Indigenous Peoples Human Rights Challenges

NORTH EAST INDIA
2015
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</tbody>
</table>
ACKNOWLEDGEMENT

We would like to first acknowledge the unnamed many rights activists who have stood up ceaselessly against those forces which have tried to further annihilate, marginalize and suppress the rights of Indigenous Peoples, to undermine their inherent relationship with and take away their land, forest and water all through known history.

We also acknowledge those affected by rights violation who have allowed us to interview or access their problems by way of documentation and monitoring. The journey in making this report has been the most challenged when it comes to putting together contesting narratives, analysis and views. The journey took more than two years. Despite the difficult journey, we owe it to the people of North East India to publish this in order to provide a glimpse of their situation from their own perspectives.

Many contributors have made this publication possible including Charlotte Hinterberger who gave structure of the document, to Dolly Kikon, Ningreichon Tungshang, and Gina Shangkham for fleshing out the content, for Neingulo Krome for his insight and recommendations, and for Jade Tessier for her diligent and painstaking research efforts, her patience in following-up commitments, and her unselfish dedication to see this come to print. We would like to express our gratitude to the Regional Center for Social Science and Sustainable Development (RCSD) of Chiang Mai University for their support to AIPP by allowing Ms. Tessier to work on this publication. We also thank the indigenous peoples human rights defenders who freely gave their comments. This publication is only part of the past and on-going efforts to publicise the complex situation in North East India. The journey this publication has gone through is a reflection of that complexity and may the indigenous peoples human rights defenders from North East India continue to provide their perspectives on their situation.
1. INTRODUCTION

With over 80 million people, India has the largest indigenous population in the world. About 15 per cent of the country’s land area is inhabited by indigenous communities, consisting of 702 tribes\(^1\) that are spread across 31 states and union territories, mainly in the central belt and northeast of India, most of whom identify themselves as indigenous peoples. Therefore, the term tribal and indigenous are used synonymously.

Table 1: Total population of STs and proportion of STs in the Northeastern states to the total state and national population

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Name of the State/UT</th>
<th>Total Population</th>
<th>ST Population</th>
<th>% of STs in the State to total State population</th>
<th>% of STs in the State to total ST population in India</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>India</td>
<td>1210569573</td>
<td>104281034</td>
<td>8.61</td>
<td>--</td>
</tr>
<tr>
<td>1</td>
<td>Arunachal Pradesh</td>
<td>1383727</td>
<td>951821</td>
<td>68.78</td>
<td>0.91</td>
</tr>
<tr>
<td>2</td>
<td>Assam</td>
<td>31205576</td>
<td>3884371</td>
<td>12.44</td>
<td>3.72</td>
</tr>
<tr>
<td>3</td>
<td>Manipur</td>
<td>2570390</td>
<td>902740</td>
<td>35.12</td>
<td>0.86</td>
</tr>
<tr>
<td>4</td>
<td>Meghalaya</td>
<td>2966889</td>
<td>2555861</td>
<td>86.14</td>
<td>2.45</td>
</tr>
<tr>
<td>5</td>
<td>Mizoram</td>
<td>1097206</td>
<td>1036115</td>
<td>94.43</td>
<td>0.99</td>
</tr>
<tr>
<td>6</td>
<td>Nagaland</td>
<td>1978502</td>
<td>1710973</td>
<td>86.47</td>
<td>1.64</td>
</tr>
<tr>
<td>7</td>
<td>Sikkim</td>
<td>610577</td>
<td>206360</td>
<td>33.79</td>
<td>0.19</td>
</tr>
<tr>
<td>8</td>
<td>Tripura</td>
<td>3673917</td>
<td>1166813</td>
<td>31.75</td>
<td>1.11</td>
</tr>
</tbody>
</table>

Source: Census of India, 2011

The Northeast region covering an area of about 255,00 sq. kms comprises eight federal units or “states” within the Republic of India, namely Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Arunachal Pradesh, Assam, and Sikkim where 12.41% of STs inhabit. Mizoram, Nagaland, Meghalaya and Arunachal Pradesh are among the top five States/Union Territories with the highest ST population. This region also has the largest concentration of indigenous peoples.

Table 2: State-wise Number of Scheduled Tribes in the Northeast

<table>
<thead>
<tr>
<th>S. No.</th>
<th>State/UT</th>
<th>No. of Tribes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Arunachal Pradesh</td>
<td>16</td>
</tr>
<tr>
<td>2</td>
<td>Assam</td>
<td>29</td>
</tr>
<tr>
<td>3</td>
<td>Manipur</td>
<td>34</td>
</tr>
<tr>
<td>4</td>
<td>Meghalaya</td>
<td>17</td>
</tr>
<tr>
<td>5</td>
<td>Mizoram</td>
<td>15</td>
</tr>
<tr>
<td>6</td>
<td>Nagaland</td>
<td>05</td>
</tr>
<tr>
<td>7</td>
<td>Sikkim</td>
<td>04</td>
</tr>
<tr>
<td>8</td>
<td>Tripura</td>
<td>19</td>
</tr>
</tbody>
</table>

Source: http://tribal.nic.in/Content/scheduledtribes.aspx
There are 200 indigenous tribes in this region. The Mizo, Boro, Khasi, Jantia, Naga, Garo, Tripiri, Mikir, Apatani, Kuki, and Karbi belong to the Mongoloid stock and speak languages of the Tibeto-Burman language groups and the Mon Khmer. The Adi, Aka, Apatani, Dafla, Gallong, Khamti, Monpa, Nocte, Sherdukpen, Singpho, Tangsa, Wancho of Arunachal Pradesh and the Garo of Meghalaya are of Tibeto-Burman stock while the Khasi of Meghalaya belong to the proto-Australoid racial stock speaking dialects of the Dravidian family.

These tribal groups have mobilized themselves as indigenous peoples around issues of forest rights, community land, and the recognition of customary laws and rights. In the Northeast, indigenous peoples are known for their communitarian life, sharing a common natural resource base and economic structure. Economic and social differentiation is not wide and is insignificant because they traditionally led an egalitarian life. Though there have been shifts and changes within the social structure, they have also managed to retain and maintain their distinctive characteristics, customs, traditions, languages and are also reviving their lost traditions.

The indigenous movement in Northeast India is marked by a long history of armed conflict, violence, and militarization. These conflicts can be traced to the period of decolonization when indigenous groups called for the right to self-determination. Today, the indigenous resistance in the region is one that is entangled in a web of issues that ranges from sovereignty, autonomy to control over natural resources. The term “indigenous people” is a contested term in India. Officially, the government of India does not recognize the term, yet several decades of strong tribal movements in the region focused on identifying their causes with the global indigenous struggles and resistance led to the development of vibrant indigenous alliances and voices. The government of India and some Indian “intellectuals” deny the applicability of the term “indigenous peoples” and maintain that all peoples in India are indigenous despite being one of the countries that voted in favour of the adoption of the United Nations Declaration on the Rights of the Indigenous Peoples (UNDRIP) in 2007. From local resistances to dams, extractive industries, and state initiatives to take over community lands, to the creation of alliances across regions, national, and international indigenous forums, the indigenous peoples’ movement has garnered the support and attention of the national and international rights forums. In the first Universal Periodic Review (UPR) National Report, the government of India recognized the need to empower the Scheduled Tribes and committees to tackle discrimination that is perpetrated against them.

During the first UPR Review, the government of India was encouraged to compile disaggregated data on caste and related discrimination. Specifically, the indigenous peoples’ movement in Northeast India is founded on the right to self-determination as indigenous principles of collective rights to land, natural resources, and notions of sovereignty. Their rights have to be considered within a larger framework of international rights and recognition instruments.
2. NATIONAL AND LEGAL POLICY FRAMEWORK RELATING TO INDIGENOUS PEOPLES IN NORTHEAST INDIA: THEORY AND REALITY

2.1 Indigenous peoples’ status in the Constitution of India

The Scheduled Tribes (STs) in India are clearly distinguished from the caste groups or other minority groups and are accorded special status in the Indian Constitution. The STs as mentioned in Article 366 (25) of the Indian constitution have de facto come to be treated as ‘indigenous peoples’ in India for every legal, constitutional and administrative purpose. They are the tribes or tribal communities or part of or groups within these tribes and tribal communities that have been declared as such under Article 342 of the Constitution of India by the President through a public notification.

They have distinct characteristics, which are well accepted and widely used in academic discourses, and for administrative purpose and policymaking. These characteristics are: primitive traits, geographical isolation, distinct culture, shy of contact with community at large and economically backward.

These characteristics find roots in the 1931 Census and in the Report of the first Backward Classes Commission (Kalelkar Commission) 1955, the Advisory Committee on Revision of the Scheduled Castes and Scheduled Tribes lists (Lokur Committee) 1965 and the Joint Committee of Parliament on the Scheduled Castes & Scheduled Tribes Orders (Amendment) Bill, 1967 and the Chanda Committee 1969. The Scheduled Areas and Scheduled Tribes Commission (1960), which is also known as the Dhebar committee, in their report referred to the tribes as ‘indigenous’.

For the purpose of this report, the national legal and policy frameworks in India laid down for STs are considered as those relating to indigenous peoples.

Several tribal groups in Northeast India identify themselves as indigenous peoples, and have held on to their indigenous customary practices while appealing to the provisions of the Constitution of India to demand for justice and safeguards to their rights and resources. For instance, indigenous peoples in Northeast India who routinely face racial, social, economic and cultural discrimination have invoked the Fundamental Rights enshrined in the Constitution which are as follows: right to equality (articles 14-18), right to freedom of speech and expression (articles 19-22), right against exploitation (articles 23 & 24), right to freedom of religion (articles 25 to 28), cultural and educational rights (articles 29 & 30), and right to constitutional remedies (articles 32-35). Article 21 of the Constitution lays down the Protection of Life and Personal Liberty, stating, “No person shall be deprived of his life and personal liberty except according to a procedure established by law.” This provision has been suspended under the Armed Forces Special Powers Act (AFSPA) of 1958 for more than half a century in the states of Manipur, Assam and Nagaland as well as parts of Tripura and Arunachal Pradesh. Under such circumstances, the situation of the indigenous peoples in Northeast India is a special case because it demonstrates how they have mobilized themselves at various levels to assert and protect their community rights over their lands, territories and resources, and how they resist the state’s infringement on customary institutions, land, and natural resources.

