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**RIGHTS OF INDIGENOUS PEOPLE IN INDIA WITH
SPECIAL REFERENCE TO NORTH-EAST INDIA:
A STUDY ON SOCIO-LEGAL ASPECTS
OF THE SOCIETY.**

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Abstract

Indigenous People inherit and practices unique cultures and also ways of relating to the people and the environment. They have characteristics that are distinct from those of the dominant societies in which they live in being social, cultural, economic and political. Their identities, cultures, livelihoods, as well as their physical and spiritual well-being are inextricably linked to land and natural resources on which they depend. They follow and are bound to their customary leaders and organizations for representations that do not have any link from those of the mainstream society or culture. Governments often recognize only a fraction of land as formally or legally belonging to these people even though most of the land is occupied under customary ownership by them. Northeast India is home to more than 500 indigenous people who are categorized as tribal, speaking different languages and follow distinct cultures from other members in the society. They have the right to own, use, develop and control the lands and resources that they possess by reason of traditional ownership. There is an increasing crime against indigenous peoples in India which has been clearly highlighted in the Crime in India published every year by the government. Large-scale violation of human rights like atrocities by police in custody, cases of encounters and similar such cases are increasing in the Northeastern states as recorded by the National Human Rights Commission (NHRC). Therefore, it is the need of the hour that the legal status of indigenous people in India and the world should be improved significantly as their birthright.

Keywords: Indigenous; Tribal; North-east India; Unique Practice; Violation of Human Rights.

Methodology

As a secondary tool for study, articles in research journals, newspaper reports have been scanned and analysed. Review and analysis of legal literature available in India have been made and referred to extensively.

Several online databases and internet search engines have been used to keep the study updated

Objective

The main objective of the research is to study and recognise various rights of the indigenous people as well as to critically analyse the reality that are faced by the indigenous people of North-East India.

Introduction

Indigenous people live on all continents, from Asia to Africa and the Americas and the like. There is no singularly authoritative definition of indigenous people, not even under international law and policies. However, Articles 9 and 33 of United Nations Declarations of the Rights of Indigenous people¹ states that indigenous people and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned, and that they have the right to determine their own identity. Despite the lack of an authoritative definition, there are certain criteria that help to define indigenous people. The main one is the criterion of self-identification and that of those proposed by Special Rapporteur of United Nations Prevention of Discrimination and Protection of Minorities, Mr. Jose Martinez Cobo in his “Study of the problem of discrimination against indigenous populations”², which includes:

- Historical continuity with pre-invasion and/or pre-colonial societies that developed on their territories;
- Distinctiveness;
- Non-dominance; and

¹Department of Economic and Social Affairs. Available at https://www.un.org/development/desa/indigenouspeoples/wpcontent/uploads/sites/19/2018/11/UNDRIP_E_web.pdf (Last visited on 8th February’2024).

² Addressing Indigenous Rights at the United Nations. Available at <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/addressing-indigenous-rights-united-nations> (Last visited on 9th February’2024).

- A determination to preserve, develop and transmit to future generations their ancestral territories and identity as people in accordance with their own cultural patterns, social institutions and legal system.

Indigenous People inherit and practices unique cultures and ways relating to people and the environment. They have retained social, cultural, economic and political characteristics and features that are distinct from those of the dominant societies in which they live³. However, despite their cultural differences, Indigenous People from around the world share some common problems related to the protection of their rights as distinct peoples.

They have sought recognition of their identities, way of life and their rights to traditional lands, territories and natural resources for years, yet their rights have always been violated throughout history. Indigenous People today are among the most disadvantaged and vulnerable groups of people in the world. Indigenous people are often marginalized and face discrimination in countries' legal systems, leaving them even more vulnerable to violence and abuse. Human rights defenders of Indigenous people who speak out face intimidation and violence, often supported by the state. Individuals are also physically attacked and killed just for belonging to an Indigenous people. There can be seen an increasing rate in crime against indigenous people in India, which has been clearly highlighted in the Crime in India published every year by the government. Large Scale violations of human rights like atrocities by police in custody, cases of encounters and similar such cases are increasing in the Northeastern states as recorded by the National Human Rights Commission (NHRC).⁴

The international community now recognizes that special measures are required to protect their rights and maintain their distinct cultures and way of life. Various study has been made both in the national and international level, various organisations and declarations are been held as well as enacted various laws in order to safeguard these groups by letting them carry their own identity.

