufficient criterion”. The formation of Nagaland and Meghalaya as separate states of the Indian Union is the result of this act of ethno-cultural landscaping that transcends ethno-linguistic landscaping. No territorial solution to ethnic problems, however, can by itself satisfy the claims of all minority groups. Outright secessionist movements accompanied by bitter, prolonged, and bloody confrontations between insurrectionary groups and government security forces marked the politics of Punjab, Assam, and the Muslim-majority state of Kashmir in the late 1980s and early 1990s. Finally, 50 years after partition, Indian state leaders had failed to resolve satisfactorily the persistence of Hindu-Muslim communal division.

Take examples of the States in Northeast India. Several sets of ethnic confrontations intersect the region: between Hindus and Muslims, linguistic groups (particularly Assamese and Bengali speakers), plains peoples and Tribal Hill peoples, plains tribals and non-tribals, and the indigenous population and a large migrant population. Here the specific problems of state reorganization centered on the demands of the tribal peoples. The languages of the tribal people and their religions were

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72This account is from the paper ‘Exploring the Grounds Conditions for Code Production in Multilingual Settings: Comparative Notes on linguistic landscaping in Nagaland and Meghalaya States in Northeast India’, by Dr. Rajesh Sachdeva, Reader in Linguistics, NEHU, Shillong. The author can be contact at rajesh_sachdeva2000@yahoo.co.in.
secondary issues in the demands for the reorganization of the region. It is, rather, based on common ethnicity.

The reorganization of Assam and the border region, formerly called the North East Frontier Agency (NEFA), took place in stages and led to the formation of four new predominantly tribal states: Nagaland, granted statehood in 1963; Meghalaya formed as a separate state in 1972 for the Garo, Khasi, and Jaintia tribes; Arunachal Pradesh, the name given to NEFA, created as a Union Territory in 1971 and granted the status of a separate State in 1987.73

Besides this federalization into states to accommodate minority nationalist claims for autonomy,74 the state also gives autonomy to different ethnic groups in the form of Autonomous District Council. I will explain the importance of these District Councils little later. However it is worth mentioning here that like many western multi-nation federations, India has accepted the requirement for some form of asymmetry in the federal system to accommodate different forms of minority self-government claims, for example the special self-government provisions of Kashmir in Article 370 of the Constitution, the special provisions for other states in Article 371, or the provisions in Schedule V and Schedule VI to the Constitution, which provide special protection for the administration and autonomy of tribal territories in Assam, Meghalaya, and Mizoram.

According Special Provisions: A Mode of Sustaining Diversity

Part 21 of the constitution provides for certain special provisions for some states. Out of these provisions only two deserves discussion for our purpose. Because, most of others are related with development of certain region for instance, Article 371 which relates to some regions of

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74India has many of the hallmarks of a multination federalism. Please see Kymlicka, 'Liberal Multiculturalism'; Mahajan, 'Indian Exceptionalism or Indian Model’ in Kymlicka Will and Baogang He, 2005.
Maharashtra and Gujarat. Even article 370 which gives special power to the state of Jammu and Kashmir is related with the whole state and not necessarily mean for certain community and promotion of the culture of that particular community, and I have already talked about it earlier. Our main concern here should be those provisions which categorically speak about the protection and promotion of cultural identity.

Thus, there are two very important provisions. These are Article 371A and Article 371G which need special mention. The federal status of Nagaland is governed by Article 371A, which many a time is taken to be analogous to Article 370 for India's Jammu and Kashmir. However, these two are quite different. The autonomy given in the Article 370 to the state of Jammu and Kashmir is of total political nature whereas 371A provides cultural autonomy to the 'Nagas' of Nagaland. That is, the provisions in Part 21 are meant for one specific community. It categorically aims at the promotion of cultural practices of one particular community, namely the Nagas. It carries 'special provisions' to protect 'religious or social practices of the Nagas', 'Naga customary law and procedure' and 'ownership and transfer of land and its resources'. The most interesting part of the Article is that this enables the Nagas to preserve and promote their culture without any interference from the Union. Article 371A (a) says that no act of Parliament in respect of (i) religious or social practices of the Nagas, (ii) Naga customary law and procedure, (iii) administration of civil and criminal justice involving decisions according to Naga customary law, (iv) ownership and transfer of land and its resources, shall apply to the State of Nagaland unless the legislative Assembly of Nagaland by a resolution so decides.

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75 Again the intentions of the provisions of Article 370 are quite different from that of 6th schedule. While both the provisions can be taken as parts of federal devolution of powers, Schedule 6th speaks laudor when it comes to cultural autonomy of tribal communities. And autonomy given in this part 21 is also different from that of 6th Schedule. I will discuss it in detail when I study the provisions of 6th Schedule little later.
This clearly is a group specific right given to a particular community called Nagas.\textsuperscript{76} There have been wide discussions on the issues the Nagas in Nagaland. Here it is enough to say that even some observe that Statehood also gave the Nagas a sense of unity, identity and a separate political entity for the very first time. Tuensang and Mon areas were merged with the new State and the representatives of these areas were represented for the first time in policy-making for the development of the people. It established parliamentary democracy in the society and ensured that the destiny of the Nagas would be decided and charted by the Nagas themselves and not by someone alien to their ways of life at the same time, recognizing the need to preserve their culture, traditions and customary laws. There are, however, many questions such as why Nagas are still demanding other forms of group rights including formation of a separate Naga state. Some argues that the Nagas view Article 371 (A) as window dressing; it is associated with the same controversies as were involved with the creation of the state of Nagaland. It is seen as a tool to further divide the Nagas, since the article is limited to Nagas living in the state of Nagaland. But it is not proper to discuss it at the moment and I will write on it in coming chapters. The point is that this right is an example of group specific rights given in the Constitution aimed at the protection and promotion of diverse cultural communities. This Special status is one of the strategies adopted by federal systems to satisfy the demand of national groups for political and cultural autonomy.

Article 371G speaks in the same tune for the state of Mizoram. The article reads: notwithstanding in this constitution, no Act of Parliament in respect of - religious or social practices of the Mizos, Mizo customary law and procedure, administration of civil and criminal justice involving decisions according to Mizo customary law, ownership and

\textsuperscript{76} ‘Naga’ or ‘Nagas’ is a much contested term. I will explain it later in chapter on Manipur.
transfer of land, shall apply to the state of Mizoram unless the legislative Assembly of the state of Mizoram by a resolution so decides. These are some instances, albeit limited cases, where customary laws are respected with strong protective measures supported by the Constitution of India. Foremost among these are the customary laws of the indigenous Naga and Mizo peoples of the Nagaland and the Mizoram states in North-east India. The measures to safeguard against interference in these peoples' customary law, procedures and land-related matters are firmly entrenched in the Constitution of India. To amend or do away with the relevant constitutional provisions requires not only a special majority of the country's bicameral houses of parliament, but also the consent of the state assembly concerned, which is now controlled by the indigenous peoples of the state.

What we need for a successful multicultural polity is some kind of autonomy, to be given to minorities that enable them to establish and govern their own public institutions, often operating in their language, including schools, universities, courts, and regional parliaments. But this autonomy should not be limited to either exclusively political or cultural claims. It should be a mixture of both. It will ensure full and equal membership to all communities within the state. In this regard, the provisions of sixth schedule offer great promise. I will discuss this provision in the following pages. Here, it is enough to say that the provision of sixth schedule which confers special powers and responsibilities on schedule areas, autonomous districts and autonomous regions let the smaller tribal communities to live and define themselves in their distinctive ways in relevant respects.

That is a brief account of what we, as a culturally diverse nation, have in the Constitution for promotion and preservation of different ethnic, religious and linguistic minorities. Apparently, there is ample scope of maintaining diversity in the country through the given mechanisms. To sum up the whole account, India employs three
important institutions. First, India explores the option of extending the preferential treatments, usually armed with affirmative action, for the weaker sections of the society such as women, children, backward caste, religious minorities, ethnic minorities, linguistic minorities, physically challenged persons, etc. Secondly, India also tries to recognize the linguistic and cultural differences of different groups in the country by creating specific units (federal units) on the bases of language and ethnicity. Indian is one of the few federal countries that grant political, social and cultural autonomy by demarcating its territory for national minorities. Furthermore, India tries to acknowledge the need for politically elevating some of its minorities and weaker sections of the country by reserving seats in the Parliament, State Assemblies and Local Self-Government institutions. These are the groups for which state cannot demarcate a territory for self rule. Thus, tribal communities, women, backward caste and Anglo-Indians are given such opportunity to represent themselves in various levels of governance.

However, there are various issues and questions concerning the working of all these provisions. These provisions are seemingly capable of addressing basic problems of a multi-ethnic State. However, ethnic conflicts, communal riots, demands by weaker sections, and the cries of individual members against the community rules and regulation shows that the existing institutional arrangements need rethinking and insert, if necessary, new ideas and policies. It is true that Indian Constitution tries to combine two important values in maintaining, on the one hand, liberal individual based democratic rights, and on the other hand, some form of mechanism to recognize collective identity of groups. However, the Framers of the Constitution set forth these two values as freestanding entities. No attempt is being made to ensure the symbiotic relationship of the two. That is the reason why many individuals cannot go against the conditions set by groups (for example personal laws of religious groups). In India, especially in connection with the religious
groups, internal members of the groups have little space to exercise their personal liberty. The case of Shaha Banu, or Fatwa against Sania Mirza well illustrate the problem. The Constitution has provided enormous rights for women including reservation of seats in the Parliament, and local-self-Governments. But this does not ensure the protection of women within the group. One example can be the controversy over the Jammu and Kashmir Permanent Resident Status (Disqualification) Bill 2004. The discontent centered on Kashmiri women losing their right to alienate or sell their property to others or pass it on by inheritance if they married a non-Kashmiri. Such a distinction was clearly gender unjust since no such law applied to Kashmiri men who married non-Kashmiri women. Since 1927, some element of gender discrimination has crept into the interpretation of 'State subject' and 'permanent residence' laws. All such laws were read so that women who married non-State subjects or residents lost some of their special privileges, including property rights. In 1965, in the Sahani Case, the Jammu and Kashmir High Court seemed to support this gender unjust approach so that a woman's domicile would necessarily follow that of her husband. In 1980-82, huge controversies were created by the J&K Re-settlement Act, which invited past residents (including those in Pakistan) back into Jammu and Kashmir.77 This is one of the challenges India need to face in the coming years.