The various legal and administrative structures in place in the states of the Northeast region are given in the table below:
Table 3: Legal and Administrative Structures

<table>
<thead>
<tr>
<th>State</th>
<th>Legal and administrative structures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arunachal Pradesh</td>
<td>Article 371H, No Autonomous Councils, Panchayati Raj Institutions</td>
</tr>
<tr>
<td>Assam</td>
<td>Article 371B, VI Schedule, Three Autonomous Councils</td>
</tr>
<tr>
<td>Manipur</td>
<td>Article 371C, Manipur Hill Village Authority Act and Manipur Hill Areas District Council</td>
</tr>
<tr>
<td>Mizoram</td>
<td>Article 371G, VI Schedule, Three Autonomous Councils</td>
</tr>
<tr>
<td>Meghalaya</td>
<td>VI Schedule, Three Autonomous Councils</td>
</tr>
<tr>
<td>Mizoram</td>
<td>Article 371G, VI Schedule, Three Autonomous Councils</td>
</tr>
<tr>
<td>Nagaland</td>
<td>Article 371A and Article 371AA, No Autonomous Councils but Village Councils in each major village</td>
</tr>
<tr>
<td>Tripura</td>
<td>Sixth Schedule, VI Schedule, One Autonomous Council for all tribes</td>
</tr>
</tbody>
</table>

2.1.1 Special Provisions in the Constitution

The Northeastern states have special constitutional provisions in Articles 371-A for Nagaland, 371-B for Assam, 371-C for Manipur, 371-F for Sikkim, 371-G for Mizoram, and 371-H for Arunachal Pradesh, as well as the Sixth Schedule under Articles 244(2) and 275(1). The features provided therein differ from how the rest of the country is treated in law. These are intended to provide additional security to the peoples. Among them, Nagaland and Mizoram under Articles 371-A and 371-G respectively, provide that central laws relating to certain subjects – in particular, land and resources related to land, as well as customary practices of communities in these states – will not apply in these states unless specifically extended to them by the concerned State Assembly.

Nagaland, along with Mizoram, enjoys special Constitutional protection unlike all other Northeastern states. Under Article 371-A, no Act of the Indian Parliament with respect to (i) the Naga’s religious or social practices, (ii) Naga customary law and procedure, (iii) administration of civil and criminal justice involving decisions according to Naga customary law, and (iv) ownership and transfer of land and its resources, shall apply to the State of Nagaland unless approved by the Legislative Assembly of Nagaland by a resolution. In addition, the administration of Tuensang District received special attention and direct control by the Governor in the Constitution [Articles 371A(1)(d) and 371A(2)(a) to (g), both inclusive] with a provision on setting up of a Regional Council for Tuensang [sub-clause (d) of clause (1) of Art. 371A].

Similarly, Mizoram, under Article 371-G states that no central law that concerns “ownership or transfer of land,” or that affects the “customary practices of the Mizos,” will apply to Mizoram unless explicitly extended to the state by the Legislative Assembly. Article 371-F which incorporates Sikkim as a state of India has some special provisions including vesting of discretionary powers on the Governor (subject to any orders of the President) to facilitate “peace and for an equitable arrangement for ensuring the social and economic advancement of different sections of the population.” Article 371C of the Constitution applicable to Manipur provides for the President of India to declare an area to be Hill Area, and for a Hill Areas Committee to be constituted in the Legislative
Assembly consisting of all the legislators from the Hill Areas (predominantly inhabited by indigenous peoples) with specific functions. This committee is to consider matters relating to a wide variety of issues.

Article 371-B for Assam provides for the constitution and functions of a committee that includes elected members from the Sixth Scheduled Areas to the Legislative Assembly by the President of India. In the case of Arunachal Pradesh (Article 371-H), the Governor of the State is specially entrusted with the responsibility of law and order. Arunachal Pradesh and Tripura have no special Constitutional protections unlike that of the other Northeastern states.

The Sixth Schedule provides partial autonomy to certain regions in the states of Assam, Meghalaya, Tripura and Mizoram with legislative powers over a variety of subjects that can override those of the concerned state government within which these areas fall.

2.1.2 The Sixth Schedule

Article 244 provides for the administration of Scheduled Areas and Tribal Areas. The Fifth Schedule to the Constitution applies to the administration of Scheduled Areas which at present covers substantial ST inhabited areas in the 10 central Indian states, i.e., Chhattisgarh, Jharkhand, Odisha, Andhra Pradesh, Rajasthan, Himachal Pradesh, Gujarat, Maharashtra, Madhya Pradesh and Telengana.

The Sixth Schedule applies to the administration of Tribal Areas in four Northeastern states: Assam, Meghalaya, Mizoram, and Tripura. The Sixth Schedule provides for the creation of Autonomous District and Regional Councils and accords certain legislative, executive and judicial powers to these autonomous bodies. There are no Scheduled Areas in Arunachal Pradesh, Manipur, Nagaland, and Sikkim.

The Sixth Schedule areas cover six of the 21 districts in Assam and each of the three Autonomous District Councils (ADCs) has slightly different powers. The Sixth Schedule covers the whole of Meghalaya with the exception of the municipality and cantonment of Shillong. In effect the state government shares powers over most of its territory with its three ADCs. This also creates a complication due to the fact that paragraph 12A of the Sixth Schedule empowers the legislature of the state to overrule that of the ADCs on any matter listed in paragraph 3(1) of the Schedule. The three Sixth Scheduled Areas are relatively small in size covering about 12% of the state’s total population. In Tripura about 68% of the area of the state fall within the Tripura Tribal Area spread over five hill ranges in four districts. The powers of the Council are restricted to three subjects, i.e., land, water, and non-reserved forests, tribal customs, and limited powers for administration of justice.

The Sixth Schedule further provides that no Act of the state legislature shall apply to any autonomous district unless approved by the ADC. The Governor of these states can decide to either apply or not apply any Act of Parliament or the Legislature in the autonomous area of Assam, Tripura and Mizoram. Along with this provision, except in Assam, in all other Scheduled Areas of the Northeast region, the President of India has the right to apply or not apply any Act of Parliament or the Legislature on any matter. At the same time the Governor has the power to annul or suspend any act or resolution of ADCs deemed likely to endanger the safety of India or to be prejudicial to public order. The Governor can suspend the ADCs and exercise all the powers vested in the ADC. The Governor has the power to monitor, order commission inquiries, and to dissolve ADCs.
These ADCs have legislative powers on matters relating to:
- allotment, occupation, or the setting apart of land, other than reserved forests, for the purpose of agricultural or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interests of the inhabitants of any village or town (Provided that nothing in such laws shall prevent the compulsory acquisition of any land, whether occupied or unoccupied for public purpose)
- management of any forest that is not a Reserved Forest
- use of any canal or water course for purpose of agriculture
- regulation of the practice of jhum or any other form of shifting cultivation
- establishment of village or town committees or Councils and their powers
- any other matter relating to village or town administration, including village and town police, public health and sanitation
- appointment of succession of chiefs or leaders

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Autonomous District Councils</th>
<th>Autonomous District with year of formation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Dima Hasao District Autono-</td>
<td>North Cachar (1951; 1970) for Dimasa,</td>
</tr>
<tr>
<td></td>
<td>mous Council (DHDAC)</td>
<td>Kuki, Hmar, Zemei, and Hrangkhawls</td>
</tr>
<tr>
<td>2.</td>
<td>Karbi Anglong Autonomous</td>
<td>Karbi Anglong (1951; 1976) for Karbis,</td>
</tr>
<tr>
<td></td>
<td>Council (KAAC)</td>
<td>Dimasa, Rengma, Kuki, Garos, Tiwas, Khasi,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Hmars, Mizos, and Chakmas</td>
</tr>
<tr>
<td>3.</td>
<td>Bodoland Territorial Council</td>
<td>Bodoland (2003) for Bodos, Koch Rajbong-</td>
</tr>
<tr>
<td></td>
<td>BTC (BTC)</td>
<td>shis and smaller tribes</td>
</tr>
<tr>
<td>1.</td>
<td>Khasi Hills Autonomous</td>
<td>Khasi Hills (1972) for Khasi, and smaller</td>
</tr>
<tr>
<td></td>
<td>District Council (KHADC)</td>
<td>tribal groups</td>
</tr>
<tr>
<td>2.</td>
<td>Garo Hills Autonomous</td>
<td>Garo Hills (1972; 1979) for Garos, smaller</td>
</tr>
<tr>
<td></td>
<td>District Council (GHADC)</td>
<td>tribal groups</td>
</tr>
<tr>
<td>3.</td>
<td>Jaintia Hills Autonomous</td>
<td>Jaintia Hills (1972) for Pnar and Jaintia,</td>
</tr>
<tr>
<td></td>
<td>District Council (JHADC)</td>
<td>and Khasi</td>
</tr>
<tr>
<td>1.</td>
<td>Chakma Autonomous District</td>
<td>Chakma Autonomous District (1987) for</td>
</tr>
<tr>
<td></td>
<td>Council (CADC)</td>
<td>Chakma</td>
</tr>
<tr>
<td></td>
<td>Council (MADC)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Council (LADC)</td>
<td></td>
</tr>
<tr>
<td>1.</td>
<td>Tripura Tribal Areas</td>
<td>Tripura Tribal Area (1982) for Bhil, Bhutia,</td>
</tr>
<tr>
<td></td>
<td>Autonomous District Council</td>
<td>Chainel, Chakma, Garo, Holan, Kuki, Lep-</td>
</tr>
<tr>
<td></td>
<td>(TTAADC)</td>
<td>cha, Lushai, Mog, Munda, Moattia, Orang,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Riang, Santal, Tripura and Uchai</td>
</tr>
</tbody>
</table>
The ADCs have legislative powers over such matters as primary education, dispensaries, markets, cattle pounds, ferries, fisheries, roads, road transport and waterways, regulating money lending and trading by non-residents or non-tribal peoples living in the area, collecting taxes and tolls, issuing licenses and leases for the prospecting and extraction of minerals, etc. The ADCs also have judicial powers for trial of offences committed by STs within their area of jurisdiction.