³ Indigenous Peoples at the United Nations, Available at <https://www.un.org/development/desa/indigenouspeoples/about-us.html#:~:text=Indigenous%20Peoples%20are%20inheritors%20and,societies%20in%20which%20they%20live> (Last visited on 10th March'2024).

⁴ National Human Rights Commission, India, Press Release(17th November, 20223). Available at <https://nhrc.nic.in/media/press-release/nhrc-camp-sitting-guwahati-concludes-56-cases-human-rights-violations-ne-states#:~:text=These%20included%2C%20among%20others%2C%20the.area%20of%20Kokrajhar%20town%2C%20PS-> (Last visited on 11th March'2024).

Discrimination is the reason why Indigenous peoples make up 15% of the world's extreme poor. They also suffer higher rates of landlessness, malnutrition and internal displacement than other groups across the globe.

Rights of Indigenous people in international law

Indigenous people and their rights have, over the past three decades, become an important component of international law and policy. Movements driven by indigenous people, civil society, international mechanisms and states as well at the domestic, regional and international level brought the issue in the forefront. The United Nations human rights system, its mechanisms, laws and policies, have been at the centre of these developments with bodies such as the United Nations Working Group on Indigenous Populations playing a groundbreaking role, which is continued by the Human Rights Council and its mechanisms, in cooperation with other key factors, including the United Nations Permanent Forum on Indigenous Issues.

The General Assembly's adoption in 2007 of the United Nations Declaration on the Rights of Indigenous People (UNDRIP), was one of its main achievements which, by 2010, was supported by the vast majority of United Nations Member States and none of them opposed the same. It can be considered as the result of decades of negotiation between States and indigenous people, coming together in a spirit of partnership to endorse the Indigenous Declaration. It applies to indigenous people and their specific situations which helps them to reverse exclusion from the international legal system. Rights to their collective bicultural heritage, including traditional knowledge and resources, territories, and cultural and spiritual values and customary laws are been protected by the Declaration.

Despite it not being legally binding, 146 countries have adopted the Declaration and so have committed to respecting it. When a Declaration is accepted by Congress in Peru for instance, it became a set of standards and principles that need to be applied. It is the duty of National Governments that have signed up to respect the provisions of the Declaration if the indigenous people implement specific provisions of the Declaration in their local governance systems. The UNDRIP contains a number of provisions that can be used to strengthen their rights and bicultural heritage:

- 1) Article 26 states that indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used. They have the right to own, use, develop and control these resources. Legal recognition and protection to these lands, territories and resources shall be given by the state.
- 2) Article 11 provides that Indigenous peoples have the right to practice and revitalise their cultural traditions and customs whereas Article 31 provides for the right of maintenance, control, protection and to develop their cultural heritage, traditional knowledge and traditional cultural expressions, and also that of genetic resources, seeds, medicines, knowledge of the properties of flora and fauna.
- 3) Article 12 provides for the right to manifest, practice, develop and teach their spiritual and religious traditions. They also have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or occupied and used lands, territories, waters and coastal seas and other resources as mentioned in Article 25.
- 4) Article 18 provides for decision-making rights. They have the right to participate in decision making affecting their rights. Indigenous people also have the right to self-determination as provided under Article 3.
- 5) Article 32 provides for free prior and informed consent. Indigenous people have the right to determine and develop priorities and strategies for the development or use of their lands or territories or other resources. It is the duty of the states to consult with indigenous people through their own representative institutions to obtain their free prior informed consent before working on any project which may affect their lands or territories and other resources, particularly in connection with the use of mineral, water or other resources.⁵

ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (No. 169)

Another International norm concerning Indigenous people is ILO Convention respectively.

