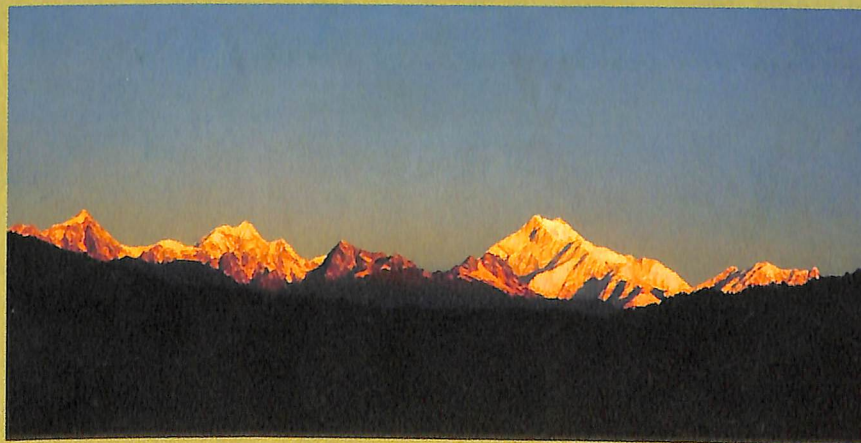


HUMAN ECOLOGY AND STATUTORY STATUS OF ETHNIC ENTITIES IN SIKKIM

R E P O R T

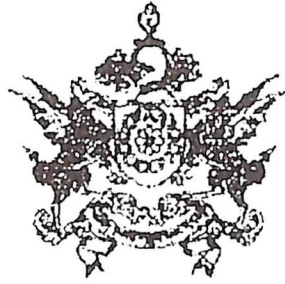
of the

**COMMISSION FOR REVIEW OF
ENVIRONMENTAL & SOCIAL SECTOR
POLICIES, PLANS AND PROGRAMMES
(CRESP)**



GOVERNMENT OF SIKKIM

2008



**HUMAN ECOLOGY AND STATUTORY STATUS
OF
ETHNIC ENTITIES IN SIKKIM**

सदम
REFERENCE



R E P O R T

of

**COMMISSION FOR REVIEW OF
ENVIRONMENTAL AND SOCIAL SECTOR
POLICIES, PLANS AND PROGRAMMES**

(CRESP)

**GOVERNMENT OF SIKKIM
2008**



Prof. B.K. Roy Burman
Chairman (Cabinet Minister Rank)
**Commission for Review of
Social & Environmental Sector Policies,
Plans and Programmes**

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No.SH/CRESP/15/2008

Gangtok
30th September 2008

To,
Dr.P.Chamling,
Hon'ble Chief Minister of Sikkim,
Gangtok

Sir,

We feel privileged that the task of reviewing environmental and social sector policies, plans and programmes had been entrusted with us.

We have done the review in so far as the same is related to determining the statutory status of the ethnic entities of Sikkim.

Please find herewith the Report prepared by us.

We would like to put on record that keeping with the democratic tradition of the country, in preparing the Report, CRESP has functioned absolutely autonomously.

We have received unstinted cooperation from various quarters. We have acknowledged the same in the Report. We, however, would like to avail of this opportunity to thank the large number of functionaries of Sikkim Government and also the public at large in Sikkim for extending all help and cooperation to the Commission.

With warm regards,

Yours sincerely,

B.K. Roy Burman
(B.K.Roy Burman)
Chairman, CRESP

D.N. Takarpa
30/09/08
(D.N.Takarpa)
Hon'ble Speaker,
Sikkim Legislative Assembly
Member, CRESP



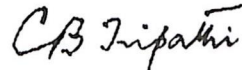
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Hon'ble Minister,
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(K N Rai)
Hon'ble Minister,
RMDD & Co-operation Department,
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(A K Danda)
President, Indian Anthropological Society,
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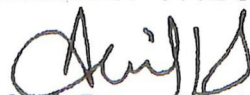
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PREFACE

- 1.0 The elaborate term of reference for the Commission for Review of Environmental and Social Sector Policies, Plans and Programmes (CRESP) has a long pre-history. I apologise that to a certain extent it is tied up with some aspect of my professional life, but to understand why CRESP has involved itself in certain activities it is indispensable that those who would consult this Report should know it.
- 2.0 In 1966, in the first issue of the Journal of Indian Anthropological Society I suggested that having tribal characteristics by itself did not qualify a community to be included in the list of the Scheduled Tribes (STs). While recognition of a community as a tribe was related to the socio-cultural processes of the wider society, recognition of a community as a Scheduled Tribe (ST) was a matter of state policy. At that point of time, I considered integrating the tribal peoples in the national polity was the cardinal concern of the state policy in respect of them.
 - 2.1 It was a simplistic formulation but it set in motion a new line of thinking. Before discussing the same, it would be necessary to say a few words about the conceptual difference between assimilation and integration. While assimilation means fusion of an identity with that of the dominant culture and society, integration implies acceptance of overarching common goals, particularly in the political-legal sphere of the state. There are, however, diverse shades of integration – formal and emotional.
 - 2.2 For our purpose it is not necessary to discuss here the various nuances of the concept of integration, but varying concepts of tribe and of their ramifications on socio-political process will have to be mentioned here.
- 3.0 Till early 19th century the words aboriginal, primitive and tribe were not considered to be synonymous. The aboriginals were mainly the peoples of the Americas, with 'quaint' behaviours and cultural traits which, however, were not always stamped as inferior. The word primitive was mainly used for peoples of sub-Saharan Africa, whose cultures were generally considered to be arrested civilizations representing the life-ways of early humans. Until mid-19th century the word tribe was used for peoples with distinct cultures whose political systems were based on a fusion of kinship bond and territorial loyalty. The terms Irish tribe, Scotch tribe, German tribe were commonly used without any pejorative sense.

- 4.0 It was only later that there was a fusion of the terms aboriginal, primitive and tribe. Whether consciously done or not, this fusion of terms and concepts tended to legitimise colonial domination and paternalistic authoritarianism.
- 5.0 After India attained her independence, in the late 1940s and early 1950s, the criteria for determination of tribes and Scheduled Tribes were highly debated. None of the prominent Indian anthropologists who were consulted in this matter equated tribe as such with primitive or aboriginal. Some leading social workers, however, continued to use these terms.
- 6.0 The first list of the Scheduled Tribes was notified in 1950. It was mainly based on the list of Primitive Tribes of 1931 Census and the list of Backward Tribes prepared under the Government of India Act of 1935 during the colonial regime. But in the Constitution the word 'primitive' does not find mention.
- 7.0 In independent India the first list of STs prepared on conscious deliberation of the criteria was that of the First Backward Classes Commission, Kalelkar Commission (1955-56). The criteria adopted by the Commission were as follows: "The Scheduled Tribes can also be generally ascertained by the fact that they live apart in hills and even where they live on the plains, they have a separate excluded existence and are not fully assimilated in the main body of the people. The Scheduled Tribes may belong to any religion. They are listed as Scheduled Tribes because of the kind of life led by them". There was no mention of primitive trait or of backwardness. It is to be noted that the members of the Commission were mostly veteran freedom fighters and that the Joint Secretary to the Commission was a trained anthropologist who later became Director of the Anthropological Survey of India. It may not be fortuitous that in independent India the concepts of backwardness and primitive traits were first officially used for revising the list of the Scheduled Tribes in 1964 by the Lokur Committee consisting of three serving officers of the Government of India. The Lokur Committee considered primitive traits, distinctive culture, geographic isolation, shyness of contact with the community at large and backwardness as the criteria. Ignoring the approach of the Kalelkar Commission, the Lokur Committee looked back to the colonial prudence of 1931 and 1935 for light to see who should be Scheduled Tribes. It is obvious there was a marked difference in the perception of freedom fighters and that of the bureaucrats.
- 8.0 When the Lokur Committee Report was considered by the Select Committee of Parliament, I was invited to give my opinion as an

expert. Faced with opposition from various quarters the Government withdrew the Bill based on the Lokur Committee Report. After that the Lokur Committee Report along with the criteria suggested by it remained in limbo for a long time. I am not sure when these criteria were revived by the Government of India. However, these were dubbed as outdated and dropped in the Government of India National Tribal Policy statement of July 2006. About this I shall say more later. Now I shall return to the issue of recognising Scheduled Tribes as a matter of state policy.

- 9.0 I would first refer to a significant observation made by the Lokur Committee that in preparing the lists of Primitive Tribes in 1931, Backward Tribes in 1935, Scheduled Tribes in 1950 and 1956 it was acknowledged that every tribe need not be regarded as requiring special treatment. I am not sure of the source of this information. In any case it is a pointer towards a possible undercurrent of state policy.
10. At the operational level selective operation of the policy is clearly visible in case of the tribes found in the Central tribal belt and also in East India, particularly Assam and West Bengal. The Santhal, Oraon, Munda, Kharia and several other tribes whose acknowledged homeland is Jharkhand and adjoining areas are found in large numbers in West Bengal and Assam. But whereas President accorded recognition to those found in West Bengal as Scheduled Tribes, such recognition was not extended to those living in Assam. I have reason to believe that this was a conscious policy decision. It is understood that some national leaders involved in designing the policy decision felt that if a large number of persons hailing from the Central tribal belt of India were treated as Scheduled Tribes in Assam, the political balance would be tilted against the core Assamese speaking population of the State. Rightly or wrongly they felt that in a multi-ethnic social situation one community having long historical presence should have a decisive majority to be able to play the integrative role. In Assam the Assamese speaking population was expected to play this role. They felt that if around two million persons (at that time) from the Central tribal belt with reservation of seats as ST joined other non-Assamese population who also were sizeable in number, the decisive role of Assamese political elite would be diluted, leading to complicated inter-ethnic relations. It was also felt that it would be difficult to handle such a complicated situation. It is a different matter that the expectation was not completely fulfilled. Awareness of such undercurrents of thinking along with those of more or less similar order in different parts of the country made me reflect over the parameters that should be kept in view while taking decision in scheduling of communities in a rational and responsible manner.

11. Over the years through interactions in different fora I was developing a frame for recognising a community or constellation of communities as a Scheduled Tribe. The frame, however, was firmly formed in recent years. An outline of the frame is given here.
12. The main issue was whether the communities or constellation of communities have traits that post-independence generation of anthropologists consider to be associated with communities that are recognised as tribes. These traits include (a) presence of self-regulatory mechanism at the level of kinship based or putative kinship based social organisation; (b) legitimisation of behaviours and practices by referring to in-group authority and not to any external authority including scriptures as in case of typical caste society; (c) even if there are social segments these are not generally ranked as high or low; these are considered to be just different from one another with reference to some events/action patterns/symbols of identity; (d) actions and social relations are not guided by notions of purity and pollution as in classical caste society; (e) while approach to nature is generally marked by a sense of veneration, sometimes the concerned peoples traditionally entertain a sense of mystic unity with one or more endowments of nature; (f) presence of system of distribution of at least a part of accumulated surplus through culturally prescribed process of sharing of surplus and caring of fellow human beings belonging to the same social orbit; (g) entertain equity principle at the level of ideology and ethos, though not always empirically.
13. If a community satisfies most of the foregoing criteria it is to be examined whether the members of the community have a consciousness of belonging to a unified entity and whether they have self-image of being members of a tribe. At the same time it is to be checked whether the neighbouring communities consider or until recently considered that they constitute a tribe. Of late in international parlance consciousness of kind and self-image are given great emphasis in such matters.
14. Once a community or constellation of communities is found acceptable as a tribe, its recognition as a Scheduled Tribe will have to be scanned in terms of the functions that may be served by such scheduling. The functional test will cover issues like:
 - (a) How recognition in a particular manner will affect (i) the internal social structure, (ii) relations with social entities already recognised as Scheduled Tribes/Scheduled Castes/others.
 - (b) How recognition as ST will affect the control/management/appropriation of land, waterways and other resources.