While there are a number of positive features in the Sixth Schedule provisions, there are structural problems that have impeded their effectiveness. These are as follows: “State Governments have deliberately impeded the functioning of the Councils, particularly through blocking the flow of funds to them; the powers given to the Councils to make legislation and implement development programmes have not been matched with the financial autonomy to follow this through; and there is a large gap between the approved budget and the flow of funds from the State Government to the Council. ADCs often do not receive sufficient attention from the State Government as in Mizoram. In Meghalaya, the autonomy of the ADC has been curtailed through the insertion of paragraph 12 A into the Constitution which states that all legislations passed by the State Government take precedence over those passed by the Councils. Many of the functions of the ADCs are being taken over by the State Governments – in Mizoram as well as the Garo Hills, executive and judicial functions have been taken over by the Deputy Commissioner and District Magistrate, thus rendering the ADC redundant. Considerable powers have been handed over to the Governor which can impede the autonomous functioning of the ADCs. All legislation passed by the ADCs requires the assent of the Governor to become law. The Governor also has the power to dissolve the ADC and there is a significant degree of variation in the functions devolved to various Autonomous Councils as for instance, the Bodoland Territorial Council has more power and departments compared to other Autonomous Councils of the Northeast. Another major issue is that Sixth Schedule is silent on the issue of women’s representation and gender justice. Only the Bodoland Territorial Council and ADCs of Mizoram have a system of reservation of seats for women, although the proportion of reserved seats is very small. Similarly smaller tribal groups do not have any role in the ADCs.11

2.2 Indigenous peoples and State laws

Assam and Manipur, responding to various autonomy demands from indigenous peoples in their states, constituted Statutory Autonomous Councils - Autonomous District Councils in Assam and Hill District Councils in Manipur. These are established by Acts enacted by the respective State Legislative Assembly. Six such Autonomous Councils have been created in Assam in addition to the three ADCs. Though patterned after the ADCs of the Sixth Schedule, there is much ambiguity and conflict due to overlap of powers and functions with the panchayat structure which is also operational in these areas unlike Sixth Schedule Areas where the panchayat (local governance, see below) structure is not applicable nor extended. Manipur has no Sixth Schedule Areas but the hill areas are divided into six Autonomous Councils under a State law, the Manipur (Hill Areas) District Council Act, 1971, which was subsequently replaced by the Manipur Hill Areas Autonomous District Councils Act, 2000. These Autonomous
Councils have certain limited powers over agriculture, horticulture, primary and adult education and tribal welfare. However, these Autonomous Councils have not been effective following intense protests around demands for greater autonomy.

### 2.3 Indigenous Peoples and Local Governance

Article 40 of the Indian Constitution explicitly maintains that “the State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.” Thus local governance is through the panchayat (village council). The 73rd and 74th Amendments to the Constitution in 1993 provided for decentralized governance but these did not apply to the Fifth and Sixth Schedule Areas, the states of Nagaland, Meghalaya and Mizoram, hill areas of the state of Manipur where District Councils exist, and the district of Darjeeling in the state of West Bengal. The Parliament was to enact separate legislations for Fifth and Sixth Schedule Areas, while the legislatures of the states of Nagaland, Meghalaya and Mizoram could extend this provision.

Not all of the Northeastern states, and not all regions within those states, have adopted the panchayati raj system. As a result, in all of the Sixth Schedule Areas, as well as in Mizoram, Nagaland, Meghalaya, and the hill areas of Manipur, no ‘panchayats’ or ‘gram sabhas’ (village assemblies) are constituted. In these instances, the traditional and customary institutions of the indigenous peoples continue to govern, often weakened and in conflict with the structures of the state government, ADCs in the case of Sixth Schedule Areas, and Autonomous Councils where they exist. In those areas where the panchayati raj system is operational, they are undermined by the state governments and the government departments and conflict with the traditional institutions where these are functional.

In Arunachal Pradesh though the state passed a Panchayati Raj Act in 1997, these bodies have not been empowered with many functions, and governance at the local level continues to be with traditional and customary bodies (village councils). The administration of justice remains with traditional and customary bodies and disputes are settled by customary law under the Assam Frontier (Administration of Justice) Regulations, 1945. In Manipur, while the largely non-tribal valley areas are governed by the panchayati raj system under the 1994

<table>
<thead>
<tr>
<th>States</th>
<th>Autonomous Councils under State Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assam</td>
<td>1. Rabha Hasong Autonomous Council</td>
</tr>
<tr>
<td></td>
<td>2. Lalung (Tiwa) Autonomous Council</td>
</tr>
<tr>
<td></td>
<td>3. Mising Autonomous Council</td>
</tr>
<tr>
<td></td>
<td>4. Thengal Kachari Hill Autonomous Council</td>
</tr>
<tr>
<td></td>
<td>5. Sonowal Kachari Autonomous Council</td>
</tr>
<tr>
<td></td>
<td>6. Deori Autonomous Council</td>
</tr>
<tr>
<td>Manipur</td>
<td>1. Chandel Autonomous District Council</td>
</tr>
<tr>
<td></td>
<td>2. Churachandpur Autonomous District Council</td>
</tr>
<tr>
<td></td>
<td>3. Sadar Hills Autonomous District Council, Kangpokpi</td>
</tr>
<tr>
<td></td>
<td>4. Manipur North Autonomous District Council, Senapati</td>
</tr>
<tr>
<td></td>
<td>5. Tamenglong Autonomous District Council</td>
</tr>
<tr>
<td></td>
<td>6. Ukhrul Autonomous District Council</td>
</tr>
</tbody>
</table>
Manipur Panchayati Raj Act, the hill areas are under the village authorities of the Manipur (Village Authorities in Hill Areas) Act, 1956, a result of continuing conflicts over autonomy. In some areas, traditional institutions and village authorities function in parallel, while in others they have merged. With the Sixth Schedule operational in most of Meghalaya, there are no panchayats and the 73rd Amendment does not apply. The traditional and customary systems with variations are functional such as Syiem, Sardar and Lyngdoh in Khasi Hills; Dolloi and Sardar in Jaintia Hills; Nokma, and Lashkar in Garo Hills. Though Mizoram does not have panchayats, elected village councils have been constituted in most parts of the state to replace earlier traditions of hereditary chieftainship. No panchayats or gram sabhas are constituted in Nagaland as the panchayat structure is not applicable. Under the provisions of the Nagaland Village and Area Councils Act 1978, villagers choose the village council members according to their customary practices. The 16 tribes in Nagaland occupy a distinct area with varying traditional systems ranging from enormous powers vested on the chief (Konyaks and Semas) to that of more democratic systems (Angamis, Chakesangs, Rengmas, and Maos). Nagaland Tribe, Area, Range and Village Council Act of 1966 provides for the creation of a tribal council for each tribe, an area council for Kohima and Dimapur, a range council where there is a recognized range in the Mokokchung and Kohima Districts and village councils for one or more villages in Kohima and Mokokchung, and wherever they may be deemed necessary by the Deputy Commissioner. This Act vests enormous powers on the Deputy Commissioner of the respective districts and gives local bodies little or no effective role in managing their own affairs. However, the village council or the regional council has not played any significant role and in fact, few of them have ever been set up in the past.

The Sikkim Panchayati Raj Act 1993 applies to the whole of the state. There are special areas where the traditional institutions are functional such as the Dzumsa for the Lachen Dzumsa (inhabited by the Lachenpas tribe) and Ladwng Uzumsa (inhabited by the Lachungpa tribe) in the Lachung Revenue Blocks of the North District. The Dzongsu area in the North District is reserved and inhabited by the indigenous Lepcha tribe where other tribes, including Lepcha are not indigenous to the Dzongsu, and are not allowed to settle in the area. Visits by outsiders are regulated under a permit system. In Tripura, the Tripura Panchayat Act of 1993 and the Tripura Municipal Act, 1994, govern 32% of its geographical area that is not covered by the Sixth Schedule. However, the traditional systems of local chieftains continue to exist.

2.4 Important New Laws of Major Significance to the Lives of Indigenous Peoples

2.4.1 The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006

This act seeks to recognize the rights to land and other resources of forest-dwelling and forest-dependent communities denied them by forest laws thus far. The use of land includes livelihood activities such as the collection of minor forest produce, the use of water, of grazing grounds, and of habitat for shifting cultivation. Already, marginal communities living in or near forests have long been made more vulnerable by the state’s lack of acknowledgement of their right to their forest-dependent livelihoods. Under the Indian Forest Act, 1927 and the Wild Life (Protection) Act, 1972, local peoples’ right to forestland and resources had to be affirmed by a forest settlement officer. Those not recorded in the “settlement process” were susceptible to eviction any time.
Under the Forest Rights Act [FRA], right to forests includes ownership rights, use-rights (for minor forest produce, grazing areas, pastoralist routes), relief and development rights (entitlement for rehabilitation in case of illegal eviction or forced displacement, and to basic amenities) and forest governance rights (the right to protect forests and wildlife). The process by which these rights are recognized is outlined in Section 6 of the FRA. It is the gram sabha or, as per Section 2 (g), any traditional village institution, “with full and unrestricted participation of women” that passes a resolution determining which community’s rights to which resources and to what extent are to be recognized by the government. The Sub-Divisional Level Committee examines the claims and the District-Level Committee approves the same and issues title. These higher-level Committees, formed specifically for the implementation of the FRA, consist of three members of the pertinent local body and three government officials from the Departments of Forestry, Revenue, and Tribal Welfare, respectively.

Consequent to the enactment of FRA that has become operational with the notification of its Rules in 2008, diversion of any forest land for non-forestry purpose such as for dams, mines, infrastructure projects etc. and the recognition of forest rights of the community are a pre-condition, and the informed consent of the village assembly, a requirement. In the context of government plans to construct hundreds of dams, large-scale mining and infrastructure projects in the region, these attain immense significance for indigenous peoples’ rights. There is an increasing trend to use FRA in the courts to defend indigenous peoples’ rights.

