

## CHAPTER 5

### **Negotiating Land Governance: Urban Informality in a Post-colonial Frontier**

The previous chapter discussed the development of land governance in Itanagar and how the state violates indigenous tribes' rights to land through their continuous displacement and dispossession. It is also observed how the rules of exception were arbitrarily used by the government in ways that made informality an inherent part of formal governance. Such a system benefitted the state at the cost of indigenous tribes and their rights. Moving from the narratives of displacement and marginalisation, this chapter focuses on the practices of negotiations within the urban land governance used by the indigenous tribes in Itanagar to reclaim their rights and power.

To illustrate how the indigenous tribes are negotiating with the urban land governance of Itanagar, this chapter focuses on a unique practice of encroachment witnessed rampantly in the capital region. The practice entails unauthorised renovation, extension, demolition, and re-construction of the government staff quarters by its occupants like personal property and eventual legal transfer of rights over the land or the quarter or both from the government to private. It is found that while encroachment of government land is a common phenomenon, there has been no parallel in any other states in India, let alone the north-eastern region, where encroachment of government quarters is as commonplace a practice as in the capital region. The easy transfer of legal rights of ownership of such encroachment was a unique phenomenon witnessed in Arunachal Pradesh and hence needs to be located and analysed within its unique socio-political trajectory.

To do so, the chapter explores how government quarter encroachment began in Itanagar and how encroachers transfer property rights. It asks questions on rules and regulations to prevent such violations and how they are manoeuvred by the people. In the process, the chapter sheds light on the nature of land and housing governance in Itanagar, and how it manifests itself in the capital governed within a dominant context of post-colonial security frontier. Focusing on encroachment as a form of urban informality, the chapter re-engages with the emergence of Itanagar as the capital and its subsequent rapid urbanisation.

The chapter draws on the ethnographic fieldwork in Itanagar conducted between January 2018 and February 2020 in different phases. Amongst the many people interacted with during the fieldwork, there were twelve key resource persons comprising two research scholars, one journalist, two lawyers, three professors, two government officials and two social activists. It uses secondary data such as media reports, government notifications, reports and gazettes, documents from the archive collected from different government offices and their websites.

The chapter is structured into four parts. First, it discusses government quarter encroachment in the capital region, highlighting debates and public discourse on its extent. It then engages with the various steps taken by the government to control the situation and the successive trajectory of the practice of encroachment. In doing so, the chapter tries to understand the phenomenon as a form of urban informality practice in the light of possible local specificities. Third, it locates the encroachment practice within the urban housing crisis of Itanagar and engages with a discussion on the changing housing policies and informality practices in the larger national and international contexts. Finally, the chapter concludes with a discussion around different land legislations of the State and its emerging land governance in the larger context of contemporary shifts towards land titling.

### **5.1. Government Quarter Encroachment: Its Extent**

As mentioned in previous chapters, the capital was built from scratch, transforming a forested area. Unlike most capitals which are also already established urban centres of the respective States, Itanagar lacked facilities that could accommodate its growing population. Public housing, primarily government quarters, served as the primary housing solution in the capital. Thus, when an increasing number of government employees struggled to get a government quarter in Itanagar because government quarters were continuously encroached upon, leading to a housing crisis. With it, the practice of government quarter encroachment became a public concern.

The crisis of public housing in Itanagar was so real that it even captured the attention of a Padmashree and Sahitya Academy award winning writer, Yeshe Dorjee Thongchi. He wrote a short story titled '*Anya Ekhon Protijogita*' (translated as *A Different Competition*) that succinctly mirrors the multi-faceted reality of urban housing and governance in Itanagar (Thongchi, 2009). In the story, the protagonist was in an inhuman race against time to get the allotment of a government quarter on the very same day its existing

occupant commits suicide. The protagonist was late and while the body of the deceased was still hanging, his quarter had already been allotted to a local tribal employee out of turn on the instruction of a minister.

With the practice being rampant, it became a topic of public debate by the end of the first decade. Its extent can be gauged from the detailed journalistic coverage done by the news daily, *The Arunachal Times*. The news report states:

more than 800 cases of land encroachment of govt. quarter (from general pool quarter along with individual departments) has been reported with the office of chief estate officer, Capital Complex. This is followed by sector road-1116 and national highway 337 cases... The highest number of encroachment cases has been reported from C-Sector, Itanagar followed by P-Sector, Vivek Vihar, E-Sector, ESS-Sector and H-Sector. Not a single sector or colony has been left untouched. In Naharlagun maximum number of encroachments has been reported from Polo Colony which is closely followed by D-Sector, E-Sector, G-Extension and Barapani. In Nirjuli, D-Sector has the highest number of encroachment cases (Ajum 2015).

From the pictures (Figure 5.1-5.4), one can see how the government quarters are either squeezed between or disposed of by private buildings (marked with a black arrow and red box). At present, beyond government quarters, the encroachment practices have extended to roads, drains and even river beds. In a letter to the editor, a concerned citizen wrote about the river encroachment along the Jully road, Itanagar. The author points out how people have blocked the river with heavy retaining walls and established settlements disrupting the natural flow of water. The stagnant water in parts could potentially lead to diseases on one hand, and on the other, possibility of landslides and flash floods increases risks to life and property (Yasum 2019).

As shown in the Figure 5.5 to 5.7 taken by the researcher, it is clear how the Senkhi river is becoming narrower. People have encroached upon the river-bed by constructing heavy-retaining walls. Further, the bridge construction by the government also has narrowed the river which is restraining its natural flow. As a result, in each monsoon the capital is increasingly witnessing the devastating fury of floods, causing destruction of roads, property and human lives.



**Figure 5.1.** Government Quarter Encroachment 1



**Figure 5.2.** Government Quarter Encroachment 2



**Figure 5.3.** Government Quarter Encroachment 3



**Figure 5.4.** Government Quarter Encroachment 4

In fact, any new person who visits Itanagar and Naharlagun for the first time will get a sense of such worrisome encroachment patterns as raised by the concerned citizen and is visible across various roads and sectors of the capital region. One can see how rampant encroachment of government land poses a serious threat to the future developmental activities such as construction of drains, widening of roads, etc. and will adversely affect the urban growth of the capital region. The encroachers include almost everyone starting from sitting MLAs/former MLAs, retired and present government employees like engineers, doctors, bureaucrats (secretaries/directors) and clerical officials of various departments as well as the common public. The issue is most rampant in the capital region, but other district administrative headquarters are starting to get affected too. For example, Tawang (Arunachal Observer 2018) and Tezu (Arunachal 24 2019) are the recent additions. The Rajiv Gandhi University campus which is adjacent to Itanagar is another



addition to the list where the encroachment of campus land has begun (Riba 2018;The Arunachal Times 2019).



**Figure 5.5.** River-bed encroachment by people and bridge construction by the State.



**Figure 5.6.** Pigsty and low cost houses



**Figure 5.7.** Five-Storey building

This phenomenon has attracted significant media attention since early 2012 and has called for cabinet level meetings (Arunachal Times 2020; Press Trust of India 2013). Since then various efforts have been made by the government to deal with the practice. The government first began with accommodative measures such as regularisation of encroached land and quarters with a nominal fee and have moved to disciplinary actions such as fine from pension and gratuity. Today, the government seems to be taking stronger punitive measures of 24 hours eviction notice, arrests and demolitions of illegal and unauthorised construction. However, the practice seems to be thriving by manoeuvring each of these government attempts to their benefits and being able to acquire government land through encroachment. In other words, similar to informal practices across the world,

the practice of government quarter encroachment too needs to be understood beyond the ordinary logic of routine corruption common to developing nations.

Continuing with the discussions in the previous chapter on everyday state bureaucracy and the development of formal land governance in Itanagar, the following sections locate how the practice of government quarter encroachment can be understood within the arguments of the former. It has been argued that contemporary governance is ‘multi-layered’ and ‘includes important local, sub-state regional, supra-state regional and trans-world operations alongside and intertwined with national arrangements’ (Scholte 2002, 287). Thus, there can be various actors and factors at play for a particular social phenomenon. While informality in everyday state bureaucracy of formal urban land governance seems like plausible explanations of the practice of government quarter encroachment, what comprises such informality, or its nature and logic of production needs elaboration. In other words, informality in everyday state bureaucracy makes encroachment of government quarters possible, but unlike other practices of government land encroachment, why and how it took this particular form is not clear.

## **5.2. ‘Encroachment’ as Informality: Changing Land Governance and Legal Pluralism in a Post-Colonial Frontier**

While the encroachment of the government quarters in Itanagar apparently resembles squatting in so far as it is an illegal occupation, it differs from squatting as unlike the latter the process of occupation in the beginning is based on official allotment. Secondly, unlike squatters who do not enjoy legal security, the encroachers in this case invariably succeed in acquiring legal status. Thirdly, while squatting usually involves a collective of poor and marginalised groups, the encroachers in Itanagar are constituted of individuals who mostly belong to the ethnically dominant middle and upper-class population.

The ‘government quarter encroachment’ first begins with the unauthorised renovation, extension, demolition and re-construction of the allotted government quarter by the government employee like personal property. Secondly, once such an investment is made, the government officer tries to acquire the house or the part of the plot where new construction is made into his/her private property. Encroachment becomes complete when the said officer manages to transfer the government property into legal private ownership through the bureaucratic channels of the government land management system.

Evidently one needs to locate the practice of government quarter encroachment in both socio-political and socio-cultural factors that have given shape to governance related to housing and land in the region. The first section elaborates how encroachment is the result of the interface between rapid housing demands and socio-political factors like changing land relations, introduction of a new urban land management system, politics of indigeneity, and exigencies of a frontier territory. It demonstrates how the socio-political history of Arunachal Pradesh and Itanagar as elaborated in Chapter 2 and 3 manifests itself and provides a setting for legal pluralism. This in turn has a significant bearing upon the planning and governance of land and housing and results in encroachment practices as its form of informality.

The second section explicates the socio-cultural factors such as prevailing traditional residential architecture and kinship relations and obligations. In other words, these specificities shaped by the frontier imperatives inform the territorial practices in Itanagar, thereby having a different logic of production and regulation of informality as it witnessed in bigger cities of Global South.

### ***5.2.1. Land Management System and State-Society Interface***

As mentioned, when Itanagar became the capital, it set off a process of land acquisition to accommodate the new administrative set-up and its associated migrant population. It led to a process of rapid urbanisation necessitating a rising demand for land. Such demands for land created the condition for the administration to formulate new regulations bypassing the existing framework of protective land laws and customary practices. Thus, the administration introduced a system whereby people could have *de facto* private ownership of land without the *de jure* ownership rights. The new system introduced an administrative instrument, *The Arunachal Pradesh Allotment of Government Land Rules, 1988* was introduced which provided tribal individuals from within the State with government land allotments for the capital and other administrative centres like district headquarters. Issued with the consent of village councils and a clearance from forest department that the land does not fall under reserved forest, it stipulated that the allottee shall pay lease money annually at rates fixed by the government from time to time.