There are only two ILO conventions specifically dealing with indigenous peoples rights, ILO Convention concerning the Protection and Integration of Indigenous and Other Tribal and Semi Tribal Populations in Independent Countries, 1957 (No. 107), ILO Convention No. 169 which is fundamentally concerned with non-discrimination.⁶

⁵ Indigenous Peoples and the United Nations Human Rights System, Fact Sheet No. 9/Rev 2(United Nations Human Rights Office of The High Commissioner). Available at <https://www.ohchr.org/Documents/Publications/fs9Rev.2.pdf> (Last visited on 5th March 2024).

⁶ Indigenous and Tribal Peoples' Rights in Practice: A Guide to ILO Convention No. 169 (Geneva, 2009) available Page | 9

The Declaration mainly covers indigenous people's rights to development, customary laws, lands, territories and resources, employment, education and health. Moreover, it signaled, at the time of its adoption in 1989, a greater international responsiveness to indigenous people's demands for greater control over their way of life and institutions. In 1989, the Convention No. 169 had been ratified by 22 countries, mostly in Latin America.

Rights of Indigenous people in India

Rights of Indigenous People in India have been recognized. India is home to about 700 tribal groups with a population of 104 million (2011 census). These indigenous people constitute the second largest tribal population in the world next to Africa. In central India, the Adivasis are usually referred to as Scheduled Tribes, which literally means Indigenous Peoples.⁷

Indigenous People in India are found in largest concentrations in the seven states of north-east India, and also the central tribal belt that stretches from Rajasthan to West Bengal. India has several laws and constitutional provisions as incorporated by the makers of Indian Constitution into this living document to protect the interest of the Indigenous People, such as the Fifth Schedule for central India and the Sixth Schedule for certain areas of north-east India, which recognize Indigenous Peoples' rights to land and self-governance. Various commissions and Acts have also been enacted from time to time in order to safeguard the indigenous people in India. The laws aimed at protecting Indigenous People have numerous shortcomings and their implementation is far from satisfactory. As industries encroached upon their lands, many communities were displaced and some continued to wage a struggle to either protect their homes or demand fair compensation.

- 1. Economic and Political Rights:** To protect the economic rights of the indigenous people, we have Article 244 under the Constitution of India (COI) which provides for the administration of the Scheduled Area and Tribal Area. To promote the welfare of Scheduled Tribes Article 275 empowers parliament to make special grants given to the state which undertakes the scheme of development. To protect the political rights of the tribal people provisions like Article 244, 243, A330, A334, 371 are been given specifically in respect of Northeastern States . Article 164 (1) empowers the state to

at www.ilo.org/indigenous/Conventions/no169/lang--en/index.htm (Last visited on 10th February' 2024).

⁷ Since the Scheduled Tribes or "tribals" are considered India's Indigenous Peoples, these terms are used interchangeably in this text.

establish a special ministry for the scheduled tribes in the state like Chandigarh, Madhya Pradesh and Orissa. The Fifth and Sixth Schedule of the COI ensures proper control and administration of Scheduled Tribes and their areas.

- 2. Educational & Cultural Rights:** Article 15(4) provides for Special provisions for advancement of other backward classes and Article 29 Protects the Interests of Minorities which includes the Scheduled Tribes.

Under Article 46, the COI directs the State to promote the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes, and the Scheduled Tribes, and to protect them from social injustice and all forms of exploitation. Article 350 provides for a Right to conserve distinct Language, Script or Culture whereas Art. 350A provides facilities for Instruction in Mother Tongue at primary stage.

- 3. Social Safeguards:** Article 15 laid down provisions for the promotion of social, economic and educational interests of the Scheduled Tribes and Article 19 (5) which is a special provision that imposes restrictions on owning property by non-tribal's in tribal areas. Furthermore, Article 23 Prohibits traffic in human beings and beggars and other similar forms of forced labor, Article 24 Forbids Child Labour in any forms.⁸

- 4. National Commission for Scheduled Tribe (NCST):**

NCST was set up by amending Article 338 in 2004 and have inserted a new article 338A in the Constitution through the 89th Constitution Amendment Act, 2003. It consisted of a Vice-Chairperson and three full-time members including one female member. The members of the Commission assume their duty for three years from the date of assumption of charge. The duty of this commission is to inquire into complaints with respect to deprivation of their rights and as well as to safeguard them. The commission also takes part in advising in the development of Scheduled Tribes and also to evaluate their development progress.⁹

⁸ Dr.J.N. Pandey, *The Constitution of India* 48 (Central Law Agency, Allahabad, 39th edn , 2003).

