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# The 1961 Sikkim subject regulation and ‘indirect rule’ in Sikkim: ancestry, land property and unequal citizenship

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## ABSTRACT

This paper discusses the principles behind the 1961 Sikkim Subject Regulation, the first citizenship law framed in Sikkim. It explores the historical construction of the entanglement of ‘ancestrality’ with land property and political membership, which is central to the issue of citizenship in Sikkim today. It shows how categories of citizens were formed in colonial and post-colonial time, in particular the division between ‘natives’ (Bhutia and Lepcha) and ‘settlers’ (Sikkimese Nepalis). With the revision of the Regulation in 1962, land property and ‘ancestral’ settlement became central criteria to acquire Sikkim Subject status. The paper shows how land property have become a materialisation of belonging to the place, and highlights the inequalities that the dependency created between insiderness and land property engendered. It also argues that a sole analysis of these inequalities in terms of ethnicity is insufficient by showing that other factors have taken part in forming them.

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## Introduction

The first legislation defining the conditions of recognition as legal members of the kingdom of Sikkim was the Sikkim Subject Regulation 1961. Its primary purpose was to ‘define clearly the status of Sikkim subject and to make provision for acquisition and loss of such aforesaid status’.<sup>1</sup> The law solely concerned the conditions of access to (and loss of) ‘citizenship’, whereas the subjects’ rights – voting, access to land property and scholarships – were defined in other legal documents.<sup>2</sup>

The Sikkim Subject Regulation emerged in a context of political tension in the kingdom: following Independence, India had become more closely involved in Sikkim’s affairs; at this point Sikkim still retained its autonomous status, although India inherited the British control over its foreign relations as formulated in the 1950 Indo-Sikkim treaty, through which Sikkim was officially declared as a protectorate of India. This context saw the emergence of party politics inspired by India’s post-independence democratisation, and the opposition challenged both the monarchy and the ‘landlord system’.<sup>3</sup> Thus the imperative to define the legal members of the kingdom became pressing, as highlighted by an exchange of questions among council members at the Sikkim Council on

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15 May 1956. Sonam Wangchuk from the Sikkim National Party referred to the difference between 'Sikkimese' and 'non-Sikkimese' in relation to scholarships, suggesting that these should be reserved to 'Sikkimese'. T. D. Densapa, then Chief Secretary of Sikkim, replied by evoking the 'legitimate interests of the bonafide subjects of Sikkim', which raised the following questions:

Q. Shri Nahkul Pradhan (Councillor, Sikkim State Congress) – Who is a Sikkim Subject? Is there any law defining Sikkim Subject?

A. The above question relates to Sikkimese and not Sikkim Subjects.

Q. Shri Nahkul Pradhan – Who is a Sikkimese?

A. One who has lived here and has his home in Sikkim.<sup>4</sup>

Thus, even before the 1961 Regulation, the term 'Sikkim Subject' was commonly used by members of the government,<sup>5</sup> and its meaning was considered as self-evident. This paper aims primarily at exploring some of the principles behind this 'self-evidence'. It shows that these principles are narrowly connected to means of 'indirect rule' deployed in Sikkim – in the sense that Mamdani gives to this term: a rule 'shaping' the differences among the masses at the service of governance<sup>6</sup> – in particular, the form given in Sikkim to the divide between 'native' and 'settler', and the 'tribalisation' of land laws.

The paper, secondly, discusses the concrete mechanisms that define 'insidedness' (understood here as the status and recognition as insider), in particular land property; it shows in particular how the local notion of right to a place – initially deemed to stem from ethnicity – was concretised through the definition of land property as condition of access to citizenship status, in addition to 'ancestrality'. It highlights how this linkage of political membership to land property maintained the strong inequalities that already existed between 'natives' and 'settlers'. On the one hand, the land laws led to unequal access to citizenship based on ethnicity, in addition to securing the membership of those who could fulfil all conditions in regards to ancestrality and property. On the other hand, the discourse of protection of 'rightful' members that accompanied the 1961 Regulation contrasted with the contemporary land reforms through which all land in the state was commodified; then, in the aftermath of the abolition of the landlord system, social inequalities translated into durable land inequalities.

The paper finally explores the historical construction of the entanglement of 'ancestrality' – which, in the context of Sikkim, includes indigeneity as well as a specified duration of settlement in the kingdom – with land property and political membership, which is central to the issue of citizenship in Sikkim today and the claims associated with it. It shows how land property have become a materialisation of belonging to the place, and highlights the inequalities that the dependency created between insidedness and land property engendered.

This paper also argues that a mere analysis of these inequalities in terms of ethnicity is insufficient by showing how ethnic differentiation was constructed since Sikkim was controlled by the colonists, and that other factors than ethnicity have taken part in forming these inequalities.

This paper therefore contributes to the study of the present-day's issues related to citizenship in Sikkim, in particular the anxiety about the consequences of the loss of land for those who possess it, and to the exclusion of those who do not.<sup>7</sup>

### Categorising, 'containing' and 'fixing' People

In his Proclamation of 30 August 1956, the king of Sikkim announced that the 'difference in the rate of land revenue payable by Nepali subjects of Sikkim and subjects of Bhutia and Lepcha origin' will be eliminated for the sake of equality.<sup>8</sup> He was referring to the difference in the rate of taxes on cultivated lands between Bhutia-Lepcha and Nepali farmers, which had been extended to rice fields from 1912. As explained in the 1912–13 Sikkim Administrative report, 'Lepchas and Bhutia as the old inhabitants of the country receive protective rates as against the Nepalese'.<sup>9</sup> In the same Proclamation, the king secondly announced a reinforcement of the 1917 Revenue Order no. 1 – the first 'modern' law regarding land transfers, passed by the British Political Officer John Claude White in 1917<sup>10</sup> – by recalling the interdiction directed at Bhutias and Lepchas that they should not 'sell, mortgage or sublet any of their lands to any person other than a Bhutia or Lepcha without the express sanction of the Durbar' and cancelling land transfers passed without approval from the government during the previous twenty-five years. The king, thirdly, reaffirmed the prohibition on 'outsiders (non-indigenous)' settling in North Sikkim without a permit issued by the Sikkim Darbar, for the purpose of safeguarding 'the interests of the indigenous and backward people'.