II b: Frameworks of Recognition used in Northeast India with Reference to Meghalaya
The above discussion clearly shows that the Indian Constitution certainly acknowledges the importance of diversity. It is not to say, however, that the provisions given in the Constitution is free from limitations. Thus, it is argued that it is not the ethical insights of the State that has led it to

take the lead in legal prohibition of "scavenging and atrocities". "The Dalit assertion for self respect in certain parts of the country has forced the central and state governments to implement these Constitutional provisions in order to ensure cultural injustice to the untouchables". Further, all the provisions in the Constitution are not necessarily meant for recognition of cultural differences of diverse groups. Many of the provisions are "directly related to the distributive form of justice and are hence aimed at acquiring positional good". Again, the Constitution overlooked one important value that can ascertain equality between all the groups. Without this value the hope for building a truly multicultural society will not be successful. These problems are clearly seen particularly in the Northeast. I will discuss it in depth along with other problems of multi-ethnic identities, in the next chapter. Here let me outline briefly important institutional arrangements currently implementing in the North East with special reference to Meghalaya.

As mentioned earlier, the Constitution speaks in a special way about the tribal communities in India. They are classed into two groups, namely:

(a) STs residing in various States and the Union Territories; and
(b) Tribal Communities living in the Tribal Areas and Districts in the Northeast States.

The classification was made necessarily because of the difference in the level of development and the backward conditions of the tribal communities inhabiting outside the autonomous districts and autonomous regions situated in the Northeast region. They need special attention, nay, often special protection. In their welfare, the Government of India has special interest. Over the areas inhabited by them, the scope of the executive power of the respective state-

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79 Ibid.
80 Kaggzi.p.1080
government is restricted. They are administered in accordance with the special provisions of the Fifth Schedule, Sixth Schedule to the Constitution, and a host of other important provisions. The Governors of the respective state governments have some special responsibilities towards these people; and may not be required to act on the aid and advice of the State Cabinets. They submit annual reports to the President; and act under directions of the Central Government for the betterment of the tribal communities. The Governors in their turn are required to associate the members of the tribes in the administration of the tribal areas. In each of the schedule Areas there may be a tribal Advisory Council. Amongst its members there are the tribal representatives who are members of the State Assembly, having been returned from the tribal areas. A Tribal Council is an advisory body. The Governor, who has power to promulgate regulations for the peace, order and good governance of the Tribal Areas, is required to consult the Tribal advisory Council. The members of the Schedule Tribes enjoy special rights. The State can make special provisions for their advancement of education amongst the tribes, and for the development of their social conditions.

The region has a long history of having separate forms of administration since long and even the same during the colonial era. They had been given different names such as “Schedule Districts”, “Backward Tracts”, and the region was ultimately divided into “excluded” and “partially excluded” areas to mean that the powers of the provincial legislature were not to extend to these areas. Summarizing the implications of the provisions constituted for these areas on the eve of the framing of the Constitution and which are important for our purpose, Justice Hansaria stated three points, (i) the laws enacted by the Federal or Provincial legislature did not apply ipso facto to these areas; (ii) a machinery was provided to apply these laws with or without
modification; and (iii) wide powers were given to the Governor to make regulations for the peace and good government of the territories.81

Parts of the region have been organized and reorganized to fulfill the demands for the recognition of major tribal communities of the region. First, the erstwhile composite State of Assam had been reorganized into various “Tribal Areas” for instituting Autonomous Regions and Districts. Then, starting from 1962 “the State of Nagaland Act”, which formed the Naga Hills – Tuensang Area, which was then a part B Tribal Area within the State of Assam, a separate State as to be known as Nagaland, the State has been reorganized to form many other separate States. Assam Reorganization (Meghalaya) Act, 1969 was enacted establishing state of Meghalaya comprising of the United Khasi-Jaintia Hills District and the Garo Hills District. In 1971, North-Eastern Areas (Reorganization) Act was enacted. By this Act Statehood was granted to Manipur and Tripura which were till then Union Territories being Part C States, and Mizo District and North East Frontier Agency were taken out of Assam and made separate Union Territories called Mizoram and Arunachal Pradesh. The Constitutional (27th Amendment) Act 1971 made special provision for the state of Manipur by inserting Article 371C empowering the President to constitute a committee of the legislative assembly of the state for the welfare of the Hill areas of the state of Manipur.82 Thereafter many Amendments to the Constitution have been made to fulfill the demands of Tribal Areas of the region. The provisions of Sixth Schedule have been applied even to the State of Tripura under Constitution (49th Amendment) Act 1984.83 Bodos, a plain tribe living on the north bank of river Brahmaputra within Assam, have been demanding a separate Bodoland since 1987. After long drawn negotiation and series of meetings, the Bodo Accord was signed on 20th

83Ibid. p. 24
February, 1993 to provide maximum autonomy to the Bodos within the framework of the Constitution for their social, economic, educational and cultural advancement.\textsuperscript{84}

The Meghayan Experience

The nature of ethnic conflict in the Northeast is very complicated and each state has its own peculiarity. For a precise analysis I take up the case of Meghalaya. Meghalaya doesn’t and cannot represent the whole region of the NE but this analysis will certainly help me in explaining why we need to reconstruct the theory of multiculturalism. It will be proper, at this juncture, to give a brief account of Meghalaya and its history of becoming a state. Meghalaya is a small state in Northeast India. Meghalaya was formed by carving out the two districts of the state of Assam: the United Khasi and Jaintia Hills, and the Garo Hills on 21st January 1972. Prior to attaining full statehood, Meghalaya was given a semi-autonomous status in 1970. The Khasi, Garo, and Jaintia tribes each had their own kingdoms, until they came under the British administration in the 19th century. Later, the British incorporated Meghalaya into Assam in 1835. The region enjoyed semi-independent status by virtue of a treaty on relationship with the British Crown.

When Bengal was partitioned on 16 October, 1905 by Lord Curzon, Meghalaya became a part of the new province of 'Eastern Bengal and Assam'. However, when the partition was reversed in 1912, Meghalaya became a part of the province of Assam. At the time of Independence of the country in 1947, the present day Meghalaya comprised of two districts of Assam and enjoyed limited autonomy within the state of Assam.

On 3 January, 1921 in pursuance of Section 52A of the Government of India Act of 1919, the Governor-General-in-Council

\textsuperscript{84} The Tribune, 'The New Bodo Accord', Editorial, Wednesday, February 12, 2003, Chandigarh, India.
declared the areas now in Meghalaya, other than the Khasi States, as "backward tracts". Subsequently however, the Government of India Act of 1935 regrouped the backward tracts into two categories, namely, "excluded" and "partially excluded" areas. The Assam Reorganization (Meghalaya) Act, 1969 accorded an autonomous status to the state of Meghalaya. The Act came into effect on April 2nd 1970, and an Autonomous state of Meghalaya was created within the state of Assam. The Autonomous state had a Legislature in accordance with the Sixth Schedule to the Constitution. The Legislature had 37 members. In 1971, the Parliament passed the North-Eastern Areas (Reorganization) Act, 1971, which conferred full statehood on the Autonomous State of Meghalaya. Meghalaya attained statehood on 21 January 1972, with a Legislative Assembly of its own.

Institutional Arrangements in Meghalaya

Many institutional arrangements have been in practice in Meghalaya. It includes three Districts Councils created for each major ethnic group with the objective of enabling them to control and administer over tribal lands and forests, and to be a custodian of customary laws and practices. Meghalaya has the unique distinction of having retained its customary laws and practices and its traditional institutions. And again there is the Meghalaya transfer of land (Regulation) Act that stipulates that no land in Meghalaya shall be transferred by a tribal to a non-tribal or by a non-tribal to another non-tribal except with the previous sanction of the competent authority. The Meghalaya Maintenance of Public Order

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85Tribal peoples make up about 85% of Meghalaya's population. However, in some interior reaches of the Garo Hills, the percentage of tribal population is as high as 97%. The Khasis are the largest group, followed by the Garos. These were among those known to the British as "Hill Tribes". Other groups include the Jaintias, the Kosh and the Hajong, Dimasa, Hmar, Kuki, Lakhar, Mikir, Rabha etc. About fifteen percent of the population is defined as non-tribal; these include about 54,000 Bengalis and 49,000 Shaiks. Meghalaya is one of three states in India to have a Christian majority; the other two (Nagaland and Mizoram) are also in the north-east of India. A sizeable minority (16%) of the population follow an ancient Animist philosophy.
(Amendment) Act (1979) facilitates the state government to distinguish between a permanent non-tribal resident and one who settled in the state recently. And there are a host of other Bills and Acts. And even Meghalaya was created to meet the aspirations of ethnic groups that inhabit it namely, the Khasi, the Garos and the Jaintias.

The case of Meghalaya is a typical case in which the Center tries various options of resolving ethnic crisis. Although the debate on the success of the government policies and level of its implementation is still on, this is a case where various policy options have been introduced. For the time being my purpose is to examine these various institutional arrangement so that the discussion on ‘why ethnic conflict still enduring in the state’ in next chapter would be more uncomplicated.