- (c) Whether according ST status to new entities will affect the protection that might have been given to earlier recognised communities as STs to the detriment of national interest.
 - (d) Whether fresh scheduling of an entity will enable not only the particular entities but the society as a whole to meet challenges, particularly those related to neo-liberal economy-based globalisation and also those related to impending eco-crisis.
 - (e) How recognition of some communities as ST either as new entities or as part of a constellation would affect the political power structure at the GP/district/state/national level.
 - (f) Whether fresh recognition of an entity (individual community or a constellation of communities) as ST will have trans-border ramifications and whether such ramifications will adversely affect national interest.
15. In the light of explosion of militancy after Jharkhand and Chhattisgarh were created as separate States, I feel that some issues of a different order will have to be considered. These issues directly relate to state and state oriented institutions, not only in Jharkhand and Chhattisgarh but in all States and ancillary institutions all over India.
 16. Fresh inclusion of any entity as an ST affects balance of interests at every level. Unless there is a prior preparation including restructuring of institutions and reorienting their function the effect may be cataclysmic. I was not so much involved in Chhattisgarh situation but I was closely involved in Jharkhand situation. I had pleaded with some of the leaders of Jharkhand that they should first mobilise people for the introduction of new institutional structures and only after that they should demand creation of Jharkhand. This was not done, as a result of which there is a yawning institutional gap to satisfy the mounting aspirations of the people.
 17. In other States the problems that would arise are very different from those in Jharkhand or Chhattisgarh but the common issue is whether the concerned State and ancillary organs have the resilience to meet the new responsibilities that they will face on fresh inclusion of communities as Scheduled Tribes. One of the issues is that the load on state exchequer will go up. Before deciding that a certain entity would be recognised as an ST it will have to be examined whether the state finance has carrying capacity to accommodate the additional load. If the current sources of finance are not in a position to augment the carrying capacity, has the state machinery functional resilience to make structural adjustment (not in the sense advocated by the World

Bank but in the sense of restructuring resource mobilisation and utilisation system) to meet the new requirements? This must be examined along with the functional resilience of the state agencies like the Departments of Rural Development, Social Welfare, Agriculture, Forest and Environment.

18. If an independent agency like a Commission is set up under the Commission of Inquiry Act for discharging its task in a responsible manner it must also examine whether there are lapses in operationalising the policies and programmes. If after the lapses are pointed out, corrective actions are not taken within reasonable time, the Commission will have to reflect whether its recommendations rather than improving the life conditions of the common people, will only enhance the interest of elites – which need not necessarily be only financial but which may be in many other forms.
19. My thinking on this matter was triggered by one incident. In 2004 three prominent leaders of Sikkim met me and requested me to chair a committee that would make ethnographic study of six Sikkimese communities which had demanded inclusion in the list of the Scheduled Tribes. Almost instinctively I refused to accept the offer. I felt that I should not accept any position tied up with a specific expectation which might or might not be justified.
20. Later I pondered over the matter. I recalled the position that I had taken in 1960s that scheduling was a matter of policy and that I had only partly elaborated it during my interaction in different fora. I gave some more time to formulate my idea.
21. In August 2005 one representative of Sikkim Government met me with the Report of a Committee chaired by Prof. A.C. Sinha which had recommended five Nepali communities of Sikkim to be included in the list of the Scheduled Tribes. He requested me on behalf of Sikkim Government to take up chairmanship of a Commission which would examine the current statutory status of all the communities in Sikkim and make appropriate recommendations. I found that while the Sinha Committee Report had provided useful ethnographic information, it had treated the task of scheduling as an isolated act irrespective of the totality of the social, political and administrative processes.
22. I made it clear to the representative of Sikkim Government that scheduling must be considered as a package and that I would agree to be the Chairman of the Commission only if the terms of reference included a comprehensive review of all the policies, plans and programmes in

social and environmental matters. After due consultation he conveyed to me the acceptance of my condition. The terms and conditions of the Commission reflect my view.

23. I would also mention another fact. I had made it clear that the Commission must be set up under the Commission of Inquiry Act so that if necessary we could invoke the provision of law to obtain the information we required from all concerned. The notification that was first issued did not mention that the Commission was constituted under the Commission of Inquiry Act. I refused to join it as Chairman. A fresh Notification (No.73/Home/2005) was issued on 1 December 2005 clarifying that the Commission was set up under the Commission of Inquiry Act.
24. I feel it necessary to put on record the background information as there are two types of confusion in several quarters. The first confusion prevails among those who perceive the core role of CRESP is to determine the names of the communities who deserve to be scheduled in one or the other of the constitutionally provided categories, viz., Scheduled Tribes, Scheduled Castes, Other Backward Classes. For several decades they have seen the issue of scheduling being treated in isolation mainly with reference to cultural traits and economic status. They wonder why CRESP is going into issues like functioning of Panchayats, operation of rural development programme, state of environmental security, livelihood security, food security and so on. I have tried to impress on all that if scheduling is to be considered as a matter of state policy, there must be a package approach to scheduling. In that case it would have been shirking of responsibility on our part had we not tried to examine the state of affairs in the relevant life situations. The second type of confusion is found among a small number of persons who think that when the terms of reference require us to review the policies, plans and programmes in cultural, ecological and social sectors, we should have made comprehensive review of the policies, plans and programmes in these sectors. In the first meeting of CRESP I had provided the background of the wide terms of reference. But some of them remained unconvinced. I am sure that many who would use our Report will also detect in the lack of comprehensive review a lacuna. I hope that what I have put on record here would satisfy them.
25. I would, however, like to put on record a feeling of incompleteness that I am having in my mind. Normally when a Commission comes across lapses during review of policies, plans and programmes, it records the

same with the expectation that even if the state machinery fails to do the needful, under the pressure of the civil society, it will be forced to act as required. But we soon discovered that in Sikkim effective civil society hardly exists. Here around 30 percent of the households have at least one member who is a regular government employee or a work-charge employee or a muster-roll worker. In such a situation there is a structural constraint against a vigorous civil society to come up. A Commission imbued with a sense of functional ethics and not merely formal ethics has no alternative to partly playing the role of a civil society and see that during its tenure as far as possible corrective action is taken, the dynamics of which will create a condition when an effective civil society will come up from within the wider society. I briefly discussed the matter with the Chief Minister. I did not discuss the philosophical mooring of my thought with the Chief Minister, but I explained to him why probing the lapses in the sphere of our enquiry was inextricably linked up with scheduling in a responsible manner. I am glad that he welcomed the fact that lapses were to be brought out and promised cooperation in taking corrective action. In fact, when in a letter to the Chief Minister I pointed out several lapses, it was placed before a meeting of the Committee on Implementation, Steering and Monitoring (CISMO) of Human Development Sikkim, with the Chief Minister chairing it. In the meeting a decision was taken approving the corrective actions I had proposed. I am, however, not sure that everyone has imbibed the spirit with which the Chief Minister has responded to our approach.

26. I have long held the view that social science pursuit without commitment to social action is like carrying a dead body without life in it. Such a way to look at our professional responsibility helps many of us to meet contingent situations in the interest of the people. I hope to be able to rise up to the occasion if the concerned authorities fail to respond.
27. I would like to note here an encouraging development relevant to the task of CRESP. In July 2006 the Ministry of Tribal Affairs came out with a policy statement which discarded earlier policy announcement indicating primitive traits and backwardness along with cultural distinctiveness as criteria for recognition of ST. In the new policy statement community consciousness, harmonisation with nature and distinctive culture have been associated with tribal social formation. Distinctive culture as a relevant trait has never been disputed by anyone though there may be difference of opinion about the components of distinctive culture. What is most welcome is that the pejorative terms 'primitive' and 'backward' have been dropped. In fact, by tying up the concepts of primitive and backwardness with weightages in participation

in political and administrative machineries apart from special entitlements in welfare, protection and development measures had tended to create a vested interest among sections of elites of the concerned communities to enter into competition of projecting their respective backwardness and primitiveness. It became a pathetic sight of self-denigration. It is hoped that with discontinuation of backwardness and primitive traits as criteria for getting some privileged treatment, the unseemly competition of self-denigration will stop. Going further it should be noted that by accepting community consciousness and harmonisation with nature the Government of India have provided a strong motivation to the concerned peoples to proudly project that what were earlier considered to be symptoms of primitiveness and backwardness are really indicators of preparedness for playing vanguard role in redesigning a world order in which dichotomy between individual and community will fuse in global ethics. At the same time in such a world order nature will cease to be looked upon as mere repository of resources to be extracted and exploited and will be viewed as mirror of the odyssey in the inner space of mind in the quest of the sublime and eternal in even what is seemingly ephemeral and slugs of life.

28. Two severe malaises haunt modern humans. The first is ecological crisis brought about by reckless rape of nature under the brand of industrialisation which commenced its ignoble journey during colonial dispensation. Even during the period of decolonisation without trying to develop alternative mode of industrialisation the old mode continued to be practised, and in many areas it was allowed to be intensified. Today with sudden awareness of impending catastrophe of not improbable discontinuation of human existence on the planet earth, as a result of environmental degradation, recognition of inherent ethos of harmonisation with nature in the life-way of a people as a criterion for being scheduled will help the people to perceive that the beliefs and practices which were earlier considered as symbols of backwardness and survival of the primitive are actually indicators of deeper prudence and indicators of retrieval from the brink of the precipice towards which humans were drifting. The second crisis staring at modern humans is self-quarantined egoism parading as freely chosen individualism. It has alienated humans not only from their surroundings but even from their own selves. By projecting community consciousness as a value which will be rewarded by the society and the state, the Government of India have provided a strong motive to the concerned peoples to come out of the living wasteland of alienation.