Based on the Rules which later was modified in 2002 and 2012, the district administration issues a Land Allotment Passbook (LAP) which is in the form of a small booklet containing the basic details of the allotted person, terms and conditions of land rights and

a space for records of government rent to be paid annually against the user rights. The process of acquiring an LAP entails identification of vacant land through the help of a designated local official, filling up the application form for LAP and its submission to the concerned authority, review of the vacant land by authorities based on which it is decided where LAP would be granted or not, and finally issuing the LAP which can be collected by the applicant. Once LAP is issued, the recipient can legally start developing the plot for their use. It recognises their user rights over land but retains the absolute ownership right with the government. For instance, people can use land for housing or commercial purposes like business establishments but cannot use it as a collateral for formal credit. Similar to LAP for urban areas, Land Possession Certificates (LPC) is issued for rural areas. However, unlike LAP, LPC owners do not pay revenue for their land. Currently, after the *Arunachal Pradesh (Land Settlement and Records) (Amendment) Act* was passed in 2018 that recognises private ownership of land in the State for the first time, both LPC and LAP have become important documents to convert their user right to ownership right.

Here it is relevant to discuss Roy (2005) who argues that informality must be understood not as the object of state regulation but rather as produced by the state itself through deregulation and unmapping. She borrows Giorgio Agamben's (1998) notion of sovereignty 'as the power to determine the state of exception' and shows how the 'planning and legal apparatus of the state has the power to determine when to enact this suspension, to determine what is informal and what is not, and to determine which forms of informality will thrive and which will disappear' (Roy, 2005, p. 149). In Itanagar, by introducing new regulation (the system of LAP/LPC discussed below vis-à-vis existing customary practices) the state creates a zone of exception (urban areas vis-à-vis the rest of AP). Secondly, as discussed in Chapter 3 and 4, Itanagar was established on land that was usurped from the community informally and its planning and development began in unmapped land. In other words, both the condition of LAP/LPC as a new system of deregulation introduced to the unmapped Itanagar created a context for rules violations. The government quarter encroachment is only one of physical manifestations of such rule violations.

The very process of applying for LAP is where encroachment of government quarters begins and with the issue of LAP, it gets completed. The question then is - how such a transfer of government property to private hands becomes possible within the watch of the system? The first part of the answer lies in the urban politics centred around indigenous



entitlement regime (Prasad-Aleyamma2014) that shapes the functioning of everyday state bureaucracy. Prasad-Aleyamma's work explains how the urban politics of Pasighat, the third largest town in Arunachal Pradesh, is shaped by the notion of indigeneity and the entitlement regime shaped by it. She traces the entitlement regime to the colonial policies of Inner Line Regulations (ILR) that in turn gave a distinct division between the tribal people of the hills and those from the plains of Assam.

As discussed elaborately in chapter 2, the ILR is the result of what historian Curzon (1907) described as the Empire's way of administering frontiers that defined the broader context of land possession and ownership practices in the State. It made land non-alienable to non-indigenous people of the State by law. Land can only usually be sold to people belonging to the same tribe, and barely to members from other tribes. Such exclusive land rights shape an indigenous entitlement regime as it provides a sense of ownership through the colonial ethno-territorial frame (Prasad-Aleyamma 2014). Baruah (2020) terms it as 'de-facto ethnic homelands' and elaborates on how such a regime gets manifested. He maintains that tribal communities 'have near-exclusive access to public employment, business and trade licences, rights to land ownership and exchange, and the right to seek elected office' (Baruah 2020, 89-90). With such near-exclusive privileges comes a near-exclusive sense of entitlement and power, which in turn shapes the everyday practices of rule of law in the region.

The shift from colonial to national governance introduced the region to direct modern administration with the set-up of different administrative centres. But the shift did little to decolonize governance. What eventuated was two parallel sets of laws namely, traditional (customary) law based on local culture in much of the State and Roman (statutory) law based on colonial legal order in the administrative centres or the urban areas. While the former was the continuation of colonial notions of indigeneity and self-rule, the latter was the gradual introduction to the Indian State, resulting in a situation of legal pluralism. It was, as mentioned above, the continuation of the colonial policy of non-intervention, but with a changed focus of state-making through the introduction of formal administration (Sharma, 2020).

The policy of protective isolation, however, was challenged soon as security concerns got the upper hand as India became embroiled with China over territorial rights over Arunachal Pradesh necessitating a stronger presence of the Indian State and infrastructure

building in the State. The nation-state got prioritised over tribal autonomous governance based on customary laws. Along with increased militarisation, the Indian State also gradually extended its formal administrative presence to areas which continued to function through customary laws. At the same time, new statutory laws have been introduced that legally superseded the customary laws.

Thus, while the nation-state started to change its approach towards Arunachal Pradesh, the local tribes and their entitlement regime needed to adapt to it. Borrowing from Beall and Ngonyama (2009), one can see how states and society are not always hermetically sealed from one another, and in many contexts, indigenous institutions and practices compete with other forms of formal organisations. In the case study of Swaziland Urban Development Project in Eswatini (formerly and still commonly known as Swaziland), a former British colony and protectorate, Simelane (2016) substantiates how such competition between multiple institutions (traditional and statutory) in terms of land management can affect residents and impede development.

In the context of Itanagar, the indigenous practices of reclaiming land compete with the formal statutory practice. Traditionally, the practice of shifting cultivation required land to be periodically reclaimed by clearing jungles and making it suitable for homestead or cultivation. As most tribes traditionally owned and managed land communally, individuals were concerned with user rights more than ownership. The user rights over land rest on those who cleared the jungle, once they were allotted by the tribe/clan. However, in case of inter and intra community land conflicts, the customary practice was to trace the first person who reclaimed the jungle through oral history and to grant his respective tribe or clan the user rights over the land.<sup>1</sup>

As Itanagar was mostly constituted of uninhabited community forests when the capital was established, there was enough land for reclamation. The initial intra-state tribal migrants could acquire LAP without strictly following the formal procedure. As elaborated in Chapter 3 and 4, the formal land management in Itanagar was based on violations and deviations from various standard rules of governance more than following the due process of law. For example, the state itself used the informal route of beginning construction work for the capital establishment without formally acquiring the land. The provision of issuing

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<sup>1</sup>Interview: Lawyer, 4 June 2019

LAP came in 1988 which in all probability was much later than people's use of Itanagar's land for housing and commercial purposes.

The notion of first claimants to have user rights over land justified occupying the land before acquiring LAP. It provided them with a moral legitimacy based on their customs. As the process of claiming land began before issuing of LAP, the latter's introduction didn't change much in practice. Further LAP was allowed to indigenous members of the State alone, the non-tribal government officials from outside the State did not act against such digression of official procedure. Even if some officials did, they could not do much about it due to the entitlement regime mentioned above. The tribal officials, on the other hand, themselves were violators of the formal procedure. Eventually, developing the land before acquiring LAP became the established norm with many common people believing it to be a part of the formal procedure.

Whether one follows the formal procedure or not, every step taken towards acquiring LAP in the bureaucratic land management system involves bribes or social network or both. The centrality of paper being weak in the bureaucracy as discussed in Chapter 4, made the informal embedded with the formal. Scholars have argued how formal-informal embeddedness negates bureaucratic rationality and efficiency in the Global South (Hodson, et al. 2012; Mangla, 2015), and produces new forms of location and context-specific social rules and norms for governance. Thus, violations as a practice got embedded in the everyday governance and it became the norm through which people acquired private land for housing in Itanagar.

However, when the context specific norms for governance are violations, its acceptance may depend on factors beyond the social embeddedness of everyday governance. For example, Grashoff (2017) looks at factors enabling and practices that shaped both the emergence and the persistence of informal housing known as *Schwarzwohnen* in the erstwhile German Democratic Republic (GDR). He illustrates how weakening of the socialist dictatorship allowed informality and that it persisted as its effect was 'ambiguous'. The practice of *Schwarzwohnen* 'undermined the state's authority but alleviated the housing shortage and thus (unintentionally) stabilised the state' or the socialist regime (ibid, p 548). Contrary to the context in GDR where the state power was on the wane, in Itanagar the context is that of a new Indian formal administration on a weaker ground gaining gradual entrenchment and legitimacy in a security frontier. Mishra

(2013) writing on the Indian State's role in Arunachal Pradesh comments, '(I)n its anxiety to gain legitimacy and acceptability among the people in the border areas, it has made many special provisions that have resulted in a situation wherein the politics of identity and difference have come to play a very significant role' (ibid, p 158).

Similarly, McDuire-Ra (2016) shows how 'authority is fragmented into microsites of contention where state, quasi-state (military and paramilitary) and non-state actors seek to control space' (p. 15) in Imphal, another State capital in NEI. Being a military and resource frontier with a history of strong ethnic armed conflicts, the Indian State tolerates illegalities produced through local specificities and allows fluidity of law enforcement unless it jeopardises the territorial integrity of the nation-state. While there is no armed ethnic assertion in Arunachal Pradesh, the Indian State is cautious about not creating a situation of ethnic unrest by challenging the indigenous entitlement regime. The imperative of state penetration and control over territory due to external threat supersedes law enforcements related to urban governance, thereby producing new forms of informality.

The vacant land identified was usually the areas nearby the government quarters in which the employees stayed. Thus, officers acquired LAP for land adjacent to their official quarters. Sometimes it can overlap with the compound boundaries of government quarters too, and yet people managed to acquire LAP. With time, the availability of empty government land gradually dwindled, and people started acquiring LAP for the government quarters or part of the quarters which had been renovated. This brings us to the question as to why this need for renovations began.

### ***5.2.2. Social Obligations, Adjustments and Appropriations***

At the outset, most field respondents attributed the practice of encroachment to corruption and bad governance. They unanimously condemned it and felt that the government should take proactive measures to deal with it. However, on being asked about their personal/family journeys to the capital and how they bought their land, the social dimension of the issue came to the fore that accounts for the unauthorised renovation in the first place. The following narrative from a respondent illustrates this.

Aani,<sup>2</sup> a Nyishi woman in her late fifties, first came to Itanagar in 1988 to meet her fiancé who was working in the State Government secretariat. She wanted to attend college in Itanagar, but due to the lack of a women's hostel, she had to study in Pasighat instead. After completing her graduation when she got her job as a schoolteacher in 1991, she came to Itanagar. She married her fiancé, and they became the first-generation government service holders of their respective families. Their new positions demanded, as per the customary family/clannish responsibility, that they take responsibilities of family and kin members' education and career. She recalled how their small official quarter was always full of guests from their families. The guests were of two kinds- long-term and short-term. The former comprised kin members pursuing education or are in service. The latter were those who had to visit the capital for official work or health emergencies. These guests could be anyone from the immediate or extended family or even a village or clan member. The long-term guests are usually from within the extended family, but sometimes can be a village or clan member too. She remembers how at one point they could not host some guests and eventually decided to construct a bamboo structure of one room in their government quarter compound like many others. The structure, which was for temporary use, later was expanded to one more room. They dismantled the structure only when they vacated the government quarter and shifted to their present home. She mentioned how most tribal officials constructed similar bamboo huts for everyday use as indigenous kitchens and as guest rooms when need arises. For Ani, it was not illegal like the encroachment of quarters. In fact, she did not realise that she was acknowledging their complicity in unauthorised construction as she narrates her story.