⁹ Daily Updates, Dhristi IAS. Available at <https://www.drishtiias.com/daily-updates/daily-news-analysis/national-commission-for-scheduled-tribes-2> (Last visited on 5th March'2024).

5. Various enactments: The enactment of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 to protect them from any kind of discrimination and torture. The Scheduled Tribes Bonded Labour Abolition Act of 1976, to protect them from bonded labor and other practices where adequate wages are not paid to them for their work. Another enactment is the Forest Conservation Act, 1980 to protect and conserve the forest resources as these indigenous people mostly live and are dependent on them. India has consistently favored the promotion and protection of indigenous peoples' rights. The Provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996 or PESA to enable tribal self rule, the Tribal Panchsheel Principles (1958) of India's first Prime Minister Jawaharlal Nehru and all other legal safeguards as mentioned before guarantee protection to indigenous people.¹⁰

Women and Indigenous Rights

Tribal women in India face discrimination, violence and unequal treatment in many forms and often without legal recourse, as they have a very weak access to the justice system of the country. The legal and judiciary system is mainly male dominated and often not gender sensitive. They are also not aware of their rights including the due process, and have little access to competent lawyers. Furthermore, they are raped or sexually abused in custody of the police or other authorities. The women face diverse abuses such as killing, torture and other violence against women labeled “witches,” sexual violence, trafficking, militarization, and development-induced displacement.¹¹

In the state of Chhattisgarh, around 46 cases of gang rape by security forces were reported over just few months between 2015 and 2016, and the number is likely higher than what was reported.¹²

The National Crime Records Bureau of the Indian government stated that 1,137 Tribal women were raped and 885 assaulted “with intent to outrage her modesty” in 2020 alone in the report

¹⁰ Legal Safeguards for Scheduled Tribes, PIB Delhi.

Available at <https://pib.gov.in/PressReleasePage.aspx?PRID=1514996> (Last visited on 17th March'2024).

¹¹ Annisa Burgos, “The Multi-Layered Abuse of Adivasi Women in India”, Upstream journal (2022). Available at https://upstreamjournal.org/Adivasi-women/?fbclid=IwAR0XBLYfhtJrsWxQV6D7jqcTroauaPzv7Xp0VGnMEvXkXDq3B_Txz_mlgOI (Last visited on 19th March'2024).

¹² Brinda Karat, “When Rape Becomes A Weapon Against Tribal Women,” *NDTV* (2017). Available at <https://www.ndtv.com/opinion/when-rape-becomes-a-weapon-against-tribal-women-1647667>. (Last visited on 17th March' 2024).

published in September 2021.¹³ Indigenous women and girls in India working as domestic helpers also undergo vicious cycles of exploitation, intimidation, and torture and among many cases go unnoticed. In 2021 an incident of murder of a 12-year-old Karbi Indigenous girl, Sumila Ronghagpi, who worked as a domestic responsibilities of a Gram Sabha worker for a wealthy, high-caste family in Assam state came out. Asia Indigenous Peoples Pact (AIPP) and International Work Group for Indigenous Affairs (IWGIA) report that “was allegedly tortured, impregnated and burnt alive.”¹⁴

A study conducted by Karbi Human Rights Watch, where it was found that about 5,000 young Karbi girls work in similar kinds of exploitative conditions, face similar violence and are often without legal recourse, due to poverty and other obstacles accessing their rights and the legal system.¹⁵ IWGIA’s 2021 report to the CEDAW emphasized how public health measures undertaken to contain the COVID-19 pandemic exacerbated violence against Indigenous women globally, permitting increases in domestic violence and limiting survivors’ ability to access help.¹⁶

In India, maternal death rates are higher among Adivasi and Tribal women than others.¹⁷

Indeed, disaggregated data is generally lacking with regards to the human rights situation of Indigenous women, which prevents having an accurate understanding of their needs and realities and it comes as an obstacle to devise policies and programs to adequately address them. Disaggregated data is urgently needed in order to address these situations of violence and ensure that the government implements their rights under CEDAW, UNDRIP, and other relevant obligations.