Table 4: Forests in the Northeast

<table>
<thead>
<tr>
<th>(As on 2011 in sq. kms)</th>
<th>Unclassed forest</th>
<th>Total forest</th>
<th>Under community control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arunachal Pradesh</td>
<td>31,466</td>
<td>67,410</td>
<td>62%</td>
</tr>
<tr>
<td>Assam</td>
<td>8,968</td>
<td>27,673</td>
<td>33%</td>
</tr>
<tr>
<td>Manipur</td>
<td>11,780</td>
<td>17,090</td>
<td>68%</td>
</tr>
<tr>
<td>Meghalaya</td>
<td>8,371</td>
<td>17,275</td>
<td>90%</td>
</tr>
<tr>
<td>Mizoram</td>
<td>5,240</td>
<td>19,117</td>
<td>33%</td>
</tr>
<tr>
<td>Nagaland</td>
<td>8,628</td>
<td>13,318</td>
<td>91%</td>
</tr>
<tr>
<td>Sikkim</td>
<td>-</td>
<td>3,359</td>
<td>0%</td>
</tr>
<tr>
<td>Tripura</td>
<td>2,117</td>
<td>7,977</td>
<td>41%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>76,570</strong></td>
<td><strong>173,109</strong></td>
<td></td>
</tr>
</tbody>
</table>

Forest covers 78% of the land area in the Northeast. Unlike other parts of India, 76,570 sq. kms. (44% of the 173,109 sq. kms. of forests) in the Northeast states are “unclassed forests.” Most of these actually belong to communities and not the government. These are managed under a wide diversity of customary tenure regimes. They form the major livelihood source, particularly through the widespread practice of shifting or jhum cultivation. There are 668 Protected Areas of over 16,000 sq. kms. (20.92% of forests land) comprising 102 National Parks, 515 Wildlife Sanctuaries, 47 Conservation Reserves and four Community Reserves. There are also 39 Tiger Reserves and 28 Elephant Reserves carved out of these forests. Various state laws seek to extend government control over forests including unclassed forests and to dissuade the practice of jhum.
With the complexity of the legal regime, there is much confusion and speculation on the applicability of FRA to the Northeastern states. FRA applies to all forest lands in the whole of India except in the states of Jammu and Kashmir. Forest land is defined as “land of any description falling within any forest area and includes unclassified forests, demarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks” and as per Supreme Court it also means all lands that are “recorded in any government record as forest.” However, in the case of Nagaland and Mizoram where under Articles 371A and 371G respectively, central laws become applicable to these states only if and when the State Assemblies resolve to apply the same to the concerned state. On 29 October 2009, the Mizoram State Assembly passed a resolution extending the Act to the state to enforce this from 31 December 2009 to 3 March 2010. The Nagaland government constituted a committee to examine the applicability of FRA to the state as required under the Constitutional provision. Further, under the Sixth Schedule, the powers of the ADCs do not extend to the reserve forest, i.e. the government- controlled forest, therefore making it applicable to the reserve forests falling within the Sixth Schedule Areas.

Arunachal Pradesh government has consistently stated that there is no need for implementation of this law arguing that “Barring few pockets of land under wildlife sanctuaries, reserved forests, most of the land in entire State is community land.”

Assam has a large network of reserved forests and protected areas. As of December 2014, 131,911 claims (126,718 individual and 5,193 community) had been received, but only 27.5% (35,407 individual and 860 community) have been approved. Of them 34,286 claimants have received 77,609.17 ha. The Manipur government has not responded to the Ministry of Tribal Affairs’ requests for information on why the FRA has not been implemented in the state, except to declare that “tribal communities and tribal chiefs are already holding ownership of forest land as their ancestral land in non-Reserved Forest Area. Therefore, implementation of the Forest Rights Act is perceived minimal [sic] in Manipur.” This, in spite of the fact that 8.42% of the state’s forest area is reserved forest and 23.95% is protected forest with another 900 sq. kms. of jhum land in the hill areas. Tipaimukh Dam on the Barak River in the western part of the state involved the diversion of over 27,000 hectares of forest land, most of it community-controlled land in the hills. This is by far, the largest diversion of forest for a single project since 1980 in the country. In Ukhrul District, the Mapithel Dam is being challenged in the National Green Tribunal for the violation of FRA by the indigenous peoples.

Of the 9,446 sq. kms. of forestland in Meghalaya, 11.72% is reserved forest and the remaining 88.15%, unclassed state forest. The government has avoided the implementation of FRA with the argument that 96% of forestland is owned by clan/community/individuals. Implementation of the Act has, therefore, limited scope. In the Northeast, mining is carried out with emerging conflict with local communities. As of 2011, 8,266 sq. kms. of land in Mizoram were reserved forests, and 990 sq. kms. under various protected areas. There are also reports of forced eviction from Dampa tiger reserve without recognition and settlement of forest rights. Despite the approval of the FRA by the State Legislative Assembly as per Article 371 (G) of the Constitution, no rights have been recognized by the state.

According to the 2011 Forest Survey of India, 13,318 sq. kms. or 80.33% of the state of Nagaland are forests and these are the main source of livelihood of over 80% of the
peoples of Nagaland. Of these forests, 65% are “unclassed forests.” Most of the forests are either communally or privately owned, and in a few cases they are under the overall control of the Village Councils. Nagaland, unlike Mizoram, which resolved to apply the FRA to the state through the Nagaland Assembly, is yet to decide on this. According to the Ministry of Tribal Affairs, “The government of Nagaland has informed that the land holding system and the village system of the Naga people is peculiar in that the people are the landowners. There are no tribes or group of people or forest dwellers in the State of Nagaland. Hence, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 per se may not be applicable to the State of Nagaland. However, a committee has been constituted to examine the applicability of the Act in Nagaland as per provision of Art.371 (A) of Constitution of India.”

As per the State of Forest Report 2011, Sikkim’s total land area is 7,096 sq. k.ms. Out of this, 3,359 sq. kms. or 47.34% is forestland. A total area of 2,179.1 sq. k.ms. or 30.7% is protected area with one National Park and seven Wildlife Sanctuaries. The Sikkim government has not implemented the Act and has exported a legally untenable argument that there are no Forest Dwelling STs and Other Traditional Forest Dwellers in the true sense of the terms in the state. Most of the STs of Sikkim hold revenue land in their own name and they are not solely dependent on the forests for their livelihood.

About 60% of Tripura’s land area is forest of which 82% of this are in the Sixth Scheduled Area. Over 96% of the “unclassed forests” fall within the Sixth Scheduled Area also. There are two national parks and four wildlife sanctuaries that take up 603.64 sq. kms. or 5.75% of the state’s total area. As of 31 December 2014, of the 182,617 (182,340 individuals and 277 community) claims received, titles for 120,473 (120,418 individual and 55 community) claims have been distributed. An extent of 416,555.58 (416,498.79 for individual and 56.79 for community) acres for 116,100 titles have been distributed. Tripura, according to the Ministry of Tribal Affairs, is ranked first in terms of FRA implementation in the country. However, it must be pointed out that there is meager recognition of community rights.

In sum, FRA implementation has largely been neglected in the Northeastern region though two states, Assam and Tripura have shown some progress.

2.4.2 The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013

The Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation & Resettlement Act 2013 (RFCTLARR Act) was enforced replacing the pre-Independence ‘Land Acquisition Act 1894’ enacted by the British India Government. The new act attempts to be more people-friendly and introduces a paradigm shift of acquiring land for developmental purpose/public purpose through consent. It also requires a Social Impact Assessment [SIA] survey, preliminary notification stating the intent for acquisition, a declaration of acquisition, and a higher compensation to be given by a certain time. All acquisitions require rehabilitation and resettlement to be provided to the peoples affected by the acquisition. However, the law contains many exemptions.

In Mizoram, the state government set up a committee in January 2015 to probe whether the new law is applicable to the state to implement given the autonomy granted to it by the Indian Constitution. The state government argues that the law shall not apply to the state of Mizoram unless “the Legislative Assembly of the State of Mizoram by a resolution so
decides”. The Committee decided that a constitutional expert should be consulted before the government starts considering the matter.22

Corporations and companies have criticized the Act as a threat to economic development and as it negatively affects industrialization and urbanization. The mandatory SIA is seen as a disappointment,23 making projects unviable or expensive for large infrastructure or real estate projects.24 In the first judgment applying the provisions of the RFCTLARR Act 2013, the Supreme Court struck down the acquisition of land for a canal in Chennai for the reason that the physical possession of land has not yet been taken over by the government despite more than five years of being awarded the same.25

Despite the Act being seemingly pro-people, some view it as problematic and it is anticipated that land acquisition will be made easier and will increase with the number of development and infrastructure projects that are in the pipeline. Thus, forcible land acquisitions or the conflicts related to these are not likely to end.

In Manipur, civil society organisations [CSO] expressed concern over the draft implementing rules on SIA and consent, called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) (Manipur) Rules 2014. The CSOs noted that the rules are not at all rooted in local realities, traditions and experiences in Manipur where there are different decision-making processes of peoples in the hills and the valley. They further pointed out the lack of clarity of concepts and entities (including authorities) named in the draft that can result to multiple interpretations.

With numerous planned and upcoming projects in India’s East Policy, the memorandum stated, “affected people must be active parties to the development activities that are designed to benefit everyone.”26 A recent project for the improvement of about 236 kms. of state highways involving a funding requirement of about US$ 157.2 million in the states of Assam, Manipur, Mizoram, and Tripura was approved by the Cabinet Committee on Economic Affairs on 19 May 2011, as a centrally sponsored scheme of the Ministry of Development of Northeastern Region.27 The High Court of Manipur issued notice to the Asian Development Bank (ADB), the funder of the construction project, seeking an impact assessment of land and properties affected and potentially affected by the Thoubal-Kasom Khullen road. This resulted from six tribal village chiefs’ testimony that no information about compensation was given and the project failed to follow the standing guidelines prescribed by the Ministry of Development of Northeastern Region that require the implementing agencies to complete resettlement and rehabilitation process before the work could start. The petitioners also invoked the adherence to the compensation process as laid down in RFCTLARR Act 2013 and National Resettlement and Rehabilitation Policy (Ministry of Rural Development) 2007.28 The project was categorized B in accordance with the ADB’s Safeguard Policy Statement (2009) since it considered the project to likely have limited impacts on indigenous peoples.29

In another case, the Manipur government’s plan to establish a Smart City at Holenphai village in Chandel district, near the international border town of Moreh was opposed by the Thadou Students’ Association (TSA) and many Kuki civil society organizations because the government is attempting to acquire 3,000 acres of tribal land without the consent and
knowledge of the villagers. The CSOs claim that the government has sidelined RFCTLARR Act, 2013 that clearly states that “unless 70% of the total local population gives their consent, the government cannot acquire even an inch of the indigenous land.”