The need for an additional kitchen was emphasised by other respondents too. As most indigenous cuisines include smoked items that require firewood smoke and the bamboo/cane structure that hangs above the fireplace, the modern kitchens with gas burners proved inadequate for this. Further, the traditional kitchen hearth, usually located at the centre of the room, has been and continues to be an important place as rituals, social gatherings, and hospitality customs mostly take place around it. It is important to reiterate that housing is a continuous incremental process that requires creation of a flexible appropriation of space to meet residents' ever-changing and immediate needs (Adianto,

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<sup>2</sup>Interview: 4-5 September 2019, 19 February 2020



et.al., 2021). Spatial transformations are bound to occur, all the more when the housing form ignores the local and socio-cultural specificities of its residents.

Speaking of hospitality customs, in most tribal cultures, denying hospitality to a kin-village-clan member is condemnable behaviour that invites social censure. The social obligation of hospitality toward guests from family, village, and clan lies at the core of village-clan-tribe affiliations amongst most tribal societies. In contemporary times, a tribal government employee may not require kin members for his/her everyday survival nor is there a direct external threat of ethnic warfare. And yet, the ethos of maintaining kinship relations continues, so do the social obligations of hosting guests. In fact, for many of our respondents, distant cousins or other kin members who stay for long term are treated as a family member. Here, the notions of family expand beyond the usual nuclear family in an urban setting. The obligation of hosting guests results in another fascinating phenomenon, that is, mushrooming of boarding schools in and around Itanagar as maintaining a suitable environment for studies at home becomes difficult with year-round guests.

Moreover, there is an acute lack of private lodging facilities in Itanagar. The sector-wise spatial planning that was imported neither factored in the existing acute scarcity of boarding and housing facilities nor could meet the increasing demands for accommodation. Although at present new hotels are coming up in Itanagar, most tribal villagers visiting the town do not have the necessary monetary means to stay in them. In such a situation, the few government quarter holders are burdened with guests to whom they cannot deny accommodation and cannot accommodate within the limited space of their quarters. Thus, they end up extending the existing house unauthorised or build temporary structures within the compound. When most tribal government officials starting from the clerical positions to officers' rank face the same social obligation, there seems to be a collective understanding on the practice of unauthorised renovation or extension.

Once a few people manage to acquire land allotment for unauthorised structures within the government quarter plots or the renovated quarters itself to their names, it becomes a precedent for the rest to follow. With the shift in use of local materials like bamboo to bricks and concrete, the temporary unauthorised structures took more permanent forms. The shift increased the cost of construction, thereby augmenting further grounds for the offenders to convert the encroached property to private ownership. Lack of timely maintenance of government quarters is another reason why many occupants renovate the

quarters at their own expenses. In this case, renovations are unauthorised eventually following the same process of encroachment.

According to Mihi,<sup>3</sup> one of the earliest tribal businessmen of Itanagar, acquiring government land was very easy for most early settlers. Belonging to the Idu-Mishimi tribe from Eastern Arunachal Pradesh, he had helped his kins to acquire land allotment and settle in Itanagar. He had even gifted some of his land to his kin and clan members. Mihi illustrates how the importance of kin, clan and tribe loyalty is significant for most tribal people. It features prominently from the allotment process of government quarters to the completion of encroachment, as encroachers use a mix of bribes and social networks to acquire the LAP/LPC. Today compared to some other early settlers he does not own much land. He says,

*My family criticises me for not retaining enough land for them. If I would have retained all the land, then today I would be very rich.*

But he seems to have no regrets for not retaining too much land as he says owning more than required is not what his faith teaches. He acquired land when he required it for his businesses and today retained the land that is required to house his family. He is a content man in his 70's satisfied with his life's journey which he feels he has experimented on enough. He continues to retain his indigenous faith and wishes to die within the indigenous system of the Idu-Mishimi. His family, however, represents the section who have been influenced by the rapid religious conversion and assimilation in the State. Of the two of his daughters, one converted to the Christian sects of her husband and another of her school. His wife, influenced by daily TV soap operas have included the photos of many Hindu Gods and Goddesses and adopted Hindu worshipping practices and elements to their daily routine. His youngest son who is a teenager, till now is ambivalent about his faith.

But some other tribal elites do not share the same philosophy of land ownership. For example, Mei's brothers own a lot of land in and around Itanagar. Her father was an influential Nyishi legislator and during the course of his political career he acquired much land. Her two-storey house is built on the slope of a hill supported by a heavy concrete retaining wall. It is located next to her father legislator's quarter. When her father died

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<sup>3</sup>Interview: 5 June 2019

suddenly, he left her male siblings with a lot of property in and around the town. Today, they own many buildings which they run as well as rent for business establishments. Being a female, apart from her current house, her share in other property is less than her brothers comparatively. They have kept the government quarter too, which belongs to Mei's brother and lies vacant as a holiday-cum-get-together home. Her sector which was planned to host legislators' quarters today has many private buildings that are owned by legislators and their family and kins.<sup>4</sup>

Similarly, several politicians, engineers and senior bureaucrats hold prime land in today's Itanagar allegedly acquired by the same process. This facilitated the eventual emergence of a few landed families in contemporary Itanagar. Example of Mei is representative of the elites of respective dominant tribes of the State who are deeply entrenched in the political system of the State. The creation and sustenance of a tribal elite is a well-documented governance policy adopted by the Indian State in the frontier States of the Northeast (Baruah, 2020).

Sanni and Adunola's (2007) work on Obafemi Awolowo University campus, Ile-Ife, in Southwestern Nigeria is a case in point that offers a similar impact of local (tribal) culture in housing and land use patterns. They show how university staff quarters were improvised for multiple uses- like commercial, crafts, light industrial and so on – contrary to the provisions of the master plan on which the design of the University was based. The staff quarters have been clustered which took the form of *adugbos*, the traditional housing pattern of Yoruba communities (Sanni & Adunola, 2007).

Similarly, Adianto, et.al., (2021) look at illegal spatial transformation of low-cost apartments in Jakarta and Sundaresan (2017) looks at building violations in Bangalore, both forms of informalities materialised through 'vernacularization of governance'. By vernacularization, they mean the appropriation of governance by the local context. Such blindness to local context can also be explained by colonised minds of planners who fail to decolonise planning. Further, it has been observed that informality as a state of deregulation corresponds to the characteristic planning style in developing countries (Roy, 2009).

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<sup>4</sup>Interview: 3-6 June 2019

It is fascinating how comparable these situations are to Itanagar. In all three cases, planning provided space for informality by ignoring peoples' needs and the local context. Similarly, the master plan of Itanagar too did not tend to the local requirements of a capital in a tribal State. Instead, by introducing LAP that was in contrast with the existing traditional land management system, the authorities expected people to automatically adapt from their customary practices to statutory laws. The government thus overlooked the contestation within legal pluralism. And when people digressed, the state had to adapt and bring in new laws to deal with the violation. For example, the *Arunachal Pradesh Public Premises (Eviction of Unauthorized Occupants) (APPP) Act of 2003* which was brought in to check encroachment came much later after it became a common practice. Hence, as laws cannot be implemented in retrospect, action against most early encroachments was not possible. It is also indicative of the nature of governance of the Indian State in its frontier region whose concerns are beyond civic administration and explains why rules are introduced retrospectively. Like the Act against encroachment, the *Building Bylaws Act* was introduced in 2008 when much of the capital was already concretised with buildings built haphazardly and hazardously that ignore both civic and safety concerns.

The discussion above clearly shows how the encroachment issue in Itanagar is rooted in the context of legal pluralism where politics of indigeneity can influence everyday governance. Thus, while encroachment as a form of urban informality is commonplace, the logic of its production and regulation varies. It is the socio-political historical context and cultural factors that provides the logic of *production* of encroachment in Itanagar. Unlike the neo-liberal logic of deregulation and market that defines informality and urban planning and governance in a metro city, in Itanagar, what assumes precedence in its *regulation* is the logic of security and nation-building in a frontier region where formal administration and formal property rights are newly introduced. The following section elaborates on how the logic of regulation of encroachment in Itanagar is defined by discussing the responses of the government that has been transforming continuously.

### **5.3. Regulation of 'Encroachment': The Trajectory of Government Actions**

From the previous section, one learnt how the lenient approach to governance allowed the practice to thrive until it became a subject of public outcry during 2008-9 when there were very limited quarters available for the new generation of government employees from the

State. Even then, the first government response to this was a cabinet notification in 2012 aiming at regularising the existing encroachments (Ajum 2015).

As encroachment of government quarters became a subject of public concern, other forms of land encroachments and informalities in Arunachal Pradesh both in urban and rural areas came to the fore. As discussed in previous chapters, property rights in Arunachal Pradesh existed in the continuum between collective and private property rights whereby the latter is increasingly gaining prominence. Although private property rights had not been backed by the government until recently, it was made operational through various informal arrangements with the community institutions, not only for individuals but also for government institutions (Harriss-White et al 2009; Mishra, 2015). Such informal arrangements were possible as the collaborative class of tribal chiefs that were formed under British control (Sikdar, 1982) today have become the dominant tribal elites (Sharma and Borgohain, 2019). They control much of the community land which has been increasingly used for private gains through plantation economy or allows the neo-liberal state to exploit natural resources and promote big infrastructure projects (ibid.). There is also an emerging middle class of government service holders and professionals, who too benefitted from informalisation of community land. In fact, most land in Arunachal Pradesh is increasingly being governed as private property by informal arrangements and less through community ownership, making land informality an integral part of formal land management both in the urban and rural areas.

Within the above mentioned context, a cabinet meeting was held on **May 2, 2012** and a decision was made to ‘regularise all government land under occupation of private individuals, State and Central Government establishment’, which also became the ground for the first response of the Government against the practice of quarter encroachment. Later the cabinet decision was notified by the Land Management Department (LM Dept) on **May 24, 2012** and directed all DC and Addl. DC of Arunachal Pradesh to implement it.<sup>5</sup> Following this notification, the office of the DC, ICC district passed an order to regularise occupied government land within the capital region on **June 20, 2012**.<sup>6</sup>

Thus, the first step by the government to deal with government quarter encroachment was a process of regularisation, when it already had the (*APPP*) Act, 2003 to deal with

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<sup>5</sup>Letter NO.LM-102/2010, Dated May 24, 2012

<sup>6</sup>Order No. DC/LRB-0492/2005, Dated June 20, 2012.



unauthorised construction and occupation of public premises. Under the *APPP Act*, a Chief Estate Officer (CEO), who is usually the ADC (HQ) of a district is empowered to issue show cause notice to unauthorised occupants, evict them and also has the power to remove and demolish unauthorised constructions. If one wants to contest the CEO, the DC is the Appellate Authority and District Courts would be binded by the decision.