Federal Arrangement

It will be proper to start with the formation of the state. And this is a very important step of the union taken to ease the tensed atmosphere of ethnic divergence in the region. It is a story of three different ethnic groups coming together emotionally to form a single unified state in the hope of protecting their identities from outsiders. To be very brief and precise, prior to the British colonization of the region, the different tribes living in the North-Eastern hill region maintained their distinct tribal culture, tradition and unique socio-political system. The British rulers, as part of their colonial policy, wanted to separate the hill tribes from the mainstream in the plains of Assam. Under the Government of India Act

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86 One of the unique features of the state is that a majority of the tribal population follows a matrilineal system where lineage and inheritance are traced through women. The Khasi and Jaintia tribesmen follow the traditional matrilineal norm, wherein the "Ka Khaddah" (or the youngest daughter) inherits all the property and acts as the caretaker of aged parents and any unmarried siblings. However, the male line, particularly the mother's brother, may indirectly control the ancestral property since he may be involved in important decisions relating to property including its sale and disposal. The tribal people of Meghalaya are therefore a part of what may be the world's largest surviving matrilineal culture. According to India's National Family Health Survey, Meghalaya is the state where parents have shown the least interest to have a male child -- 73% less than the national average. I learnt many of these information from an interaction with some elders in Shillong on 25-11-07.
1935, the hill areas of undivided Assam were divided into two categories. The Lushai (Mizo) hills and North Cachar hills were categorized as excluded areas, whereas the United Khasi and Jaintia hills district, with partial exception of Shillong town, which also was capital of undivided Assam, the Garo hills, the Naga Hills as partially excluded area. After independence, the constitution also broadly accepted the spirit of the Government of India Act 1935, by providing each hill district Autonomous District Council under the Sixth Schedule. Slowly tribal people realized and got apprehensive that their identity would be in jeopardy by the immigrant plainsmen. As a result the three matrilineal communities viz. the Khasi, the Jaintia and the Garos, were united emotionally to maintain their distinct identity for fear of exploitation by the outsiders. So movement for a separate state gained considerable strength after 1952 elections. The Garo National Council (GNC) unequivocally supported the proposal for a separate hill state. Declaration of Assamese as official language in the state of Assam in the 1960 gave a severe shock to the hill people and the All Party Hill Leader’s Conference (APHLC) came into existence as a political party, which was destined to play a vital role in the formation of Meghalaya. Under Article 244, an autonomous state was formed in 1970, April 2, consisting of three hill districts of Assam, i.e. the Garo Hill district, the Khasi Hills district and the Jaintia Hills district. The acceptance of the autonomous state was not a full-fledged one and was not able to fulfill the demands of the hill people, as a result an unhappy strained political atmosphere surfaced. In 1968 Mr. Hopingstone Lyngdoh came out from APHLC and formed a new political party, the Hill State People’s Democratic Party

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(HSPDP) and the demand for a full-fledged state got momentum. Consequently on 21st January 1972 Meghalaya was declared a full fledged State. Thus, these three dominant ethnic groups of Meghalaya were once united to fulfill their aspirations and for retention of their identity.

The Autonomous District Councils

I will give utmost importance to the provision of Sixth Schedule. This is because of the fact that this can be taken as the biggest innovation of the constitutional fathers for safeguarding the interest of the diverse ethnic communities in the North-East. It has both the prospects and problems in dealing with ethnic diversity in the North-East. While I will take the problems of this institution in next chapter, here I will give a brief account of this provision as it exists in the State.

The historic Objective Resolution, which was moved by Jawaharlal Nehru and adopted on 22 January 1947, proclaimed that India would be an independent Sovereign Democratic Republic wherein, inter-alia, adequate safeguards shall be provided for the minorities, backward and tribal areas, depressed and other backward classes. For the tribal areas in the country, especially those in the North-East, certain specific provisions were provided in the constitution. Thus, the makers of the constitution recognized the importance of a separate political and administrative structure for the Hill Tribal Areas in the North-East. Subsequently the Sixth Schedule to the Constitution was enacted. It is said that in doing so the constitutional fathers were guided by three major considerations: “The necessity to maintain the distinct customs, socio-economic and political culture of the tribal people of the region, and to ensure autonomy of the tribal people and to preserve their identities; the necessity to prevent their economic and social exploitation by the more advanced neighboring people of the plains; to allow the tribal
people to develop and administer themselves according to their own genius*.89

In Meghalaya, there are three Autonomous district Councils, namely, the Khasi Hills Autonomous District Council, the Jaintia Hills Autonomous District Council and the Garo Hills Autonomous District Council. These three Autonomous District Councils cover all the present seven districts of the state. These District Councils were given power to make laws in respect of various matters, such as, utilization and allotment of land for the purpose of agriculture, grazing or any other purpose likely to promote the interest of the tribals, management of forest (except reserve forest), canals or water course, regulation of jhum cultivation, village and town administration including police and public health and sanitation, appointment of chiefs and headsmen, inheritance of property, marriage, divorce and social customs. Besides these powers, under Para 3, the District Councils can establish Village Councils or Courts for trial of all suits and cases, among parties all of whom are tribals and can make rules for regulating them (Para 5 & 6). They have power to manage primary schools (Para 6), assess and collect land revenue and impose taxes (Para 8), issue license or leases for prospecting of minerals, make regulation for control of money lending and trading by non-tribals. Many of these matters are also included or co-related with subjects mention in the State List.90

The relevance of the Autonomous District Councils has been questioned from time to time especially after the creation of full-fledged states where District Councils are in existence. On the part of the District Councils, they have been demanding more autonomy and direct funding from the central government to strengthen their power and

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90This overlapping of powers creates various sorts of problems. I will discuss it in the next chapter. Also see Biswas P.C., 1997, ‘Autonomous District Council: the Sixth Schedule Autonomy and Development (Meghalaya)’ in L.S. Gassah (ed.) The Autonomous District Councils, Omsons Publications, New Delhi.
functions. I will discuss this problem little later. Here the most important concern is that these autonomous District Councils were created in response to the demands of the tribal people for autonomy, their apprehensions about the preservation of their ethnic identity and their rights over the land, natural resources, customary laws, traditions, etc. They were conceived to ensure the right to self-rule of the tribal people, to manage their affair according to their own genius, to enable them to preserve their ethnic identity and to face the force of assimilation squarely from their more advanced neighbors in the plains.

One very important aspect of the provisions of the Autonomous District Council is that it is a great deviation from the hedonistic and individualistic principle of the 'greatest happiness of the Greatest number', thereby acknowledging the need for promoting cultural values of communities, who have culture and civilization of their own. This is, again, a means to help the country integrate through the method of using willing co-operation of the ethnic minorities of the region. It will be proper to mention here that there are certain institutions among these hill tribals which are so good that it would be wrong to think of destroying them. One such institution related to the administration of justice, the manner in which they settle their disputes. Cases which would go in the name of murder according to Indian Penal Code were settled by these people by the barest method of Panchayats decision and by payment only of compensation. Even in the case of village administration, communities distribute the entire functions of the society through certain age groups of people in their societies. The boys would perform certain simple functions, leaving the sturdier function of the State to the adults, while the elders would give their judgments in case of disputes and order distribution of lands for jhuming and things of that.

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91 It is what Bentham and other utilitarian philosophers considered as the overriding criterion of good law and good morals. See Iain Hampsher-Monk, 1992, A History of Modern Political Thought, Blackwell, p. 305.
In other words, before the application of the Sixth Schedule, they were already exercising certain amount of autonomy in their own way. The application of Sixth Schedule is a means to preserve such autonomy and cultural values. It is a more democratic way of integration. It is a form of self-government, to rule themselves according to their culture and genius.

It will be proper to put forth, at this juncture, the main differences between the nature of autonomy given in Part 21 and the kind of power given to tribal communities under Sixth Schedule of the Constitution. Whereas both the provisions attempt to promote and preserve the cultural differences of the communities, the stipulation specified in the sixth schedule is much wider. This is so because of the fact that whereas the provisions in part 21 stated that the cultural necessities of certain ethnic or cultural groups should be respected and in the process parliament or any external institutions for that matter shouldn't have any say in the cultural affairs of that particular community, the provisions in the Sixth Schedule go little further to give a clear political autonomy to the tribal in schedule regions. Again, the nature of recognition given in part 21 is such that it directly concerned with one particular cultural group, for instance Article 371A speaks of Nagas in Nagaland and Article 371G talks about Mizos in Mizoram. However, the provisions in the sixth schedule merely mention that 'tribal' areas in each item of part I, II, IIA and III (of the schedule) shall be an autonomous district. The tribal in this context can be any one tribal community and there is possibility of many tribal communities being present in the same area. So it is not autonomy (political or otherwise) of a particular community.

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92This is an administrative system among the Ao Nagas. For detail please see Constitutional Assembly Debates dated 5th to 7th September, 1949, printed by the Lok Sabha Secretariat, Vol.9, pp. 1001-1082.
However, considering factors like, more and more communities demanding autonomous status, Northeast region having large number of ethnic communities, limited territory, etc., there is a need to have a deeper analysis (and perhaps rethinking) of the present provisions under the Sixth Schedule. One such issue is the “territorial” or “area” basis of the autonomy provided under the Schedule.

Language Policy

Language policy of a state shows the degree of its sensibility towards cultural diversity within its territory. This is because of the fact that language is unavoidable part of the culture and tradition of each community. In Meghalaya too, more than 10 languages are spoken. However, the two main languages of the state namely the Khasi and The Garo are recognized as official languages of the State. Earlier English was the only recognized official language of the State. Khasi & Garo Languages have been recognized and notified as Associate Official Languages of the State. The Meghalaya State Language Act 2005 received the assent of the Governor on the 1st May 2005 and published in the Gazette of Meghalaya Extra Ordinary issued dated 4th May 2005. The significance of the honor given to these two languages lies in the fact that these two languages are the dominant languages of the state and these cover almost all local tribal population. Khasi has the status of an associate official language in the districts of the East Khasi Hills, West Khasi Hills, Jaintia Hills and Ri Bhoi. Garo has a similar status in the districts of the East Garo Hills, West Garo Hills and South Garo Hills. Of course, there are problems in the official language policy of the state but this inclusion of the two most important and widely spoken languages in

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93 For some examples see pp. 38 of this chapter.
94 This issue is discussed in detail in chapter 3.
95 This includes not only that of local tribal languages but also that of outsiders.
96 Meghalaya State Assembly Budget Session Starred questions and answers, Tuesday, 21st March, 2006. maintained by Meghalaya State Legislative Assembly Secretariat.
the state official language list has its own contribution to the recognition of ethnic identity of the local tribal people of the state.