Bowing to corporate interests, the RFCTLARR (Amendment) Ordinance 2014 was promulgated by the government in December 2014, primarily doing away with the mandatory SIA and consent of the majority who own the land, the critically important components in the law.

2.5 International Instruments and India

The government of India was one of the states that adopted the UNDRIP by the General Assembly in September 2007. It did not ratify the 169 ILO Convention on indigenous peoples. It is however a State Party to several international human rights treaties:

<table>
<thead>
<tr>
<th>Table 5: International Instruments Ratified by India</th>
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</thead>
<tbody>
<tr>
<td><strong>TREATY</strong></td>
</tr>
<tr>
<td>International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), 1965</td>
</tr>
<tr>
<td>International Covenant on Civil and Political Rights (ICCPR), 1966</td>
</tr>
<tr>
<td>International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966</td>
</tr>
<tr>
<td>Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979</td>
</tr>
<tr>
<td>Convention on the Rights of Persons with Disabilities (CRPD), 2006</td>
</tr>
<tr>
<td>Optional Protocol to the Convention on the Rights of the Child (CRC) on the Involvement of Children in Armed Conflict, 2000</td>
</tr>
<tr>
<td>Convention Against Torture</td>
</tr>
</tbody>
</table>

CORE ILO CONVENTIONS RATIFIED BY INDIA

DATE OF ACCESSION / RATIFICATION
Unless international treaties are legally binding in the states, they function as guidelines. In India, the national legal frameworks operate as national law and there are distinctions between what is defined as human rights within international rights conventions and the Indian model of human rights. For instance, the social economic rights that are laid out in the International Convention on Economic and Social Cultural Rights (ICESCR), Committee on the Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC) do not fall within the definition of “justiciable” human rights. The Indian constitution does not recognize social economic rights as basic human rights issues and are therefore not enforceable as a legal right. They appear in part IV of the Constitution under the “Directive Principles for State Policy,” which are guidelines and are not legally binding for the state to enforce them.

However, international human rights conventions and treaties play an important role in redefining rights-based claims and guarantees for the vulnerable sections of society like women and children including the right to food and shelter campaigns and the demands for clean environment and sustainable development. Therefore, courts in India at times pick out positive examples from international human rights instruments to focus on the state's obligations to observe human rights. Such reference sometimes contributes towards amendments in the constitution and to incorporate specific elements within the national legal framework. For example, the Supreme Court of India emphasized the state's obligations to recognize the rights of the child and provide compulsory education and regard the international standard laid down for human rights in the 2013 Goonesekere case. Judicial activism in India plays an important part in pushing for amendments, legislative reforms, and also for adopting international human rights standards. In that context, indigenous organizations in Northeast India have demanded the government of India to recognize the international conventions that outline the rights of indigenous peoples.

### 3. MAIN HUMAN RIGHTS ISSUES FACED BY INDIGENOUS PEOPLES

#### 3.1. Militarization

Northeast India has a long history of militarization. Numerous armed and paramilitary forces have been active for nearly 70 years now, impacting lives, livelihood, economy and psychology of peoples, so much so that militarization seems to have been internalized as a natural part of the system and daily lives.

Deployments of armed forces in the region started as counterinsurgency operations while the army personnel was protected by the Armed Forces Special Powers Act 1958 (AFPSA). The act gives unquestionable power to the army which the people of the region have been campaigning against for decades.
In 1958, the Indian parliament enacted the AFSPA (Assam and Manipur) with minor modifications to the preceding ordinance. Thousands of people are estimated to have been killed in the last three decades by the armed forces of the Union and other law enforcement officials. To date, every effort by the government of India to address the protracted armed conflict situation in Manipur has been confined to trifling engagement with fringe elements and major non-state organisations without addressing the core political issues. Half a century of imposition of the AFSPA has on the one hand escalated discontentment, and on the other, institutionalized impunity and militarism in Manipur. The armed forces of the Union enjoy de jure and de facto impunity under the AFSPA of 1958 (amended in 1972).

The Indian security forces can “fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or against an assembly of five or more persons or those in possession of deadly weapons.” The Act grants the military broad powers to arrest, and to occupy or destroy property in counterinsurgency operations. In addition, some of the extraordinary powers it grants the Indian security forces are:

- To arrest without a warrant and with the use of “necessary” force anyone who has committed certain offenses or is suspected of having done so
- To enter and search any premise in order to make such arrests.

The Indian state has defended this act both in national and international forums. For instance, when India presented its second periodic report to the United Nations Human Rights Committee in 1991, UNHRC members asked numerous questions about the validity of the AFSPA. They questioned its constitutionality under Indian law and asked how it could be justified in light of Article 4 of the International Covenant on Civil and Political Rights (ICCPR). The Attorney General of India responded that the AFSPA is a necessary measure to prevent the secession of the Northeastern states. The indigenous peoples from Northeast India want the Indian government to repeal the AFSPA because it contravenes both Indian and International human rights standards.

A brutal operation called “Operation Bluebird” was launched by paramilitary soldiers in July 1987. It constituted one of the severest forms of human rights abuses and violations in the region by the Indian army using the power of AFSPA in retaliation to an ambush by Naga underground elements on an Assam Rifle camp near Oinam village in Senapati District, Manipur. A human rights organization, the Naga Peoples Movement for Human Rights (NPMHR) recorded in a writ the excesses committed by the Assam Rifles that included the following human casualties in addition to the destruction of livestock and property:

a. Twenty seven civilians tortured and killed
b. Twenty one civilians shot dead
c. Five civilians dead due to denial of medical aid and starvation
d. Three women raped
e. Five women sexually molested
f. Two women forced to deliver their
babies in the open
g. Pregnant women tortured
h. Three hundred and forty persons tortured
i. Ninety six persons arrested and detained

These excesses were committed against the inhabitants of 30 villages, cordoned off for nearly four months and tortured under the provisions of the AFSPA that overrides even the existing civil law. The NPMHR took the matter to the Guwahati High Court by filing a case against the excessive acts of the Indian Military, who did not allow the Chief Minister of Manipur to visit the area under “Operation Bluebird.” The NPMHR recorded testimonies of victims which ran up to 10,000 pages. The High Court, under a two judge bench, heard the case from 1987 until 1992, taking five years to run through the entire 10,000 pages of testimonies and records of military excesses and violations of human rights committed by the Assam Rifles. Upon completion of the hearing, the two judges who were on the case were transferred out before they could pronounce their judgment. This rare case of transferring both the judges at the same time was a first of its kind in the judicial history of India and could probably be the first of its kind in any democracy across the world.

A report by the Asian Centre for Human Rights (ACHR) entitled “The AFSPA: Lawless law enforcement according to the law?” states that “The AFSPA has failed to contain, let alone resolve, any insurgency in the Northeast.” It highlights the fact that when the AFSPA was imposed on 8 September 1980, there were only four armed opposition groups in Manipur, but instead of containing insurgent groups it has only led to further militarization and violence while more and more non-state actors have been born in the region. As of 2014 there are seven proscribed “terrorist/insurgent groups,” nine active and 25 inactive groups in the state according to the South Asia Terrorism Portal (SATP), 35 groups in Assam, six in Meghalaya, five in Nagaland, while the Ministry of Home Affairs (MHA) has recently extended the AFSPA to the districts of Tirap, Changlang and Longding in Arunachal in September 2014.

The AFSPA has been challenged in court but was upheld as constitutionally valid by the Supreme Court of India in a 1997 judgement in the case Naga Peoples Movement for Human Rights Vs Union of India. The AFSPA was enforced to immobilize the Naga movement and was supposed to be in operation only for a year. However, it is still operational today and the Naga insurgency, despite its dormancy, continues to survive.

While the AFSPA is still active, there has been a shift in military strategy, paradigm and approach. Since 1997, after the government of India entered into a ceasefire agreement with numerous armed groups in Northeast India, the counter insurgency operations carried out under the AFSPA have ranged from perpetration of direct violence to psychological warfare called the “Military Civic Action” (MCA). In the name of peace and security in the region, the MCA involves various community projects which are funded by the Ministry of Home Affairs and the Ministry of Defense. The projects include solar lighting, small water supply schemes, construction of community halls and waiting sheds along the roads, holding medical camps, distribution of books, computers, generators, and furniture. In addition to these, educational and awareness tours for school children are being undertaken. According to the Unrepresented Nations and Peoples Organization (UNPO), the Assam Rifles have undertaken building roads and infrastructure in rural Naga areas in addition to musical shows.
the Assam Rifles, the impact and effectiveness of MCA have led to the surrender of militants and the growing popularity of their MCA activities has touched the lives of peoples in multiple spheres such as health, education and availability of essential amenities.

Indigenous people in Assam are experiencing increased militarization and resource-related conflicts. In December 2013, security persons killed two school children who were helping with the winter harvest as they were resting on a haystack. The All Bodo Students Union (ABSU) protested against these killings and demanded that the government take action against the guilty security personnel. Several Bodo youth have been killed in fake encounters in Assam since 2010. This has led to the indigenous communities’ resentment against the state and the central government in India.

Moreover, the growing inadequacies of autonomy arrangements for indigenous communities have been further exposed in the wake of violence in the Bodoland Territorial Autonomous Districts and Karbi Anglong. In the former, a tragic combination of resource conflicts between different communities, unstable political and fiscal guarantees of autonomy and a growing desire for political representation among old and new settler communities, have resulted in violence and displacement of thousands of peoples. To compound the tragedy, the national media in India, as well as well-meaning actors from the government and civil society, have tended to view the violence in communitarian and communal light. In the process, beleaguered indigenous communities like the Bodos have been painted as aggressors in a conflict not of their making. This conflict has its roots in the political economy of impoverishment of indigenous groups, rather than the supposed primordial antipathy between communities.

A similar tragedy, albeit with a different set of actors, has also been happening in Karbi Anglong district. Here, indigenous communities like the Rengma Naga and Karbis have been affected by violence that has seen large-scale displacement and deaths. Since December 2013, political forces have attacked and killed Rengma Naga villagers around Borpothar Police station in Diphu subdivision of the autonomous district. In alleged retaliatory violence, unknown elements killed as many as nine Karbi persons in Dimapur on 5 January 2014.