Although the notification directed the land management department to initiate and examine the regularisation process after proper survey and verification as per existing Acts and Rules (Ajum 2015), the general perception was that of complacency by the government. Thus, people perceived the notice to be facilitating regularisation of all encroached land rather than empowering the existing mechanisms of checking encroachment. The decision was strongly opposed by student bodies<sup>7</sup>, as well as other civil society groups (Arunachal Times 2012). Under pressure the State Government put the decision on hold.

Another cabinet decision was taken in **2013** which directed the concerned departments to prepare a report on the status of government land and official quarters allotted to different individuals and to submit the same within two months (Press Trust of India 2013). In the same year, the State Government also decided that a government official must get a No (encroachment) Objection Certificate (NOC) to get pension and other dues. The same applied for the constitutional appointments.

The 2013 decision has been vehemently opposed by the Confederation of Service Association of Arunachal Pradesh (CoSAAP), an umbrella organisation of State Government employees. While public commentators interpreted the opposition as ample proof to the fact that most of the encroachers were indeed government employees (Rina 2016), the CoSAAP provided different explanations (Dodum 2015). According to CoSAAP, the new rule is discriminatory in nature as it does not cover powerful encroachers like ministers, politicians and other public leaders nor does it cover commoners who also engage in encroachment practices.

In **March 2014**, the State cabinet again took a decision to regularise encroachments in ICC by recovering appropriate fee for both regularisation and damages or misuse of

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<sup>7</sup>Students unions are powerful organisations in the Northeastern States and play an important civil body role.

government property as per the *APPP Act, 2003*, and other relevant laws (Press Trust of India 2014). Further, NOC would be given to employees only after recovering fees. Officials were asked to intimate banks to not issue building loans to people without NOC. The CEO placed in the district administration has been empowered to remove the existing unauthorised construction with 24 hours show-cause notice (The Free Press Journal 2014).

Instead of bringing encroachment practices to an end, these decisions encouraged new encroachments. As explained by a professor from Rajiv Gandhi University located near Itanagar, the possibility of regularisation by the government in lieu of penalty encouraged people to indulge in speculative action. As a result, the capital witnessed a massive increase in encroachment of both government quarters and land.

Secondly, the provision of NOC too seems to have helped encroachment as people could manage the NOC from officials of their respective departments. It may be mentioned that the larger number of government quarters comes under the Department of Urban Housing and Development, commonly known as General Pool quarters. Only a small number were departmental quarters under the jurisdiction of respective departments. The government quarter or land which may not be within the jurisdiction of the respective department were issuing NOC to employees without cross-checking.

Thus, when government issues eviction warrant, people could approach the court of law and secure verdicts in their favour<sup>8</sup> as they possess the required documents. Realising this, with the approval of the Chief Minister, a new notification directed “that the Deputy Commissioner/DLR SO Itanagar Capital Complex shall obtain NOC from the Chief Estate Officer before processing any application for allotment to prevent encroachment of Public premises and also pending applications shall be handed over to Chief Estate Officer for verification and scrutiny”<sup>9</sup>. Eventually, in **2018** the district administration had to issue a notification barring officials from issuing NOC for government lands within Itanagar Capital Complex<sup>10</sup>.

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<sup>8</sup>For Example-(GichikTaaza And 2 Ors. Vs The State Of Arunachal Pradesh And 5 Ors. 2021)

<sup>9</sup>Order No. CR-033/2013/6980-88 March 3, 2015, Chief Secretary, Government of Arunachal Pradesh

<sup>10</sup>Notice no. DC/ICC/Jud-01/2018, Dated October 5, 2018, District Administration, Itanagar Capital Complex, Itanagar.

Further as explained by an administrative officer of the State, the APPP Act leaves a lot of discretionary power in the hands of the estate officers in each district, which at times can act both as a boon and a drawback at other times.<sup>11</sup> For example, when the estate officer is complacent, encroachment practices will thrive and vice-versa. The indolence of an officer may come from various factors influenced by his/her identity like tribe/clan, non-tribal outsider, gender etc. For example, if the officer is a non-tribal outsider, taking actions against tribal encroachers would be difficult due to the indigenous entitlement regime as discussed above. Similarly, a non-Nyishi officer may face flak from Nyishi encroachers and find it difficult to enforce the law strictly in a Nyishi-dominated area.

There have been instances where formal action against encroachers were taken but traditional clan-based bodies influenced the final action. The following example from Seppa, the district headquarter of East Kameng District illustrates this. In this case, a government quarter was demolished and a three-storey building was constructed illegally by its occupant. When the inhabitant of the neighbouring quarter complained, who suffered as the newly constructed building obstructed the natural sunlight to his house, the authorities took a proactive role and demolished the building. The encroacher took up the matter to his clan against the complainant for his loss, which finally led to the complainant (who was legally right) paying money to the encroacher in order to ensure peace between their clans. Eventually, the encroacher could rebuild his house again. The officer who took action was an outsider of the State and hence saw it safe to not pursue it further.

Thus, it is evident why the stalemate around encroachment practices continued. Many more cabinet level meetings were held. Respective departments were asked to prepare thorough status reports<sup>12</sup>. By **November 2017**, the government finally went back to their first decision regarding regularisation of encroached land in lieu of cash penalty (Arunachal Times 2020). To implement regularisation, in 2018, land in Arunachal Pradesh was divided into five zones and premiums were fixed ranging from a maximum of Rs 1,000 and a minimum Rs 100 per square metre for commercial areas, and from Rs 600 to Rs 50 for residential areas which was passed in the cabinet. Unlike the situation in 2012, this time around the government began the regularisation process and distributed land deeds to people before the 2019 State Assembly elections. In this slot, many people

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<sup>11</sup>Informal Interaction with a District Commissioner on September 23, 2022.

<sup>12</sup>Cabinet decision vide No. CAB/M-07/2014/552 dated 14th August, 2014, the Government of Arunachal Pradesh

managed to get land allotment for encroached government land as well as government quarters, which encouraged fresh encroachments on existing government quarters.

The government however started taking stricter action from 2019 onwards. The year witnessed a series of demolitions of unauthorised constructions by the government. On October 25, 2019, a meeting was held between the Director (Housing), the DC- ICC, and the Chief Estate officer chaired by the Chief Secretary of Govt of Arunachal Pradesh to discuss the demolition and encroachment of government quarters under General Pool. The meeting decided the following:

1. The Director (Housing) and the Chief Estate Officer shall conduct surveys of Demolished Government quarters and the report be submitted next fortnight.
2. The DC, ICC and the Director (Town Planning) shall prepare the map of each and every Government quarters in the Capital Complex for allotment.
3. The Chief Estate Officer-cum-Additional District Magistrate shall ensure that no further demolition of Government Quarters take place and to this effect he shall deploy the Public Premises Protection Force (PPPF) 24X7 and they shall be supported by the Police personnel attached to him.
4. The Director (Housing) shall file an appeal petition in the higher court against the cases dismissed in the lower court for the demolition of Government quarters by the private parties.

These decisions were then approved by the Chief Minister within 5 days on October 30, 2019.<sup>13</sup>

In January 2020, the State cabinet decided to increase the cash penalty in lieu of regularisation of encroached land that was decided in 2018 by 50 per cent. To its effect, similar proposals of earning revenue out of the encroachment issue were put forward. For example, a legislator from Itanagar was seen submitting a proposal regarding the unauthorised encroachment of government quarters, especially the Type-II ones, whereby the encroachers get legal allotment in lieu of cash penalty. The fund collected should then be used to establish a new colony with G+3 or G+4 buildings and a proper boundary to provide housing to government employees (Arunachal Times 2020).

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<sup>13</sup>vide U.O. No. 2673, Dated October 30, 2019

Evidently, the government seems to take the route of earning money out of the encroachment issue on one hand, and eviction measures on the other. While earning revenue was a cabinet decision, eviction measures rested on an individual person, that is the Chief Estate Officer (CEO), who is in charge of implementing the *APPP Act*. A search for the person's identity led one to discover that in recent times, the DC of ICC has become the public face of eviction. The DC gave press conferences and personal interviews where he talked about demolition measures to curb encroachment practices.

An enquiry into his present activism and his past led to some interesting insights. First, the present DC was the same person who became the CEO in 2008-09 when the practice of government quarter encroachment practice came to be discussed in news media for the first time. An Assistant Engineer from the Public Works Department, he was requisitioned on deputation by the Chief Engineer-cum-Director of Urban Development and Housing in the year 2007<sup>14</sup> and appointed on officiating basis as CEO under District Administrative Department.<sup>15</sup> He was conferred with the power of an executive magistrate on a trial basis and within 3 months he was given the additional powers of judicial magistrate to implement the *APPP Act* as the CEO. In 2019, he was appointed as an IAS by selection from Non-State Civil Service Officers of Arunachal Segment and became the DC of ICC. Secondly, the DC belongs to a numerically strong Nyishi clan of the region. It would not be wrong to conclude that he has strong socio-political backing that is reflected in his fast career growth within a short span of time.

Under his leadership, the fresh encroachments faced strict actions in the form of court notices and demolitions. He set up a special vigilance team called 'Public Premise Protection Force (PPPF)' to report and act on fresh encroachments. Through this unit, the DC has been able to conduct special demolition drives across the capital more rigorously post-COVID lockdowns from 2021 onwards.

However, these demolition drives are alleged to be biased on class and ethnic lines. Even though the government sounds vocal against encroachment and has been making tall claims in public platforms, an RTI by the present researcher seeking information about government quarter and land encroachment available with the government was met with

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<sup>14</sup>vide order no DUD/Esstt-324/05-06(pt)7672-85, Dated March 26, 2007

<sup>15</sup> vide order no DAD- 21 /2011, Dated 23rd March 2011



no reply. Each concerned department forwarded the application to another department for response, but none gave any data.

Here it is important to note that the remaining government quarters require major renovation to bring it to contemporary standards of housing. They were mostly Assam-type tin roof single floor houses with walls made of both cane/wood and concrete. However, instead of renovating old quarters, the government is building new apartment complexes that are 3-4 storied Reinforced Concrete Cement (RCC) buildings by clearing new areas. Today, as they stand in their dilapidated condition, the fate of old government quarters remains unclear. They may get demolished either by the people for further encroachment or by the government for any use it deems fit.