29. While as a communication strategy for humanist resurrection the new approach to the identification of the ST announced by the Government of India will be extremely useful, the decision taken about re-designating the so-called 'primitive tribes' as 'Particularly Vulnerable Tribal Groups' is of equal importance for reformulating the strategy of dealing with tribal affairs. So long as the particular category of tribes were characterised as primitive and backward it implicitly meant that their primitive and backward traits were at least partly responsible for their weak position in the society and the polity. But the concept of vulnerability shifts the focus of cognition to an entirely different realm. While primitiveness is an inherent trait vulnerability is a perceived position. Obviously the actors inflicting vulnerability on a community are not situated within but outside it. In such a case the approach to tribal affairs would require locating the external forces causing the concerned tribes vulnerable to their action and dealing with them accordingly. Without simultaneously dealing with the factors and forces responsible for making the concerned community/community constellation vulnerable to their action, only welfare measures and/or developmental measures will not substantially change the life condition of the people. Once this is understood, the whole strategy of Tribal Sub-Plan will change. Tribal Sub-Plan strategy (rhetoric apart) basically means development outlay at par with the proportion that the ST population bears to the total population of a State. It is a different matter that, as shown in Chapter 8 of the Report, this is a myth. Originally it was envisaged that apart from developmental activities of the Ministry of Tribal Affairs, all developmental activities, protective and promotional, would be coordinated at the level of Integrated Tribal Development Project (ITDP) areas. With this end in view senior officers of the level of Additional District Magistrate were put in charge of ITDPs. This led to proliferation of bureaucracy, but within a short time, apart from disbursing financial outlay for different programmes including scholarships to students selected for higher education, other objectives were forgotten. The vulnerability approach, if not confined to the so-called primitive tribes but extended to all Scheduled Tribes, would restore the objectives originally envisaged for the ITDP areas. In such an approach equal attention will have to be given to right to life under Article 21 of the Constitution as interpreted by the Supreme Court in several judicial pronouncements. This would mean environmental security, livelihood security, food security, removal of conditions that incapacitate individuals and collectives (however constituted) from access to adequate health care, education and opportunity for giving full expression to creative potential. Also it

would mean right to removal of historical legacies that restrict freedom of action not only of individuals and collectives but also of state and ancillary institutions of the state. The last aspect is of particular importance for Sikkim where the tryst with democracy has hardly depth of three decades and as is apparent from the two landmark judicial pronouncements of the Supreme Court in the 1990s it will take some time more for the feudal legacy to be completely scooped out. Till then it must be ensured that efforts to remove the historical legacy is not slackened. We have recommended that for this purpose the entire domicile population of Sikkim of Bhutia, Lepcha and Nepali origin (who had been constrained in various ways from exercising freedom of choice in matters of their vital interest due to feudal legacy) should be included in the list of STs and a permanent Human Development Commission should be set up. While the functionaries of the Commission will change, the Commission will function at least till 2025 AD. As CRESPP's recommendation will cover around 85 percent of the population of Sikkim, the jurisdiction of the Commission should operate for the entire population of Sikkim.

30. Here I feel it necessary to say a few words more about the vulnerability approach of the Government of India.
31. The Government of India have rightly described the so-called primitive tribes as Particularly Vulnerable Tribal Groups (PTGs). This implies that other Scheduled Tribes are also vulnerable but to a lesser extent. In fact, as discussed in Chapter 1 (Introduction), not only the Scheduled Tribes(STs) but also the Scheduled Castes(SCs) and Other Backward Classes(OBCs) are also vulnerable, but in different ways. To emphasise this, perhaps it would be better to describe the so-called primitive tribes as Most Vulnerable Tribes.
32. It may be noted here that after CRESPP was set up, one of the first actions it took was to request the two oldest and well recognised national level professional bodies of anthropologists, Indian Anthropological Association (headquarters in Delhi) and Indian Anthropological Society (headquarters in Kolkata) to examine the criteria for recognition of STs which were at that time claimed to be used by the Government of India along with those suggested by me for this purpose. Both the organisations arranged two separate seminars in Delhi and Kolkata. On the basis of the discussions in its seminar, the Indian Anthropological Association conveyed to us the view that while the criteria used by the Government of India were inappropriate it would like to have further deliberation to formulate alternative criteria. The Indian Anthropological Society conveyed their full acceptance of my approach. Almost at the same

time the Institute of Socio-Economic Development invited me to deliver the keynote address at a National Conference for Tribal Development in Bhubaneswar. In my keynote address I pointed out the inappropriateness of the criteria which were being used by the Government of India and suggested an alternative approach. Also, I suggested that the so-called primitive tribes should be called vulnerable tribes. Besides, I pointed out several limitations of the Government of India's tribal policy. A number of important tribal leaders including the former Chief Minister of Orissa, Shri Giridhar Gamang attended the conference which adopted a declaration called Bhubaneswar Declaration. It endorsed my line of approach completely.

33. The Bhubaneswar Declaration as well as the communications received from the Indian Anthropological Society and Indian Anthropological Association were forwarded to the Tribal Affairs Ministry, Government of India. Shortly after that I was invited by the Minister of Tribal Affairs for a discussion. This was followed by an invitation from the Secretary, Ministry of Tribal Affairs, to address a meeting of senior officers of the Ministry. I addressed them on June 15, 2006. Within three weeks of this, in the first week of July 2006, the Government of India put on the website a new tribal policy, a copy of which was officially made available to us.
34. As already mentioned, this policy statement dropped the earlier criteria as outdated and took a very positive stance.
35. Knowing the way Government officials function, I feel that the very quick response of the Government of India to our intervention would not have been possible unless the concerned officers of the Ministry were already thinking on the same line. Our intervention perhaps played only a catalytic role. In that case this was a matter of convergence.
36. I would like to emphasise my view that there was convergence of thinking in the matter of criteria of recognition of Scheduled Tribes, because the same policy document contained certain approaches in regard to tribal development about which I felt uncomfortable. Shortly after it was made public I wrote to the Ministry criticising it. I published a paper in *Economic and Political Weekly* criticising one particular aspect of the policy. I should admit that at that time the far-reaching implication of the Government's acceptance of vulnerability as the regnum criterion for recognition of a section of tribal peoples as Scheduled Tribes did not occur to me. On further reflection I feel that if the Ministry had on its own adopted the new set of criteria, the dynamics of the same line of thinking over a length of time would purge out the negative features contained in the policy document.

37. There would be separate acknowledgement of the assistance rendered to CRESA by different persons and institutions. Here I would like to specially thank the Indian Anthropological Association, the Indian Anthropological Society and the Institute for Socio-Economic Development for the contribution they have made in the discourse.

B.K. Roy Burman
Chairman, CRESA

ACKNOWLEDGEMENT

1.0 We acknowledge with thanks the receipt of memoranda from the ethnic associations of the following communities:

1. Bhujel
2. Bhutia
3. Chhetri – Bahun
4. Damai
5. Dewan
6. Gurung (Tamu)
7. Kami
8. Kirat Khambu Rai
9. Limboo
10. Mangar
11. Mutanchi Rong Tarjum – Lepcha
12. Newar
13. Sanyasi
14. Sarki
15. Sherpa
16. Sunuwar (Mukhia)
17. Tamang
18. Thami

1.1 We held discussions with the ethnic associations in two rounds in May 2006 and October 2007. During the first round ethno-history and ethnic processes were discussed for each ethnic entity. The second round related to nature-human relations as expressed in folk beliefs, myths and legends, totems, taboos, etc. Another issue highlighted in the second round was culturally prescribed sharing and caring of goods and services, particularly among the members of the same ethnic entity. Incidentally, the Government of India's revised tribal policy of July 2006 focuses on the nature-human relationship and community consciousness (rather than backwardness, shyness of contact, etc.) as diacritical

markers of tribal category of population. We are thankful that representatives of the ethnic associations provided many useful insights on the subject matters of the discourse. Synopses of these memoranda submitted by them are at **Annexure -- A**. Along with the Chairman, Shri D.N. Takarpa, Shri K.N. Rai and Shri D.T. Lepcha participated in the first round of discussions. Shri D. N. Takarpa chaired both the rounds of discussions.

- 1.2 We are thankful to the State President of Bharatiya Janata Party who personally visited Chairman, CRESP for exchange of views relating to statutory status of communities. Graciously, he followed the visit by a letter to Chairman in which he favoured the idea of all indigenous communities of Sikkim being treated as Scheduled Tribes. The letter is included at **Annexure -- B**.
- 2.0 Sikkim Himali Rajya Parishad also in a communication expressed the view that all indigenous peoples of Sikkim should be included in the category of the Scheduled Tribes. The full text of the communication is enclosed at **Annexure -- C**.
- 2.1 Acharya Tshering Lama, MLA, representing the Sangha constituency in the State Legislative Assembly, met the Chairman during the latter's very first visit to Gangtok. He introduced himself as the leader of the Congress Party. During a later visit of the Chairman to Gangtok, Acharya Tshering Lama brought to our notice some of the complexities in the matter of determining the statutory status of communities in Sikkim. We have tried to take care of the same. It is, however, an ongoing process.
- 2.2 We are honoured that Shri C.D. Rai, the legendary titan of the democracy movement, made himself available for consultation. He had made a note available to the Member-Secretary on an important phase of the democracy movement. Synopsis of the same is included in **Annexure -- D**.
- 2.3 We are thankful to Shri G.T. Dhungel, an engineer whose mother is a Lepcha and father a Bahun. Also we are thankful to Shri K.N. Sharma, Member, SPSC, and Dr. S.K. Rai, who discussed with the Chairman on matters which highlight that intercommunity marriage or change to another faith did not exclude persons belonging to Rai, Bahun, Chhetri and other communities from being members of their respective ethnic associations. Shri Rai explained that in Sikkim ethnic associations are not classical caste organisations, they are social fora representing the historical-cultural identities.
- 2.4 Our discussion with Prof. M.P. Kheral, Principal, Government College, Gangtok, who is also an eminent historian, has been very useful.

Similarly discussion with Shri Pemba Thondup, former Director of Information & Public Relations Department, Government of Sikkim, who is an eminent Tibetologist, has helped us to have a better grasp of the history of Sikkim in the medieval period. He also helped in preparing the ethno-social profile on Bhutia and Newar.

- 2.5 We are thankful to Shri T. Densapa, Director, Sikkim Research Institute of Tibetology, Gangtok, for making himself available for discussion about some aspects of the history of the region and furnishing to us 54 issues of the Bulletin of the Institute which have been found to be very valuable for understanding the cultural history of the region.
- 2.6 We are thankful to Anand Gazmer for preparing synopses of 70 M. Phil. and Ph.D. theses and occasional papers of the North Bengal University related to Sikkim. Also we are thankful to Prof. R.S. Mukhopadhyay of the same University for supervising the work.
- 2.7 Shri K.C. Pradhan, former Chief Secretary, Sikkim, provided valuable input about the social processes during the regime change.
- 2.8 We are thankful to Shri S.D. Tshering, Director, DESME, and his colleagues for specially processing for us some aspects of the socio-economic census data of 2005-06. Though because of conceptual problem we have made limited use of these data, these have been very useful.
- 2.9 Prof. A.C. Sinha who has first hand knowledge of the political and social processes during the merger of Sikkim with India and its aftermath provided us valuable insight. We are thankful to him.
- 3.0 We are thankful to the Indian Anthropological Association, Delhi and Indian Anthropological Society, Kolkata, for organising two seminars on criteria of Scheduled Tribes. Also, we are thankful to the Anthropological Survey of India for making their officers available for consultation.
- 3.1 We are thankful to the Institute of Socio-economic Development, Bhubaneswar, for organising a National Conference where along with other matters criteria for identifying Scheduled Tribes in contemporary world situation were discussed.
- 4.0 Chairman accompanied by some personnel of CRESA visited all the Zila Panchayats and around two dozen Gram Panchayats in 2006-07. This was a rewarding experience. The discourses covered a wide range of issues including migration history and ethnic processes. We thank all the participants in the discourses at various levels.