¹³ National Crime Records Bureau, Crime in India 2020 (Ministry of Home Affairs, 2020). Available at <https://ncrb.gov.in/sites/default/files/CII%202020%20Volume%201.pdf>. (Last visited on 16th March’ 2024)

¹⁴ Asia Indigenous Peoples Pact, Regional and International NGOs strongly condemn the gruesome killing of Indigenous Karbi Girl in Assam, Northeast India, (AIPP, 2021). Available at https://aippnet.org/wp-content/uploads/2021/04/AIPP_Statement-on-Gruesome-killing-of-Sumila_30April.pdf. (Last visited on 2nd March’ 2024).

¹⁵ *Ibid.*

¹⁶ International Work Group for Indigenous Affairs, Submission to the Committee on the Elimination of Discrimination against Women, (International Work Group for Indigenous Affairs, 2021). Available at https://www.iwgia.org/en/global-governance-cat/4420-cedaw-2021.html#_ftn66 (Last visited on 20th March’ 2024).

¹⁷ Inter State Adivasi Women’s Network of Mainland India, Indigenous Women’s Forum of North East India, Asia Indigenous Peoples Pact, India NGO CEDAW Shadow Report and Status of Adivasi/Tribal Women in India, (58th Session of CEDAW, 2014). Available at https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/Ind/INT_CEDAW_NGO_Ind_17414_E.pdf_11-12 (Last visited on 19th March’ 2024).

Ongoing Human Rights violations

1) Militarization and Extrajudicial Killings

This falls under violations of UNDRIP Articles 7 and 30, UDHR Articles 3 and 10, International Convention for the Protection of all Persons from Enforced Disappearance Article 1, International Convention on Civil and Political Rights (ICCPR) Articles 4, 6, 9, and 15.

Rights of Indigenous People are being continued to violate by the Security forces in Central and Northeast India. Northeast people are being accused of having links with insurgent groups.¹⁸ Hundreds of murders and other violence against Indigenous people are being caused due to Maoist rebels in central India.¹⁹

The Armed Forces Special Powers Act (AFSPA) of 1958 confers special powers to armed forces and is operative in areas that are declared as disturbed and dangerous including in Northeast India where there is a large concentration of Indigenous People²⁰ resulted in gross human rights abuses including extrajudicial killings and disappearances in the name of suppressing counter-insurgencies in the area. Encounters of more than 6000 were recorded from 2017 to August 2021 as per the government reports.²¹

2. Torture, Physical Abuse, and Murder of Human Rights Defenders

It includes the violations of UNDRIP Articles 7, 21, 24, and 30, UDHR Articles 3, 5, 9, 13, 20, and 25, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Article 2, and ICCPR Articles 7, 9, 10, and 15.

The government of India has not yet taken steps to protect human rights defenders. Human rights defenders and Indigenous human rights defenders in particular are in fact facing greater risks.

¹⁸ S.D. Pradhan, "Manipur insurgent attack: Assessing causal links", The Times of India (2021). Available at <https://timesofindia.indiatimes.com/blogs/ChanakyaCode/manipur-insurgent-attack-assessing-causal-links/> (Last visited on 12th February' 2024).

¹⁹ Opinion expressed by Ken Timung Arlung, Young Indigenous Rights activists at Diphu Assam in a conversation with Cultural Survival, available here: Dev Kumar Sunuwar, "Citizenship Amendment Bill Negatively Impacts Indigenous Peoples of Northeast India," Cultural Survival, 2020. Available at <https://www.culturalsurvival.org/news/citizenship-amendment-bill-negatively-impacts-indigenous-peoples-northeast-india> (Last visited on 4th March' 2024).

²⁰ United Nations Human Rights Office of the High Commissioner, "UN Experts Urge India to Release Protest Leaders," *OHCHR* (2020). Available at <https://www.ohchr.org/en/news/2020/06/un-experts-urge-india-release-protest-leaders?LangID=E&NewsID=26002> (Last visited on 3rd March' 2024).

²¹ Kishalay Bhattacharjee, "Encounters and Impunity: India's Undeclared War," *The Wire* (2021). Available at <https://thewire.in/politics/encounters-impunity-india-undeclared-war> (Last visited on 1st March' 2024).