As mentioned above, the government tolerates the illegalities because of the nature of frontier governance. Here Grashoff's (2017) work on *Schwarzwohnen* in GDR is relevant again which too was facilitated by an 'unintentional blindness' from the state authorities and when confronted, they were 'not antagonistic but restrained'. He showed how *Schwarzwohnen* as a housing informality was 'apolitical' and 'diffuse and individualised action' unlike the Western notion of squatting that involves an awareness or social movement against capitalism. However, as the socialist regime collapsed, the housing informality was either transformed into Western-style squatting or eradicated by police action protecting property rights in the new capitalist context.

In Itanagar too, the production of informality was not politically motivated against the government for its failure to provide housing. The acquisition of LAP involves both bribes and a series of personal clan/tribe/class networks, making it an individual effort. The transition was similar to, as there is a gradual shift from overlooking violations to restrained contention through various accommodative and punitive trials and finally taking proactive actions against encroachment. However, contrary to the context of shift from communist regime to capitalist system in GDR, here the context is that of increased entrenchment of formal administration and legitimacy of the State. The changed regulatory approach of the government also needs to be located in the newly emerging generation of educated and employable tribal people. Their new hopes and aspirations, expectations from the government as citizens with awareness of political, social-cultural and economic rights, bring in new challenges to urban governance and the government in general in the tribal dominated frontier State. It challenges the nexus of the existing tribal elite and the

Indian State and the theatre of contestations expands (not necessarily replacing) from centre-periphery (frontier) to divisions within AP in terms of clan, tribe, class, religion, and gender.

From the local context of state building and changes in the expectations of people from the state as citizens, if the practice of encroachment needs to be understood at the macro level, one needs to have a discussion on the housing policies of the State and its changing context in the light of neoliberalism of the Indian economy. The next section briefly engages with the housing policy of India and the contemporary housing crisis, especially in its urban areas.

#### **5.4. Locating Urban Housing Crisis: Changing Housing Policies and Informality**

Unlike some parts of the Global North, where urban housing policy transformed from publicly supplied mass housing of the welfare states to marketization of housing in the contemporary neo-liberal era, much of urban housing in India happened through informality, outside the Master Planned infrastructure and services (Benjamin, 2010, p. 95-96). Public housing in Indian cities was more of a continuation of colonial enclaves, that reflects the social and economic hierarchies (Beverley, 2011). Public urban housing was mainly in the form of government staff quarters for a limited number of public service holders available only during their tenure. This leaves most of the population who form the informal economy to fend for themselves. The limited employees who enjoy the facilities of government quarters too need to fend for themselves after retirement. Thus, the urban housing scenario in the country always existed in duality of the haves and have nots where the haves enjoyed large estates and controlled much of the urban land and the poor were pushed to mass squatter settlements with its self-help housing expressions.

In other words, the urban housing situation in the country reflected the grim effects of colonialism mixed with Indian caste hierarchies. Housing in general remained a neglected issue at the national level as it was a state subject (Kumar, 1989). The first National Housing Policy was tabled in the Indian Parliament in 1988 which recognised the need for a comprehensive plan expounding ‘the objectives, priorities and strategies for promoting a sustained development of housing’; but it lacked the clarity needed for formulating concrete plan of action (ibid. p. 1286). The subsequent housing policies of 1994, 1998,

2007, rhetorically moved towards 'shelter for all' while gradually increasing the withdrawal of the state from directly participating in the housing and related finance sector and shifted towards marketization (UN-HABITAT, 2008). Thus, what existed was different housing schemes for both urban and rural areas that provided some form of support to the people, especially the economically poorer sections of the society. For example, the Integrated subsidy scheme for industrial workers and economically weaker sections of the community of 1952 and Low Income Group (LIG) housing scheme of 1954 are some of the early schemes. The Integrated Housing and Slum Development Programmes of the 1993-94 succeeded by JNNURM of the 2005-2014 duration to AMRUT schemes of the present day are some of the contemporary examples.

The shift in the housing policy towards marketisation and increasing withdrawal of the welfare state can also be understood from the way the Ministry of Housing and Urban Affairs's functions have been changing. Within the Ministry there are statutory and autonomous bodies such as National Cooperative Housing Federation (NCHF), Housing and Urban Development Corporation Ltd. (HUDCO) and the Central Government Employees Welfare Housing Organisation (CGEWHO) which are important in terms of housing. The NCHF was established in 1969 as a federation to promote cooperatives which can enable affordable housing to its members. It engaged in 'channelizing long term housing loans from financial institutions to both the affiliated housing cooperatives as well as individual members for the construction/financing of dwelling units in their respective States' (Ministry of Housing and Urban Affairs, Govt. of India, 2021).

Parallel to the NCHF, the HUDCO was established and incorporated on 25<sup>th</sup> April, 1970 as a fully owned enterprise of the Government of India under the Companies Act 1956. It was set up with the social motto of 'Profitability with Social Justice' and it has been serving the 'unserved' and thus bridging the 'housing divide' in the country. HUDCO has been facilitating the housing & infrastructure development in the country with a special thrust on meeting the housing needs of the 'deprived' i.e. Economically Weaker Sections (EWS) and Low Income Groups (LIG). HUDCO also addresses the rural housing shortage by lending for rural housing. The CGEWHO was established in 1990 registered under the Societies Registration Act of 1860 'to promote, control and coordinate the development of housing schemes for the Central Government Employees and other eligible categories as per CGEWHO Rules, all over India, on "No profit-No loss basis" as a welfare measure'

(Ministry of Housing and Urban Affairs, Govt. of India, 2021). It is the third one that constructs government staff quarters for central government employees. Arunachal Pradesh being a Union Territory first, the early government quarters in Itanagar was constructed by CGEWHO.

Between the first two, NCHF and HUDCO, it is the latter which has a for-profit motive that has been playing a key role in various flagship programmes of the government to develop the Indian housing and urban infrastructure sectors. For example, for the PMAY-Housing for all (urban) scheme, HUDCO has been appointed as an appraisal agency. In other words, the government bodies that do not subscribe to welfare policies but are for-profit entities like HUDCO and many other missions such as the Smart City Mission, AMRUT, Swachh Bharat Mission that function through subcontracting private implementing agencies have taken over the housing sector in the country. In a way these bodies are replacing the limited welfare measures that the government of India had and form a part of the nation-wide disinvestment process that is liberalising the Indian economy.

In the process, it brings us back to the fact that housing in urban areas is routed through the neoliberal market and that the increased marketization creates unaffordable housing for the larger masses and reproduces and reinforces existing inequalities. Harvey (2019) argues that the increasing replacement of welfare measures with neo-liberal policies of governance and development creates a global crisis of urban housing. Even officially socialist nation-states like China are undergoing the change from welfare housing to marketising home ownership deepening its housing inequality (Lee, 2000).

On account of the lack of affordable housing in the market and the ever-shrinking public housing, the larger share of urban housing is pushed through the route of informality. Thus, it is no wonder that globally self-help housing has been the dominant mode of housing, ‘with many countries experiencing such expression to levels of 30 to 70 percent of their housing stock’ (Pugh 2001, p 400). For example, in Delhi, Bhan (2013) observes that nearly 75% of the city live in housing that is apparently ‘unplanned’. He asks “what could be a greater indictment of planning than more than nearly 75% of the city living in housing that is apparently ‘unplanned’?” (ibid. p. 59). Through this he argues that informality in housing in Delhi is not unplanned but is a result of planning which he terms as ‘planned

illegalities' in the same way government quarter encroachment practice is produced by the way land governance in Itanagar is planned.

As mentioned, the route of informality is used by both the poor and the rich. In the context of contemporary neoliberalism, informality gets embedded in the market transactions, be it in the real estate or over the production and circulation of any kind of commodities. However, what gets disciplined and regulated by the State depends on both micro and macro context of a situation as is substantiated by the trajectory of government quarter encroachment in Itanagar.

According to Solomon Benjamin (2010), in most cases, 'the use of policy and programmes to discipline and regulate' the everyday practices of informality in Indian cities are 'in favour of big business and the elite' and punishes the poor. The trajectory of regulation of the government quarter encroachment also shows similar anti-poor bias. Benjamin further observed that-

Till the 1990's, Indian cities were mostly invisible from the policy screen. Their "unplanned development", de-facto tenures, mixed land uses housing posed by planners as "non- conforming and illegal" were addressed from the perspective of the welfare state and social justice that formed the basis of Master Planning. Even if this planning was dislocated from daily life, politics was more to do with its subversion by extensive land regularisation in real terms.

However, this changed post 1990's when the Indian economy drastically began to liberalise. Along with it, the planning of Indian cities came to the forefront for urban developers invested with big capital from both within the country and abroad. In this neoliberal contemporary context, it is pertinent to discuss Roy's (2005; 2009) position on urban planning. According to her, 'the planning of Indian cities cannot be understood as the forecasting and management of growth; instead, urban planning has to be understood as the management of resources, particularly land, through dynamic processes of informality' (Roy, 2009, p. 80).

As mentioned, by informality, she means 'a state of deregulation, one where the ownership, use, and purpose of land cannot be fixed and mapped according to any prescribed set of regulations or the law' (ibid. p.81). This allows 'the state with considerable territorialized

flexibility to alter land use, deploy eminent domain, and to acquire land' and arbitrarily allocate land to new owners. But on the other hand, it can also 'paralyse the developmentalism of the state in myriad Lilliputian negotiations' (ibid. p.81) as is witnessed in the government quarter encroachments in Itanagar. Roy (2009) concludes,

In short, the Indian city is made possible through an idiom of planning whose key feature is informality, and yet this idiom creates a certain territorial impossibility of governance, justice, and development (p.81).

### **5.5. Emerging Land Governance: Shift toward Land Titling**

From the above section, one can conclude that land forms the very site of production of various other forms of urban informalities and the crisis of planning and development at large. This warrants a discussion on the emerging land laws and governance practices and its relations with informality and urban planning within the context of the protective land regime that exists in Arunachal Pradesh as a tribal majority State. It would be important to examine the land Acts in the State to explain how they need to be situated and understood within the changing discourse around land rights in India and in the Global South.

As mentioned, land governance in Arunachal Pradesh has a great deal of ambiguity. Traditionally, the tribal communities practiced an exclusive collective inalienable land-tenure system based on customary laws. However, with the increasing administrative penetration of the state, the land use and management has been continuously changing in Arunachal Pradesh; a change that has not received enough academic focus. One can have a preliminary understanding of the complex and varied land governance practices in the State from the works of Harriss-White and others (2009), Mishra (2002, 2006, 2015). According to these studies,

The existing property rights in Arunachal Pradesh, as in many of the hilly states of North East India, lie in the continuum between collective and private property rights. The private property rights over land were not backed by the state, but made operational through informal arrangements with the community institutions (Harriss-White et al 2009; Mishra 2015a, 2015b). In the instances where individual ownership over land is being recognised

by the village community, it includes the rights of use, occupancy and inheritance, but land transfer is often conditional (Mishra 2002). In some cases, fragmented and contingent property rights involving “limited transfer rights” (namely temporary transfer rights under a mortgage, use rights without inheritance rights, etc) and “preferential transfer rights” (namely restricted rights to land transfer within family, clan or tribe) have been reported, along with unconditional rights to alienate (Mishra 2006; Harriss-White et al 2009; Planning Commission 2009). The informal privatisation of commonly owned land is observed to be a gendered process. Typically, when land rights are being informally privatised, it is being passed on to the male members, turning women into a class of disinherited peasants, despite of their co-participation and often substantial knowledge about seeds and indigenous practices of collective farming systems (Krishna 2005) as cited in (Mishra, 2018, p.66).

