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E.MBA, LL.M, Ph.D, PGDSAPM

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More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



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BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **AN EXAMINATION OF THE VIOLATIONS OF INDIA'S INDIGENOUS PEOPLES IN THE 21ST CENTURY**

AUTHORED BY - MR MD JIYAUDDIN

Assistant Professor, Department of Law  
Brainware University, Barasat, West Bengal

CO-AUTHOR - DR SUNITA BANERJEE

## **Abstract**

*India's stance in several international fora on problems pertaining to access and benefit-sharing to biological resources and traditional knowledge, as well as tribal rights, has been based on the belief that tribal people play a significant role in the sustainable development of biological resources. But India needs to exercise extreme caution when matters unrelated to the matter are raised. The objections of India regarding the United Nations Declaration on the Rights of Indigenous Peoples, 2007. Governments have come under fire for playing a significant role in the formation of Indigenous identities. India's indigenous people have a legal claim to the land. The sale or transfer of tribal lands to non-Indians and the return of alienated lands to tribal landowners are forbidden by several laws. These laws are meant to undermine them, are not invoked, and are nonetheless ineffectual. Furthermore, many of the tribes that inhabited the forests were deprived of their rights, and they were forced to live under constant fear of being forced to relocate in the sake of protecting the forests and wildlife. In conclusion, this essay addresses the precarious circumstances faced by India's indigenous peoples, who are now dealing with a number of issues. This paper elucidated the types of crimes and violations that are being faced.*

**Key Words:** Traditional knowledge, Tribal rights, Rights of Indigenous peoples, Protecting the forests and Wildlife.

## 1. INTRODUCTION

The term 'Adivasis' which translates to 'forest dwellers' or 'people of the mountains,' is frequently used in India to refer to native people. In a more general meaning, the word 'adivasi' refers to local natives, much as the word 'adi' denotes the origin or source and a 'vasi' is a person who resides. As a result, the phrase 'original dweller' is produced when the terms are combined. For many generations, India's indigenous population has resided on its territory. There are 705 ethnic groups classified as a Scheduled Tribes in India. Adivasis, which literally translates to original inhabitants, or indigenous peoples, is the term most often used to refer to the Scheduled Tribes of central India. With an estimated 104 million people, they make up 8.6% of the world's population. The overall population of the Scheduled Tribes is larger than the official statistic since there are other ethnic groups that would be eligible for Scheduled Tribe status but are not acknowledged by the government. Worldwide, there are thought to be 476 million Indigenous Peoples, even though they only account for 6% of the world's population.

Surprisingly, individuals who have lived in a nation for the greatest period of time in human memory now have to defend their identities, their lands, their means of subsistence, etc. They are the most disadvantaged and underprivileged individuals, having to work hard at all they do and have been a part of since infancy. Indigenous people have adapted to survive in the most extreme environments. Their lifestyles are centred around protecting biological variety. They live in close proximity to the environment, shelter in forests, obtain food from them, and revere them. It is common knowledge that when an industry is established in an area with abundant flora and wildlife, the surrounding tribes also suffer as a result of economic expansion. They struggle to survive when forests are lost for infrastructure, mining, farming, etc. Every time the government assigns a Multi-National Corporation the task of developing infrastructure, the Indigenous people are stripped of their home. For tribal people, the forest is their life, and as the climatic shifts that are impacting us and the creatures that live there have an impact on it, the demand for strict laws and strict enforcement is increasing.

Similarly in other countries, indigenous people of India are renowned for their distinct cultures and ancient wisdom. They are seen as having invaluable expertise that, if developed, might benefit both the nation and the communities in which they live. They converse in more over half of the Indian languages, according to culture. Their language prowess is fundamental to

their identity and makes up a significant portion of Indian knowledge. A number of laws and provisions in the Indian Constitution, such as articles 15(4) and 46, provide special protections for the Scheduled Tribes, a group of people classified as socially, educationally, and economically "backward." These provisions recognise the need to protect these people from social injustice and various forms of exploitation. In addition to the provisions of the Constitution, India has a number of legislations that uphold the rights of Indigenous Peoples to land and self-governance, including the Fifth Schedule for Central India and the Sixth Schedule for some regions of Northeast India.

## **2. SCOPE OF STUDY**

The study's scope is governed by the researcher's resources and mandate at any particular moment. The legal systems of a few other countries including India are studied by researchers, together with the agreements that governments have signed for indigenous peoples, which serve to prevent or lessen the rights violations of these peoples. Authorities Concern and attention to the freedom, rights, and opportunities for interaction between Indigenous peoples residing in various nations. After consulting with the indigenous peoples, the government and non-governmental organisations promote their freedom to exercise their rights and maintain their structures, customs, and laws in ways that provide the best quality of enjoyment.

## **3. RESEARCH METHODOLOGY**

The goal of the study is entirely accomplished via the use of doctrinal research technique. Analysis of diverse customs, laws, and regulations are the focus of the researcher's work. Articles, laws, conventions, case law, and statistical data are some of the sources that will be studied. Moreover, statements and declarations from national and international entities as a consequence of meetings will be included in several sections of the study. Furthermore, case studies that touch on cases heard by national tribunals, the court, and other agencies in India have been prepared.