**Job Reservation on Ethnic Line**

Meghalaya is perhaps the only state in India to have a job reservation system based on ethnic line. Certain percentage of the state government jobs are reserved for each ethnic group. There is a public job reservation of 40% for the Garos, 40% for the Khasis and Jaintias. Truly speaking, the Jaintias are not satisfied with the arrangement. They keep on demanding for a separate quota for their ethnic group. They feel that by having a combined reservation of jobs with the Khasis, they will not be adequately represented in Government establishments\(^7\) Again, the Khasi Student Union (KSU) has been demanding a change in the reservation policy from the present 40% for Khasi-Jaintias, 40% for Garos, 15% for general and 5% for other backward classes to 50 per cent for Khasi-Jaintias, 25 per cent for Garos and 25 per cent kept open. Members of the Union have argued that the present reservation policy “is unfair” as it is not proportionate to the population index.\(^8\) The argument put forth by the Khasi Student Union and coalition partners is mainly based on the point that Khasi and Jaintias have a larger population than the Garos and, therefore, their quota should be raised. A movement is also brewing in the Garo Hills, opposing the KSU demand. The Citizen’s Forum of Garo Hills, comprising the Garo Students Union, the Garo Mothers Union, the Achik Cultural youth Organization and the Government Collage Students Association have refused to accept any change in the existing policy. Garo legislators, mostly from the Nationalist Congress Party (NCP) have refused to compromise on this

\(^7\)B. Pakem, 1990, *Nationality, Ethnicity and Cultural Identity in North-East India*, Omsons Publications, New Delhi, Guwahati, pp. 292,293.also see Report of the U.K-J (United Khasi-Jaintias), Hills Autonomous District Commission, under the chairmanship of G.P. Jarman which was appointed by the Assam Government on 26\(^a\) August 1963.

issue and have been demanding fair representation for both communities. Sources said even some ruling party (in 2003) MLAs from the Garo hills are opposed to any move to change the reservation policy.99

**Meghalaya Transfer of Land Regulation Act**

There are two important Acts on the basis of which transfer of land in Meghalaya is being regulated. The Land Acquisition Act, 1894 provides the procedures for Land Acquisition for public purposes. It clearly defines the role of the Collector, the persons interested, etc. This Act has been in application in all states except Jammu and Kashmir. So this is not of much importance for us. The Meghalaya Transfer of Land (Regulation) Act, 1972 provides for the procedures for disposing of applications for transfer of land and the penalties for violating the provisions of the Act. The original legislation was enacted in 1971 in response to the host tribes' fear of assimilation and swamping out by the non-tribal population. The Meghalaya transfer of land (Regulation) Act that stipulates that no land in Meghalaya shall be transferred by a tribal to a non-tribal or by a non-tribal to another non-tribal except with the previous sanction of the competent authority. In a major decision of its kind, the Meghalaya Parliamentary Forum (MPF) coalition Government led by Chief Minister E K Mawlong decided, in the year 2001, amended the Meghalaya Land Transfer Regulation Act, 1971 to bar outside tribes like the Nagas and Mizos from buying land in the state. Announcing this at a press conference after the Cabinet meeting, Finance Minister and spokesman of the MPF, A H Scott Lyngdoh, said that this step had been taken in view of the fact that "land had become limited and the Government's first priority is to look after the interests of the state... Only indigenous tribals like the Garos, Khasis and Jaintias besides

Bodos, Kacharis, Kochs, Hmars and Paites be allowed to do so (to buy land). He did not mention any criteria by which the Government had decided to classify tribes as indigenous and others. Scott Lyngdoh said that the Khasi-Jaintia category included the Khasi, Syntengs, Pnars, Wars, Bhois or Lyngngams. It may be mentioned here that the original legislation was enacted in 1971 in response to the host tribes’ fear of assimilation and swamping out by the non-tribal population. The state Cabinet finally approved the amendment to clause (A) Section II of the Meghalaya Land Transfer Regulation Act, 1973 that would enable only the indigenous tribes of the state to buy and sell land.

Traditional Institutions

In a multiethnic liberal state we often face a contest between the political legitimacy of the liberal state and the norms and institutions that apparently are socially and culturally embedded in communities. In its efforts at consolidating a state built around liberal democratic principles, in the post colonial phase, the India too faces challenges in accommodating diversities by sharing its sovereignty with a wide array of autonomous and largely self governing communities. The arrangements arrived at with the tribal communities in India’s north-east, particularly the areas governed by 6th schedule of the constitution of India is a clear example of it.

Meghalaya has the unique distinction of having retained its traditional institutions and customary laws. Though the constitutional

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102 'Meghalaya to bar ‘outsiders’ from buying land,' Nitin Gogoi in Guwahati www.rediff.com/news/2001/Apr/07Assam.htm. I will discuss the limitation of the Act, and conflict among ethnic groups in the state on the issue of land regulation legislation in the next chapter. So far only non-tribals were not allowed to sell or purchase land in Meghalaya ever since it became a separate state, carved out of Assam in 1972. The state has to look into the problems of permanent non-tribal communities.
values are penetrating the traditional tribal local governing institutions, preservation of these institutions remains one of the main demands of the ethnic groups in the state. One challenge that India’s liberal democracy faces is what can be termed as “paradoxical dilemma” of reconciliation between the liberal (individual) spirit enshrined in the provisions of the constitution and the concerns and consciousness of the community. The ethnic communities in the state are demanding recognition for their traditional institutions, which they consider would authentically reproduce their nostalgia for self rule. Fortunately (or unfortunately), the traditional institutions in the state of Meghalaya have been working in the state in cooperation with the institutions of the State but at the same time these institutions are struggling against State institutions for autonomy. Let me discuss here some such traditional institutions.

Doloi of Jaintias: The institution of chieftainship is a common feature among the tribes of the Northeast. Many of them are still working. Doloi is one such traditional institution, which is presently operational among the Jaintias of Meghalaya. This institution was even used by the British in running their administration of the area concerned. To be very brief and precise, Jaintia society has various institutions at various levels such as family, clan and village. Various clan clusters join to form a Raid, which may also be called a semi-state. It is said that at the earliest period of time, the Jaintia people were under the administration and leadership of 'U Langdoh', both at the village and groups of villages levels. The Langdoh combined in him both the sacred and secular functions. The first incumbent of the office of the priest of the Raid was elected from amongst the priestly families of the villages of the Raid. Later on the functions were divided and purely

103 Andre Beteille, 2002, 'Pluralism and Liberalism', the Hindu, January 4,
104 For evolution of the institutions of Raid, Doloi, etc. see L.S. Gassah, 1898, Traditional Institutions of Meghalaya A study of Doloi and his Administration. Regency Publication, New Delhi.
sacred or religious in natures were handed over to the priest and the administration or the secular to the secular chief, 'U Doloi' (Provincial Governor). Thus, the office of the Doloi came into existence. U Doloi is in fact the Chief of the institution or unit called 'Ka Elaka' or Province, which is formed by combining a group of villages or Raids.

A Doloi could either function directly or through his deputy, 'U Pator' with the assistance of 'Ki Tymmen', 'Ki San' or simply 'Ki Wasan' (elders) who are the representatives of their respective clans. Once a Doloi assumes his office he normally holds it for the rest of his life. But he may be punished, expelled or stripped of his office, should he arouse sufficient hostility to his people. The people hold the highest authority; they elect their Chiefs for the purpose of supervising the administration and do not allow and tolerate the Chiefs who behave in a despotic manner which may eventually lead to oppression or suppression of the people. The powers and the functions of the Doloi are circumscribed by the society that differentiates them from other Chiefs prevailing among other tribal communities of the region.105

The above discussed traditional institution is just one among the many which still exist in Meghalaya. The point is that in a multiethnic state, policies of the State are demanded to be structured in such a way that these traditional institutions are not destroyed. Most of the states in the Northeast region exhibits collective projects of varied ethnic groups that are increasingly claiming 'recognition' for these traditional institutions, which they consider would authentically reproduce their

105L.S. Gassah, 1898, op.cit. p. 10. It is said that before the British annexation of the Jaintia Hills, the Jaintias had a three-tier administration. During those times there was the office of the Syiem or King was there. This office was at the apex in the three tier set up. Just below the Syiem there was the Dolois or Provincial Governors in each Elaka. Thus the office of the Doloi held the middle position in the hierarchy. At the lowest rung of the strata of the administration there was the office of Waheng Chnong or village headman. Occasionally an extra tier also exists under the Pator or Lieutenant- Governor. However, the office of the Syiem was abolished by the British and lapsed in 1835 after the annexation and possession of the land by the latter. Also see Pakem B. 'State Formation in Ancient Jaintia', Seminar paper on 'Pre-colonial State Formations in Tribal Regions of East and North-East India', organized for studies in Social Sciences, Calcutta, 24-26 July, 1981
nostalgia for ‘self-rule’ and ‘sovereign legitimacy’. And very often the values and the working of these institutions conflict with that of the state machinery.

The Threat: An Enduring Fact

The above analysis is the brief outline of various institutional arrangements operating in the Northeast and particularly in Meghalaya. The motive of such arrangements during colonial era was that the stage of development reached by the inhabitants of the region prevents the possibility of applying to them the method of representation adopted elsewhere. And the reason behind the adoption of various institutional arrangements in the Constitution being that by granting due recognition to their cultural peculiarities through the provisions for the security of land tenure, freedom in pursuit of the traditional methods of livelihood and the reasonable exercise of their ancestral customs, various existing problems including ethnic conflict in the region could be resolved. However, the problems in the region are still looming large, and showing no sign of receding. There are many other tribal communities demanding autonomy. The tribal people of Karbi Anglong and North Kachar Hills District were dissatisfied of the Quantum of autonomy available to them under the existing provision of Sixth Schedule and there have been a demand to constitute an autonomous state within Assam comprising the said two districts. Not only that, there are other demands from other ethnic groups in the region. But the issue is that even in the areas already provided with some form of autonomy, the tension is yet to fade away. Therefore, we need to examine the root causes of the crisis in the region, and the problems with the existing institutions. I will take up this task in the next chapter when I discuss limits of recognition model in

Meghalaya. Now, it will be appropriate to highlight the distinctiveness of ethnic conflicts in Meghalaya.