- 5.0 We had two rounds of discussions with the Principals of Colleges and Senior Secondary Schools on socio-economic situation in Sikkim. Similarly, we had discussions with faculty members of Senior Secondary and selected Secondary Schools. While these discussions were mainly concerning issues of rural social economy and human development in Sikkim, they provided the context for examining the issues of statutory status of communities in the State. We are thankful to all the participants.
- 6.0 The Report as a whole is collectively owned by all the Members.
The draft of the first part in the Chapter on Physiography has been prepared by Shri A.K. Ganeriwala.
- 6.1 The draft for the second part of Chapter on Physiography relating to Sacred Space and Time has been prepared by Shri R.S. Basnet. The draft for administrative and political processes has also been prepared by Shri Basnet. Besides the synopsis of the Memoranda submitted by 18 Ethnic Associations have been prepared by him.
- 7.0 The draft of the chapter on Socio-economic Indicators has been prepared by Smt. Jyotsna Subba. All statistical data in the report have also been checked by her.
- 8.0 The draft on Ethno-cultural profile has been prepared by Shri Rajib Das under guidance of Prof. A.K. Danda, Shri Pemba Thondup has made very important contribution in preparation of the drafts on the Bhutia community.
- 9.0 The frame of presentation of the data and supplementary information to the same wherever necessary have been provided by the Chairman.
- 10.0 The typescripts have been prepared by Shri Ramesh D. Ajbani and Shri R.B. Subba. and Ramesh Basnet.
- 11.0 Shri M.G.Chacko has provided stenographic assistance particularly in preparing synopsis of the memoranda of Ethnic Associations.
- 12.0 A sub committee consisting of Prof. B.K. Roy Burman, Prof. A.K. Danda, Shri C.B. Tripathi, Ms. C.K. Cintury and Shri R.S. Basnet checked the final draft.
- 13.0 Shri N.K. Banerjee checked the penultimate copy of the typescript.
- 14.0 On the request of the Commission at the last meeting Shri C.B.Tripathi agreed to take up the task of copy editing of the Report.

Chapter 1

INTRODUCTION

- 1.0 Though Sikkim covers an important geo-political space, in the crucible of human civilisation Sikkim is much more than that.
- 2.0 Sikkim is a repository of two values: harmonising among fellow human beings and harmony with nature. And these two are inter-related.
- 3.0 While there is no concensus about the exact time, there is a legend that some time in the Middle Ages the leaders of a section of Bhutias from Tibet and the Lepcha Chief of Kabi signed an agreement by drawing blood from their respective bodies, to the effect that they and their descendants would live in mutual respect and amity through eternity. Harmonisation with nature is reflected in a number of mountain peaks, rocks and groves, lakes and waterways being regarded as sacred. There are innumerable examples of interface between harmony in nature and harmony in human relations. Only two illustrations will be provided here.
- 4.0 A remarkable transcendence of denominational segmentation is found in the village of Menrongong, Chungthang Sub-Division of North District. Here on the forest slope Lepcha, Bhutia, Sherpa, Rai and other communities live in different spatial segments, demarcated by streams and small waterways. There is a Buddhist monastery in the village. On the 10th of every month the designated Lama performs a rite to invoke the grace of deities so that the streams do not dry up and the nature's cycle follows the expected course. The flora and fauna and all people of the village live a happy life. Though the Lama is a Buddhist, all households of the village including those who belong to the Hindu Nepali caste make regular payments for meeting the expenses of the ritual. Thus, while the society here is a constellation of multiple identities, culture of harmony with nature unites them and through unity with nature the humans enter into a compact of unity among themselves. Without subscribing to the theory of geographic determination in a mechanical manner it can be premised that the location and the nature of the terrain creates a tendency of harmonisation with fellow human beings and with the manifold manifestations of nature.
- 5.0 At least two ancient trade routes connecting South Asia with Central Asia passed through Sikkim and then Tibet. Long distance trade requires an attitude and an institutional arrangement for quick conflict resolution

and harmonisation of interests among human individuals and collectives, so as to ensure that flow of goods and services remain uninterrupted. Again long distance trade requires trudging terrains at various altitudes (in Sikkim it is 330 msl to 1800 msl) and diverse rock formations and undulations and landscape structures, narrow edges of hundreds of metres of precipices to flat plateaus. People living here for generations in the midst of nature's smiles and furies, invitations and sombre grimaces develop adaptive mechanisms – physical, psychological, social and cultural. While the gestalt of the adaptive processes in their totality can be described as harmonisation with nature, like Beethoven's music it is an orchestration of the silence of the soaring sound and soundless sonata of the cosmos.

- 6.0 There is a consensus that Lepchas are the original population of Sikkim. There is an aura (though not always in focus) of moral demography around the primacy claims of the Lepcha. The Limboo, the Mangar and the Bhutia also are on record to have populated Sikkim quite early in the Middle Ages (Namgyal and Dolma, 1908). The bulk of the population belonging to the Nepali constellation, however, settled in Sikkim during the late 19th and early 20th centuries. The process was accelerated after Sikkim became a virtual protectorate of the British in 1861 and particularly after the protectorate power status of the British was confirmed in the Anglo-China convention of 1890-93.
- 7.0 Though towards the end of the 19th century the Nepali constellation of castes attained numerical majority in Sikkim, in political and administrative management they remained minor players. Most of them were agricultural labourers, share-croppers and contract labourers. Not only the Bhutia-Lepcha elites but even the commoners belonging to these communities enjoyed certain privileges like paying land revenue at lower rates than others. Though this privilege was introduced in 1917 when the administration was virtually fully under the British control, it seems that it was legitimised on the argument that the Lepcha-Bhutia by having populated Sikkim early had acquired a moral authority to claim Sikkim as their ancestral domain. But in terms of onto-ethical approach the law of ancestral domain can be invoked only in those cases where the early inhabitants are found marginalised and dispossessed. In case of the Bhutia this is not the case at all. To some extent it applies for the Lepcha. But to a greater extent marginalisation has taken place in case of the Limboo and to an equal extent marginalisation and also dispossession have taken place in case of the Mangar. While concept of ancestral domain cannot be invoked to justify special prerogative in favour of the Bhutia, the relevance of the Chinese concept of early 1950s of socially useful prerogative may have to be

examined. This matter, which comes under the pragmatic functional approach, would be examined in Chapter 8 (para 11.0).

- 8.0 It is, however, to be noted that a sizeable number of Bhutia-Lepcha elites were holding privileged position in political and administrative management of Sikkim even after the Kingdom was a protectorate of the British. The position of the Lepcha elite, however, was not as firmly rooted as in the case of the Bhutia elite. Besides the Bhutia elite were more frequently engaged in trade particularly with Tibet, which was a source of additional income and influence for them.
- 9.0 It should also be noted that though the Bhutia-Lepcha landholders were enjoying some privileges, the living conditions of the commoners among them was not much better than that of others. A good number of Lepchas lived and earned their livelihood in the private estate of the Chogyal.
- 10.0 Sikkim had 84 Buddhist monasteries and 174 Manilhakhangs during the Chogyal regime. After the merger of Sikkim with India in 1975 these numbers have gone up to 104 Buddhist monasteries and 224 Manilhakhangs/Lhakhangs. Six of the more important monasteries during the Chogyal time had also private estates of their own. Apart from tenants these monasteries had hereditary bonded labour belonging to different communities including the Bhutia and the Lepcha. Even before the merger of Sikkim with India they started agitating against the feudal exactions. On the whole through the struggle against feudal exploitation and imposition a bond of unity seems to have been created among the commoners of all sections.
- 11.0 Apart from the Bhutia-Lepcha elites who formed bulk of the ruling class a small section of Nepalis particularly belonging to Newar (Pradhan) community also was part of the Sikkim ruling class. The Bhutia segments of the ruling class constituted the higher spectrum of the elites. They are the original Kazis. They had private estates of their own. And also they could settle tenants on fallow lands under their jurisdiction and collect rent from them, a fixed portion of which they used to deposit in the State exchequer appropriating the remaining amounts for themselves. The power of the Kazis was symbolised in their having judicial powers and maintaining private jails of their own. The Lepcha segments of rulers were originally called Jongpens (Master of castles). It is stated that later some Jongpens tried to pass off as Kazis and, in fact, virtually became Kazis.
- 12.0 Apart from the Kazis a new category of feudal flag bearers called *thikedar* was introduced since 1880s. They mostly belonged to the Newar

(Pradhan) community but there were a few *thikedars* belonging to other Nepali communities also. The *thikedars* were assigned large tracts of fallow land on payment of a fixed amount annually to the State exchequer. They could settle tenants on agricultural waste lands on mutually negotiated terms. They, however, did not have hereditary access to administrative machinery and to levers of political power, but it is to be kept in view that Newars were the former rulers of Nepal who were dislodged by the Shah dynasty. They had acquired considerable skill in administration and trade, and passed on the same to their descendants. Hence by their personal competence they could hold high position in the royal politico-administrative set-up.

- 13.0 Feudacracy, however, did not have unchallenged sway. Winds of change for liberal democracy emanating from adjoining parts of India blew over the hills and dales of Sikkim in the late thirties and gained more momentum in the forties of the 20th century. Some of the feudal privileges had to be shorn off particularly during the Second World War. Even then the Kazis and the *thikedars* were confronted by a massive revolt during 1948-50. Not only the commoners among the Bhutia and the Lepcha joined the revolt, even a section of the Bhutia-Lepcha elite actively participated in it. A process of defeudalisation set in motion and it appeared that the new era of liberal democracy was at the door step. By early 1960s the anti-India, anti-democracy forces had gained enough strength to enable the King (whose ancestors were all the time using the title Maharaja) to switch on to the title Chogyal and to decisively assert distance from the political establishment of India. However, this did not go unchallenged. In 1973 the democratic forces bounced back, feudarchy was cornered but not vanquished. To break the stalemate India had to step in, but due to geopolitical constraint had to agree to a compromise arrangement. In 1973 a tripartite agreement was signed by the Chogyal, three political parties and the Government of India. The Chogyal had cleverly manipulated to give an ethnic and quasi-religious character to feudal interests. Under this agreement special political status of the Bhutia-Lepcha and of the Bhutia-Lepcha monastic order was accommodated.
- 14.0 In the general election that followed the agreement, the feudal forces were completely routed. Except one no representative of the pro-feudal parties could be elected. In 1975 on demand of the elected council monarchy was abolished but the political privileges of the Bhutia-Lepcha were not touched. Several other remnants of feudal legacies also continued. While these were against the provisions of the Constitution, the Supreme Court in landmark judgments in 1994 allowed them to continue as a political necessity. Thus, the transition from feudal order

On her transfer Shri A.K. Ganeriwala, Resident Commissioner, Government of Sikkim at Delhi was appointed as Secretary to the Commission.

Smt. Jyotsna Subba, Additional Director, DPER & NECAD was appointed as Assistant to the Member-Secretary of the Commission.

Shri Rajib Das was appointed as Senior Research Officer-cum-Deputy Secretary to the Commission.

Shri S. D. Tshering, Director, DESME as Chief Statistical Officer to CRESP

As due to other preoccupations Shri H. Lachungpa could not attend any meeting he ceased to be a member with effect from August 19, 2006.

Due to personal reason Shri Sanjay Upadhyaya resigned as Member on March 19, 2007.