The juxtaposition of these three points highlights the set of criteria that engendered the binary division of the population between, on one side, the Bhutia-Lepcha as old inhabitants, conceived of as indigenous, backward and in need of state's protection; and, on the other, the Nepalis, conceived of as Sikkimese, forbidden to acquire lands from the former group, and depicted as 'outsiders (non-indigenous)'. The classification of the population of Sikkim into two groups with a confrontational relation – even, in some writings, antithetical, as we shall see below – firstly comes from the Sikkim ruling elite's opposition to the settlement of Nepalis, which was enabled by the British colonists from the second half of the nineteenth century as part of their colonial expansion,<sup>11</sup> the Nepalis coming to outnumber the locals within a few decades. In this context of conflict between, in particular, the Bhutia rulers and the British, the Sikkimese royal couple wrote the *History of Sikkim*, in which they argued:

They [the Nepalis] settled down for good and began digging, hoeing, smashing and overturning rocks, felling trees, and turning the courses of streams at such a rate that all jungles were turned into fields, [and] in a very short time the present Gorkhali population of Sikkim would treble the number or the original Bhutias, Lepchas and Tsongas [i.e. Limbu].<sup>12</sup>

This view mirrors the British ethnographer and colonial administrator H. H. Risley's social Darwinist<sup>13</sup> view of the consequences of Nepali immigration in Sikkim:

The praying-wheel of the Lama will give place to the sacrificial implements of the Brahman [...] settl[ing] the Sikkim difficulty for us.<sup>14</sup>

Here, Risley expresses the idea that the outnumbering of Buddhists by Hindus in Sikkim, orchestrated by the colonists, would tilt the balance of power towards colonial

ventures in the region. This firstly reflects the idea that the ethnic and religious divide coincided, ignoring the religious and ethnic diversity within both groups; secondly, the ethnographic theories supported by Risley allowed him to think that a culture or religion could dominate another one, and therefore be used as a weapon against opponents.

In this period the colonial classifications of people into two strictly differentiated groups corroborated that of the Sikkimese ruling elite, but assigned them an opposite function in a context of conflict between the colonists and the Sikkim ruling elite. However, at the turn of the twentieth century, the relations between these two groups changed.<sup>15</sup> The 'Revenue Order no. 1' protected the former enemies – the Bhutia in particular – who were redefined as 'native' as against recent settlers from Nepal: the colonial administration now protected people it had a few decades earlier turned into a minority.

The Bhutia writer Kaleon<sup>16</sup> hints at a possible rationale behind this bifurcation. He argues that whereas the Revenue Order no. 1 responded to the king's desire to safeguard the interests of the natives, it was drafted by the British colonists using a 'denigrating' tone.<sup>17</sup> The problem raised here is that the law, rather than presenting the Nepalis and colonists as a threat to indigenous lands, suggested that Bhutia and Lepcha were willingly selling their lands to them. This leads us to entertain another hypothesis concerning the meaning and purpose of this law: as having been less to protect the 'natives' than to prevent them from selling their land.

This recalls a question recently re-examined by Baruah<sup>18</sup> in the context of Northeast India regarding the colonial construction of 'hill tribes' and 'natives': though the framing of these categories was justified as a tool for people's empowerment, it actually responded to a colonial inclination to fix tribes to their supposed natural habitat and confine them to a particular place.<sup>19</sup> This highlights the two-fold function of the Revenue Order no. 1, as – explicitly – framed by the colonists to protect the ethnic communities with which the ruling elite identified, and an implicit means of indirect rule.

It has been suggested that the implementation of the Revenue Order no. 1 by the colonists contradicts the common belief that they allowed the Nepalese to settle in Sikkim from the 1880s.<sup>20</sup> However, firstly, from the beginning of the twentieth century, the British took measures to end mass immigration from Nepal in Sikkim.<sup>21</sup> Secondly, we may ask whether encouraging the settlement of Nepalis in order to increase the number of taxpayers was indeed in contradiction to forbidding them to buy lands from the 'natives'? Although more research on the history of the Revenue Order no. 1 is needed, it is clearly possible that this law was not designed merely as a means to keep the kingdom's land resources in the hands of the natives, but also to fix a pattern of categorisation upon the population of Sikkim based not only on ethnicity and religion (i.e. Buddhist versus Hindu) but also on the functions and obligations attributed to people in order to stabilise the amount of land revenue received by the state. Firstly, it designated the category of permanent settlers, who could – and in fact were required to – stay, confining small-farmer Bhutia and Lepcha to their lands and preventing them escaping the constraints imposed upon them by the landlords, as had happened in the 1860s?<sup>22</sup> To this category there was opposed, secondly, the people whose presence depended on their payment of taxes; and the British government was also worried that these might leave, if, as they feared, the

government of Nepal claimed them as its own subjects.<sup>23</sup> Besides this, archival documents show that the Revenue Order no. 1 was more concerned with enforcing the Durbar's control on land acquisition and settlement by Nepalis, than on banning them. Indeed, it was possible to be moved from the category of settlers to that of native by decision of the Council:

A man called Raganandan requested to be exempted from the order that none but a Sikkim subject can obtain a mortgage on lands and immovable property in Sikkim. Decided to admit him as naturalized Sikkim subject.<sup>24</sup>

The exclusion of Limbu from the category of natives in Sikkim also highlights the framing of ethnic classification at the service of the then political economy: as they lived on both sides of the border between Nepal and Sikkim, the Limbu could be considered as having either one of the two nationalities, and they were categorised as part of the settlers.<sup>25</sup> This reduced to its minimum possible the number of groups included in the category of natives, and enlarged the number of persons paying the highest tax rates. Two forms of membership were thus differentiated, oriented toward the generation of state income, which was a central concern at that time.<sup>26</sup>

As these categories, initially framed by evolutionist anthropology, became part of colonial and post-colonial state administration,<sup>27</sup> more criteria differentiating 'native' from 'settlers' were eventually added: in the 1930s, the criteria of 'heredity' was added, which strengthened the essentialisation of the difference between these groups. The author of the 1930–31 Administration Report, the British civil Engineer C. E. Dudley, indeed interpreted the 1917 Revenue Order no. 1 in those terms:

A law prohibiting land alienation by the hereditary State subjects (i.e. Bhutia, Lepcha), in favour of non-hereditary subjects such as Nepalese or domicile plainsmen is in force and acts as a very useful check on the former class, which is poor and improvident, being speedily replaced by the latter, who are more subtle and shrewd.<sup>28</sup>

In Dudley's words, 'hereditary and 'non-hereditary' are accompanied by specific 'behaviour', and the relation between both is of domination, reflecting the engineer's social Darwinist views that informed the understanding of difference in this part of colonial India.<sup>29</sup> The idea of cultural incompatibility between the Sikkim 'natives' and 'settlers', resulting from primordial and unchangeable cultural 'behaviour', was soon after supported by Indian state administrators in Sikkim, such as Rustomji, prime minister of Sikkim in the 1950s. In Rustomji's view, the contact between the two groups was leading to the disappearance of the Bhutia-Lepcha due to the form of marriage adopted by the Sikkimese Nepalis.<sup>30</sup>

This interpretation of anthropological dynamics in Sikkim ignored, among other things, socio-economic diversity within ethnic categories: from the Lepcha and Bhutia communities not only came the most powerful political leaders of Sikkim but also a majority of small farmers and landless daily laborers; the latter socio-economic conditions were also found in large number among the Sikkimese Nepalis, but this latter group also comprised landlords. A conception of the relation between Bhutia-Lepcha and Nepalis in terms of isolation and cultural incompatibility also ignored the actual interrelation, and even relations of dependence, between the groups. For example, following the renewal of the banning of the settlement of Nepali in north Sikkim in the

proclamation on 30 August 1956, local inhabitants expressed worries that Nepalis would be expelled from the area, since they were employed on farms; consequently, another notification reaffirmed that permits could be issued to Nepali settlers in the region.<sup>31</sup>

This section has thus described a situation that is more complex than can be captured by a simple exclusionary relationship between the categories of natives and settlers; it shows that the construction of these categories and of their supposedly incompatibility also contributed to the then mode of governance. In the next section we will see that these categories gradually became two legal categories of political membership: ‘natural subjects’, and those having to get naturalised.

### Defining Sikkim Subjects, identifying ‘Foreigners’

A first version of the Sikkim Subject Regulation was promulgated in July 1961; however, a draft had been prepared in the early 1950s.<sup>32</sup> A report dated 7 March 1954 reveals a discussion among representatives of several Indian ministries (Law, Home, and External Affairs) about this draft (then referred to by the Indian officials as a ‘Regulation for Sikkim Nationality’). It includes the summary of a discussion between the ‘Maharaja Kumar’ (Palden Thondup Namgyal) and a ‘barrister-at-law’ (whose name is not given) which gives an insight to the heir’s conceptualisation of the two types of Sikkim citizens<sup>33</sup>:

The Maharaj Kumar emphasised the fact that only such persons who are Sikkim subjects by origin and their descendants along with such other persons who have linked themselves up completely with Sikkim should be regarded as Subjects. He also drew my attention to the fact that certain people of Nepalese origin move from place to place and never get themselves permanently connected with Sikkim and that the government of Sikkim are desirous of excluding such persons from the category of Sikkim Subjects. He also expressed the view that persons should be divided into two categories namely those who are Sikkim Subjects by origin and those who are not. The latter in his opinion should be required to acquire Sikkim nationality whereas the former should be deemed to be Subjects automatically.

According to Rustomji,<sup>34</sup> the king’s concern was to stop ongoing immigration, which had decreased in comparison to the previous century, but continued to be perceived as a threat. However, in addition to preventing the immigration from Nepal, a study of the process of preparation of the Regulation suggests that it was also driven by the Sikkimese rulers’ endeavour to affirm Sikkim’s suzerainty faced with India, following firstly the declaration of Sikkim as a protectorate of India in 1950, and secondly the demand for integration of Sikkim into India by the first opposition party in Sikkim, the Sikkim State Congress in 1947.<sup>35</sup> The definition of ethnicity and culture as a basis of the Sikkim nation thus became a stake in this struggle. For example, the pro-king party, the Sikkim National Party, expressed the desire ‘to maintain intact by all means the indigenous character of Sikkim’, and ‘establish a separate identity by remaining outside the Indian Union’.<sup>36</sup> As the rulers endeavoured to construct Sikkim as a Buddhist nation,<sup>37</sup> those who did not fit with this national imagination were kept under close control.

This power struggle took place through negotiations over the Regulation between the Sikkimese rulers and Indian officials: ‘none of these steps had been taken without India’s explicit clearance’.<sup>38</sup> In the above-mentioned report of March 1954, the Indian



government representatives firstly discussed whether or not they were entitled to get involved in the framing of Sikkim laws; they concluded that they were, on the grounds that the Regulation could have ‘important bearing on the external relations of Sikkim and India with China and Nepal’.