**Distinctiveness of ethnic conflicts in Meghalaya**

For a clear understanding of the problems in Meghalaya, we can describe the nature of conflict as; a) conflict between indigenous tribal ethnic communities and the outsiders; b) the inter-ethnic conflict. In the former case, the biggest cause of tension is the fear of the indigenous tribes, that is the Khasis, the Jaintias, and the Garos, of being swamped demographically, culturally as well as economically by the non-tribes who can be broadly categorized into external influx of nationals belong to other countries such as Nepal and Bangladesh, internal influx of Indian nationals from other-states within the country. The Indian government’s policy of curbing illegal immigrants in the Northeast is, of course, a failure. These tribal communities do not like to welcome a sizable number of immigrants in their state as it disturbs their demography and to create tussles in terms of sharing resources. From 1946 Foreigner’s Act to the present policy of erecting fencing in the international border has not been able to curb the influx of illegal migrants.

Again such measures are just to protect or prevent migrants from entering the state. However, there is another story within it. This is perhaps more complex. It is about the conflict that arises between the local tribal communities and the immigrant communities. Even though the immigrants might not have come in group, they settled around in certain localities so as to form a cluster for their own protection. Over a period of time certain kind of culture had evolved. This may be due to their continuing with their own cultural practices different from the local culture or may be a form of common understanding within the immigrant communities. What is more important here is that they want to practice and promote their culture. They practice their cultural activities and rituals in public through activities such as building
temples, celebrating festivals, etc. We can see today many temples of the Bengalis, Gurdwara of the Sikhs and others. They even try to rename their locality in their own term that is different from earlier local terms. This, in fact, is out of their desire to define themselves distinctly from local identities. I have a very good example on it. There is a place named Rynza in East Khasi Hills. Rynza is the traditional name of that place. In the Rynza neighborhood there is a sizable number of Bengalis (8000 in number according to a leader of Rynza Refugee Association), who are being called foreigners by the locals. But when I talked to the leaders of the association, they said that they are the refugee from erstwhile East and West Pakistan settled there by the Government of India at the time of Indo-Pak war 1971. The place was given to them by the Government of India as refugee colony. In fact refugees are supposed to be brought back to their original place after the end of the crisis. How and why they remain there, is another nut to be cracked. Here the important point is that these refugees do not want to use the name Rynza as the name of their colony. Instead they said that the name should be changed to RR Colony (Relief and Rehabilitation Colony). There is a primary school, within the colony, known as Rynza Primary School. From the name the word Rynza has been removed by the ‘refugees’ but not officially.

The significance of all this is that whatever and whenever they are, all communities want to preserve their distinctness in terms of identity. From this perspective the existence of RR Colony is considered a threat to the indigenous communities, and at the same time the interference by the local Chiefs is also a threat to the immigrant population and their culture. Even the 8000 refugees want to have their

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107 It was explained to me by a local Khasi that the word Rynza is used to be the name of a clan.
108 Gurpreet Mahajan, in a discussion, asked that is this a case of pursuing distinct identity or being defined by the rest as refugees and now building solidarity and asserting their identity as refugees and not just Bengali? My contention is that, yes it is a case of pursuing distinct identity. Part of the reason is that they have already accepted that they are refugees and at the same time they assert that they have a right to preserve the culture which is different from the local culture and that’s why they are always against the interference of the local chiefs in their cultural practices.
own representation in the legislature. Problems of outsiders (or the problems that arise because of outsiders existence in the state) is not simply of population or demographic as many have assumed but since the consolidation of their culture through religious and cultural practices, rituals and other activities, it is considered as a threat to the existing local culture in particular and their survival in general. Temples in Rynza (Rynjah), Laban, etc shows such consolidation of their faiths.

**Conflicting Claims**

Meghalaya, which was earlier a part of composite state of Assam, was created to fulfill the demands of three major hill tribes of the region viz, the Khasis, the Jaintias and the Garos. Like any other state in the region, it still faces problems of ethnic conflict. Even most of the civil society organizations were formed on the idea of protecting their culture, resources and the people from the outsiders’ encroachment. The KSU, for example, which came into existence in the year 1978 and spearheaded various agitations with the tacit support of the traditional elites, declared that it would work for upholding the Khasi identity by awakening respect for Khasi language, culture and tradition and would fight against the infiltration by the outsiders and foreigners, and ensure that the children of the soil control the economy, polity and land in Meghalaya. In the 1980s and the early 1990s, KSU (Khasi Student Union) led several agitations in pursuit of its goals. KSU raised several issues of concern to the Khasi community as a whole and did not confine itself to the issues concerning students and youth only. It had many supporters. Even Jaintias looked towards KSU for a solution to their problems. The weakness of local politicians, backing of Dorbars and the

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109 Pascal Malngiang, 1994, op.cit.
110 Pascal Malngiang, 2002, op.cit.
Seng Samlas and the support of the community at large made KSU a powerful pressure group in the state.\textsuperscript{111} The same feeling of anti-outsiders is with the Jaintias too. Influx of the ‘plains people’ is seen as posing economic, cultural and demographic threat to the local people.\textsuperscript{112} The fear is not without reason. In a swift and unexpected move, Meghalayan youth organizations and students’ unions raided hundreds of shops belonging to non-tribals in lewduh in Shillong two years’ back. They found that most of them did not possess valid trade license even as many organizations asserted that it would intensify its movement against the KHADC’s “economic exploitation” on the local tribals. During the raid they found out that of the approximate 2000 non-tribal shopkeepers, only 5% had trading license.\textsuperscript{113} Thus, the most important concern of the tribes in the state is the protection of their identity and economic security against the possible swamp by the outsiders.

But the story doesn’t end here. Significantly, non-tribals in the state off and on assert their own claims. They even started demanding for a separate district in some parts of the state. Social Welfare Association (SFA), New Bhaitbari in Garo Hills, a representative body of the non-tribals in the Garo Hills, start movements for the creation of a separate district for them.\textsuperscript{114} In a Memorandum submitted to the Congress President and UPA Chairperson Sonia Gandhi in this regard by SFA recently, it is stated that the demand was justified as a majority of non-tribals, numbering 1,29 lakh, live in these plain belt areas.\textsuperscript{115} Thus, it is

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\textsuperscript{112}Jinky Gassah, President, Jaintia Youth Front. Personal Interview, 29 Nov. 2007 at Jowai, Jaintia Hills. The words ‘plain people’ refer the Nepali, Bihari, Bangladeshi and other foreigners and other people from Bengal and people from other states. This is as mentioned by student leaders of Jaintias in an interview with them during my fieldwork.

\textsuperscript{113}The Telegraph, 25 August, 2004.

\textsuperscript{114}Meghalayan Guardian, Shillong, August, 9, 2004.

\textsuperscript{115}Meghalayan Guardian, 6 August, 2004.
\end{flushleft}
not surprising to learn that the non-tribals are demanding that some seats (five in number to be precise) of State Assembly be reserved for them.\textsuperscript{116}

In a personal interview with the Secretary of Jhalupara Village Council, in the Khasi Hills District, it was said that they have demanded for a more generous system of land ownership in the state. If an ‘outsider’ is genuine and their family has been in the state since the days of their forefathers, then the same be allowed to sale land to a similar non-tribal.\textsuperscript{117}

Besides this conflict between tribal and non-tribal, there are inter tribal clashes, which become serious threat to the peace of the state. Even the KSU, which the Khasi community in general looked as their representative, has been viewed with suspicion and fear by other tribes apart from non-tribal communities in the state. Other than the ordinary non-tribal workers and businessmen living in the state whose interest were threatened by the rise of KSU, the democratic minded intellectuals otherwise sympathetic to the cause of the indigenous communities also looked at the growth of KSU with some amount of skepticism.\textsuperscript{118} Even in the so-called ‘agitation against outsiders’ no two organizations go together. All these organizations are ethnicity based. In other words, the students and youth organizations that took birth in the region remain predominantly ethnic in their character. In this small state that came into existence as a result of the ‘united struggle’ of the three dominant indigenous communities, namely, the Khasis, the Jaintias and the Garos,\textsuperscript{119} the attempt made to unite the students of the whole State met

\textsuperscript{117}Interview with Advocate, Rabi Gurung, Secy. Jhalupara Village Council, Khasi Hills District on 24/11/07
\textsuperscript{118}H. Srikash, 2005, op. cit.
\textsuperscript{119}One important thing worth remembering is that these three groups, in terms of their social structure, religion, etc., differ from each other. Similarity can be seen only at the level of fulfillment of the minimal criteria of the matrilineal system, namely, the basic succession rule of mother to daughter, and the fact that the property is owned by women. The most outstanding structural differences lie in the composition of property group. The property of the Khasi is formed by a descent group at a shallow generation depth,
with little success. Most of them are organized along ethnic lines. Even though such ethnically organized students and youth organizations enjoy enormous prestige, authority and control within their respective community, they are too communal to exercise influence on other communities.