The terms of reference of the Commission are as follows:

- (1) Review of the Constitutional status of castes and communities in Sikkim in historical, cultural-ecological and political-economic contexts and making appropriate recommendations.
- (2) Review of the policies, plans and programmes in respect of the Scheduled Castes, Scheduled Tribes, OBCs and other categories of population, keeping in view:
 - (a) Articulation of the different sectors of State economy in the progressively interlinked economy of South, South East, East and Central Asia
 - (b) UN Declaration on World Charter of Nature
 - (c) UNESCO's Universal Declaration on Cultural Diversity 2001
 - (d) Constitutional provisions on the Scheduled Castes, Scheduled Tribes and OBCs
 - (e) National agenda on poverty alleviation
 - (f) National and international instruments on human rights particularly gender rights and rights of children and elderly section of the population
 - (g) Federal character of Indian State, and
 - (h) Any other relevant document.
- (3) Review of Strengthening State Plans for Human Development (SSPHD) for recommending measures for improvement of the quality of life of all sections of the population of Sikkim vide Notification No. 62/Home/2008 dated 2-7-2008

to liberal democratic order remains incomplete. The task in Sikkim is to complete the democratic transition through a process of levelling up the opportunities of every segment of the population including the Bhutia and the Lepcha without substantially reducing the opportunities and access to resources of any but at the same time requiring that the resources are used in a manner that enables all sections of the population to avail of the opportunities/meet the gathering challenges of the neo-liberal economy-based world order. This is like carrying out a bloodless social surgery and CRESP has entrusted to itself this responsibility.

15.0 On December 1, 2005 by Gazette Notification No.73/Home/2005 the Government of Sikkim constituted the Commission for Review of Environmental and Social Sector Policies, Plans and Programmes (CRESP) with the following Members:

Chairman Prof. B.K. Roy Burman

Members Shri Hishey Lachungpa, Minister for Social Justice, Empowerment and Welfare

Shri K.N. Rai, Minister for Rural Management and Development and Cooperation

Shri D.T. Lepcha, Minister for P.W.D. and Labour

Shri Sanjay Upadhyaya, expert on Environmental Law

Dr. A.K. Danda, former Director, Anthropological Survey of India and President of Indian Anthropological Society

Member-Secretary One Principal Secretary (Shri R.S. Basnet, Principal Secretary, Chief Minister's Office)

Later by Gazette notifications issued on different dates, the following Members were included:

Shri C.B. Tripathi, Retired Deputy Commissioner for SC & ST, Government of India.

vide Notification No. 75/Home/05 dated 13-12-2005

Shri D.N. Takarpa, Speaker, Sikkim Legislative Assembly, vide Notification No. 45/Home/2006 dated 19-7-2006

Ms. C. K. Cintury, Retired Secretary, Social Welfare Department, Government of Sikkim

vide Notification No. 86/Home/2006 dated 18-10-2006

Smt. Upma Srivastava, Resident Commissioner, Government of Sikkim at Delhi was appointed as Secretary during her tenure.

On her transfer Shri A.K. Ganeriwala, Resident Commissioner, Government of Sikkim at Delhi was appointed as Secretary to the Commission.

Smt. Jyotsna Subba, Additional Director, DPER & NECAD was appointed as Assistant to the Member-Secretary of the Commission.

Shri Rajib Das was appointed as Senior Research Officer-cum-Deputy Secretary to the Commission.

Shri S. D. Tshering, Director, DESME as Chief Statistical Officer to CRESP

As due to other preoccupations Shri H. Lachungpa could not attend any meeting he ceased to be a member with effect from August 19, 2006.

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 - (a) Articulation of the different sectors of State economy in the progressively interlinked economy of South, South East, East and Central Asia
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- (3) Review of Strengthening State Plans for Human Development (SSPHD) for recommending measures for improvement of the quality of life of all sections of the population of Sikkim vide Notification No. 62/Home/2008 dated 2-7-2008

- 16.0 In his Preface the Chairman has already narrated the context of the wide terms of reference.
- 17.0 The terms of reference of CRESP were supplemented by letter No.945/ Home dated December 27, 2006 from the Additional Secretary Home to Government of Sikkim. In this letter addressed to the Chairman he conveyed the requests of Sikkim Government as follows:
- (i) Protection of 12 seats reserved for the Bhutia-Lepcha communities in Sikkim Legislative Assembly;
 - (ii) Reservation of seats for Limboo and Tamang communities in Sikkim Legislative Assembly consequent upon the inclusion of these communities in the list of the Scheduled Tribes;
 - (iii) While Bahun, Chhetri and Newar communities have already been declared as Other Backward Classes (OBC) under State Government Notification they may be recommended for notification as Other Backward Classes (OBC) in the Central list;
 - (iv) Recommendation of remaining ethnic communities like Kirat Khambu Rai, Gurung, Mangar, Sunuwar, Thami and Bhujel to be declared as Scheduled Tribes in Sikkim;
 - (v) Recognition of Lepcha as most primitive tribe;
 - (vi) Increase in the total number of seats in the State Legislative Assembly;
 - (vii) Setting up of a Central University in Sikkim.
- 18.0 For convenience of presentation the matters mentioned in this letter would be discussed first. The issue of protection of 12 seats in the State Legislative Assembly in favour of the Bhutia and the Lepcha will have to be considered in historical context.

The tripartite agreement of 1973 between the Government of India, the Chogyal of Sikkim and the leaders of political parties of Sikkim, *inter alia*, provided as follows: "The system of election shall be so organised as to make the Assembly adequately representative of the various sections of the population. The size and the composition of the Assembly and the Executive Council shall be such as may be prescribed from time to time, care being taken to ensure that no single section of the population acquires a dominating position due mainly to its ethnic origin, and the rights and interests of the Sikkimese of Bhutia-Lepcha origin and of the Sikkimese of Nepali origin, which include Tsong and Scheduled Castes, are fully protected". Here it is to be noted that while

the agreement lays down a principle, it does not stipulate any fixed number.

- 18.1 The Representation of Sikkim Subject Act, 1974 proclaimed by the Chogyal on February 5, 1974 fixed the pattern of representation in the Assembly as follows:
1. "This proclamation may be cited as the Representation of Sikkim Subject Act, 1974.
 2. (i) For the purpose of election to the Assembly, Sikkim shall be divided into thirtyone territorial constituencies and the Sangha constituency.
(ii) The thirtyone territorial constituencies shall be formed and delimited as in the First Schedule annexed hereto.
(iii) The Sangha constituency shall comprise the Sanghas belonging to monasteries recognised by the Chogyal of Sikkim.
 3. The Assembly shall consist of thirty-two elected members.
 - A (i) Sixteen constituencies shall be reserved for the Sikkimese of Bhutia-Lepcha origin.
 - A (ii) Out of these sixteen constituencies, one shall be reserved for the Sangha.
 - B (i) The remaining sixteen constituencies shall be reserved for the Sikkimese of Nepali origin, including Tsong and Scheduled Castes.
 - B (ii) Out of the above mentioned sixteen constituencies reserved for the Sikkimese of Nepali origin, one constituency shall be reserved for persons belonging to the Scheduled Castes notified in the Second Schedule annexed hitherto".
- 19.0 Article 371F while making special provision with respect to the State of Sikkim on its merger with India lays down as follows in para (f): "Parliament may, for the purpose of protecting the rights and interests of the different sections of population of Sikkim make provision for the number of seats in the Legislative Assembly of the State of Sikkim which may be filled by candidates belonging to such sections and for the delimitation of the Assembly constituencies from which candidates belonging to such sections alone may stand for election to the Legislative Assembly of the State of Sikkim."

- 20.0 As a follow-up of Article 371 F of the Constitution Representation of the People (Amendment) Ordinance, 1979 (No.7 of 1979) stipulated as follows:
- “(1 A) Notwithstanding anything contained in sub-section (i) the total number of seats in the Legislative Assembly of the State of Sikkim to be constituted at any time after the commencement of the Representation of the People Amendment Act, 1979 to be filled up by persons chosen by direct election from Assembly constituencies to be thirty-two of which –
- (a) twelve seats shall be reserved for the Sikkimese of Bhutia-Lepcha origin.
 - (b) Two seats shall be reserved for the Scheduled Castes of the State, and
 - (c) One seat shall be reserved for Sangha referred to in 25 A.”
- 21.0 It is important to note that whereas under the Representation of Sikkim Subject Act, 1974, of the thirty-two seats in the State Legislative Assembly, sixteen seats, i.e., 50 percent of the seats were reserved for the Sikkimese of Bhutia-Lepcha origin (including one for the Sangha) under the Representation of People (Amendment) Ordinance, 1979 the representation of the Sikkimese of Lepcha-Bhutia origin was brought down to 12 seats, i.e., 38 percent of the total number of seats in the State Assembly. Here it is to be noted that according to 1981 census the persons of Lepcha-Bhutia origin constituted only around 24 percent of the total population of the State. Thus, the representation of the persons of Lepcha-Bhutia origin under the ordinance of 1979 was much higher than the proportion that the persons of these two communities bore to the total population, but even then what is more significant is that the process of adjustment towards the spirit of the Constitution had started within five years of the promulgation of the Representation of Sikkim Subject Act, 1974. Another significant feature of the Representation of the People (Amendment) Ordinance, 1979 is that the representation of the Sangha was delinked from the representation of the Lepcha-Bhutia. Thus, overtly and in law Sangha was freed of the ethnic mooring, and clear signal was given about its universalistic character.
- 22.0 It is important to note that earlier to the Representation of the People (Amendment) Ordinance, 1979, the Constitution (Sikkim) Scheduled Tribes Order, 1978 was signed by the President in exercise of the powers conferred by clause (I) of Article 342 of the Constitution of India. It provides as follows: “The tribes or tribal communities, or parts of, or groups within tribes or tribal communities specified in the schedule to

this order, shall for the purposes of the Constitution, be deemed to be Scheduled Tribes in relation to the State of Sikkim so far as regards to members thereof resident in that State”.

The Schedule –

- i. Bhutia (including Chumbipa, Dophthapa, Dukpa, Kagatey, Sherpa, Tibetan, Tromopa, Yolmo)
- ii. Lepcha

- 22.1 The Constitution (Sikkim) Scheduled Tribes Order, 1978 marks a departure from the Representation of Sikkim Subject Act, 1974 in two important aspects. First, while as per the provision of the Act of 1974 only those Lepchas and Bhutias who were subjects of the Chogyal of Sikkim were eligible for representation, as per provision of the Act of 1978 not only the former subjects of the Chogyal but all Lepchas and Bhutias residing in Sikkim irrespective of whether of Sikkimese origin or non-Sikkimese origin were made eligible for representation.
- 22.2 It is also necessary to take note of an important difference between the Representation of the People (Amendment) Ordinance, 1979 (No. 7 of 1979) and the Constitution (Sikkim) Scheduled Tribes Order, 1978. Apparently the Ordinance No.7 of 1979 derives its legitimacy from Article 371F of the Constitution; the Constitution (Sikkim) Scheduled Tribes Order, 1978 derives its legitimacy from clause (1) of Article 342 of the Constitution. Though both the legal instruments cover the same constellation of communities (though not necessarily the same individuals) from the point of view of phenomenology of law they are not identical legal persons. The special representation provided for the Lepcha-Bhutia of Sikkimese origin is a feudal carryover. On the other hand, if any special arrangement is made in respect of the Lepcha and Bhutia residents of Sikkim, it will have nothing to do with the feudal carryover. As Scheduled Tribes it will be their due as part of the welfare State-building strategy of a modern State. These two special arrangements are not mutually exclusive. In other words, a person can be a candidate for election from a constituency reserved for the Lepcha-Bhutia; the same person can also contest for a seat reserved for the Scheduled Tribes. With this interpretation from the perspective of phenomenology of law, the proposed protection of the existing 12 seats for the Lepcha-Bhutia seems to be reasonable, even if the number of seats in the Assembly is increased.
- 23.0 Here one may ask a moot question: whether the feudal legacy should continue indefinitely. The question has been partly answered by the Supreme Court in 1994 in R.C. Poudyal vs. Union of India. The majority

The Supreme Court speaks of the subvention of the legal process to the political contingency of admission of a border State to the Indian Union, but at the same time the Court envisages a peaceful and gradual process of transition. By the nature of things the Court is not expected to prescribe the political process and to indicate a time-frame.