## **4. RIGHTS VIOLATIONS BY STATE FORCES AND ARMED OPPOSITION GROUPS AGAINST INDIGENOUS PEOPLES**

Armed conflicts in India are mostly focused on areas inhabited by Indigenous Peoples, with the exception of Jammu & Kashmir. In 2023, Indigenous Peoples experienced abuse and even death while being detained, among other abuses of their human rights. A few of the documented

cases involved police abuse, such as rubbing green chilies in the eyes and private areas of seven Indigenous men—among them, a 17-year-old minor—during their unauthorised detention in Villupuram, Tamil Nadu, from February 25 to 28. Another case involved the shooting death of an 18-year-old Indigenous man by police during a protest in Madhya Pradesh on March 15, Police officers and Forest Department officials tortured a 23-year-old Indigenous man until he died on March 20 in Uttarakhand; on April 27, they killed a 33-year-old Indigenous man during a protest in West Bengal; on July 7, a police officer in Madhya Pradesh tortured a 40-year-old Indigenous man in custody for refusing to pay a bribe to settle a case involving an illicit liquor sale; on July 16, an Indigenous man from Manipur died in custody after his arrest in Andhra Pradesh; on August 29, death of an Indigenous man, aged 30, as a result of alleged police torture after he was arrested on August 23 for causing a disturbance in Madhya Pradesh, and death of an Indigenous man, aged 4, as a result of inadequate medical attention while in judicial custody in Chhattisgarh.

In 2023, there were several instances of human rights violations against Indigenous Peoples in the Northeast and the Naxalite-affected parts of the "tribal belt," including extrajudicial executions by security personnel. Among the events was the death of an Indigenous man on February 24, Assam, by police in an identity theft case. Two Indigenous men were killed by security forces in what is believed to have been a fictitious encounter in Chhattisgarh on September 5. A 24-year-old Indigenous man from Arunachal Pradesh was killed by Assam Forest Department officials on September 18 due to the disproportionate use of firearms in the state. Three Indigenous men were killed and five others were injured while in the custody of the Army due to alleged torture during questioning in relation to the killing of four soldiers by militants in Jammu and Kashmir on December 23.

The majority of reports of Indigenous People being killed by Armed Opposition Groups (AOGs) in northeast India came from Manipur, where ethnic conflict between the Kuku-Zo tribals and the Meitei community has been underway since May 3 in response to the Meiteis' quest for Scheduled Tribe designation. Examples included the killing of three tribal members of the Kuki-Zo community and the killing of two more Kuki-Zo men who were allegedly killed by suspected militants in Kangpokpi district. Three Kuki tribal men, ages 20, 31, and 35, were allegedly tortured, stabbed, and had their limbs severed before being shot at close range by suspected militants in Ukhrul district on August 18 while they were guarding their village. In the ongoing ethnic strife, Meitei people were allegedly targeted and killed by armed gangs

affiliated with Kuki-Zo tribes. A suspected extremist shot and killed a tribal leader and former Legislative Assembly member in Arunachal Pradesh on December 16.

## **5. MAJORITY OF INTERNALLY DISPLACED PEOPLE IN INDIA ARE MEMBERS OF THE INDIGENOUS PEOPLES**

The majority of internally displaced people (IDPs), whether due to violence or development, are Indigenous Peoples, with the exception of the pandits of Kashmir and the Meiteis of Manipur. The number of Indigenous Peoples domestically displaced by infrastructure and industrial projects, armed conflicts, or other circumstances is not known to the Indian government.

The ethnic violence in Manipur in 2023 caused some 70,000 people to be displaced; these individuals were primarily Indigenous Kuki-Zomi tribe members who were compelled to seek refuge in relief camps located in both the state and its surrounding states. Inhumane living conditions, lacking basic necessities like food and medical supplies, beset the relief camps for the displaced Manipuris. First, on September 1, the Supreme Court ordered the federal and state governments to make sure that the displaced people in Manipur had access to essential supplies of food and medication. After fleeing to Mizoram, around 12,000 Indigenous people were living in appalling conditions in relief camps since the federal government had refused to help them, even though the Mizoram administration had asked for them. In response to an ILAI complaint, the Mizoram administration told the NHRC that it had been "managing the IDPs with monetary contribution from MLAs, Corporators, Departments of Central and States Governments, Churches, NGOs" and that it had not gotten any support from the federal government. The NHRC's entire commission is now debating the issue.

## **6. POSITION OF WOMEN WHO ARE INDIGENOUS**

Indigenous women and girls frequently experience individual and collective rights violations or denials in both public and private settings. Major concerns that women and girls continue to confront include sexual abuse, trafficking, being killed or labelled as witches, military or state brutality, and the effects of development-induced relocation.