It is important to mention here that there are ideological clashes between these groups on various issues. Tussles on the job reservation policy of the state are perhaps the best example. Because this shows not only the overt differences between the Khasi-Jaintia and the Garos, it also demonstrates the discrepancy between the so-called ‘brothers’, Khasi and Jaintias. An ex-Chief Organizing Secretary of the Jaintia Student Union stated, in a personal interview (29 Nov. 2007), that Jaintias have been suffering from the current job reservation policy. The seat reservation of Khasi and Jaintia combine is 40% of the available seats. Jaintias, due to educational backwardness, have been receiving only minimal share. For example, in the recruitment of the Junior Division Assistance in the Meghalaya State Electricity Board (MeSEB), out of total 40% of the seats Khasi got 29 seats and Jaintias managed to get just 4 posts. This is for the office located in the Jaintia Hills. The same student leader expressed that when some posts are vacant in offices located in Jaintia Hills, instead of taking necessary course of action to recruit candidates from there itself, the State HQ at Shillong will fill up the post through transfer from Shillong. The recruitment process would be accomplished at Shilong. Due to the distance between the two hill regions, Jaintias are suffering to a great extent. This is an indication of strong recruitment bias preferring the Khasis for the post.

“The Jaintia Hill region is comparatively underdeveloped and the number while that of the Garo is maintained by the cooperation of two local lines. Cross-Cousin marriage is an essential part of Garo social structure. Amongst the Khasi there is no preference for cross-cousin marriage. The Khasi and Jaintias worship a formless God and refer to their religion as Niamtre, while the Garos refer to their traditional religion as Sangsarek. In short taking into consideration the cultural and physical aspects one can conveniently demarcate the two regions, the area of the Garo Hills region and the Khaspnar region of the Khasi and the Jaintia Hills.
of educated people is much lower than the other communities (31% of Jaintias compare to the 67% of the State Literacy rate\textsuperscript{120}). If the current system of job reservation continues, the Jaintia people will suffer further. That is why we have been demanding separate reservation for the Jaintias, 30% exclusively for the Jaintias."\textsuperscript{121}

During the KSU led ‘2001 agitation\textsuperscript{122} in Jaintia Hills, in support of the KSU’s agitation, Jaintia Student Union (JSU) declared a bandh for one day, but refrained from following the KSU agenda. Differing with KSU which demanded 50% of the government jobs for Khasi-Jaintias combine, JSU demanded that all the three major indigenous groups in the state, the Khasis, the Garos and the Jaintias should get 30 per cent each and the remaining 10 per cent should be given to other members.

Adding fuel to the fire, in the Garo Hills, GSU (Garo Student Union) and the Garo Mothers’ Union called for a bandh and protested against the KSU demand for revision of reservation quotas. Even Hajong Koch Rava Boro Students’ Federation (HKRBSF), representing the interest of minority tribes in Meghalaya criticized KSU for not treating them as indigenous tribes.\textsuperscript{123}

The cloud of confusions on the relationship between the groups in the state will be cleared when we discuss the liaison between Garo and

\textsuperscript{120} According to 2001 census, about 63.31 per cent of people in Meghalaya are literate. And out of 35 Colleges and university level institutions in the state, there are only 3 colleges and no university in Jaintia Hills. And out of the total seven Districts in the state there are three in the Garo Hills, another three in the Khasi Hills and only one District is in the Jaintia Hills. A Jaintia youth leader in a personal interview provides the information on the number of colleges in the Jaintia Hills to me on 29 Nov. 2007 at Jowai.

\textsuperscript{121} Barisphere Rudolf Dwar, Ex. Chief Organizing Secy. Jaintia Student Union, currently Cultural Affairs Secy. Kiang Nangbah Government College, Jowai, Jaintia Hills. Interview, 29 Nov 2007. It is also worth mentioning here that certain political leaders attempt to differentiate between the Khasi and the Jaintias and say that these two communities were divided during the formation of the District Council at Shillong, the United Mikhir and North Hills District and regional Council of the Pawi-Lakher area of the Mizo district. They claimed that these Jaintias lost some of their land to these District Councils. Besides they were kept under a single administration with the Khasi areas. “Though the Jaintias had wanted to build up a separate state for themselves, they failed to generate any momentum in this regard since by that time (1946) the separation of the hills from the plains had started and they had to join with the Khasis in the formation of the state.” See People of India, Meghalaya, Vol XXXII, General Editor K.S. Singh, Anthropological Survey of India, Seagull Books, Calcutta, 1994. pp 6-7.

\textsuperscript{122} This was a campaign against the outsiders by Meghalayan civil society.

\textsuperscript{123} This was reported in many papers in the state including Applhira, June 5, 2001.
other groups in the State. Even though the relationship between the khasis and the Jaintias are seemingly good and so far there has not been any overt conflict between the two, these communities have not been in good terms with one another on the one hand, and with the Garos on the other for quite some time. Many have written on this case and we all know the demands of the Garos to have a separate state for them. 124 Even common people claim that it is better for them to be separated from the present Meghalaya and form a separate "Garoland". 125

However we need to discuss the grounds and the legitimacy of the demand of a separate Garo state. Even though sometimes people think that the demand of a separate state for the Garos is legitimate, we need to consider the interest and claims of other groups in the state. What Garos have been demanding is not simply the bifurcation of the existing state base on the present geographical boundaries of each ethnic group. They have been demanding that in the proposed 'Greater Garoland' not only the parts of the present notified Garo Hills but also parts of Khasi Hills District including coal mines, forest and agricultural land. They also demanded that a major portion of Ri-Bhoi district also be included in the proposed state for the Garos. 126 However this demand is not acceptable to other groups in the state. Khasis have been very uncompromising in shedding any portion of their land to any other groups. However it won't

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124 The issue of the demand for Garoland is not new. Many have written on it and many newspapers have reported on it. See also Meghalaya Guardian, Shillong, July 29, 2004. Many rebels are fighting for the Garoland comprising parts of Assam and Khasi Hills.

125 I have personally interviewed many educated Garo people on this. Some of them are working with leading newspaper in the state. Among them Warmand R. Sangma who works with the Shillong Times categorically mentions the desire for a separate state of the Garos. Interview on 27 Nov 2007 at the office of The Shillong Times.

126 Garos, specially the militant Garo groups have expressed the geographical areas to be included in the "Garoland" in many memorandum and Newspaper releases. See Meghalayan Guardian, Aug. 11 2004. This demand has been one of the reasons for creating stalemates in the talks between the Government and the representatives of A’chic National Volunteers Council (ANVC) who have been forerunners in the struggle for the demand for Garoland.
be right to say that all sections of the Garo tribe support this demand for Garoland.\textsuperscript{127}

Again, it is not only the Garos who have been demanding separate state. Even sections of Khasi-Jaintia people recently started demanding for a separate state for the Khasi-Jaintia people. HSPDP (Hill State People's Demand Party) leader Stone Lyngdoh said “the time has come for the people of Khasi and Jaintia Hills to be separated from the people of Garo Hills and to have a separate ‘state’ and our developmental aspects would never improve as long as three major tribes of the state-the Khasi, the Jaintias and the Garos remained under Meghalaya”.\textsuperscript{128} Even the case of MBOSE (Meghalaya Board of Secondary Education) well exemplifies the kind of relationship between these three ethnic groups in the State.\textsuperscript{129}

The people of the Khasi tribe dominate Khasi Hills area in Meghalaya. But the capital city of the state, Shillong, was established by the British Administration as its head quarters of the then composite state of Assam. In the late nineteen century, it was an uninhabited area, and it was established into city with the help of a migrant population that came as clerks, laborers and businessmen. Shillong remained the capital of that composite state till the reorganization of the administrative

\textsuperscript{127} Even the Garo National Council (GNC) has categorically accused a senior political leader of instigating the outlawed ANVC to demand a “Greater Garoland” within the framework of the Constitution. The GNC president (and former MLA from Chokpot, in South Garo Hills) Clifford Marak propped up the question: “Do you think Assam will part with its Garo inhabited or rather say Garo dominated land areas? Or for that matter, will their Khasi brethren savior further division of the West Khasi Hills?” The leader also anticipated that this demand will lead to bloodshed between the Khasi-Jaintia people and the Garos. But he has also been demanding for a separate “Garo State” since 1992 without incorporating parts of Assam and West Khasi Hills. The above passage is from The Meghalayan Guardian, 23 August 2004.

\textsuperscript{128} The Shillong Times, 4 August, 2004

\textsuperscript{129} The case of MBOSE happened to be a big issue in Meghalaya in 2005. The issue of shifting of MBOSE to Tura, Garo Hills has had the Khasi Students Union up in arms demanding setting up of a separate branch in either of the districts of East and West Khasi Hills. The state Government first announce the need for a full time secretary at Shillong, and then realizing the shortsightedness of the announcement, withdrew the offer and constituted a high powered committee to look into the problems plaguing MBOSE. The Government even invoke a “draconian law’ MPDA and then water cannoned and tear gassed a group of protesting women. About 11 persons were died in the whole incident. See Shillong times, 13 August, 2005. Most importantly, the chain of protests in the Khasi and Garo Hills over bifurcation or relocating the education board resulted in the two tribes voicing much strongly demands for separate states, a plank that politicians were quick to pounce upon.
units of the region in the seventies of the twentieth century. As a reason a fairly large number of tribal people became permanent residents of the city. Some young of non-tribal men formed an organization of their own, called Non-tribal Youth Union. In pursuance of some demands this organization called for a bandh, which was opposed by the Khasi Student Union. The latter claimed that non-Khasi communities had no right to carry on oppositional political activities in the Khasi hills. In such situations the freedom of expression of an entire community is sought to be suppressed by the dominant sections of the indigenous communities in an organized and visible manner and the rights of the individual members of the non-indigenous communities are violated with impunity. Killings of many innocent people simply because their faces were unfamiliar to the volunteers of local Durbars (a kind of traditional local assembly) of the Khasi community in Shillong during August 1998 also brought highly parochial and anti-democratic attitudes to focus. The Khasi Students Union, for instance, resents formation of any other students’ body even by students of indigenous communities of Meghalaya.

Another important characteristic of outsiders-insiders conflict is in relation to the matrilineal social set up of the Khasis. Khasi, as we understand, has a matrilineal social system. When immigrants from any part of the globe come to settle in the state, the system is under tremendous pressure. This could be seen in two different ways. First, it is a case of conflict between local matriarchal system and patriarchal system being brought in by the outsiders. Secondly, this is also a matter of matriarchal system being nearly swamped into the large liberalized market economy.