(b) Political process

We do not think that CRESP is qualified to lay down a road map for the elimination of the feudal residues, except to note that in recent years the geo-political environment seems to have moved in favour of completion of the transition in a quicker pace. We should note here one aspect of the political process which does not appear to have been adequately explored.

We have already noted the transformation of the subjects of the feudal king to citizens of a liberal democracy. Even as subjects of the monarch whose proclivities rather than the 'will' of the people guided the destiny of the subjects, certain privileges were enjoyed by them. But these privileges did not rest on human dignity and freedom. It is not very unlikely that if the indignity that goes with the privilege is presented in historical perspective, sizeable segments of the concerned peoples may mobilise themselves to free themselves of the bondage of the past.

(c) Historical perspective

One version of the historical perspective has been provided by the Sikkim Bhutia-Lepcha Apex Committee. The Committee did not submit any formal memorandum to CRESP but a representative of the Committee met Chairman and made available to him a booklet which along with other materials contained copy of a memorandum submitted to the Prime Minister. It reads: "The Bhutia-Lepcha of Sikkim are the indigenous minorities of the State. Sikkim is not merely the land of their origin but has been their homeland for centuries past from the time of their forefathers. That is the pure and simple reason why they have been repeatedly mentioned as 'Sikkimese of Bhutia-Lepcha origin' in the historic May 8, 1973 Agreement and the subsequent Sikkim Subject Act of 1974 approved by the Government of India."

Proceeding further the memorandum has described the agreement as a sacred commitment. Thus, the issue has been elevated to the moral plane. In that case some historical questions require to be examined.

One of the former rulers of Sikkim, Thutob Namgyal, and his consort, Maharani Yeshe Dolma, have left behind a very important write-up in

Tibetan language which has been translated into English as *History of Sikkim*. This important source makes a mention of Mangar chiefs in the 17th and early 18th centuries. It also makes a mention of the presence of Limboo chiefs very early. Further, it mentions a conflict of the Sikkim's ruler with the Mangar and Limboo chiefs. It appears that though there was reconciliation between the Bhutia kings and the Limboo chiefs, there was never reconciliation between the Mangar chiefs and the Bhutia rulers of Sikkim and if there was reconciliation between the Limboo chiefs and the ruling family of Sikkim, it was tentative in nature.

One can certainly argue, if early habitation of Sikkim gives a sacred right to political privileges, Mangars are also entitled to political privileges. And then one can justifiably ask why in the Agreement of 1973, on the ground of ethical reasoning, Mangars were not included for political privileges along with the Lepcha-Bhutia? Limboos were accommodated almost symbolically.

This line of historical reasoning does not at present provide any answer other than proximity to feudal establishment as the reason for incorporation of certain privileges in favour of the Bhutia-Lepcha.

One need not be dismayed by the faulty reasoning of the Sikkim Bhutia-Lepcha Apex Committee; one should not forget the fact that during the anti-feudal movement of late 1940s, a sizeable number of not only Bhutia and Lepcha commoners but also elites, particularly of Lepcha community, played an important role.

However, as at present no significant initiative for replacement of the attachment to feudal residue by an assertion of citizen pride is visible, we are not in favour of any direct intervention as in that case negative ethnicity will be further entrenched.

(d) Pragmatic non-intervention and providing alternative pole of transcendence

We suggest a pragmatic approach of allowing special representation in the State Legislative Assembly, after the promulgation of the Representation of the People (Amendment) Ordinance, 1979 (No. 7 of 1979). The indigenous people of Sikkim consisting of the Sikkimese Bhutia-Lepcha and the Sikkimese Nepali have woven themselves as a separate category who are known as Sikkim Subject Certificate holders and their descendants; in short, the 'Sikkim Subjects' requiring continuation of the prerogatives of their fraternity till such time, the Sikkimese people themselves arrive at a mutually agreed and beneficial arrangement. The sanctity of 12 seats in favour of the Bhutia - Lepcha in the State Legislative Assembly as well as a seat the Sangha has,

therefore, to be viewed by giving equal sanctity to the scheduling of the entire remaining indigenous Sikkimese Nepali communities.

We have recommended that the entire Bhutia-Lepcha and Nepali population of Sikkim may be notified as Scheduled Tribes. In that case around 85 percent of the seats will be reserved in favour of the Scheduled Tribes. We recommend that apart from the 12 seats which will be reserved for the Bhutia (including Sherpa) and the Lepcha, persons from these communities should be allowed to contest against the seats reserved for the Scheduled Tribes also. If the Bhutia (including Sherpa) and the Lepcha can win sizeable number of seats from this category of reserved seats they may in course of time find it more attractive to overcome the attachment to feudal residues, as in that case their appeal to the voters of the relatively more open constituencies will be enhanced. We call it strategy of non-intervention and providing alternative pole of transcendence.

Here the position of the Sherpa requires to be discussed in some detail. In the Constitution (Sikkim) Scheduled Tribes Order, 1978 along with the Lepcha, the Bhutia including Chumbipa, Dophapa, Dukpa, Kagatey, Sherpa, Tibetan, Tromopa and Yolmo have been included in the list of the Scheduled Tribes. But during our field visits we have found that Sherpas consider themselves as a distinct community and are regarded as such by others. On the other hand, in the Census Report of Sikkim for the year 1911 Sherpa has been mentioned as Sherpa Bhutia. Besides in letter No. 3834 dated 6-2-1937, the General Department of the then Sikkim Government mentioned Sherpa as Bhutia to the Private Secretary to the Maharaja. **(Annexure-E)** It is obvious that Sherpas are of Bhutia origin. However, it is also to be noted that in the same communication Sherpa and Tamang have been mentioned as Nepali. In the context of the communication above, it is obvious that the Sherpa are of Bhutia origin who had arrived in Sikkim from Nepal. However, after the promulgation of the Sikkim Subjects Regulation in 1961, they have become citizens of Sikkim. Thus, legally Sherpas are Sikkimese of Bhutia origin. Hence, though we have included in the Report a separate write-up on Sherpas, we do not feel ourselves competent to tamper with their legal status. Besides under the Representation of the People (Amendment) Ordinance, 1979 the Sherpa, a sub-tribe of Bhutia, are entitled to access to the reserved quota of seats for Bhutia and Lepcha. If for legal purpose they are treated separately, they will demand indication of the number of seats reserved for them. This will create complications. We, therefore, have decided to maintain the status quo. As in the field we have not come across Kagatey, Yolmo and other sub-

tribes of Bhutia we have not made separate mention of them. But the legal status of Sherpa will *ipso facto* apply to them also, if they are actually found to exist in Sikkim.

24.0 Reservation of seats for Limboo and Tamang communities in Sikkim Legislative Assembly consequent upon their inclusion in the list of the Scheduled Tribes

Limboo and Tamang communities have been recognised as ST vide SC & ST Order (Amendment) Act, 2002 (No.10 of 2002), thereby making them entitled to reservation of seats in the State Legislative Assembly as envisaged under Article 332(1) of the Constitution of India.

24.1 At this moment, apart from Limboo and Tamang, Bhutia and Lepcha are recognised as ST in Sikkim. For Bhutia and Lepcha there is reservation of seats in the State Legislature not as Scheduled Tribes but as a sequel to a political agreement in 1973 between the Government of India, the Chogyal of Sikkim and three political parties of Sikkim. The issue is whether there should be reservation of seats in the State Legislature only for Limboo and Tamang to the exclusion of Bhutia and Lepcha, as they are getting the benefit of reservation, though not as ST but as part of a political arrangement.

24.2 We have already recommended that though Bhutia and Lepcha are having benefit of reservation of certain number of seats (as distinct from certain percent of seats) the same number should continue even if the total number of seats in the State Assembly increases and also that as and when reservation of seats is provided for the STs of Sikkim, Bhutia and Lepcha should be eligible to contest against this category of reserved seats also. We do not recommend reservation of seats for Limboo and Tamang only to the exclusion of Bhutia and Lepcha as such segmented reservation of seats for a section of the STs is not provided for in the Constitution of India. Under the provision of the Constitution there will have to be a single quota of reservation for the entire Scheduled Tribe population, without segmentation of the same in favour of any particular Scheduled Tribe community or constellation of Scheduled Tribe communities.

25.0 We, however, feel that if feudal proximity as consideration for special political privilege is kept apart, the logic underlying the conferment of such privilege on Lepcha and Bhutia applies with equal force in case of Limboo. In other words, special political arrangement could be recommended for them by invoking Article 371(F) of the Constitution. But we found a difficulty in this. Under the Representation of Sikkim Subject Act, 1974 Limboos were having one seat reserved for them in

the State Assembly. But this was discontinued under the Representation of the People (Amendment) Act, 1979. Obviously in 1979, the arrangement of 1974 was considered to be a transitional arrangement. Apart from the difficulty of reversion of the same after three decades, we found another difficulty. The logic by which Article 371(F) could be invoked in favour of Limboo could be applied for Mangar also. But the justice right of Mangars was not mentioned by any one. Along with Limboo the name of Tamang has come up. But historically the Tamang case is different from the cases of Limboo and Mangar. To avoid complication we have decided to treat all indigenous population of Sikkim in the same manner.

26.0 Inclusion of Bahun, Chhetri and Newar communities declared as OBCs under State Government notification as OBCs under Central Government notification

As we have already recommended that the entire Bhutia, Lepcha and Nepali population of Sikkim should be recognised as ST, it will be redundant to consider this request of the State Government separately.

27.0 Enlistment of ethnic communities like Kirat Khambu Rai, Gurung, Mangar, Sunuwar, Thamu, Dewan and Bhujel as ST

As already mentioned, we have recommended all these communities along with other Nepali constellation of communities who have not been already included in the list of the Scheduled Tribes to be included therein. Therefore, it is not necessary to separately consider the case of the communities mentioned here.

28.0 Recognition of Lepcha as Most Primitive Tribe

In July 2006 the Government of India have announced a revised tribal policy which, *inter alia*, has replaced the pejorative term 'Primitive Tribe' by the term 'Particularly Vulnerable Tribal Group' (PTG). There was never any category of 'Most Primitive Tribe' in the Constitution of the country, and/or also as far as is known the Government of India do not treat any community as 'Most Primitive' for the purpose of any scheme, plan and programme.

Recognition of a community as particularly vulnerable tribe is a prerogative of the Government of India. It does not require Parliamentary endorsement. Based on data provided by the Department of Economics, Statistics, Monitoring and Evaluation (DESME), Government of Sikkim, we have provided socio-economic indicators of all communities. These will require empirical reinforcement. As we have confined to matters which are of particular jurisdiction of the Parliament, we have not

taken up matters which will require community-wise empirical verification. Besides, we have taken note of the fact that the Government of India in Tribal Policy statement of July 2006, para 12 indicated that any more name will not be added to the list of Particularly Vulnerable Tribal Groups (PTG). We, therefore, refrain from making any special recommendation in respect of Lepchas as put up to us in the State Government's memorandum of 27 December 2005.