The National Crime Records Bureau (NCRB) has documented 1,347 incidents of rape against Indigenous women and girls in 2022, according to its most recent report, Crime in India 2022,

which was released on December 3, 2023. Both members of the public and members of the security services or government officials committed the sexual attacks. In the midst of the current ethnic violence in Manipur, a horrifying video showing two Indigenous women being paraded naked and sexually attacked by a crowd on July 18 provoked outrage across the country. Two Indigenous males who attempted to defend the ladies were also slain by the crowd. The victims were allegedly kidnapped on May 4 from police custody in the Kangpokpi area; however, the event was finally discovered on July 19. After the initial complaint was filed on May 18 and the First Information Report (FIR) was forwarded to the closest police station on June 21, the police did not take any action and did not apprehend the offenders. On July 19, a day after the event went viral on video and 77 days after the attack, the first arrest was made. In response to a complaint submitted by the Indigenous Lawyers Association of India (ILAI), the Manipur government notified the National Human Rights Commission (NHRC) on November 17 at its open camp hearing in Guwahati, Assam, that the two survivors of sexual assault had received compensation of Rs. 1,300,000 apiece, and that the Central Bureau of Investigation (CBI) was looking into the criminal case. In another horrific Manipur instance, on May 5, a mob of some 100–200 people kidnapped, tortured, gang-raped, and killed two Indigenous women, ages 21 and 24. The incident occurred in the state capital, Imphal. Even after a report was made and a formal complaint was filed, there was grave police inactivity. The CBI is looking into this matter as well.

Some of the documented incidents of Indigenous women or girls being sexually assaulted by non-tribals or members of upper castes in 2023 included a 12-year-old tribal girl who was gang-raped by three youths from a dominant caste in Madhya Pradesh on January 15, a tribal woman who was abducted and gang-raped by three youths in Odisha on January 19, two young tribal girls, ages 14 and 17, who were gang-raped by five men in Odisha on April 16, a 20-year-old tribal woman who was gang-raped in front of her husband by roughly seven people on April 27, and the rape of four Irula PVTG tribal women, ranging in age from 19 to 30. Their employer kept them as bonded labourers and subjected them and their families to mistreatment, humiliation, and torture at a woodcutting unit in Tamil Nadu in May. Sixteen-year-old tribal girl abducted and gang-raped by eight non-tribals on her way from a marriage function with her uncle in Bihar on June 6; fifteen-year-old tribal girl abducted and raped by two powerful individuals in Maharashtra on June 10; twenty-six-year-old tribal worker was gang-raped by her employer in Maharashtra on June 19; fifty-year-old tribal woman was gang-raped and killed by three non-tribals in Madhya Pradesh on June 22. Two young tribal girls, ages 14 and 16,

were sexually assaulted by seven people while they were grazing goats in a forest area in Madhya Pradesh on July 13. A 17-year-old tribal girl was killed after being sexually approached by two upper caste people in Madhya Pradesh on the night of August 24 and 25. Finally, on November 20, a deputy Sarpanch (village head) in Madhya Pradesh physically assaulted and raped a 21-year-old tribal woman under threat.

## **7. VIOLATION OF INDIGENOUS PEOPLES' RIGHT TO A DIGNIFIED LIFE**

India's Citizenship Act of 1955 was revised on December 11, 2019, with the passage of the Citizenship Amendment Act. Although the legislation purports to encourage citizenship for immigrants from religious minority, it discriminates against Muslim immigrants, which has led to criticism for its anti-Muslim effects. live Additionally, it jeopardises the citizenship of Indigenous Peoples of India, who fear that millions of them will become stateless when the CAA is implemented through mechanisms like the Nationality Recognition Commission (NRC), which was tested in the state of Assam, according to the IWGIA. They see the law as an outright assault on their cultural traditions. In 2019, Assam state implemented a trial initiative that resulted in the exclusion of around 2 million individuals from official citizenship records, including 100,000 Indigenous people belonging to several Peoples. Millions of Indian Indigenous people would become stateless if this legislation were to be implemented statewide since many of them lack the documentation needed to establish their citizenship. Violence, incarceration, and even death have previously occurred as a result of detaining people who cannot demonstrate their citizenship. Following the act's enactment, the Supreme Court of India received over 140 petitions arguing that the statute is unconstitutional but yet in force.

## **8. CONCLUSION**

India's nation-building endeavour is unlike any other. Different groups with a variety of social and cultural customs, languages, and religious beliefs have united to form a "nation," and in support of this nation, a constitution was drafted that upholds the fundamental rights of all its members, including the right to basic human rights. Minorities and other smaller groups, as well as socially and economically disadvantaged groups like SCs and STs, are granted particular rights in order to preserve variety. However, the goal isn't to create any "enclosures," but rather to integrate everyone as collaborative partners. Within and outside, native and foreign populations do not exist. There is just one nation and people. India should adopt a

consistent stance on nomenclature in international debates, grounded upon this fundamental stance. It should also be in line with its policies regarding the benefit-sharing of genetic resources, including human genetic resources; preservation of biological resources; safeguarding traditional knowledge; increasing the application of traditional medical systems in healthcare; and protecting the environment and controlling climate change, all of which are interconnected. Whatever the name of any group, India should work to ensure that everyone has the same opportunities to benefit from growth so that, in a few years, there are no more economically and socially disadvantaged groups in the nation. In the end, it's what will allow India to occupy its proper position in the international community.

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