Civil and political rights groups, students unions and democratic organizations have condemned the violence in Assam. They have been united in the belief that indigenous communities have lived in peace and amity in the region.

3.2 National security law

The Prevention of Terrorism Act (POTA) of 2002, India’s latest anti-terror law, has strengthened the counter-terrorism legislation. This replaced the much abused Terrorist and Disruptive Activities (Prevention) Act that was in force between 1985 and 1995. The past decade has witnessed an increasingly intense conflict, sometimes violent, between indigenous peoples’ organizations on the one hand and the state and its private allies on the other with the former struggling to retain control over their natural resources, habitat and sources of livelihood.

Under the POTA, a suspect could be detained up to 180 days without charges filed in court. It also allows law enforcement agencies to withhold the identities of witnesses and treat a confession made to the police as an admission of guilt. Such legislation became controversial as it was evidently a source of corruption within the Indian police and judicial system.
POTA was repealed in 2004 with retroactive effects after it was found that many states were misusing the law, but simultaneously promulgated as an ordinance to amend the Unlawful Activities Prevention Act (UAPA) 1969. The amended UAPA expands the sections on definitions to include terrorist offences, and adds three new chapters dealing with punishment for terrorist activities. Most importantly, the 32 organizations banned under the POTA have also been banned under the amended UAPA. Of the proscribed organizations, 11 are organizations of various ethnic minority groups from the Northeast. Amendments to the UAPA, initially enacted to protect the national state interests and the safety of India, expanded the definition of a “person” to include “an association of persons or a body of individuals whether incorporated or not.” Article 22 of the ICCPR indicates that “everyone shall have the right to freedom of association with others,” and the only restrictions that can be placed on such right are those prescribed by law and necessary in the interest of national security and public safety, thus requiring a reasonable balance between individual human rights and the government’s interest. By providing the state with broad powers to ban associations, the amendment may unreasonably hinder the legitimacy of the right to associate and invite abuse. Such broad powers, combined with the 2008 amendment to the UAPA which authorized increased detention periods, may instil fear of detention and deter people from freely exercising their right to associate.

The UAPA also extends the duration of bans on associations deemed unlawful by the government from two to five years, without a judicial hearing of any sort. The act was invoked during the arrest of several human rights defenders who were accused for their alleged links with the Naxalites and the Maoist guerrillas in Assam.

3.3 Aggressive development policies on indigenous peoples’ territories

Aggressive development policies and projects already pose a threat to the traditional customary laws where the concerned parties – the tribal elites who are at the forefront of negotiating these land deals and contracts, and the multinational companies and representatives of the Indian state - do not holistically address the value of lands and territories. There is no focus on the environmental, cultural, spiritual, traditional or customary dimensions of land. The government and the parties involved are not informed of the fact that many indigenous landholding systems are not connected with the mainstream system as it is the case in other parts of India. The distinct land ownership systems which range from community land holdings, family plots, to individual titles are often in line with indigenous practices and customary laws. Data gathered by Asia Indigenous Peoples Pact (AIPP) for the period 2011-2013 listed five cases of land grabbing by the government and two cases of land grabbing by companies.

The tables below present an estimate of the extent of private, common and forest lands diverted for development and the affected social groups displaced by projects. The Northeastern states are targeted for a large number of infrastructure and development projects now and more of such in the coming years.
Table 6: Extent and Proportion of Common Land/Forest Diverted and Private Land Acquired (except Arunachal Pradesh)

<table>
<thead>
<tr>
<th>State</th>
<th>Private %</th>
<th>Common %</th>
<th>Forest %</th>
<th>NA %</th>
<th>Total %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assam</td>
<td>28.06</td>
<td>316041.66</td>
<td>55.71</td>
<td>16.23</td>
<td>567281.29</td>
</tr>
<tr>
<td>Meghalaya</td>
<td>58.81</td>
<td>8022.07*</td>
<td>10.80</td>
<td>30.28</td>
<td>74200.13</td>
</tr>
<tr>
<td>Mizoram</td>
<td>16.48</td>
<td>1712.48*</td>
<td>8.14</td>
<td>75.38</td>
<td>21058.01</td>
</tr>
<tr>
<td>Nagaland</td>
<td>5.26</td>
<td>15985.47</td>
<td>61.97</td>
<td>25.92</td>
<td>25770.11</td>
</tr>
<tr>
<td>Sikkim</td>
<td>95.16</td>
<td>NA</td>
<td>2184.67</td>
<td>4.84</td>
<td>49216.89</td>
</tr>
<tr>
<td>Tripura</td>
<td>60.38</td>
<td>27762.45*</td>
<td>32.76</td>
<td>6.86</td>
<td>84751.66</td>
</tr>
<tr>
<td>Total</td>
<td>60.46</td>
<td>3853545.48</td>
<td>37.55</td>
<td>1.92</td>
<td>10592551.42</td>
</tr>
</tbody>
</table>

*The forest common revenue division could not be fully gotten. So they are combined


Table 7: Social groups of Displaced Persons/Project- Affected Persons (except Arunachal Pradesh)

<table>
<thead>
<tr>
<th>State</th>
<th>Tribals %</th>
<th>Dalits %</th>
<th>Others %</th>
<th>NA %</th>
<th>Total %</th>
<th>State ST%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assam</td>
<td>21.80</td>
<td>NA</td>
<td>600915</td>
<td>893538</td>
<td>1918874</td>
<td>12.4</td>
</tr>
<tr>
<td>Meghalaya</td>
<td>100</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>85.9</td>
</tr>
<tr>
<td>Mizoram</td>
<td>100</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>94.5</td>
</tr>
<tr>
<td>Nagaland</td>
<td>100</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>62675</td>
</tr>
<tr>
<td>Sikkim</td>
<td>36.14</td>
<td>1190</td>
<td>25720</td>
<td>8747</td>
<td>55835</td>
<td>22.0</td>
</tr>
<tr>
<td>Tripura</td>
<td>56.66</td>
<td>20518</td>
<td>NA</td>
<td>56082</td>
<td>176828</td>
<td>31.1</td>
</tr>
<tr>
<td>All India</td>
<td>30.70</td>
<td>3195099</td>
<td>7807312</td>
<td>3146271</td>
<td>20416469</td>
<td>8.2</td>
</tr>
</tbody>
</table>

3.3.1. Construction of dams

The construction of dams on indigenous peoples’ territories without their free, prior and informed consent (FPIC) violates the mandate of the UN Special Rapporteur of Indigenous Peoples, the UN Convention on Elimination of Racial Discrimination and the mandate of the Special Rapporteur on Business and Human Rights. Nationally, those projects violate the state duty to protect its citizens against human rights abuses by third parties including business and the corporate responsibility to respect human rights.

The National Hydroelectric Power Corporation (NHPC) Project is one of the various dam projects violating the rights of indigenous peoples. According to the United NGOs Mission Manipur (UNM-M) secretary’s intervention during a press conference on 10 October 2014, people in Upper Assam like in Tinsukia and the All Assam Student Union (AASU) have been vehemently protesting the construction of the Dibang Dam and its potential impact on the people since 2007. The people were not allowed to take part in a public hearing at Roing, which is a clear violation of the FPIC granted by the UNDRIP and by the ILO convention 107. The former Prime Minister laid the foundation stone for the construction of the dam on 31 January 2008. The project was one of the biggest in terms of dam height and power generation in India that was to be financed by the World Bank.

United NGOs Mission Manipur (UNM-M) released a charter of demand which strongly condemned NHPC’s construction of the dam and suggested the establishment of a Special Investigation Team to probe the Arunachal Pradesh government and NHPC on their planning procedures and another high level internal expert panel to investigate the construction of the dam. The charter of demand also stated that the government of India should respect and protect the rights of the indigenous peoples to use their land, forest, water as part of their self-determination to decide on the kind of development they want. They also expressed the need to engage neutral experts from universities in Arunachal Pradesh, Assam or Manipur to conduct research on the social, economic and cultural impact upstream and downstream of the dam. The organizations suggested that electricity for the people be provided by mini-hydro projects instead of mega dams and for FPIC to be observed under the guidelines of the UNDRIP.

In 2013, a group of 26 organizations from Northeast India under the banner of the Northeast Dialogue Forum jointly wrote to leaders of India, China and Bangladesh, and based their recommendations on customary and international laws as guaranteed by the Universal Declaration of Human Rights and UNDRIP 2007. They expressed concern over the issue of water and the adverse impacts of mining and mega dams in the region. They also recalled that China and Bangladesh had been imposing dams on the trans-boundary rivers without any FPIC from the people living there.

3.3.2 Oil explorations

The oil exploration on indigenous territories is proof of disrespect to the local people and their natural and cultural heritage. The granting of exploration and drilling licenses to companies by the government where indigenous peoples live does not respect their right to FPIC.

Two cases are symptomatic of the
government’s and companies’ denial of the rights of indigenous peoples concerning oil explorations. The government of India, through its Ministry of Petroleum and Natural Gas, granted a license to Jubilant Oil and Gas Private Limited, a company based in the Netherlands for exploration and drilling works in two oil blocks in Manipur. The Production Sharing Contract (PSC) for the Manipur oil Block I was granted by the Manipur Government on 23 September 2010 allowing Jubilant Energy to drill from 30 oil wells in Manipur.

The indigenous peoples of Manipur were not informed on the terms and conditions in the contracts and licensing agreements among the governments of India and Manipur and Jubilant Energy. The villagers of Tamenglong, Churachandpur District and Jiribam were misled into signing and giving their agreement without being informed of the purpose and objectives of the so-called “survey.” The Coalition on Environment and Natural Resource (CENRs) urged the company to conduct a SIA and human rights impact assessment with the participation of the affected people before taking further action for which Jubilant and the state had to be responsible, accountable and transparent according to International Corporate Operational Standard, human rights and gender framework. The villagers demanded the Oil Exploration & Drilling in Tamenglong, Churachandpur, and Jiribam in Manipur to be stopped, and the UNDRIP 2007 to be implemented immediately. However, according to a report by CENRs, as of 28 November 2014, the government of Manipur had remained silent.