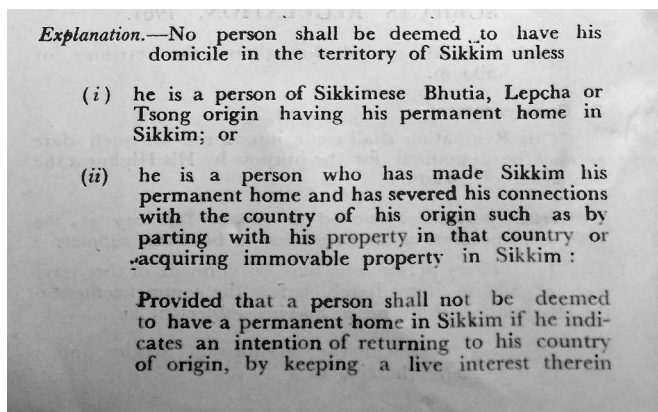
T. N. Kaul, from the Ministry of External Affairs, criticised in particular the preferential access to citizenship given to Bhutia and Lepcha, and suggested that a preferential access to Sikkim citizenship for persons of Indian origin be introduced in the Regulation. The Law Ministry’s joint secretary objected that the Indian government would have to reciprocate such a provision by allowing Bhutias, Lepchas and ‘people of Tibetan affiliation’ to ‘infiltrate into India’ (because the 1950 Indo-Sikkim treaty allowed entry and free movement within India to subjects of Sikkim), whereas ‘we [India] cannot exclude the possibility of evil designing persons adopting this course, with some ulterior purpose’; he proposed rather to ‘secure by negotiation’ access to Sikkim Subject status for persons of Indian origin. The government of India also wanted to be consulted in the attribution of Sikkim citizenship to foreign women married to Sikkim Subjects.

The Regulation was finally implemented on 3 July 1961, under the title ‘Sikkim Subjects Regulation 1961’. The main difference from the 1955 draft was the addition of the Tsong (i.e. ‘Sikkimese Limbu’) as ‘natural subjects’ as shown in [Figure 1](#):

This new version thus not only ignored the Indian official’s concerns, but also added one more group to the ‘natural citizens’ of Sikkim. The three communities of ‘natural subjects’, i.e., Bhutia, Lepcha and Tsong, were the three signatories of the 1663 treaty which founded the Kingdom of Sikkim, i.e. the Lho (i.e., Bhutia), Mon (Lepcha) and Tsong (Limbu).<sup>40</sup> By considering them as ‘natural’ citizens, the 1961 Regulation defined this natural bond as an outcome of the contribution to the foundation of the Kingdom of Sikkim.

This section of the Regulation triggered a popular uprising,<sup>41</sup> and the law was revised in January 1962.<sup>42</sup> The revised version no longer included the section declaring Bhutia, Lepcha and Tsong as ‘natural’ subjects of (or more precisely ‘domiciled’ in) Sikkim, as shown in [Figure 2](#).

The remaining part of the Regulation was identical: a person would be recognised as Sikkim Subject if she was domiciled in Sikkim and additionally, either born or settled in



**Figure 1.** Ethnicity and citizenship in the ‘first’ 1961 Sikkim Subject Regulation.<sup>39</sup>



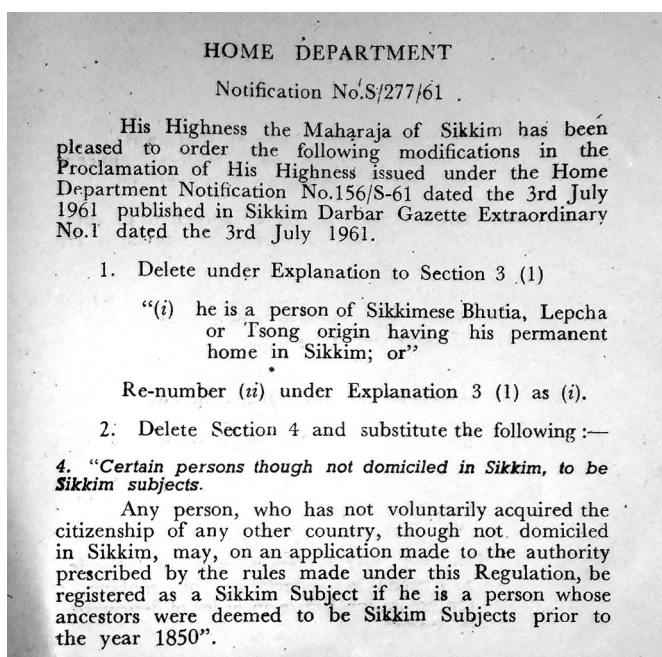


Figure 2. Erasing ethnicity in the ‘second’ 1961 Regulation.<sup>43</sup>

Sikkim ‘for a period of not less than fifteen years’ immediately preceding the Regulation (the ‘buffer date’ was 1946). The criteria to be recognised as ‘domiciled’ were: having severed economic and nationality ties with another country, and having ‘immovable property’ in Sikkim. Dual citizenship was not permitted. Section 4 stated that certain persons, though not domiciled in Sikkim, could be Sikkim subjects. In the previous version, being Bhutia, Lepcha or Tsong born in Sikkim was mentioned in this section (as well as in the section defining domiciliation), but this was no longer the case from 1962. The second criterion was maintained, however: having ancestors ‘deemed to have been Sikkim Subjects prior to 1850.’