They are often arbitrarily detained, physically attacked, ill-treated, displaced, and killed. Human rights defenders in India often labeled as Naxals, terrorists, militants, insurgents, anti-nationalists and members of underground and their movement is on many occasions unlawfully restricted.

One example of persecution of rights defenders was the government's decision to prevent Neingulo Krome, general secretary of the Naga People's Movement for Human Rights and a well-known Indigenous rights activist and leader, from flying to Bangkok from Kolkata in February 2021. He was barred from leaving the country and told that he was not allowed to travel abroad per orders of the government, an act that the organization Asia Indigenous Peoples Pact condemned.²² No further information was provided, nor evidence of this order.²³

3. Forced Eviction from Forest and Lands violates Articles 3, 5, 8, 10, 11, 19, 20, 21, 25, 26, 27, 29, 31, and 32 of UNDRIP, UDHR Articles 22, 23, and 25, and ICCPR Article 12.

Indigenous People in India depend mostly upon forests for their living. For many, the forest not only provides resources for economic subsistence, but it is also a way of life socially and culturally. In reality a large number of forest dwelling Indigenous communities in India in many cases has been denied rights to their lands and resources.

In 2006, the Indian government enacted the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, known for short as the Forest Rights Act (FRA). It has been estimated that the act could restore "rights of forest dwellers over at least 40 million hectares or 100 million acres of forest land in 170,000 villages, i.e. one-fourth of the villages across the country. Importantly, at least 150 million people, including 90 million Tribal people, are estimated to benefit."²⁴

However, according to the monthly progress report on FRA published by the Ministry of Tribal Affairs, as of August 31, 2021, a total of 4.2 million individual and community claims seeking

²² Kittisak Rattanakrajangsri, The Asia Indigenous Peoples Pact Statement, AIPP (2020). Available at https://aippnet.org/wp-content/uploads/2020/02/AIPP_Statment-in-support-for-Neingulo.pdf (Last visited on 12th February).

²³ The Wire Staff, "Civil Society Condemns Centre's Move to Bar Naga Rights Activist From Travelling Abroad," *The Wire* (2021). (Available at <https://thewire.in/rights/naga-rights-activist-neingulo-krome>. (Last visited on 20th February' 2024).

²⁴ Lekshmi M, Anup Kumar Samal, and Geetanjoy Sahu, "15 Years of FRA: What Trends in Forest Rights Claims And Recognition Tell Us," *The Wire* (2021). Available at <https://science.thewire.in/politics/rights/15-years-forest-rights-act-claims-recognition-trends/>. (Last visited on 26th February' 2024).

title have been filed under the FRA of which 53% from 20 states were rejected.²⁵

Alternatives were not provided to the affected people, nor were consent sought prior to the eviction and no adequate redress nor compensation was provided. Many Indigenous Peoples in India have already lost their homes in the name of “conservation,” mainly to make way for tiger reserves, despite the fact that these communities have lived in balance and relationship on these lands, with tigers and other wildlife, for generations.²⁶

4) Violation of right to dignified life of Indigenous Peoples

Violations of UNDRIP Articles 5, 7, 8, 11, 13, 14, 16, 15, 31, and 33; UDHR Article 20; ICCPR Article 27.

On 11 December 2019, India passed the Citizenship Amendment Act (CAA), which amended its existing Citizenship Act of 1955. The act has been criticized for anti-Muslim impacts; while it claims to support citizenship for immigrants from religious minorities, it discriminates against Muslim immigrants.²⁷

It also threatens the citizenship of India’s Indigenous People: IWGIA reports that, Indigenous People fear that the CAA will render millions of them stateless because they will not be able to provide the necessary documents to prove their citizenship.²⁸ They consider CAA as a direct attack on their cultures.²⁹ A pilot project conducted in 2019 in Assam state excluded close to 2 million people from official citizenship records, among them 100,000 Indigenous people of various Peoples. Many Indigenous people in India do not have the documents required to prove citizenship; thus, implementation of this act nationwide would leave millions stateless. Detention of individuals unable to prove their citizenship has already resulted in violence, imprisonment,

²⁵ Government of India, Ministry of Tribal Affairs, Monthly update on status of implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, (2021). Available at [https://Tribal.nic.in/downloads/FRA/MPR/2021/\(C\)%20MPR%20Aug%202021.pdf](https://Tribal.nic.in/downloads/FRA/MPR/2021/(C)%20MPR%20Aug%202021.pdf). (Last visited on 23rd February’ 2024).