A similar case has been documented in the state of Nagaland where for the past three decades, the Lotha Naga people have been struggling against the state-owned giant Oil and Natural Gas Corporation Ltd (ONGC) which has been exploring and extracting oil and gas from their land. It started in the Changpang-Tssori area of Wokha District in the year 1973. The government of Nagaland gave a permit to the Oil and Natural Gas Company (ONGC) to explore oil and natural gas for a period of four years. The ONGC never asked for the FPIC of the indigenous peoples living there, neither did they sign a Memorandum of Understanding (MoU) or a lease agreement with any of the land owners. The Company only signed a working agreement with the Changpang Land Owners’ union for exploration and survey. Under the guise of exploration for trial production, the ONGC extracted more oil than the amount initially agreed upon. In the year 1994, the Naga Students Federation stopped the operation of ONGC from Changpang Area.

The struggle has been against the Company’s violation of the Naga people’s right to control and manage their natural resources, and against an agreement between both the governments of Nagaland and India. In the process, the community exposed the ONGC’s attempts to morally and financially corrupt community members to maneuver around the people’s assertion of their right over oil resources, which was a hindrance to the company’s designs.

Although the ONGC’s oil exploration has stopped in Nagaland, the indigenous peoples have still not been compensated for the impact the oil exploration had on their land. However, with the Lotha Naga’s knowledge about the millions of tons of oil underneath their lands, their demands have evolved. Today, the issue is not only determining who owns the natural resources, as it was at the
initial days of the struggle, but also building a framework for resource management that is based on the community’s rights over these resources.

In Tripura, the ONGC has also been into oil exploration through drilling activities and bomb blasting in the territory of indigenous peoples since 23 October 2013. The blasting team did not have any valid documents nor environment or forest clearance for conducting the exploration. Before the blasting, the houses in the community were in good condition, but after the first round of blasting, many houses and buildings developed cracks, several hand pumps were damaged, stopping water supply. The blasting team did not consult the villagers, neither did they ask for the indigenous peoples’ FPIC or a MoU signed. A month after the drilling activities began, and due to the impacts of the oil exploration, village people themselves stopped the team from conducting the blasts at Ratanpur ADC village. Consequently, the community leader along with the blasting contractor were given a notice for public hearing with the Sub-Divisional Magistrate at Jampuijala, Sipahijala Tripura. The community leader was to explain why they had stopped the blasting team from performing their activities.43

3.3.3 Mining

The identification of chromite deposits in Ukhrul and Chandel districts in Manipur has led the government to grant mining clearances, disregarding constitutional provisions. People in these districts are restive as they face powerful extractive industries entering their areas. The government of India, through the Indian Bureau of Mines and the Ministry of Mines has given more than ten private companies leases and licenses and the right to mine in the area between 2007 and 2013. The agreement between the Manipur government and the lessees was reportedly signed without informing the people. The provisions of the MoU signed between the government of Manipur and the lessees include transfer of a huge amount of land, raw materials, water and the right to mine. No proper environmental impact assessment was conducted either. Various civil society groups and local people raised objections against the state government for not seeking prior consent of the people.


3.3.4 The Nagaland Special Development Zones project (NSDZ)

The proposed NSDZ seeks to promote urbanization and industrialization in the foothill areas. The concept note resolution prepared by the government was adopted in the state assembly on 24 March 2014, covering five of the 11 districts of Northeast India. In order to implement the NSDZ, the government proposed to “restructure the land tenure system through intensive cadastral survey, identifying ownership.” The government aims to regulate the land tenure system for facilitating legal ownership and transfer of land so as to facilitate investment and industrialization. It also mentions the construction of four to eight-lane superhighways along the foothills including the extension of the railway line from Dimapur onwards.45 The Committee has been empowered to review the existing state laws, orders or instructions with a view to amending them to make the NSDZ a viable and effective project, and it stated an official notification made public.46

The Nagaland Tribes Council (NTC), a body comprising different tribes of the
state, has expressed reservations on the state government’s ambitious project to have special development zones along the foothills of the state. The NTC argued that the above laws were explicitly clear that Article 371(A) provides the state legislative assembly an outright jurisdiction to protect, preserve and safeguard the traditional land holding system that was passed on from time immemorial. The indigenous groups from Northeast India protested against the proposed NSDZ resolution that seeks to privatize and transfer indigenous community land holdings to private individuals and companies who will set up business and extractive industries. According to the resolution, the NSDZ will be a liberalized economic zone where investors and business companies will have unrestricted access. The resolution also proposes to allow non-indigenous companies and individuals to settle down at the NSDZ with government permission. The apprehensions are not unfounded, as Article 371(A) has been diluted solely for the purpose of urbanization and industrialization that will further violate indigenous peoples’ rights.

3.4 Trafficking

3.4.1. General facts

In its report entitled “Human Trafficking and HIV,” the United Nations Development Programme (UNDP) estimated that 300,000 to 450,000 people are trafficked within Asia each year, of which, more than half takes place in South Asia. There are many reasons why Northeast India is emerging as a hot spot for human trafficking. Northeast India is a region torn apart by various decades-old armed conflicts. The region is characterized by high unemployment among the youths; high poverty levels resulting to many children and young women being vulnerable to various kinds of exploitation including sexual exploitation. Further, the extensive international border along the entire Northeastern states is largely open. This has contributed towards human trafficking without much enforcement against it. Human trafficking can be classified into two: sex and labour trafficking where women are the most vulnerable victims.

Sex trafficking is the most prevalent type of human trafficking in Northeast India involving women and girls belonging to the lower castes and tribes who are living in disadvantaged regions. Young women are taken across the border to work in brothels for forced sex while boys are taken to work in coalmines for slave labour. Sex labour victims can be sold for as much as 600 US dollars. Women and children are lured away from their homes with promises of free education and jobs but many end up in “brick kilns, carpentry units,” or used as domestic servants, and girls are forced into sexual activities. In some cases the girls are forced to marry in regions where female to male sex ratio is skewed. Others fall prey to the organ transplanting rackets. Tribal adolescent girls from rural areas of Assam are deceived, trafficked, and then sold for sexual exploitation in Delhi, Mumbai, Kolkata, Chennai, Goa, and Bangalore. Widespread corruption among police and armed forces, along with the lack of proper documentation on victims of trafficking, exacerbate the problem.

The large scale trafficking of adivasi girls and women within Northeast India to be exploited as labour force is induced by non-inclusive development, including large projects and extractive industries, loss of traditional livelihoods, lack of quality education and sustainable income opportunities. Many of the thousands of tribal women who migrate to cities in search of jobs have become victims of trafficking by false inducements and placement agencies. Others are employed for domestic
work, a sector that is unorganized and controlled by unregulated placement agencies that induce traffic and control wages and are highly exploitative. In spite of the existence of various laws and developmental programmes, no visible improvement has taken place.

The situation in each of the eight Northeast states varies. For example, Meghalaya is a major destination due to its coal industry. It is estimated that 40,000 children from Nepal and Bangladesh are trafficked into the coalmines for labour by landowners and exporters. Furthermore, the highway networks in the Northeast connect many national and international destinations. In the state of Assam, truckers have used the highway routes to transport drugs and traffic girls. It is a well-known fact that the truck drivers from all over India are deceiving young Northeastern children into fake marriages, child labour and sex work. The main source, transit and destination points for these victims are usually New Delhi, Mumbai, Pune, Goa, Kolkata and extend as far as Thailand, Singapore and Malaysia. Siliguri in West Bengal is the main transit point as it connects many train lines and bus services. It has long been a convenient way to smuggle women and children across the Indo-Nepal border without detection.

People below the poverty line with limited employment opportunities are the most vulnerable targets of human traffickers. Even young educated girls seeking employment outside their local area have been victimized by trafficking. Ill-intentioned employers generally trick these girls into the commercial sex trade. Women and children are also commonly deceived by offers of fake marriages. There have been cases where highly educated girls were exploited and abused in these marriages.

Northeast India is vulnerable as the region shares borders with many countries: China, Bhutan, Bangladesh, Myanmar and Nepal and most of these borders are open and unmanned providing easy passage in and out of India for organized human trafficking syndicates to operate undetected.54

3.4.2. Government action

In May 2011, the government of India ratified the UN Convention against Transnational Organized Crime (UNTOC) and its three Protocols, in keeping with both the Indian Penal Code (IPC), and the Constitution which guarantee rights against exploitation, prohibit trafficking in human beings, and other forms of contemporary forms of slavery (Art. 23 and 24).

At the regional level, the government of India has ratified the SAARC (South Asian Association for Regional Cooperation) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002, and the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare, 2002.

The Indian constitution explicitly prohibits trafficking of human beings and forced labour and makes both offences punishable. Article 23(1) provides that: “traffic in human beings and forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.”

The government of India has also set up different committees at the states’ level to check human trafficking of any form in the country. For instance, some of the committees set up by the government are the National Commission for Protection of Child Right (NCPCR), Child Welfare Committee (CWC), Child Line, the Anti-Trafficking Squad of Social Welfare Department, and there is also the Juvenile justice Act to protect child rights. Further, to check child trafficking the Supreme Court of India prohibits anyone from taking
children below 12 years across states even if it is for schooling.

The Ministry of Women and Child Development (MWCD) set up a legislative framework on trafficking based on the Immoral Traffic (Prevention) Act, 1956 (ITPA, 1956). The 1956 Act is the main legal instrument addressing the trafficking of human beings in the country. It is supplemented by other criminal law provisions including the Indian Penal Code (IPC, 1860). The act provides for the rescue and rehabilitation of victims or survivors of trafficking. Its fifth provision states that: “Any person who commits trafficking in persons shall be punishable on first conviction with rigorous imprisonment for a term which shall not be less than seven years and in the event of a second or subsequent conviction with imprisonment for life. Another key anti-trafficking intervention is the ‘UJJAWAL’ scheme for trafficked women and children, launched by the Ministry of Women and Child Development in December 2007. ‘UJJAWAL’ focuses on females trafficked for the purpose of commercial sexual exploitation.