The date of 1850 is interesting, as it shortly precedes the first proclamation made in Sikkim against the settlement of Nepalis, in a context where some local landlords had allowed their settlement, and the population of Sikkim was decreasing as many Sikkimese had fled to neighbouring British territories.<sup>44</sup> Therefore, whereas in the 1962 version of the Regulation ethnicity was no longer considered as a criterion of ‘domiciliation’, a difference was still made between ‘natural’ subjects, having ancestors in Sikkim before the large-scale settlement of Nepalis, and ‘domiciled’ subjects. The law thus established a difference between the tie of blood (*jus sanguinis*), which allowed ‘automatic’ citizenship, whereas the tie of land (*jus soli*) had to be demonstrated through acquiring immovable property.<sup>45</sup>

While the crown prince’s concern to exclude from the category of Sikkim Subjects ‘certain people of Nepalese origin [who] move from place to place’ was certainly central, as we have seen above, the law also prevented dual citizenship, including for Indian citizens. Referring indirectly to Marwaris in particular, the Sikkimese rulers and the Indian government established that an ‘outsider’ engaged in trade in Sikkim could not be

a Sikkim Subject even if he parted with his properties in his country of origin; acquiring property in Sikkim without parting with properties in the original country was also deemed unacceptable.<sup>46</sup> This reinforced the Notice no. 314 of 23 January 1907 stating that ‘immovable property cannot be mortgaged to Kayas modis or other plainsmen by Lepchas, Bhutia or Nepalis’.<sup>47</sup> Thus besides establishing a distinction between Nepali old settlers and those ‘constantly on the move’, the law excluded traders of Indian origins; this measure still has consequences for ‘Sikkimese of Indian origins’ today.<sup>48</sup> Consequently, the 1961 Sikkim Regulation contributed to keeping Sikkimese separate from Indian citizenship, and so to the lack of identification with the Indian nation discussed by McKay.<sup>49</sup>

### From land property to citizenship: relocating inequalities

The notion of ‘domicile’ was central to the 1961 Regulation; it was defined in terms of ‘exclusive’ membership (neither dual citizenship nor the ownership of property in another country was allowed), and had to be certified by the acquisition of ‘immovable property’ in Sikkim. The principle behind this was likely a connection between the use and enhancement of the land, and the legitimacy to take decisions concerning the territory; land occupation and political membership had long been connected in Sikkim.<sup>50</sup> But as immovable property was effectively land property, access to citizenship was thus defined on an unequal basis: as several scholars have shown, a list of landholders established as part of the cadastral survey carried out in 1951 was the basis for the registration of names in the Sikkim Subject Register.<sup>51</sup>

The establishment of this list and the survey, known as ‘land reforms’, were an outcome of the abolition of the landlord system: a system of land management similar to that of *zamindar* in colonial India was in force in Sikkim, begun in this form under British colonisation in 1888, and abolished gradually between 1948 and 1951.<sup>52</sup> All land in the kingdom was managed by landlords who acted as intermediaries between the cultivators and the state for tax collection, and had judicial powers. From 1948, as the landlords’ power to register land was transferred to the state, cultivators (tenants and land owners) were registered as land owners. However, the Notification no. 1209 (May 1950) conferred property rights over the land to persons who had been continuously cultivating it for a period of no less than 14 years.<sup>53</sup> Therefore, whereas the ‘buffer date’ to be recognised as Sikkim Subject was officially 1946, it was based on registration of land acquired before 1937.

Thus, the transfer of the control of land use from the landlords to the state entailed a redefinition of the people allowed to access land resources. As claimed by its opponents, the provisions of the 1961 Regulation ignored not only Nepalis who had settled in Sikkim after 1946 (or actually 1937, as we have seen), but also people who did not have tilling or property rights, while, under the landlord system, tenants who could not pay the taxes were expelled from their land: within the estates, cultivators (called *bustiwallas* or *rai-yats*) paid a number of taxes and contributed free labour to the landlord and government officials. Like in the *raikar* system of land tenure in Nepal, lands for which the revenue tax was not paid were reallocated to another farmer.<sup>54</sup>

Moreover, until 1966, Nepalis had to pay higher land taxes than others,<sup>55</sup> and their access to land property was limited by law. In addition to being prohibited by law from acquiring Bhutia and Lepcha lands without the sanction of the government, and from

settling in north Sikkim without a permit, the Nepalis also were not permitted to settle on the ruler's private estates.<sup>56</sup>

On the other side, Bhutia 'activists' state that the Revenue Order no. 1, firstly, was easily circumvented by the practice – called '*partik*' – of holding that if a Bhutia-Lepcha's owner gave his land of his own free will, Nepali *bustiwallas* could be settled on it.<sup>57</sup> Secondly, Revenue Order no. 1 did not concern leases, whereas lease holders were allowed property rights after 1951.<sup>58</sup> This topic is still today the focus of debates between various groups in Sikkim.<sup>59</sup>

There is, in brief, disagreement about which groups were privileged by the 1950s land reforms: either the Bhutia and Lepcha, as a result of connivance between the ruling and landed elites<sup>60</sup>; or the Nepali landlords, who were allowed large landholdings through the political officers' influence on political processes, since they favoured India's takeover of Sikkim.<sup>61</sup>

However, an interpretation of land inequalities in Sikkim as being based solely on ethnicity would be incomplete, as it would conceal class inequalities between the majority of small cultivators and the former landlords, all ethnicities being included on both sides: the 1951 Act – setting out the framework of the abolition of the landlord system – allowed the former landlords to retain 100 acres nontaxable land (these 'free holdings' were abolished in 1967).<sup>62</sup> This followed a 1924 circular which limited tax collectors' land holdings to 30 acres, and *Bustiwallas*' to 20 acres.<sup>63</sup> These inequalities became entrenched when property rights were given over land from 1951.