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130 see letters to editor, The Shillong Times, August 1998
131 The Shillong Times, last week of August 1998
133 When we talk about outsiders-insiders conflict, we generally assume that the outsiders are only foreign immigrants from other countries like Nepal, Bangladesh, etc. However, Khasis (and other tribes) see interstate migrants as equally a threat to the state. This is expressively appeared in the case of Khasi Hills.
When the outsiders come to Khasi Hills, there is always a fear of intruding the close links of matrilineal system. The outsiders’ marriage of local girls aggravates this problem. This inducts the patriarchal elements into the matrilineal system to the disadvantage of the latter. On the other hand, in a liberalized market economy, the successful or those who can survive are persons of highly skilled. It is something like the application of the law of the survival of the fittest in terms of skill and maneuverability of the individuals. Traditionally, in the Khasi society, market is predominantly owned (controlled) by women. This is in tune with the system in which the property is mainly given to female members of the family. There may be questions that how come immigrants (male) started occupying these market places which were originally occupied by the locals. When I talked to a Khasi Student Union (KSU) leader, he informed me that today Police Bazaar and Iewdouh, (pronounce youdoh), which are traditionally exclusive market for local people, are now under outsiders control. To be precise, eighty percent of these markets are under the control of (male) outsiders. One of the points I would like to stress here is that in a liberalized world, market is extended beyond limits and in such a condition the most skilled ones acquire the maximum. This is what is happening in Shillong. On the one hand, market is expanding beyond limits and on the other hand the traditional close matrilineal system is, if not eroded, stagnant. And the local women, who are traditionally powerful but less skilled, cannot compete with the skilled immigrant men. This, in fact, is a threat to the culture and tradition of the indigenous community.

So far, the only step taken by the Government is the effort of preventing illegal migrants from entering the state. But as a matter of fact this will not be sufficient to resolve the problem. May be the Government can stop the immigrants from entering the state (though it is not successful so far even in doing this) with various methods of preventing such entrance. The point, however, is not of a possible
conflict with the incoming immigrant community. What is of concern most here is the conflict between local tribal people and outsiders already present in the state. To simplify the matter, there are already conflicts between immigrants who are already settled in the state and local tribes. We need to resolve the crisis between the groups already existing in the state. And the existing policies fail to do so. With the State as well as Central Governments mute the locals cannot do anything except ineffective raids carried out by students.

Now the question is "shall the State remain silent to the demands of the outsiders?" The most important claims of them are being non-interference by local chiefs, and their own political representation in the State Assembly, etc. The rationality of the demands needs to be discussed further and I will come back to this point in the next chapter. Nevertheless, it would not be wrong to say that the State needs certain new strategies perhaps in the form of institutional arrangement which can address the problem by acknowledging the interest of both sides.

The other profile of ethnic conflict in the state is that of conflict among different indigenous ethnic communities. To be very brief and precise, after various policies and programme, the state is still witnessing ethnic conflicts. The demand of a separate Garo state, issues over state reservation policies and seat sharing in the state legislature exemplify all these facts. The formation of Meghalaya itself presents an interesting story. More than one tribal community came together to ask for a political-administrative unit with the avowed objective of protecting the interest of the concerned communities but soon realized that they have conflicting interests. When Meghalaya was formed it was expected that the new State would facilitate the fulfillment of the aspirations of the Khasis, the Garos and the Jaintias. But now after three decades of the existence of the state a section of Garos have started arguing that their
interests can be protected only if they have a separate Garo state.134 A brief account of each of the group’s demands will be appropriate at the moment.

**Garos’ Problem**

Before coming to the problem of Garo it will be good to mention their geographical extent and the groups included within the larger Garo Community. “The homeland of Garos is the Garo Hills districts (both East and West taken together) of Meghalaya. There are also Garos settled in Sibsagar and Karbi Anglong district of Assam who had migrated either to work as tea garden laborers or were deported earlier by Jaintia Kings due to several reasons”.135 The Garo tribe is divided into nine sub-tribes as (1) the Awe (2) the Chisak (3) the Matchi-Dual (4) the Matabang (5) the Ambeng (6) the Ruga-Chibak (7) the Garo-Ganching (8) The Atong (9) The Megam. If we talk about the differences among these sub-tribes, it can be observed that “out of all the above sub-tribes, the Megam sub-tribe is totally different from the rest. In fact the rest of the Garos does not consider the Megams as Garos. These Megams usually settled very close to Khasi hills and speak a dialect more akin to Khasis, although intermarriages do take place. To the Khasis they are known as Lynggams, the term, which they themselves use. Similarly the Atong sub-tribe too is distinct from rest of the Garos. The dialect spoken by the Atongs is not intelligible to speakers of other Garo dialects. It represents an archaic form of the language”.136

Though, majority of the population in the Garo Hills Districts are the Garos, there are other indigenous inhabitants. The Hajongs, Rabhas,

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135 Ibid. Also see Milton Sangma, ‘History and Culture of the Garos’ in L.S. Gassah (ed.) *Garo hills Land and People*, Omsons Publications, Gauhati, New Delhi, 1984, p. 79.
Koches, Rajbansis, meches, Kacharis and the Dalus are also settled in the region. The Bengalees, Muslims, Marwaris, Biharis and a few others from North India and the Nepalese are also present there. Interestingly a large number of Garos also live outside Garo Hills and are spread all over Northeast India, even as far as Bangladesh and West Bengal. "In most cases, they retain their language and custom but have been greatly influenced by the language and way of life around which they live".138

Young leaders like Wilbur K. Sangma and Desang N. Sangma, who founded the ALMA (Achik Liberation Matgrik Army) in 1991, found the material conditions of deprivation and backwardness of the Garo community to be similar to those of other ethnic groups.139 It is said that they were inspired by the way the Nagas and Mizos formed underground organizations to protect their interest, and how they reacted to the influx of outsiders and exploitation by non-tribals. Before the advent of the British, the Garos were also independent, each village having its own independent administrative system. The founders of ALMA also feared the loss of identity, culture and language of the Garos, as in the case of the Garos of Assam. They feared that a situation similar to that of tribals in Tripura might occur in Garo Hills, as the Garo Hills District Council leaders had compromised on the question of rights of the Garos ignoring the voice of dissent and statement of grievances of the community through Students' Unions. They were convinced therefore, that the only way to counter the threat of colonization by outsiders and maintain their identity, culture and language was to organize an underground movement.140 The objectives of the ALMA were to liberate the people through underground movement from Indian imperialism, and to bring about effective reformation in social, economic, political and religious life.

137Sangma op.cit pp 122.
138Ibid.
140Sangma, M.S. "The A'chik Liberation Matgrik Army (A Garo Insurgent Group)", Seminar paper for transcript, p.2 (from above Caroline)
of the Garos and to collaborate with all the like-minded people and organizations to achieve this goal. Eventually, the death of the ALMA resulted into the birth of a new Agro-militant organization, ANVC. Even this ALMA movement does not talk about the reason behind such movements. This shows the issue of clash of interest in this multi-ethnic state of Meghalaya.

Writing from Cheran, ANVC headquarters on May 5th 1999, the organization submitted a memorandum to Prime Minister Atal Behari Vajpayee with the subject ‘Memorandum for the creation of the separate Garoland State’. The core demand of the Council was the creation of a state specifically for the Garos. The other demand put forth by them was the recognition of the Garos living in various parts of Assam as Scheduled Tribe, which will alter their status and entitle them to benefits extended to other STs. To justify their demand for the inclusion of the areas of Goalpara and Kamrup in Assam with a predominant Garo population, to the Garo Hills, the Organization cites what the Government of India itself recognizes as a valid reason for reorganization of states and readjustment of boundaries. The State Reorganization Committee 1953 recognized that “the language and culture of an area have undoubted importance as they represent a pattern of living which is common in that area”.

When Meghalaya was created out of Assam through the North-East Areas (Reorganization) Act 1971, the age old demands of the Garos living in Kamrup and Goalpara Districts (for the inclusion of the areas of Goalpara and Kamrup in Assam with a predominant Garo population, to the Garo Hills,) got once again rejected. Undeterred by rejections, they pursued their case and submitted memorandums to the concerned authorities in 1972, 1974 and 1979 and as recently as in the year 2000.

141Sangma, op.cit. p4
142 For the story of ANVC, look at Caroline, 2005
143 Memorandum on the demand of the creation of a Separate Garoland Autonomous State to Mr. Atal Vajpayee, p7.
Their case was placed before the Lok Sabha on 17th April 1974, and on the floor of the House the Home Minister assured them that an inquiry would be made, but no such inquiry was ever instituted. ANVC strongly feels that Meghalaya was not created for the Garos, and the State fails to satisfy their needs and aspirations. They record their resentment in a strongly worded passage:

"As regards the creation of the Meghalaya state, we cannot presume that the government has done well in satisfying the full needs and aspirations of the Garo people, who were looking for and were being aspired to be the one nation under single administrative set up. One of the greatest blunders that we can cite is the bifurcation of the same linguistic, culture and ethnically single community into many perplexing sections, having no regard for cultural and linguistic affinities. The independent India brought us nothing but many sided bifurcation of our tribe and community making us to remain in a state of 'divide and rule'. We have been divided into Garos of Garo Hills and Khasi Hills within the Meghalaya State itself; the Garos of Assam and Meghalaya in the national level; the Garos of India and Bangladesh in the international level, even though we possess a geographically compact area".144

In support of their primary and immediate demand for the creation of a separate Garoland Autonomous State by amending the Northeast Areas (Reorganization) Act 1971 by the parliament through provisions of Article 3 of the Indian Constitution, the organization cites a number of reasons. They contend that the Garos are in a grip of cultural and identity crisis. They argue – "Experience shows that in the composite state of Meghalaya there is hardly any possibility for the protection and cultural advancement of the Garos".145 The memorandum adds emphatically, that the preservation of ethnic identity is only possible when a tribe has its own distinctive state. ANVC does not demand