Their works have shown varied forms of property rights that exist in the State and highlighted the existence of informal land practices within it. But to have a better understanding of the transition one needs to trace the various changes that have happened over the course of time. The following section thus, traces the key Regulations and Acts which drastically brought in changes to land governance in the State.

### ***5.5.1. Colonial and Early Post-Colonial Regulations***

To begin with, the State lacks both a comprehensive land revenue system and a cadastral survey. Historically, the absence of land revenue regulation can be traced back to the fact that the region was governed by the provisions of ILR of 1873. Thus, even though the *Assam Land Revenue Regulation, 1886* (Regulation 1 of 1886) was extended to this territory in 1915, the bulk of the legislation (Sections 3 to 159) which deal with land revenue was not extended (The Arunachal Pradesh Code-Volume 1, 1982) and the colonials left much of the land unadministered. Instead, the colonial administration made use of the *Assam Forest Regulations, 1891*. At the outset, it was a forest conservation law, but it helped the coloniser to create reserved forests which acted as the buffer between tribal communities and colonial enterprises like tea gardens. Sometimes, parts of Reserved Forests could be dereserved too, to push the colonial administrative boundaries to the hills. To sum up, as the colonials did not collect land revenue from the territory of Arunachal Pradesh, no formal land governance system was established much like other hill areas of Northeast India.

However, post-Independence when Northeast became a part of the new Indian nation-state, unlike the other hill areas of the region, the territory of Arunachal Pradesh was left out of the special protective provisions laid out by the Sixth Schedule of the Indian Constitution (Fernandes, 2010). Instead, the colonial legacy of frontier governance was continued by the Indian State through the *Balipara/Tirap/Sadiya Frontier Tract Jhum Land Regulation, 1947*. The Regulation intended to serve the twin purposes of accommodating the ground reality of the tribes of Arunachal Pradesh whose livelihoods were dependent on jhum practices and frontier imperatives of consolidating power and control over the State's territory which was till then left un-administered by the colonials. This Regulation is of great importance as it is the longest serving land legislation of the State. It has shaped the way land is governed in the State through a myriad of formal and informal ways.

The Regulation is generally considered as one of the key protective legislations for the tribal rights over land in Arunachal Pradesh. Its Preamble begins by stating that there is a need 'to safeguard and regulate the rights of the tribes indigenous' to the Frontier Tracts to jhum land. But a close scrutiny shows how the various sections and clauses of the Regulation take the power away from the tribes to the State through the position of Land Conservator. For example, the Land Conservator may at any time stop jhum cultivation in a land in the pretext of preventing soil erosion, diminution of water supply, protection of road and bridges, prevention of fire, etc (Clauses of Section 12). In other words, it was more about regulation and control of jhum land than safeguarding land rights of the tribes. It only recognised customary rights of tribes to land use, or easement rights over land. The absolute land ownership rights were retained by the government as the eminent domain.

However, in practice, implementation of authority over land was not always easy for the State. In addition to the position of Land Conservator, the Forest Department too tried to control forest land through the creation of 'Reserved Forest' under the *Assam Forest Regulations, 1891*. But nearly 63 percent of all forests of the State were categorised as 'unclassified state forest' which were in the hands of village communities and clans (Sinha, 2017). Hence, land acquisition for various developmental and military projects by the State faced challenges from communities. To fulfil the developmental and security needs based on frontier imperatives, the State either used coercive measures or used informal arrangements with traditional institutions and customary laws to consolidate its



power. It also used the *Assam Forest Regulations, 1891* to declare reserve forests and later de-reserve parts of it, as was witnessed in the establishment of Itanagar as the capital discussed in Chapter 3.

Overall, the 1947 Jhum Land Regulation failed to both acknowledge the tribes as the custodians of their natural environments and understand the deeply inter-linked connections between tribal culture, identities and sacred cosmologies with that of the traditional ecological management and conservation system that comprises the jhum practices. The Regulation left much scope to discourage jhumming as wasteful and destructive, which still continues to be a dominant understanding about jhum practices. Thus, this Regulation neither understood the philosophy nor the grassroots reality of land ownership and management which was rapidly transitioning through colonial impacts.

By 1947, the nature of colonial extraction and gradual monetisation of the tribal economy had already disrupted the traditional communitarian fabric of the society and created a collaborative class of tribal people (Sikdar, 1982). Such a transition in society weakened the ethos of collective management of land and forests and facilitated the growth of private property rights over land. Mishra (2013) explains how such a transition had institutional impacts and gave way to wanton exploitation of the ‘common’ forests for private gain and state appropriations.

(T)he institutional impact was that the traditional rules of resource use, which had been designed in a resource-abundant context and hence involved almost no cost for monitoring, became redundant so rapidly that communities did not have the social capital to address the problem. The emergence of a labor market itself transformed the labor-sharing practices, and since most of the traditional institutional mechanisms were based upon the implicit assumption of labor shortage, their distributive egalitarianism lost the capacity for conflict-minimization (Mishra 2002, 2004)’ as cited in (Mishra, 2013, p 154).

In other words, the coexistence of the practice of individual property rights over land with *de jure* collective rights in forests that began to sprout during the colonial period became a more pronounced feature in the post-independence decades when this Regulation was in place. Through the Regulation, the government tried to gradually encourage permanent cultivation replacing jhum practices and thereby push individual ownership of land.

Firstly, the Regulation excluded all land that wasn't jhum land, like terrace cultivation, private homestead land, semi-permanent and permanent villages, etc, it provided ample scope for informal arrangements to manage all such lands. Secondly, by defining jhum land restrictively, the Regulation helped to increase privately held land. Thirdly, bestowing enough discretionary power to Land Conservators and Tribal Councils run by tribal elites, the Regulation weakens the community control over land and forests in the name of 'safeguarding and regulation'. In the process, Arunachal Pradesh witnessed various informal arrangements of community jhum land too which increasingly got converted into semi-permanent and permanent terrace cultivation land managed and controlled by private individuals. It accelerated the gradual acceptance and shift toward *de facto* privatisation of land ownership and user rights over forests that existed within an ambiguous continuum of collective and secure conclusive private property rights.

The Regulation helped the Indian State to consolidate administrative and territorial power. On one hand, it used the politics of identity and difference to penetrate tribal society and gain legitimacy through the collaborative class of tribal elites. For the small tribal elites, the institutional multiplicity worked for their advantage to make both formal and informal arrangements in their favour. In a way, it complemented the state-making tactics through which the Indian State brought this unadministered territory and tribal organisational structures within the fold of the civil administration. On the other hand, the State in return used the Regulation to 'acquire any Jhum land' for 'public purpose' without any formal acquisition proceedings. The Regulation thus became the characterising feature of the state-making process in this frontier space.

By laying the ground for a shift toward *de facto* privatisation of land ownership, it laid the foundation to introduce the land tenure system based on private property rights. This was the context of *The Arunachal Pradesh Allotment of Government Land Rules, 1988* which gave LAP to tribal individuals, discussed above. This Chapter already elaborated how this Rule has been a departure from the traditional land ownership patterns and how it produced land informality practices in urban areas and administrative centres.

### *5.5.2. Developments after 1990's Liberalisation*

The next major change was the liberalisation of the Indian economy in the 1990s, which involved many economic reforms and structural adjustments pushed by neoliberal forces and the deregulatory regime of global capitalism. According to Pradeep Nayak (2021), it led to a paradigmatic rightward shift in land policies across the country. Agrarian reform programmes were abruptly abandoned and shifted towards pro-business market friendly policies, a change visible from the Eighth Five-Year Plan (1992-1997). Formulated in the backdrop of the new liberalised economic policy, this Plan and the Five-Year Plans thereafter advocated a reorientation of the role of state and planned economy in facilitating the growth of the market. These Plans admitted that the scope for redistributive policies in land reforms have become limited. Instead they laid stress on 'recording the rights of tenants and sharecroppers with the objective of giving them security of tenure' (ibid. p. 165). During the Seventh Five-Year Plan, since 1988-89, just before liberalising, the Government of India introduced The centrally sponsored schemes such as the National Land Records Modernisation Programme (NLRMP) and the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) 'clearly envisaged that the state would promote secure property rights in land regime by guaranteeing titles to land and replace the existing presumptive nature of ownership in land and land records. Such policy shifts certainly mark a historic reorientation of the land policy in India' (ibid. p. 2).

During the Seventh Five-Year Plan in order to improve status of land records, since 1988-89, the Govt. of India had introduced and implemented a computerization programme of land records in all the States. This was a hundred per cent grant-in-aid scheme of the Central Government executed by the State governments. The primary purpose was to preserve original survey records and computerise cadastral records from measurement data.

While the adverse impacts of the 1990's liberalisation process on land policies were visible across the country, especially on the country's poor dependence on agriculture (Sen 1992, Sen & Ghosh 2017), it was not as apparent in Arunachal Pradesh immediately. It made sense, because the State being part of Northeast India, a 'peripheral other' vis-a-vis the mainland Indian subcontinent, the general progress of neo-liberalisation driven 'through mechanisms of uneven geographical developments' (Harvey, 2005, 87) will reach later.

Further, Arunachal Pradesh being a frontier territory the security imperatives of the Indian State dominated its developmental paradigm. By then, the entrenchment of the Indian State was visible in every aspect of the state's political economy and the evolution of the land tenure system based on private property was taking roots through different policy and legal instruments in this territory. It is within this backdrop, *The Arunachal Pradesh (Land Settlement Records) Act, 2000* was introduced by the State. Through the Act, the government envisaged the implementation of a land tenure system based on the individualistic ethics of neoliberalism which recognises and promotes private property rights. It thus tried to replace the existing presumptive and communal nature of ownership in land and validate the myriad forms of informal practices of private property in the State.