It seems plausible, then, that the 1951 land reforms changed the concept of land property in Sikkim. There is, however, no consensus on this point. According to C. E. Dudley, General Secretary to his Highness the Maharaja of Sikkim, the land system in the 1930s recalled land tenure in English feudal times<sup>64</sup>: all land in the kingdom belonged theoretically to the '*Sirkar*' (which he translated both as 'government' and 'Ruler').<sup>65</sup> With the reforms in 1951, some consider that ownership rights remained with the state,<sup>66</sup> whereas others argue that these reforms marked a shift with the past by allowing landlords as well as their tenants to 'get title over the lands they were holding on lease'<sup>67</sup>; this idea is supported by the section of the 1950 notification stating that '*Bustiwallas* has not *so far* connoted a definite tenure'. In all cases, these reforms allowed both the propertisation of all land in the kingdom, and its privatisation: both tenancy and ownership rights became property rights, and the land could now be privately acquired, used and transferred. In this process, the former landlords, all ethnicities included, retained a larger part of the kingdom's lands, which they held henceforth as durable private property.

Another debate concerns the contribution of the ruling elite to this capture of land resources by the former landlords. The Sikkim state endeavoured to suppress movements inspired by the Independence movement in India, which were nourishing the anti-landlord movement.<sup>68</sup> From the 1940s, however, it dismantled the landlord system,<sup>69</sup> while landlords enjoyed considerable autonomy.<sup>70</sup>

The 1951 land reforms were thus also the result of a negotiation between various political actors, specifically the ruling elite, the landed elite and the colonists. This resulted in large inequalities in land ownership, and with the 1961 Sikkim Subject Regulation inequalities in the access to land ownership were transposed to the access to citizenship status and rights.<sup>71</sup> This process is clearly highlighted by the situation of the

Sikkimese Marwaris, who had been forbidden to buy lands since the early twentieth century and could not, therefore, acquire Sikkim Subject Status.<sup>72</sup>

## Conclusion

This exploration of the emergence of the Sikkim Subject Regulation has highlighted both the framing of categories of subjects based on colonial principles of indirect rule, and mechanisms of exclusion from political membership. The dividing line between ‘natives’ and ‘settlers’ was gradually redefined: paradoxically, it seems to have been easier to move from one category to the other in the past, while ‘settlers’ were also more frequently expelled from their land. As more criteria – culture in particular – were added, strengthening the differentiation between the groups, the 1961 Regulation also eventually came to include the settlers who fulfilled the conditions to become subjects – without, however, questioning their differentiation.

I have also endeavoured to problematise the binary interpretation of Sikkimese politics in the period since colonisation. I have shown, firstly, that the differentiation between ‘native’ and ‘settler’ is a political construction to which cultural elements were added at a later stage; these cultural elements are therefore not the basis of this differentiation. Secondly, I have shown that the pattern of differentiated membership in Sikkim is not merely the outcome of a struggle between natives and settlers, but also, and more importantly, between the various ruling agents: the colonial administration, the Sikkimese ruling and landed elites, and the Indian government.

The way ‘insiders’ were differentiated, and ‘outsiders’ defined and excluded, had deep consequences after Sikkim was integrated into India in 1975. At this point, in virtue of article 371 F added to the Indian Constitution and defining the conditions of access of Sikkim to the Union, all persons registered as Sikkim Subjects before 26 April 1975 were granted Indian citizenship. Then, as shown in detail in the introduction to this Special Issue,<sup>73</sup> the introduction of positive discrimination played the role of a double system of access to citizenship rights and entitlements – based, however, on different ethnographic classifications. These classifications, framed and implemented by the new administration, were born out of a different post-colonial trajectory. With the tribal policy, the access to rights was entangled with the concept of minorities and with cultural politics. The logic of the reservation policy did not take into consideration that ‘Bhutia-Lepcha’ and ‘Nepalese’ were also political groups – in the sense of groups having the capacity to compete for access to political power and rights – whose relations in the political field were not necessarily and solely determined by ‘culture’, but existed *per se*.

This paper shows that with the 1950s land reforms, and the central role of land property as defined through these reforms, insiders were equated to land owners. Firstly, land property acquired a high symbolic value; it frames today the language of belonging and exclusion. Secondly, even though more research on pre-colonial forms of ownership in Sikkim would be of great interest to assess how these changes departed from precolonial and people’s views of ownership and belonging, we can assert that the state’s defined notion of property came to define belonging. The present-day claims concerning land rights, though grounded in historical narratives, have thus been framed by the state’s classifications and practices, notably the ‘propertisation’ of indigenous resources; and this has led to a situation in which people no longer fully control the terms of their belonging

to place.<sup>74</sup> The history of the intertwining of ownership of land property thus appears central to the study of claims for ethnic-homeland in Northeast India today.<sup>75</sup>