29.0 Increase in the number of seats in the State Legislative Assembly

Currently the State Legislative Assembly has 32 seats out of which one is reserved for the Sangha, two are reserved for the Scheduled Castes, twelve seats are reserved for the Sikkimese of Bhutia-Lepcha origin in fulfilment of a political agreement. Leaving these out, only 17 seats are available for the Scheduled Tribes and the general population.

If our recommendation to recognise the entire indigenous population of Sikkim as Scheduled Tribes is accepted, around 85 per cent of the population of the State will be covered by the same. For these 85% of the population out of the 17 available seats only 14 would be reserved. This will be too small. Sikkim is a highly sparsely populated State. While average density of population per sq. km. in the State is 76, in North District it is only 10. With only 17 seats for 75% of the population most of the constituencies will be too large in area, making voter participation extremely difficult. Leaving out the seats reserved on political ground and those for the Scheduled Castes and Scheduled Tribes and the Sangha, for the 10 per cent general population only two seats will be available. This will be an undesirable proposition. While the general population constitute 10% of the population in some sectors major portion of the economy is controlled by them. If the general population are not adequately represented they will have to persuade others to present their case in the Assembly. Obviously this may have undesirable consequences. Therefore, there should be at least four seats in the Assembly for the 10 per cent general population. Taking into consideration this fact as well as the political reservation of 12 seats for Lepcha and Bhutia and special representation of the Sangha, we were inclined to recommend fifty to be the strength of the Assembly. But then we had to consider another fact. On the assumption that about 50% of the population of the State will be adult, there would be around 3 lakh voters in Sikkim. In that case the average number of voters per constituency will be only 6,000. This will turn many of the constituencies into pocket boroughs of influential persons and families. Taking all these aspects into consideration we have proposed numerical strength of forty seats for the Assembly. The number of seats with

reference to voter categories have been indicated in the Chapter on Recapitulation and Recommendation.

30.0 **Setting up a Central University**

The Central University Sikkim has already started functioning. We feel that the Central University in Sikkim should have four important roles, viz., help in early transition of Sikkim's society and polity from feudal order to liberal democratic order; strengthen the interface between cultural diversity and biodiversity, strengthen the quest for the universals in the religious rituals; promote sustainable livelihood security through informed and eco-friendly management of natural resources and strengthening of appropriate technologies. As, however, University is an autonomous institution, it is for the University itself to take decision on such matters and define its priorities.

31.0 We have discussed the issues conveyed to us by the Additional Secretary, Department of Home, Government of Sikkim in his letter of December 27, 2005 in the introductory chapter itself because we feel that as they are very specific in nature and do not require multi-dimensional appraisal and analysis, we can offer our observations at the very outset.

32.0 Coming back to the terms of reference we would like to start with the Scheduled Tribe status claims of several communities.

Prior to setting up the CRESP the Government of Sikkim had in February 2005 set up a committee with Prof. A.C. Sinha as Chairman to prepare ethnographic account of seven communities, viz., Rai, Yakha, Sunuwar, Mangar, Gurung, Bhujel and Jogi. The Sinha Committee submitted its report in May 2005. Within the short time at its disposal the Committee could collect considerable information on ethno-genesis and diagnostic traits of the foregoing communities. Based on this study the Sinha Committee observed that if any community was to be considered for the status of Scheduled Tribe in future, except Jogi, all the others could be included in the category of the Scheduled Tribes. For Jogi the Sinha Committee recommended OBC status. The Government of Sikkim forwarded the recommendations of the Sinha Committee to the Government of India for their consideration. But without waiting for the response of the Government of India, the Government of Sikkim constituted CRESP for a more comprehensive review not only for determining the status claims of different communities but also for determining policies, plans and programmes in respect of them.

- 33.0 CRESP formally started functioning in mid-December 2005, but for reasons beyond our control we could not effectively start our work before end of March 2006.
- 33.1 A copy of the Report of the Sinha Committee was made available to CRESP. We found that while useful ethnographic materials were there, for treating communities as Scheduled Tribes mere ethnographic information was not enough. Information on the extent of homogenisation or differentiation within the concerned communities not only with reference to cultural traits, but also in terms of articulation with the regional political economy, management of natural resources, institutions of social control and so on is also needed. Also we felt that this information would have to be collected in time depth. For this purpose genealogy-based investigation is the most acclaimed method. We approached the North Bengal University to join us in a study, based on genealogy. The Vice-Chancellor and the faculty members of the Anthropology and Sociology Departments welcomed the idea, but later when it was found that the time schedule clashed with an important academic programme of the University the idea had to be dropped.
- 33.2 It was then brought to our notice that in December 2005 - January 06 the State Government had carried out a socio-economic census which covered all areas of the State except those which were inhabited by military and para-military personnel. We felt that this census could give us very useful community-wise data.
- 33.3 Chairman of CRESP gave frames for generation of 26 tables based on these data. While some tables were made available to us in usable form by the second week of March 2007, some more tables were available only in May 2007. Notwithstanding these constraints we are glad that we have been able to compile considerable amount of extremely useful information.
- 34.0 Here we acknowledge with thanks that we received memoranda from 18 ethnic associations (the list of the associations is enclosed at **Annexure - F**). While these memoranda mostly focussed on the so-called primitive traits and backwardness of the concerned communities, they had in addition provided useful information on ethno-genesis and in some cases on inter-ethnic relations. We have made use of the same.
- 35.0 The most serious constraint we faced was conceptual. It came to our notice that departing from the ideas professed by eminent social scientists during 1950s to 1970s, in recent decades the Government of India had reverted to the 19th century ideas of primitiveness, backwardness and so on and also on presence or absence of certain

cultural traits and certain types of institutions as the main criteria for recognition as Scheduled Tribes. It was felt that these outdated ideas must be re-examined so that our recommendations could be considered in a rational manner. Chairman prepared two notes and made the same available to two national level professional bodies of anthropologists, viz., Indian Anthropological Society and Indian Anthropological Association. A copy of the second note which was discussed by both the organisations in two seminars, one in Delhi and the other in Kolkata, is enclosed at **Annexure - G**.

- 35.1 While both the organisations conveyed their view that the criteria till then purported to be used by the Government of India for recognising the STs were inappropriate, the Indian Anthropological Society accepted the criteria suggested by Chairman of CRESA in toto. The Indian Anthropological Association considered that for adopting alternative set of criteria more deliberation was needed. Along with a Declaration adopted by a tribal conference in Bhubaneswar based on the keynote address delivered by Chairman of CRESA the foregoing materials were communicated to the Ministry of Tribal Affairs, Government of India. We are glad that the Ministry responded in a positive manner in a revised policy statement issued in July 2006. A copy of the revised National Tribal Policy is included at **Annexure - H**.
- 36.0 A resume of the paper 'Paternalistic Philanthropy vs. Dialectics of Inequality: Considerations for Inclusion in or Exclusion from the category of Scheduled Tribes' which was prepared by Chairman and discussed in the two seminars convened by the two professional bodies of anthropologists along with the views expressed by several eminent social scientists in 1950s and 1960s as well as a summary of Bhubaneswar Declaration are furnished here.
- 36.1 The above cited paper is divided into seven sections. The first section comments on the stage theory of evolution of human social and political organisation (or in other words a crude form of Social Darwinism) where Western life style was recognised as one polar end and tribal ways of life as the other polar end. Agriculture was recognised as mid-position with hunting and gathering at one end and industrial revolution on the other end of the evolutionary schema of social, political and economic development. In this schema, community resource holding was seen as residual of earlier political economy. The leaders of freedom struggle were largely guided by these principles in relation to tribal people. As such philanthropic and paternalistic attitudes were expressed through various developmental programmes and policies related to tribal people and human dignity as asserted by various tribal movements were largely ignored.

- 36.2 The second section while taking cue of the recent research findings tries to demystify all the past and current ideas prevalent among academics, activists and people working with tribal peoples. It also directs attention to the problems related to the effects of industrial development and many attributes of tribal people which are now being taken seriously to resolve these problems. Also the growing consciousness among the tribal peoples around the world and its effect on them and changes in the ideas related to them are covered in this section.
- 36.3 The next section provides the current basis for recognition of STs in the absence of such criteria being provided in the Constitution. Based on empirical data the section also provides criticism of the ideas held by the concerned authorities for recognition of STs. This section is followed by suggested criteria for recognition of STs provided by the author in the current context. The next section provides the reasons for certain functional imperatives to be considered for possible role of STs in the current national and international situation. The last two sections deal with the so-called primitive tribes and denotified tribes and prejudices and biases associated with the nomenclatures, their effect on the concerned peoples and suggested changes.
- 36.4 The Indian Anthropological Society, Kolkata and the Indian Anthropological Association, Delhi based on the deliberations during the two workshops informed CRESA that the Government of India's criteria were untenable. This view was communicated to the Government of India. In July 2006, the Government of India put on its website a new National Policy on Tribals in which the criteria based on the Lokur Committee Report have been described as outdated.
- 36.5 While the Government of India have withdrawn the Lokur Committee based criteria they have not provided any alternative set of criteria. In the 1950s and 1960s the criteria for recognition of STs were discussed and debated among social scientists, social activists and policy framers. While the general trend was to eschew negative characteristics like 'primitive trait' (which was considered to reflect subjective attitude rather than objective fact), animism (which tended to be used in pejorative sense ignoring the aesthetic ethical values and eco-sensitivity often associated with the concept), and shyness of contact (which tended to be projected ahistorically without tracing the locus of this behaviour in particular episodes or events), there was no consensus about the positive traits by the presence of which STs could be identified. However, there was a vague, though by and large unstated, feeling that the communities which had been enlisted as STs were having behavioural traits or cultural traits which were distinct from those of the dominant politico-social community around, and that these traits acquired their

salience from lores, legends and existential experiences rather than from any institutionalised text. In other words, these communities had an aura of something like *sui-generis* around them. This was not only the 'other image' but by and large 'self definition' of the concerned communities. This sense of *sui-generis* in its turn provided the sense of custodial relationship with specific space segments. Other attributes, which went and even now often go with the STs, are that many of them value 'non-accumulation' and sharing with and caring for others as values of high order. Besides at the level of ethos, though not always empirically, they consider self-reliance, self-management, equity and conviviality as values to be cherished.

- 37.0 A workshop was organised by the Institute of Socio-Economic Development, Bhubaneswar to get a threadbare analysis of the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA). A strong view emerged during the workshop that the social scientists should develop a set of criteria more reflective of current thinking about the significance of tribal people's life-ways, particularly about their sharing with and caring for persons in the same social orbit and their extension of self in the surroundings, their veneration of the endowments of nature and their internal self-regulation rather than over-dependence on state machinery.
- 37.1 The workshop strongly denounced some sections of the tribal population being stigmatised as primitive tribes, because of alleged primitiveness, pre-agricultural economic pursuit and stagnation in population growth. As already noted, all tribal peoples are identified by possession of so-called primitive traits, without indicating what the primitive traits are. If it is not bad enough, the problem is further compounded by ascribing that the 'Primitive' tribes also possess primitive traits. Then at the conceptual level they are primitive of primitives. This is negativity running amok. As regards stagnation of growth, it is found among many highly sophisticated people; e.g. Parsees. As regards pre-agricultural stage of economy, there is hardly any person anywhere in the world who does not have at least symbiotic relation with agricultural or post-agricultural production system. There are, however, peoples among the STs who are more vulnerable to economic, cultural and social onslaughts than others. The workshop strongly suggested that the term 'Primitive Tribe' may be replaced by the term 'Vulnerable Tribe'. Also the workshop strongly demanded that the term 'De-notified Tribe' should be replaced by the term 'Vulnerable Tribe' as the use of the term 'Denotified' inevitably raked up the unpleasant memory that rightly or wrongly the concerned peoples had sometime been notified as 'Criminal Tribe'.