Apart from the preliminary definitions, the 2000 Act had 10 chapters which were designed with the primary objectives of establishing permanent land settlement, maintenance of land records and earning land revenue in the State. The chapters were as follows:

1. The Preliminary
2. Revenue Divisions, Revenue Officers and Other Appointments
3. Rights Over Land
4. Survey and Settlement of Land Revenue
5. Land Records
6. Boundaries and Boundary Marks
7. Realisation of Land Revenue and Other Public Demands
8. Appeals and Revisions
9. Rights of Land Owners
10. Rights of Tenants
11. General and Miscellaneous

The Act defined land in Arunachal Pradesh into three types, namely common, government and jhum land. Accordingly, common land was defined as 'any land used or reserved for the common use of a community or a village'. It referred to the *Balipara, Tirap, Sadiya Frontier Tracts Jhum Land Regulation, 1947*, Section 2 (b) to define jhum land which was as follows.

“Jhum land” means and includes all lands which any member or members of a village or community have customary rights to cultivate by means of shifting cultivation or to utilise

by clearing jungle or grazing livestock provided that such village or community is in a permanent location but does not include: -

- (i) any land which has been or is under process of being terraced for the purpose of permanent or semi-permanent cultivation whether by means of irrigation or not.
- (ii) any land attached appurtenant to a dwelling house and used for the purposes of permanent cultivation, or
- (iii) any land which in the opinion of the [Deputy Commissioner] 2 is subject to permanent cultivation.

The main focus of the Act was on government land whose definition was spread across two Sections- 2 and 9. Section 2(h) states government land as 'land acquired by the Government under *Land Acquisition Act* for through donation of the public for establishment of Administrative Headquarter, Government Institutions and facilities under various wings of the Government or such land as defined under Section-9'. The Section 9, which was the 'Titles of Land, etc.' under the 'Chapter III- Rights Over Land' stated that:

(1) All lands, public roads, lanes and paths and bridges, ditches, dikes and fences on or beside the same, the beds of rivers, streams, nallahs, lakes and tanks, and all canals and water course and all standing and flowing water, and rights in or over the same or appertaining thereto, which are *not the property of any person or community* are hereby declared to be the property of the Government.

(2) Unless it is otherwise expressly provided in the terms of a grant made by the Government, the right to mines, quarries, mineral products including mineral oil, natural gas and petroleum shall vest in the Government, and it shall have all the powers necessary for the proper enjoyment of such rights.

Through the above sections, one can discern how the Act used the colonial logic of *terra nullius* to claim land as government land. In the succeeding Sections, the Act elaborated on the ways of establishing a comprehensive land revenue system in the State by describing the roles and responsibilities of government officials and agencies responsible for land settlement and records maintenance. The Act interestingly skipped defining private land but defined 'land owners' instead. Accordingly, a land owner is a person who acquires rights of ownership in respect of such land by:-

- (i) inheritance or acquisition in accordance with a local custom;
- (ii) purchase, if such purchase is not contrary to local customs;

- (iii) gift or donation as per local custom;
- (iv) according to provisions under section 88;

It mentioned 'indigenous' only on two counts, first on Section 2 (s) while defining 'residents' and second on Section 88 that lays down the accrual of ownership rights on Government land allotted for agricultural purposes. In other words, the intent of the Act visibly moved away from the discourse of protection of tribal land rights to that of defining and expanding both the notion of government land and government control over land ultimately serving the purpose of revenue generation.

The Rules of implementation for this Act was formulated in 2002 and later modified in 2012. The 2012 Rules were more exhaustive than the previous set of rules and contained more details on procedural aspects. These Rules are in tune with land settlement rules prevalent in the rest of the country. Through the Rules, the State Government of Arunachal Pradesh started issuing Land Possession Certificates (LPC) to indigenous Arunachal Pradesh Scheduled Tribe people for rural land of the State and continued to issue the Land Allotment Passbook (LAP) for the urban area land. Similar to LAP in administrative centres, LPC became the *de facto* private land ownership document for land in rural areas. It led to a rapid privatisation of commonly owned land in much of rural Arunachal Pradesh.

However, as LPC still lacks complete *de jure* ownership rights, and much of the privatisation of commons is done through varied forms of informality, the government faced various issues to implement many of the massive state-led infrastructure development projects like big dams and highway construction. These projects which involved huge public and private capital investments and in-migration of outsiders, were faced with challenges of contested land claims by communities and often were stuck with messy land acquisitions exercises.

### ***5.5.3. Contemporary Developments***

Within this backdrop of streamlining state control over land in Arunachal Pradesh, the next change was introduced in 2018 with the latest amendments in the 2000 Land Act and brought the *Arunachal Pradesh (Land Settlement Records) (Amendment) Act*. Added to it was the fact that in January 2018, Itanagar was chosen as one of the nine new cities to be

included in the Smart City Mission (SCM) by the Central Government, in addition to Pasighat which was included in 2017. It seems to be the immediate context of the amendment introduced by the Minister of Land Management who also was the Minister of Town Planning and Urban Local Bodies on March 6, 2018 in the State Legislative Assembly. Introduced as a two-page bill, it was passed by the Assembly through a voice vote within a week's time on 12th March.

The media reports mentioned that the bill was drafted by a high-level committee constituted by the chief minister, and consisting of four cabinet ministers and other senior officers of the government (Parashar, 2018). Reports also mention that a state-level conclave was held at Itanagar where experts on land and land laws from within and outside the State were invited and discussions were held with various stakeholders. However, interestingly, no consultation at the community level was conducted before the bill was introduced in the state assembly. The conclave seemed to have over-emphasised the role of the experts, undermining the experience and concerns of the people (Lepcha 2018).

While the amendments were made only in Section 88 and 90, the changes brought by it were celebrated as 'historic' and 'path-breaking' by the government. The Act made the following changes (Parashar, 2018; Lepcha 2018):

1. It conferred private land ownership rights to the citizens, particularly indigenous tribal people of the State for the first time.
2. The Act provided them the right to give their land on long term lease up to 33 years, which is extendable to another 33 years, making it to 66 years in total.
3. Land can now be mortgaged for obtaining loans from banks as the formal channels of credit have been opened.
4. The Act reduced the stamp duty on mortgages from 3% to 1%.

The immediate media reports on the law, both in the State and national dailies, were uniformly celebratory. Evidently, this stemmed from the fact that these newspapers reproduced the same statement issued by the state government. The statement said,

Even after 70 years of Independence the land in Arunachal Pradesh was held under customary laws and no document conferring the title of the land was ever given to the people. In the absence of ownership documents, the land could not be mortgaged for loans by banks and other financial institutions. Further, it was not possible for farmers to give

their land on long term lease besides facing hurdles during payment of land compensations which made them land owning poor as they couldn't unleash the true potential of the land they owned. (*Hill Times* 2018)

The official press note further stated that it would go a long way in bringing development to the hill state, which is largely dependent on union government developmental funds. It said,

(W)ith this legislation, huge investments from outside are expected, which will augment the economy of the state... (L)and can now be mortgaged for obtaining loans from banks as the formal channels of credit have been opened (*Hill Times* 2018).

The government further claims that this Act will also help in containing the rampant unregulated money lending system presently prevalent in the State, which rendered people vulnerable at the hands of money lenders. Thus, according to the government, the Act will go a long way in fulfilling the genuine aspirations of the people as well as in bringing desired capital to the state for holistic and inclusive development.

Interestingly, the official statement indirectly acknowledges the fact that local communities face hurdles during payments of land compensations by various development agencies. It also accepts the inevitability of such displacements created by development projects, even though the region is continuing to protest in different ways and means against such aggressive mode of development (Sharma 2018).

The celebration for the ability to mortgage tribal land that has been constitutionally protected to banks and other financial institutions to receive loans is a puzzling phenomenon, for it is not clear why and for what purpose the local communities need such loans. The given reason for such a need to monetise land is that it will help unemployed educated indigenous youth to venture as entrepreneurs. This again betrays another failure of the State, that is, to provide employment to its educated youths. It is unclear as to why tribal youths from Arunachal Pradesh are pushed to mortgage their land to become entrepreneurs, whereas the country already has provisions for taking loans upto 10 lakhs without collateral in certain sectors.



This Act reminds one of a similar land amendment bill in Manipur, another northeastern State of India, “The Manipur Land Revenue and Land Reforms (7th Amendment Bill), 2015.” But unlike the celebratory tone as witnessed in case of the Arunachal Pradesh Act, this bill along with two other bills, “The Protection of Manipur People Bill, 2015,” and “The Manipur Shops and Establishments (2nd Amendment) Bill, 2015,” created massive uproar and opposition in the hill districts of Manipur (*Morung Express* 2015). Those who protested against the bill saw it as a means to facilitate transfer of tribal land in the hill areas to the predominantly non-tribal inhabitants of the Imphal valley. These three bills which the Manipur legislative assembly passed in a similar quiet manner are still in a limbo, as the opposition against them in the hill areas continues.

In Arunachal Pradesh, however, there was hardly any awareness or opposition from the public regarding the Act. It was only by September 2018, an NGO in collaboration with Arunachal State Legal Services Authority organised a one-day state level workshop-cum-awareness programme on land laws of Arunachal Pradesh where the new Act was discussed and the researcher was one of the attendants. Other participants included various civil society organisations, government officials, activists and scholars, and college/university students. While some participants were buoyant about the Act, by and large, participants expressed serious concerns about the provision in the Act that facilitates long term lease of the land for big and small ventures.

Jarjum Ete, the former Chairperson of Arunachal Pradesh Women’s Rights Commission, criticised the Act and pointed out that while in the state women are not allowed to inherit land according to customary practices, now the Act poses to hand over tribal land to outsiders for decades. Walter Fernandes, a well-known expert of the region, explained that in Arunachal Pradesh the situation of de facto community ownership of land has created difficulties in its acquisition by the government for various infrastructure projects. The state has failed to take cognisance of the demand by the communities for recognising their customary rights. Sunil Mow, an advocate, alleged that various land regulation acts in Arunachal Pradesh, on the one hand, promise protective isolation and, on the other, make the indigenous communities practically landless.

Close on the heels of the workshop, the Arunachal Pradesh Congress Committee (APCC) opposed the Act as “oppressive and anti-people,” months after it was passed in the legislative assembly. The Congress urged the people of the state to not comply with the Act and “refrain from paying revenue till the rate of land revenue decreases to payable amount.” It claimed that the public were “not kept in light” before passing the amendment bill in the assembly, and condemned the state BJP government for “conspiring against the common mass and poor people of the state in the pretext of APLS&RA Act 2018” (*Arunachal Times* 2018a).

The People’s Party of Arunachal (PPA) also expressed serious concern over the Act saying it would have a detrimental effect on the people of the state. In its statement, it says that because of the provision of long term lease of land, “rich outsiders can become indirect owners of our state. It is harmful for our future generations as we Arunachalis are innocent and can be duped by the misuse of this (A)ct.” The party also argued that “the public should have been kept in light before passing this amendment bill in the assembly.” It described the secrecy and quietness under which this amendment had been passed as “intriguing” (*Arunachal Times* 2018b).