## Notes

1. Home Department Notification, 1961: 1. The term ‘subject’ emphasised the contrast between the then type of political regime in Sikkim, i.e. a monarchy, and India, whose people had been ‘citizens’ since 1949. However, in the 1950s Sikkim already had democratic institutions and organised political representation. The Sikkim Subject Regulation thus defined rights that in other contexts were those of citizens, despite using the term ‘subject’.
2. The organisation of political representation was presented in the successive king’s ‘Proclamations’ issued in the 1950s and 60s by the kings Tashi Namgyal and Palden Thondup Namgyal. These proclamations can be consulted in Moktan, *Sikkim*, and in the Archive records *Fragments of Sikkim: Preserving and presenting the palace archives of a Himalayan Kingdom, 1875–1975* (EAP880), accessible at the British Library (<https://eap.bl.uk/project/EAP880>).
3. This system, similar to the *zamindari* system of land administration in colonial India, was organised from 1888 by the colonial administration of Sikkim, and abolished in 1951. It was not completely new to Sikkim as the kingdom was already divided into landed estates managed by the landed aristocracy, and by landlords known as *kazi*. The colonial administration transformed it primarily by appointed new landlords and by gradually transforming the conditions of lease of the estates. From 1888, Sikkim included four types of estate management (this varied depending on the year): those managed by managers appointed by the state (called *thikedar*, *elakadhar* or *lessee*), by members of the nobility (the *kazi*), the king’s private estates, and monastic estates. For detail about the landlord system in Sikkim, see Carrasco, *Land and Polity in Tibet*; Sinha, *Politics of Sikkim*; Risley, “Introduction”; and Mullard, “Regulating Sikkimese Society.” About this period of Sikkim history, see among others, Grover, *Sikkim and India*; and Jha and Mishra, *Sikkim*.
4. Proceedings of the Sikkim Council, 1956.
5. The term ‘Sikkim Subject’ was also used in other laws not related to the Sikkim Order No. 1: the Administration Report for Sikkim 1917–18 provides a list of laws in force in Sikkim (page 16), which includes for example the ‘Order extending the Government of India’s Ordinance VI of 1914 [which concerned “Commercial intercourses with enemies”, see Dam 2014: 42] to all Sikkim subjects’. It appears in several of the Administration Reports for Sikkim, showing that it was commonly used by the administration before its significance was reframed and fixed through the 1961 Regulation.
6. Mamdani, *Define and Rule*, 1–2.
7. Regarding the exclusionary potential of proprietorial claims in different contexts, see Adam, “Post-conflict Ambon”; and Bryan, “Where would we be without them?”
8. ‘Nepali’ is often spelt ‘Nepalese’ in Sikkim; as it is of common usage in academic publications, I will use the term ‘Nepali’ to refer to the group of people identifying themselves as a community sharing a common language and ethnicity (see Shneiderman, *Rituals of Ethnicity*, xiii–xiv). However, I use ‘Nepalese’ in quotation to follow the original spelling, and also in quotation marks to refer to the political group known under this name in Sikkim. Regarding the differences in rates paid and labour rendered by Nepali and Bhutia-Lepcha farmers, see EAP880/1/1/3, Sikkim Council Meeting Book III, *Fragments of Sikkim*.
9. Bell, *Administration Report of the Sikkim State 1912–1913*, 2.
10. Revenue Order no. 1 of 1917 was an amendment of the Notice on Revenue Order no. 1 of 1897 forbidding Bhutia and Lepcha from selling or subletting their lands without the sanction of the Council (see Moktan, *Sikkim, Darjeeling*, 157). On this point, see also Arora, “Assertive Identities”; and Wangdi, “Revenue order N°1.”
11. Sikkim was administered by a British political officer from 1888 to 1918 (see McKay, ‘Indian Structures’) but colonial expansion started earlier, firstly through British intervention in the



- settlement of the border between Sikkim and Nepal, and then with the acquisition of Darjeeling, whose subsequent economic transformation had consequences for labour and demography in Sikkim; see Mullard, “Regulating Sikkimese Society.”
12. Namgyal and Dolma, *History of Sikkim*, 25.
  13. Regarding the scientific theories that informed colonial classifications in this region of south Asia, see van Schendel, “The Dangers,” 20-21.
  14. Risley, “Introduction,” xxi.
  15. See McKay, *The View from the Palace*, and “Indian Structures.”
  16. “Revenue Order no. 1.” Karma Lhendup Kaleon is the founder of the organisation called ‘Survival Sikkimese’, which aimed at defending the rights of Bhutias in Sikkim.
  17. Kaleon, “Revenue Order no. 1,” 2.
  18. *In the Name of the Nation*.
  19. Regarding the imperative of ‘containerization of a subject people’ under colonialism, see also Mamdani, *Citizen and Subject*.
  20. Arora, “Assertive Identities,” 217 fn9.
  21. McKay, “Indian Structures.”
  22. A century earlier, in the first half of the 19th century, the large number of Sikkimese taxpayers leaving Sikkim for Darjeeling was a central concern in the negotiations between the Sikkimese rulers and the British colonists, after the latter’s acquisition of Darjeeling, and the new work conditions that the nascent tea industry provided (Mullard, ‘Regulating Sikkimese Society’).
  23. Hutt, *Unbecoming Citizens*, 93.
  24. Sikkim Council Meeting Book III, council meeting of 8 April 1907, 4.
  25. See Vandenhelsken, ‘Politics of ethnicity.’
  26. See note 21 above.
  27. About this process in other parts of India, see van Schendel, “The Dangers.”
  28. Dudley, C. E., *Administration Report of the Sikkim State 1930–1931*, 13.
  29. We see here a filiation between Dudley’s concept and the primordialist view of ethnicity developed in anthropology at that time, such as for example in Risley’s work (for example *The Tribes and Castes of Bengal*).
  30. N. Rustomji (‘Dewan’ or prime minister of Sikkim, deputed by the government of India from 1954 to 59) provided a comparative analysis of Nepali and Tibetan immigration in Sikkim in essentialist terms: he asserted that the Nepali were ‘hungry for land’ due to their polygamy, contrasting with Tibetan polyandry (*Sikkim*, 8–9).
  31. Notification no. 988, 1958. See EAP880/1/3/142/40: Notification from the Land Revenue Department regarding settlement in Dzongu, 21 July 1958 and EAP880/1/3/142/41: Notification from the Home Department regarding settlement in North Sikkim, 29 July 1958 in *Fragments of Sikkim*, British Library (<https://eap.bl.uk/project/EAP880>).
  32. A first version of the Sikkim Subject Regulation was completed in 1955 under the title ‘Sikkim Subjects Regulation 1955’.
  33. National Archives of India, 1955.
  34. *Sikkim*, 42. See also Rose, “The Himalayan Border States,” 118.
  35. Sinha, *Politics of Sikkim*, 24.
  36. Jha and Mishra, *Sikkim*, 14.
  37. See not 21 above.
  38. Datta-Ray, *Smash and grab*, 105; see also Grover, *Sikkim and India*, 122. See also EAP880/1/2/63/86: Sikkim Subject Regulation of 1954, c. 1955 in *Fragments of Sikkim*, British Library (<https://eap.bl.uk/project/EAP880>).
  39. Home Department Notification, 1961.
  40. About this treaty, see Mullard, *Opening the Hidden Land*.
  41. See Grover, *Sikkim and India*, 121; see also Datta-Ray, *Smash and grab*; Jha and Mishra, *Sikkim*; Sinha, *Politics of Sikkim*. See also EAP880/1/1/345/2, Joint petition on the subject of Sikkim Subject Regulation (Sikkim Scheduled caste League), 4 July 1961, in *Fragments of Sikkim*, British Library (<https://eap.bl.uk/project/EAP880>).