- 38.0 In Indian setting there is a tendency to consider social backwardness in terms of ritual status in the hierarchically oriented social organisation of caste. In Sikkim though there are filaments of caste like structures, the organisational principle of the same is not informed by hierarchical values. Pre-merger Sikkim had served as a political buffer between South, Central and East Asia; also it served as a bridge in the transaction of goods (with opaque commodity character) and services (which had embedded in them the character of unfree institutional goods rather than that of unbound flow of specialised human skill). The position of CRESP in this regard is that in Sikkim, caste-like structures existed unbound by the Brahmanical values of caste system that prevail in most other parts of India.
- 39.0 CRESP was informed that several scholars including its Chairman had been advocating for more than three decades a functional approach to the identification of STs (Roy Burman 1968). In this approach, inclusion in or exclusion from the category of the Scheduled Tribes should be considered to be a social arrangement, the tenability of which is to be considered in terms of the effect of the foregoing actions on the strategically important areas of social, economic, cultural and political concerns of the state, region and the country. In a State like Sikkim inclusion in or exclusion from any statutory status category should also be considered in terms of the State's financial carrying capacity, ecological carrying capacity, food security, over-all human security and short and long term geopolitical constraints and imperatives. The rationale and relevance of the parameters presented here have been discussed in the chapters that follow.
- 40.0 The Commission also took into account the perception of leading social scientists about the modality of preparation of the list of STs.
- 40.1 Prof. V. Xaxa (1998) of Delhi University, the seniormost sociologist among the tribal peoples of India, observed that the concepts of tribe were neither clearly formulated nor systematically applied. One set of criteria was used in one context and quite another in another context. Prof. Andre Beteille (1998) one of the leading social anthropologists of the country, observed: "*Finding a definition of tribe that will fit all the existing communities described as tribe has proved to be difficult*". Earlier in 1992 he had observed that after the World War II, the concept 'primitive' came to be disfavoured globally. Further, he observed that in the 19th century the presumption with which most anthropologists worked was that tribe was an isolated, self-contained and primitive social formation. This evolutionary "*concept of tribe worked best in areas where a tribe lived in isolation but not in South Asia, where tribal peoples live in close*

association with others". Proceeding further, Beteille observed that "the communities freely designated as primitive in the past, are now more likely to be designated as disadvantaged". Bara, a faculty member of Jawaharlal Nehru University and an eminent tribal intellectual, observes that the word 'tribe' is invariably treated as synonymous with "primitiveness, savagery and wildness and its origin is modern". "The tribals were thus permanently condemned to primitiveness". (Bara, 2006, p.167)

- 40.2 While the overwhelming mood of disfavour of the use of the concept 'primitive' has been reflected in the work of Prof. Roy Burman (1978), it is difficult to say that a consensus has emerged about the alternative definition of tribe. This has been sharply brought out by Prof. T.B. Naik, 1968 former Visiting Professor, School of Oriental and African Studies, London and former Director, Tribal Research Institute, Madhya Pradesh. He considered trait based approach like tribal social structure, totemic clans, religion, etc., as untenable. He then quotes the views of Prof. D.N. Majumdar, eminent Indian anthropologist, Prof. Ehrenfels, Prof. B.H. Mehta and Prof. Roy Burman.
- 40.3 According to Prof. Majumdar (1968) "A tribe is a social group with territorial affiliation, endogamous, with no specialisation of functions, ruled by tribal officers hereditary or otherwise; united in language or dialect; recognising social distance from tribes or castes but without any stigma as attached in the case of caste structures, following tribal tradition, beliefs and practices, illiberal of naturalisation of ideas from alien sources; above all conscious of homogeneity; ethnic and territorial integration". Majumdar's indicators while bereft of pejorative or negative imageries like primitive, backward, superstition are static in character and do not cover the procedural aspect.
- 40.4 Prof. Ehrenfels (1968) writes that he wants to substitute the word economically backward, primitive means and undeveloped stage by the concept 'self-sufficient'. And also he would like to highlight that the members of a tribe have a feeling of belonging to a group, the existence of which is valuable.
- 40.5 Prof. B.H. Mehta (1968) of the Tata Institute of Social Sciences observes, *inter alia*, that "tribe as a social organisation is able to decide on its own function, or the need or otherwise of interdependence between its different component units or groups. Economic backwardness is very relative. In many cases tribes have highly advanced hunting and fishing economies and are more adjusted to their physical environment than other developed economies. The evolution of the economy from non-feudal to feudal and then to commercial conditions can take place during

any stage of tribal evolution. There is a curious implication in the suggested statement that if tribes develop economically they must cease to be a tribe. It must be left to an organised tribe to decide for itself, or evolve a social structure to suit its purpose". Incidentally, the overall thrust of this communication marking a break with the 19th century anthropology, which informs the formulations of the official ideologues even today, should be noted. Roy Burman (1968) raised the question: "Does the existing social situation justify the presumption that the social phenomenon of tribe (as perceived by the anthropologists) and the politico-operational phenomenon of Scheduled Tribe (as recognised by the political organ of the society) should necessarily be identical?" He hardly thought so. The anthropological definition of tribe is a very useful tool for the labelling of social processes. But a 'Scheduled Tribe' is a concrete ensemble of persons recognised as such for operational purposes. The criteria for the determination of Scheduled Tribes should, therefore, be conceived as a function of the operational purpose". Proceeding further, he stated: "*As laid down in the Constitution, and as adopted in the international Convention under the aegis of the ILO, the main purpose of the recognition of tribal and semi-tribal population by the political community is to bring such population at par with other sectors of the nation and integrate them in the national polity (wrongly written as 'policy' in the publication). It, therefore, logically follows that communities which are considered to be such as would require special measures for being integrated with the national polity and for being brought at par with other sectors of the nation, should for operational purposes be recognised as Scheduled Tribes*". (Naik, 1968)

- 41.0 With the current context as already described as the backdrop, there is a broad consensus on the diagnostic criteria to be followed for identification of a community as a Tribe. These are outlined as under:
- 41.1 A Tribe is a people whose self-definition is that of (a) collective of citizens as a organic whole, who while committed to constitutional obligation of citizens constitute a distinct social entity with own niche of cherished history (empirically validated or not), language (or distinct dialect) and ways of life which are accepted as identity markers by the concerned individuals or groups or their neighbours, (b) has a social organisation that may have horizontally compartmentalised segments which are not primarily ranked high or low which, however, may be considered to be close to or distant from the internally embedded centre(s) of political/administrative power due to historical (or believed in historical) reasons, (c) the social organisation is primarily focused on kinship ties and only secondarily on territoriality (that is living in

and/or deriving livelihood from a common space or repository of shared resources), (d) In consequence of primacy of kinship ties, major chunk of social regulatory mechanism is woven around kinship system or interlaced with kinship system giving an image of State indifference (though not necessarily State antagonism), (e) entertains a sense of custodial or jurisdictional right (more of the nature of para-political right rather than of the nature of proprietary right) in respect of territories or endowments of nature (which may or may not be located in their traditional habitats or ancestral domains), (f) through myths, legends, other narrations, social injunctions and stipulations are having an internalised commitment of sharing of goods and services with fellow members belonging to the same social orbit and of caring for the satisfaction of their needs, rather than strictly going by their socially prescribed entitlements, (g) enjoying the sublime bliss of reciprocity as an aesthetic-ethical compact with various entities rather than as a pragmatic contract, (h) while not averse to sophisticated technology acceptance of the same is predicated to the harmonisation with culturally prescribed roles of the diverse segments of the community.

41.2 It may be noted from the foregoing paras that the Commission has taken into account a vast repository of thoughts and ideas on the issue of identification of communities as tribes. It is not that all the criteria must be satisfied for a community to be considered as a tribe. Their inclusion in or exclusion from the constitutional category scheduled tribe is a separate matter. For that the functional approach as described in the prefatory write up of the Chairman has been adopted in a flexible manner, keeping in view the geo-political context and socio-cultural ethos of Sikkimese society.

42.0 The present Report covers two main terms of reference, viz., review of Constitutional status of castes and communities in Sikkim in historical cultural-ecological and political-economic contexts and making appropriate recommendations; and review of the policies, plans and programmes in respect of the Scheduled Castes, Scheduled Tribes, OBCs and other categories of population. So far as the third term of reference, i.e., review of UNDP - Planning Commission sponsored project - strengthening State plans for Human Development (SSPHD) is concerned, Chairman, in exercise of power conferred on him vide Notification No.69/Home/2006 dated 25-9-2006 constituted an Advisory Committee on Human Development (ACHuDev) with himself as Chairman and Hon'ble Speaker, Sikkim Legislative Assembly, and a few senior Ministers as Members. The Advisory Committee has already identified 16 Cardinal Issues for Human Development in Sikkim (**Annexure-I**). It has also pointed out certain lapses at the ground

level of administration and suggested corrective actions by the State Government. An Implementation, Steering and Monitoring Committee (CISMO) with Hon'ble Chief Minister as Chairman has also been constituted which will function as the apex body to oversee all activities relating to Human Development in the State.

Apart from Preface and Introduction the Report of the Commission in various chapters would dwell on Physiography and sacred space; Demography and political economy of migration; Ethnic entities and ethnic processes; Socio-economic indicators; Political and administrative processes; Dialectics of reverse inequality; Review of environmental and social sector policies, plans and programmes as prelude to promotional activity for Human Development Agenda; Recapitulation and recommendations.

- 43.0 However, even at this stage we would like to make a special mention of representation of Buddhist monasteries (Sangha) in the State Legislative Assembly.

As already mentioned the Representation of Sikkim Subject Act, 1974 proclaimed by the Chogyal on February 5, 1974, *inter-alia*, lays down that the Assembly shall consist of 32 elected members. Sixteen constituencies shall be reserved for the Sikkimese of Lepcha-Bhutia origin and out of these 16 constituencies one shall be reserved for the Sangha. Special representation of the Sangha has been ratified by the Supreme Court as a transition measure adopted for facilitating the merger of Sikkim with India.

Implication of this proclamation is very clear. It means that only those monasteries which are associated with the Bhutia and the Lepcha will constitute the electorate for the Sangha constituency. But even at the time of the proclamation there were monasteries associated with other communities as well. For instance, it has come to our notice that there were at least the following three monasteries associated with the Tamang people.

- (i) Boomtar Namdroling Monastery, South District established by Tamang Buddhist Association in 1939.
- (ii) Dechen Choling Monastery, South District, founded by a Tamang Lama in 1949 and
- (iii) Sorok Tamang Monastery, South District, founded in 1969.

Currently there are many more monasteries associated with Tamang and Gurung communities. So long as the arrangement of special representation of monasteries continues as a transitional measure the

universalistic character of the Sangha should not be fragmented by continuing the right of representation only to those which are particularly associated with Bhutia and Lepcha communities. The right should be operative for all monasteries irrespective of their ethnic association. To facilitate this, we are inclined to increase the number of seats representing the Sangha to two, so that they do not feel cramped by number. But these two seats should be equally open to all recognised monasteries. The criteria of representation of the monasteries through one or the other of the proposed two seats should, however, be decided through broadbased consultation.