²⁶ Survival International, Tribal Conservationists in India's Tiger Reserves (Survival International). Available at <https://www.survivalinternational.org/articles/3462-tigerconservationists> (Last visited on 24th February’ 2024).

²⁷ Human Rights Watch, “India: Citizenship Bill Discriminates Against Muslims,” *Human Rights Watch* (2019). Available at <https://www.hrw.org/news/2019/12/11/india-citizenship-bill-discriminates-against-muslims#> (Last visited on 24th February’ 2024).

²⁸ International Work Group for Indigenous Affairs, Indian Citizenship Laws Have Deep Impact on Adivasis (International Work Group for Indigenous Affairs, 2020). Available at <https://www.iwgia.org/en/india/3536-nrc-impact-Adivasis.html>. (Last visited on 21st February’ 2024).

²⁹ Dev Kumar Sunuwar, “Citizenship Amendment Bill Negatively Impacts Indigenous Peoples of Northeast India,” *Cultural Survival* (2020). Available at <https://www.culturalsurvival.org/news/citizenship-amendment-bill-negatively-impacts-indigenous-peoples-northeast-india> (Last visited on 23rd February’ 2024).

and death.

Conclusion and Recommendations

There is a growing situation of intolerance among the North-eastern people in major cities in India. Increasing racial discrimination against the indigenous people have become a major issue in the country which needs to be looked upon strongly and by assuring them to protect all the rights that a human needs to lead a dignified life.

Some of the recommendations to safeguard the rights of the indigenous people are discussed below:

1. By taking appropriate and necessary actions to protect human rights defenders and civil society organizations against murder, harassment, and intimidation, including ensuring their right to freedom of association and access to financial resources.
2. By creating a national action plan on implementing Indigenous Peoples' rights based on the World Conference on Indigenous Peoples' Outcome Document.³⁰
3. By undertaking periodic collection of data disaggregated by gender and ethnicity and devise appropriate policies, programs, and protection measures to guarantee the safety of Indigenous women and girls.
4. By implementing all developmental plans in line with international human rights standards, including the UN Guiding Principles on Business and Human Rights; Free, Prior and Informed Consent; and an effective remedy as well as justice for communities affected by development and business operations
1. 5. By ratifying ILO Convention 169 which recognizes Indigenous peoples' right to self-determination within a nation-state, while setting standards for national governments regarding Indigenous peoples' economic, socio-cultural and political rights, including the right to a land base.³¹
5. Conduct a high-level independent investigation to ensure that justice is brought to the victims of extrajudicial killings in northeast India and their families.

³⁰ Outcome Document of the World Conference on Indigenous People . Available at <https://indianlaw.org/wcip/outcome-document-world-conference-indigenous-peoples#:~:text=The%20World%20Conference%20Outcome%20Document,Nations%20on%20September%202022%2C%202014> (Last visited on 25th February' 2024).

³¹ C169-Indigenous and Tribal Peoples Convention, 1989 (No.169). Available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169 (Last visited 23rd February' 2024).

6. Repeal the Armed Forces Special Powers Act and put an end to the culture of extrajudicial killings in northeast India.
7. Uphold the letter and spirit of the Forest Rights Act by safeguarding the inherent rights of Scheduled Tribes and other traditional forest-dwelling peoples. Introducing certain principles of ILO Convention 107 to which India is a party of fair settlement plans and consultation processes in order to process land claims in a timely and transparent way.³²
8. Invite the UN Special Rapporteur on the Rights of Indigenous Peoples to visit India.
9. Consult with Indigenous Peoples on ways to mitigate negative repercussions of the Citizenship Amendment Act on their communities and ensure their right to citizenship and their territories are implemented.



³²C107-Indigenous and Tribal Populations Convention, 1957(No. 107). Available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C107 (Last visited on 21st February' 2024).