Strikingly, civil society groups in Arunachal Pradesh are not in union about the intent and possible outcome of the said Act. For example, the Forum of Siang Dialogue which has been protesting against big dams in the Siang valley is of the opinion that this Act would help people economically and empower them to negotiate better with potential land acquirers. However, the Siang People’s Forum opposed the legislation arguing that it would lead to more dispossessions of the tribal people. Importantly, it raises the point that everyone will not be able to pay for the registration of land for individual ownership. The land without registration, it argues, will be declared as unclassified forests which the government will take over and then transfer such land for the construction of big dams (Saikia 2018).

The new Act apparently gives a sense of empowerment to the tribal people by giving them individual ownership rights, but accessing these rights by the common people will be extremely difficult. The Act then might become an instrument to turn the community land

into state property, facilitating the handing over such land for various predatory developmental projects. The provision for allowing mortgaging of land for bank loan also does not bode well, looking at the experience of other tribal societies. Finally, the 66 years of lease of land to outsiders might prove to be a death blow to the existing traditional land relations of Arunachal Pradesh. At a time when there has been rapid transformation in the traditional social systems of the tribal communities in the region leading to their dispossession from the traditional resources and livelihood, the recent land amendment Act only poses to further accentuate this process.

These concerns made the researcher look for the State Assembly debates around the Act. It was found that out of the 60 member assembly, only 8 MLA's spoke while discussing the bill and all spoke in favour of the amendment. Their discussions only revolved around some doubts and clarifications, but not on the underlying principle of the amendment which was pushing for individual land titling to a region that traditionally practiced community ownership and management of resources.

Some of their doubts were mainly based on three aspects, regarding outsiders' rights, on the lease period and implementing authority. The first doubt highlights the rampant informal practices of land governance in the State, for there are many educational, health, and religious institutions that run on gift deed land owned and managed by outsiders. There are many instances of outsiders holding some form of formal land allotment papers from NEFA days. Also many tea and rubber plantation owners have managed to acquire LPC within reserved forest areas. So the question that arises is, if all valid LPC/LAP owners are granted secure land titles, then many outsiders may own land in Arunachal Pradesh. Interestingly there were calls for 'de-reservation of forests', so that cash crop cultivation can be promoted

The second worry was regarding the lease period which most wanted to extend to 99 years in order to 'make investors more secure and attract investment' to the State. They highlighted how there are some entities like hydro projects which are awarded with 50 and 90 years of lease period. The legislators wanted to know who will be the authority for

implementing the Act: will it be done by the District Administration or will there be a new state level authority? Finally they wanted to know if there would be legal possibilities for selling land.

To sum up, the views of the legislators were in line with the rightward shift in land policies which promotes the growth of the land market and attracts private investments. They echoed the new focus of the National Land Records Modernisation Programme (NLRMP) and the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) which aimed at promoting secure property rights in land regime by guaranteeing titles to land and replace the existing presumptive nature of ownership in land and land records. It reflects the nexus of the state authorities, tribal elites and the neo-liberal forces, all of which promote land titling as a promise of security of tenure and property rights. The Act however is not implemented yet, as the State is yet to formulate the new Rules of implementation.

#### ***5.5.4. Shift towards Land Titling***

From the above sections, it is clear that the formal land governance in Arunachal Pradesh is clearly moving towards privatisation of land by promoting statutory private land titling based on the neoliberal political economy. This shift goes in hand with the liberalisation and deregulation regime which produces informalities. Modelled on the English land law doctrine of tenures and estates which vests absolute ownership in the monarch (Chitengi, 2020), land titling has been aggressively pushed, for it allows for consolidation of power to the state and market forces.

However, the push for land titling is done on the pretext of ‘providing property rights to the poor’ (Galiani and Schargrotsky, 2010), and ‘tenure security’ (Ro, 2021). With it, land titling will ensure value addition to land as people will feel motivated to do so and thereby augment their income from land. Witney and others (2019) argue that land titling to urban poor increases housing investment, reduces household size, and increases child education amongst urban squatters. Thus, land titling has been pushed as a ‘pro-poor’ policy change for both urban and rural areas by the agents of neo-liberalism like the World Bank and UN agencies.

It has been pushed to the Global South, particularly in post-colonial countries of Africa, Asia and South America where myriad forms of land governance systems exist, with varied levels of claims and control by individuals, governments and community as a whole. In all these countries that have been colonised in the past, the modern notion of individual land and property rights has been a recent addition by their respective European colonisers. Thus, there is an inherent contradiction between the basic premise of land titling and the existing systems of indigenous land management and governance which it intends to replace. It undermines the needs of geography, terrain and culture, based on which different land governance systems emerged in the first place.

It is no wonder that the desired merits of land titling have not reached the people. Instead one of the greatest challenges of formalisation is that it can displace the most vulnerable sections of the society (Burgess 1982) as land markets become less affordable for the poor (Payne 2002). According to Roy (2005), 'if informality is a differentiated structure, then formalisation can be a moment when inequality is deepened' because for the poorest section of society 'secure rights can be more insecure than informal claims' (153-154). Land titling just has remained a process of transforming land into a commodity, which has eclipsed the concerns over redistributive land reforms (Nayak, 2020).

Chalin and others (2015) have shown how land titling has led to new forms of marginalisation and rising inequalities in Kampala, Uganda. They have substantiated how a boom in land titling in Kampala corresponded with the development of housing projects and new types of investments in the farm sector, and how most of the new title-holders were not the tenants who used to cultivate those lands. While the legislation officially claimed to protect the tenants, the land titling effected a progressive marginalisation of the tenant families (*ibid.*). Similarly, Garcia Hombrados and others (2015) have shown how there was no significant impact of land titles on agricultural production and investment in Tanzania. In fact, there was no indication of relevant impacts of land titles on access to credit and on perceived tenure security either (*ibid.*).

Larsen (2016) observed that land titling does not necessarily bestow rights and development to indigenous peoples. In fact, rights of indigenous peoples under formalisation are no longer characterised by neglect and poor implementation arguments, but are reappropriated through regulatory negotiations, 'revealing a sliding scale of

potentialities between empowerment and normalisation’. Varga (2019) argues that efforts to convert subsistence economies to markets through titling increases monetary expenses of families, which is good for the capitalist system but not for the people and hence would be resisted. The argument for land titling to urban poor as a solution for urban squatters and informal housing processes has also been demystified. Scholars argue that ‘the provision of tenure security to squatters is a reactive response to informal housing processes and not proactive response or preventive measure in the sense of precluding the land access constraints which prompt people to settle informally’ (Chitengi, 2020, 360-361).

What scholars have argued instead of land titling is a policy redirection that focuses on security of tenure not as an absolute condition but rather as a continuum of rights and claims that can include the right to remain, the claim to services and credit and the application of market values to property (McAuslan 2002, Sims 2002). It has been pointed out that it is possible for the policy to recognise, in incremental fashion, the various stages of secure tenure without implementing the formal and absolute condition of land titling with regular payments (Varley 2002).

However, in spite of scholarly agreement on various demerits of land titling, the Indian State has followed the dictums of the neoliberal global order manifesting itself in centrally sponsored programmes like NLRMP, JNNURM and Smart City Mission. Added to it, in 2019, NITI Ayog- the Planning Body of Government of India, constituted a committee to draft a Model Act and Rules on conclusive land titling which submitted its drafts in November and released the final draft in October 2020 (ENS Economic Bureau 2020). The main aim of the Model Act and Rules is to reduce the large number of land litigations and ease the land acquisition process for infrastructure projects (PTI 2020).

It has been established that while various state-initiated development projects have always been a major factor in tribal land alienation in the region (Sharma 2001), in recent times they pose to become the single most important threat to the traditional land ownership pattern among the tribal societies. The whole process of changing land governance becomes the means of violently wiping out indigenous knowledge systems embedded in jhum practices that protect, conserve and restore complete ecosystems in the region. Jhum

practices increasingly get replaced by either permanent food crop cultivation like rice, millet, maize, etc or to cash crops like timber, rubber, tea and in recent years, palm oil cultivation.

However, as mentioned above, the new Land Act has not been implemented yet, as the State is yet to formulate the new Rules of implementation. The practice of various forms of informalities as the ground reality for Arunachal Pradesh throws serious challenges to the government to implement the new Act as well as the ambitious NLRMP. In fact, up until 2010, the primary survey has been done only in the Brahmaputra and Barak Valleys of Assam, and small areas in Manipur, Tripura and Mizoram and (Singh, 2010). The entire states of Nagaland and Arunachal Pradesh are un-surveyed (ibid).

The Department of Revenue and the Directorate of Settlement and Land Records are non-existent in these states. The understanding of various customary tribal laws and codification of these laws is another challenge. The volatility of the law and order and the border disputes between villages, tribes, districts, and states and the disputes of international boundaries with various states is another challenge for the implementation of the programme (Singh, 2010, 9).

A search for latest developments showed that Arunachal Pradesh has not completed most of the targets of the NLRMP. For example, apart from the initial survey map, all other processes like map digitalisation, Records of Rights (ROR) computerisation, integration of ROR with cadastral map, modern record room, Sub-Registration Office (SRO) computerisation, integration of SRO with land records are not completed.

Compared to other states of India, the progress of Arunachal Pradesh has been slow and naturally so, due to the state's long history of ambiguity in mapping the land. Nonetheless, the state government is taking active steps to meet the targets laid down by these national projects implementing neoliberal land policies (The Arunachal Times 2019). The government stressed on ways to generate revenue to the land management department with a projected target of Rs 50 crores in 2019. It laid emphasis on speeding up the process of converting LPCs to ROR, to issue new land allotments, and to rationalise land rates to

smoothen the land acquisition process for various big infrastructure projects, all of which will facilitate revenue generation (ibid.).

Apart from revenue generation, the completion of NLRMP will increase territorial control of Arunachal Pradesh by the Indian State. However, the recent border skirmishes between India and China, release of new maps by China claiming parts of Arunachal Pradesh poses serious challenges to it. These new developments again repositions the state as a security frontier that lies at the intersection of neoliberalism and Asia-Pacific state-capitalism. Unlike the other northeastern states which are positioned to become a gateway from being a frontier with recent developments in connectivity, Arunachal Pradesh and its numerous indigenous tribes will remain part of this contested frontier. The state and its people will be part of the larger theatre of the competitive geo-politics of the region.

## **Conclusion**

The chapter showed that while informality is an inherent part of urban planning and governance, especially in a neo-liberal world, the way it plays out is contingent on local specificities. Thus, while the nature of informalities in the cities of Global North varies from those of the cities of Global South, there are variations within each of them. Within the Global South, the nature and kind of informal practices witnessed in its borderland or frontier areas vary from those of the metro cities. By focusing on a local practice of government quarter encroachment as the example, the chapter explained how urban informality is produced and regulated in a frontier area. The chapter also engaged in a discussion around changing housing policy of the state to locate the encroachment practice. Finally, as informality practices are located in land policies in the state, the chapter discusses the changing land policy of the state which is shifting towards land titling.