144 ibid., Memorandum p7
145 Ibid. p 9
secession from India nor sovereignty for “Garoland”. All it asks emphatically is political self determination - as one of the indigenous tribes of Northeast India. Garos must be given “the internationally accepted principles of right to self-determination”.146

The Khasi
Khasis live in the Khasi and the Jaintia hills of Meghalaya situated west of Assam and East of Bangladesh. They are different from rest of the tribes in Northeast India considering their tradition, habits and languages. It was during middle of 19th century when J.R. Logan made a study on Mon-Khmer language and subsequently elaboration was made by Peter Schmidt, it was revealed that the Khasi language belongs to Mon-Khmer group of Languages.147 Hence tracing from language and their habits we may conclude that Khasi tribe belong to Austro-Asiatic family. “In Khasi and Jaintia hill areas of Meghalaya where there is maximum concentration of Khasis we find the Khasi language varies up to certain degrees from area to area probably due to certain local changes or may be due to different dates of migration of Khasis of different areas. However, it may be mentioned here that the commonly used Khasi dialect now is Cherra dialect spoken generally in mid-southern Khasi hills”.148

Regarding the conflicts between the Khasi and the Garos, the former has opposed the demands put forth by the later, represented by ANVC. They are against the creation of a separate Garo State. The Khasis are alarmed and perturbed by “the hidden agenda of the ANVC” for carving out a Greater Garoland which according to their proposal will include about 60% of West Khasi Hills District and also some parts of Ri-Bhoi District or North Khasi Hills District. “This is totally unacceptable to

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146 Memorandum, op.cit. p 10
147 Cited in G.K. Ghose, Tribals and Their Culture: Assam, Meghalaya and Mizoram, vol. 1, Anish Publishing House, New Delhi, p 73.
148 Ibid. p 73.
the Union and also to our people and will not allow even an inch of our land to be included in the new State and we vow to fight tooth and nail against this sinister attempt to take away our ancestral land. Further, the state of Meghalaya which came into being in 1972 comprised of the Khasi-Jaintia and the Garos having inter-territorial boundaries—the Garo Hills, Khasi and Jaintia Hills which are inhabited by the Garos, Khasis and Jaintias respectively. Our people and the Garos are totally two different Communities bearing different identity, language, culture etc.\textsuperscript{149} The Memorandum further says “we totally oppose the creation of the so-called Greater Garoland if it interferes with the territorial boundary of “Ka Bri U Hynniewtrep”.

We need to analyze the cultural similarity and relationship between these two major ethnic groups in the state. It is claimed that since time immemorial, the men folk of the Garo and the Khasi Tribes have a feeling of pride in giving everything to their sisters especially to a chosen daughter in Garo families and to the youngest daughter of the Khasi Tribe without any sign of jealousy even from the other sons and daughters of the same family. It is possible because of the respect for natural justice since the chosen daughter or the Nokkorm and the youngest daughter or khatduh of the Garo and Khasi families respectively, are also bound to look after their parents who need lots of love and proper care in their old age.\textsuperscript{150}

Except this unique similarity of the Garo and Khasi customary practice, there are no other synonyms in the cultural and behavioral way of lives of the people of these two tribes. Geographically too, it was not so suitable to demand for a single state for the two major tribes of Meghalaya, as the major portions of the Garo Hills and Khasi Hills are

\textsuperscript{149}Memorandum to Mr. Shivraj Patil, Union Home Minister, Government of India, Dated 24th August, 2004.(submitted by KSU and I collected the copy of Memorandum from the Office of KSU).

\textsuperscript{150}T.S.M. Sangma, 'Nokte Cha 'a' & 'Khunmihing' among Garo & Khasi Tribes', Meghalaya Guardian, 25/07/05.
bounded by the areas inhabited by Non-Garos and Non-Khasis who would never be agreeable either to merge with any one of the two tribes or to part with their areas. “Except the system of matrilineal practice in respect to the ancestral properties, there is no characteristic similarity to everlastingly bind us to live together. The most unfortunate decision ever arrived at between the leaders of the two major tribes was the decision to demand one hills state for the tribes of A'chic and Dikgil (Khasis and Garos respectively as they call each other) they might be thinking that the policy of 40-40 job reservation and the location of MBOSE at Tura would be enough to protect the people of Garo Hills”.\textsuperscript{151}

The Jaintias

Jaintias are the other major ethnic group in Meghalaya. The relation between Jaintias and Garos, and between Jaintias and Khasis are a bit complex in the sense that the nature of relationship in these two cases i.e. Jaintias and Garos on the one hand and between Jaintias and Khasis on the other are different from each other. While the relationship between the Jaintias and the Garos are clearly more of a typical ‘conflictual ethnic relationship’ in terms of their demands and aspirations. The cultures of these two tribes are also different from each other. In most of the cases the Jaintias are in support of the Khasis in the latter’s fight against the Garos. In all normal cases, the ethnic conflict in the state seems to be conflict between the Khasi and Jaintia on the one hand and the Garos on the other. When I talked to some of the leaders of the Khasi and the Jaintia, they often indicated that the conflict in the state is between these two groups on the one hand and the Garos on the other. The leaders stated that there is no major difference between the Khasis and the Jaintias.

\textsuperscript{151}Sangma, op.cit
However, we cannot withhold the reality on the relationship between the Khasis and the Garos. Nonetheless, the conflict is primarily not in terms of “clash of identity” in this case. Of course, there are cultural differences between the two but the conflict is more in terms of redistribution rather than recognition. And this clash of interest between the two is much to do with the pre-independence British policy of divide and rule. Under the British administration the whole of Jaintia Hills along with few other villages in the Khasi Hills were grouped together under one common system of administration and treated them as British areas. From the point of view of administrative structure, the Khasi states and the British areas were treated and administered differently by the British authorities. This different treatment and imposition of administration under two distinct types by the colonial rulers over the people otherwise have many things in common, had created some sort of a disguised or unconscious split of the people into two different groups. We should not lose sight of the fact that this conscious division of the people by the colonial rulers helped in sowing the seed of a feeling to maintain one’s own separate ethnic identity. Even when the Khasis and Jaintias have many things in common that sometimes it is difficult to differentiate between the two, but then the administrative framework was such designed that the two are completely separated from each other. The colonial policy of divide and rule is seen even at this juncture. “The smaller ethnic groups, the Jaintias, who are the closest cousins of the Khasi, have always felt a scene of separate identity. As a result, in 1967 a separate Autonomous District Council was created for them by the Assam Government with the hope that this would wean them away from the Hill State movement under the leadership of the Khasis. After independence, the Khasis and Jaintias were constituted under one common administrative unit. The two areas were also administered under one ‘united’ district, namely, the United Khasi-Jaintia Autonomous District, and again under one ‘United Autonomous District
Council'. However, the Jaintias had their own kings and other traditional Chiefs since long and even when they were annexed by the British, they had been placed under separate administrative arrangement".152

There were a feeling among the Jaintias that their own identity might in the long run be threatened if they were to continue under the same administrative roof along with the majority Khasis. They also sense that the more advance Khasis are dominating the less advance Jaintia in politics as well as administrative fields. From the point of view of language issue, the Jaintias have yet to develop their language. During the demand for a separate autonomous district Council, they had listed it as one of their points of difference from the Khasis. The politics of ethnic groups and language as an infrastructural-framework appears also on the question of job reservation.

The issue on reservation of jobs seems to be a simple case, which can be taken care of by readjusting the policy according to population size of each group. However, the problem has been a big headache to the government for the last one decade. Various organizations and leaders have been putting enormous pressures on the Government on the issue. The government has very little room for maneuvering to appease legislators from the Khasi and Jaintia hills since changing the existing reservation policy would invite the wrath of Garo MLAs.

The KSU has been demanding a change in the reservation policy.153 Members of the union have argued that the present reservation policy “is unfair” as it is not proportionate to the population index.154 The argument put forth by the Khasi Students Union and coalition partners is mainly based on the point that Khasi and Jaintias have a larger population than the Garos and, therefore, their quota should be raised. A

152B. Pakem, opcit. pp 292,293. Also see Report of the U.K-J (United Khasi-Jaintias) Hills Autonomous District Commission, under the chairmanship of G.P. Jarman which was appointed by the Assam Government on 26th August 1963.
153from the present 40% for Khasi-Jaintias, 40% for Garos, 15% for general and 5% for other backward classes to 50 per cent for Khasi-Jaintias, 25 per cent for Garos and 25 per cent to be kept open.

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movement is also brewing in the Garo Hills, opposing the KSU demand. The Citizen’s Forum of Garo Hills, comprising the Garo Students Union, the Garo Mothers Union, the Achik Cultural youth Organization and the Government Collage Students Association have refused to accept any change in the existing policy. Garo legislators, mostly from the Nationalist Congress Party (NCP) have refused to compromise on this issue and have been demanding fair representation from both communities. Sources said even some ruling party MLAs from the Garo hills are opposed to any move to change the reservation policy.  

As I mentioned earlier the Jaintias are not happy with the existing policy. They want a separate quota as against the present combined quota for Khasi and Jaintias. The matter has kept the state government on its toes because it realizes that its failure to execute a suitable balancing act could lead to social unrest in the state.

Concluding Remarks

What I have given here is how a liberal democratic state like India tries to accommodate diverse ethnic and religious communities through various provisions of recognition. As shown in the first part of the current Chapter, Indian constitution has many provisions of recognition and it even includes provisions for particular ethnic community in the North-East. In the second part I have narrated various provisions being applied in Meghalaya and the nature of its ethnic conflict. It all shows that the present arrangements have little success in maintaining problems of diversity. The time has, therefore, come to discuss why, with so many provisions in the constitution and various special institutions for fulfilling the demands of recognition of ethnic identities in the North-East, States in the region particularly Meghalaya still face the problem of ethnic conflicts. In doing so, we need to start with a critical analysis of

these provisions and institutions experimenting in Meghalaya. This forms the core of my analysis in the next Chapter.