42. This text dated 16 January 1962 was amended vide notification no. S/277/61 (see the full text in Moktan, *Sikkim, Darjeeling*, 181). Other amendments were later made: vide notification no. S/252/65, 1965 and notification no. 790/H, 1970.
43. Notification no. S/277/61, 1962.
44. Mullard, "Regulating Sikkimese Society."
45. And, additionally for foreign women married to a Sikkim Subject, taking an oath of allegiance. Foreign women married to a Sikkim Subject also had to renounce their former nationality. State control over women strengthened in 1962 with a notification forbidding women married to non-Sikkim Subjects from acquiring any immovable property in Sikkim or transmitting any of her immovable property acquired before marriage to her children (Notification no. 1155/H, 1962).
46. National Archives of India 1955.
47. 'Kaya' here refers to Marwaris and 'modi' to Madeshi, which was the name given to Bihari traders in Sikkim. I am grateful to Sunil Pradhan for this information. This particular mention of the Marwari and Bihari traders comes in the context of the prevention of debt, where some villagers had repaid their loans from Marwaris by giving up their lands; this led to the 1910 Sikkim Debt Law (see Thatal, "Rights, Distribution, and Ethnicisation").
48. See Thatal, "Rights, Distribution, and Ethnicisation."
49. "Indian Structures."
50. Mullard, *Opening the Hidden Land*, 56.
51. Rose, "Modernizing a Traditional Administrative System," 217–220; Datta, "Land and Ethnicity in Sikkim," 172–173; and Gurung, *Sikkim*, 171, 256–257.
52. For detail about the landlord system in Sikkim, see Carrasco, *Land and Polity in Tibet*; Sinha, *Politics of Sikkim*; Rose, "Modernizing a Traditional Administrative System"; Risley, "Introduction"; and Mullard, "Regulating Sikkimese Society."
53. Notification no. 1209, 1950, which is based on the circular no. 8545/G dated 16 October 1924. See also Datta, 'Land and Ethnicity in Sikkim', 172–173.
54. Carrasco, *Land and Polity in Tibet*, 54; and Edgar, *Report*, 62–63. Regarding the *raikar* system, see Pradhan, *The Gorkha conquests*, 197.
55. Rose, 'Modernizing a traditional administrative system', 220.
56. Sinha, *Politics of Sikkim*, 45.
57. Notification no. 2371-2470G (1941) stating that, if a Bhutia-Lepcha's 'owner is giving up his land with his own free will and after the sanction of the Darbar you should treat such land as "partik" on which you can settle Nepali *bustiwallas*.'
58. Kaleon, "Revenue Order no. 1."
59. See for example Wangdi, "Revenue order no. 1"; Kaleon, "Revenue Order no. 1"; and Rai, "Selective protection."
60. See Sinha, *Politics of Sikkim*; Arora, 'Assertive Identities'
61. See note 58 above.
62. Rose, "Modernizing a Traditional Administrative System," 218.
63. Circular no. 8545/G (1924).
64. See McGaughey, *A Casebook on Labour Law*.
65. Administration Report of the Sikkim State for 1930–31, 11. See also Edgar, *Report*, 62; Carrasco, *Land and Polity in Tibet*, 54–61.
66. See note 55 above.
67. Kaleon, "Revenue Order no. 1," 4.
68. See note 21 above.
69. Rose, "Modernizing a Traditional Administrative System," 217.
70. See note 21 above.
71. Concerning the interaction between property and citizenship in law, see Shachar and Hirschl ('Citizenship as Inherited Property'), who discuss in particular the analogy between inherited citizenship and the intergenerational transfer of property. See also Lund ('Property and Citizenship'), who highlights the mutual interaction between social identity and property rights to land in Africa. In Sikkim from the 1960s land property also became



a prerequisite for participation as voters in Council elections, and to be registered on the voter list for the block Panchayat elections.

72. This is one among several reasons explaining why Marwaris in Sikkim were not recognised as Sikkim Subjects; on the other reasons, see Thatal, 'Rights, Distribution.'
73. "Ancestrality, Migration, Rights and Exclusion."
74. For a theorisation of this process, though in other contexts, see Coombes, Johnson and Howitt, "Indigenous geographies"; Blackburn, "Differentiating Indigenous Citizenship"; and Di Giminiani, "The Becoming of Ancestral Land."
75. About ethnic homeland, or 'ethno-territoriality', see Baruah, "Politics of Territoriality"; van Schendel, "The Dangers of Belonging."

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