Concerning the mechanisms, the Government of India plans to set up 332 Anti-Human Trafficking Units (AHTUs) at the District Level, and “Nodal Officers” to be appointed for each state. The MWCD has also implemented the UJJAWALA Scheme for Prevention of Trafficking and Rescue, Rehabilitation and Reintegration. Under the Scheme, survivors of trafficking and their children can have access to safe shelters, food, clothing, counselling, medical care, and legal aid. The Scheme also provides vocational training and income generation activities. The Indian MWCD has the primary responsibility of designing and implementing programmes to address human trafficking, especially of women and children. In Northeast India, UJJAWALA schemes have been implemented in Assam (13 projects), Nagaland (3), and Manipur (2). However, there is only one rehabilitation centre for victims, in Guwahati, despite the needs to have more.

As it stands, the Indian legal framework to combat trafficking has proved to be ineffective. The Indian Constitution forbids human trafficking in Articles 23 and 39, but only the first one is justiciable and the second one is a mere guiding principle of state policy. India’s Immoral Traffic Prevention Act of 1956, conceived to specifically address the issue, has many shortcomings including a lack of a comprehensive definition of trafficking and a clear distinction between trafficking and prostitution. Indian penal laws also deal with trafficking and criminalize such acts as procuring, buying and selling, importing or exporting human beings, and detaining people in slavery or slavery-like conditions, but the reality of the situation on the ground reveals that these measures are insufficient.

However, despite all these anti-trafficking laws and the various committees set up to check human trafficking, the cases in India, particularly Northeast India, continue to be on the rise. There is a general public opinion that various government agencies have failed to effectively deal with the problem of human trafficking in the state.

3.4.3 Specific cases

In January 2010 close to 200 children, mostly boys, were rescued from Kanyakumari in Chennai. They were from North Cachar Hills and neighbouring Karbi Anglong and a few were from Manipur. The girls accompanying them had already been trafficked after they reached Bangalore. The children were sent off by their parents in promise of free education.

In May 2011, a 16 year old girl from Assam was lured by a promise of marriage. She was taken to Delhi by train and kept in the Shakarpur...
area. She was allegedly confined, raped and sold. For 15 days she was physically tortured and traumatized. After two weeks of taking her around to meet various customers as far as Kanpur, she was finally sold for Rs. 1,50,000. But the customer was an undercover police agent and the culprit was arrested. She was rescued but the culprit has since absconded.

In March 2013, 51 boys and girls aged 5 to 14 were rescued from two illegally-operated children’s homes for boys and girls both called “Grace Home” in Jaipur in Rajasthan. Of the 51 children, 23 children were from Manipur (19 from Ukhrul district, three from Tamenglong district and one from Chandel district), seven were from Nagaland, six from Uttar Pradesh, four from Punjab and two were from New Delhi. Jacob John who owned the illegal homes flouted every norm and guideline laid by the Child Welfare Committee (CWC). All the children were brought to the home with the promise of free education, however none of them were sent to any school but were casually taught at the home. Grace Home was raided by the Rajasthan government along with NGOs. Jacob John was arrested under the Indian penal code section 344, 366 and 370 (5) and Juvenile Justice (care and protection of children) Act 2000 section 23 and 28. While being interrogated by the Ukhrul police, the proprietor confessed to the many allegations including sexual crime.

In June 2013, in yet another suspected case of child trafficking in Manipur, 31 children were stopped by the members of the Child Welfare Committee (CWC) from North AOC, Imphal in Manipur. The children, 16 girls and 15 boys were aged between 5 and 17. A woman named Lucy Niang of Sugunu claimed that she was taking them to study in a children’s home in Greater Noida, Uttar Pradesh (UP). The CWC brought the matter to the police and an investigation was initiated. There is a Supreme Court order that does not allow children below 12 years from leaving Manipur and Assam for primary level education.

Three victims from Manipur were rescued from Malaysia in 2009 after they had been sold for prostitution. The travel agents operating under the guise of an NGO, Abel and Leo Private Limited had been luring girls from Assam, Nagaland, Manipur and Meghalaya with attractive job offers, including as domestic helpers in Singapore and Malaysia. The victims were sold to a nightclub in Kuala Lumpur but were rescued by the central government together with the Manipur state government.

A total number of 56 cases related to the violation of children’s rights in Manipur were recorded from January 2013 to 27 March 2013. Of these, four were cases of rape, two were cases involving rape and murder, two cases of assaults, two cases of attempted rape, one case of suicide, three cases of kidnapping, four cases of recruitment as child soldier, and 30 were rescued from trafficking. Most of the victims were indigenous children of the Tangkhul Naga, Zeliangrong Naga, Lamkang Naga, Kuki- Zou peoples.

In March 2013, 53 children, mostly from the northeast states of Manipur, Nagaland and Assam, were rescued from two illegal homes in Jaipur, capital city of the state of Rajasthan. In the same year, 36 other children from Manipur were rescued from a Home in Bangalore.

In Assam, where the majority of women come from lowland indigenous communities, a total of 2,109 cases of abduction of women were registered in 2012. Of these, 1,398 were rescued from various places and 894 women, mostly aged 15-30, were rescued from outside the state.

The Minister of Social Welfare of Manipur
stated in an interview that the department has rescued 311 trafficked children since 2008. These figures represent reported cases only and the actual numbers may be much higher.

Cases of human trafficking were also reported with most of them Kuki children from Manipur’s Tamenglong district. The ethnic conflicts between the Kukis and Naga tribes in the Northeast region between 1992 and 1997 left many children homeless, thus enabling human trafficking to prosper. Children were kidnapped and taken to other parts of the country. Relief and refugee camps were easily accessible to traffickers and vulnerable people in acute poverty were more susceptible to becoming victims of fake placement agencies. In 2009, there was a regular flow of kidnapped children from the Bru refugee camps in Tripura who were brought to a mission in West Bengal. Several children have also gone missing from Arunachal Pradesh, reportedly taken to monasteries in Nepal.

In Assam, the NEDAN foundation reported repatriating six ethnic women rescued by the police from Mumbai in 2005. Four girls lured from Assam were kept in Uttar Pradesh, and three ethnic women and girls were rescued from being trafficked to Mumbai in August 2007. In July 2008, seven ethnic women were rescued from being trafficked to Delhi. In 2006, NEDAN rescued 66 ethnic women and girls who were lured to Gujurat with the pretext of jobs. Twenty-five of them were minors. In August 2007, 64 ethnic girls were rescued from being trafficked to Gujurat for labor purposes, out of whom 13 were minor.

Once back in their villages, the girls are often ostracized and face silent discrimination. A Delhi lawyer who has helped rescue many girls says that despite the girls being rescued after a huge struggle and a legal battle, with the lack of government policies to uphold their fundamental rights, they face the danger of being victimized once again.

Of concern is the reality that despite the severity of the problem, most of the states in the region have not been able to take concrete measures against human trafficking and the work towards its prevention has been unsatisfactory. Much of the care and rehabilitation of repatriated children and women have been undertaken in an ad hoc and casual capacity and there is no guarantee that the repatriated victims will fall prey to trafficking again in the future.

3.5 Inter-ethnic conflicts

States have to take action to prevent and appropriately address violence arising from inter-ethnic conflicts, and to ensure that these do not persist or escalate. The state is responsible for the omission to protect minorities from discrimination or violence. States that fail to prevent or punish unlawful actions against minorities could be held responsible for such failure. The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (General Assembly resolution 47/135) has established in its article 1, paragraph 1, that states “shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.” Its preamble emphasizes that the promotion and protection of the rights of persons belonging to minorities contribute to the political and social stability of States in which they live and that the constant promotion and realization of their rights as “an integral part of the development of society as a whole and within a democratic framework based on the rule of law, would contribute to the strengthening of friendship and cooperation among peoples and States.” Despite legislations
in India such as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 that bans caste and tribal based discrimination, indigenous peoples still suffer from discrimination and violence.

A 20-year insurgency, in what was then the Lushai Hills District of Assam (after 1972, the Union Territory of Mizoram) came to an end on 30 June 1986, with the signing of an Accord between the rebel Mizo National Front (MNF) and the government of India. The Accord resulted in the creation of Mizoram as a state in February 1987. The end of the insurgency, however, only solved the Mizo issues, leaving out the other minority tribes, such as the Hmars and the Brus. Nagging issues continue to feed cycles of low-grade strife, and the ‘silent’ activities of the Hmar under the Hmar People’s Convention-Democracy (HPC-D), and the issue of the Bru (Reang) peoples still being parked as refugees remains unresolved more than two-and-a-half decades after peace was restored to the State67.

4. INDIGENOUS WOMEN

4.1 Gender equality

The Indian Constitution states that all citizens are equal, but indigenous women are still discriminated because of their ethnicity and gender in Indian society. Temporary special measures are not applied for the empowerment of Scheduled Tribe women.

In India as per 2011 census, women account for 586 million and represent 48.46% of the total population. In Northeast India, women represent 48.86% of the total population. Thus without improvement in women’s socio-economic condition and their effective participation, the development of the country cannot be ensured effectively. Women are therefore both the agent and the target of development process.68 However, patriarchal traditions and gender inequity in India have resulted in the feminization of poverty, exacerbating women’s vulnerability to labour and sexual exploitation. Three-quarters of Indian women are illiterate. Some 90 per cent of rural and 70 percent of urban women are unskilled.69 Women’s poverty is more severe than men’s because of forced marriages and domestic violence and women bearing the primary responsibility for unpaid domestic and subsistence tasks. As home and farm-based subsistence opportunities are on the decline, more and more women have to leave their villages and communities and migrate to urban centres to work as unskilled labourers. Being uneducated and unskilled, these women lack basic information about employee’s rights, let alone bargaining power, and thus are often duped by fraudulent agencies and charged exorbitantly, and fall victims to sex and labour trafficking.
4.2 Women's political representation

Articles 7 and 8 of the CEDAW promote the political representation of women. The indigenous women’s movement in the Northeastern part of India has never been a movement for the realization of women’s rights *per se* but it has been at the forefront of the human rights movement in the region. Historically, this region has witnessed a strong women’s movement and this has given rise to local groups that have successfully changed policies of the past and spoken for the rights and roles of women in strife-torn areas. They are the Assam Boro Women’s Justice Forum (Assam), Naga Mother’s Association (Nagaland), Naga Women’s Union (Manipur), Hmar Women’s Association, R.K Mosang Memorial Society (Arunachal Pradesh), Borok Women’s Forum of Tripura (Tripura), Dimasa Women’s Society, Zomi Mother’s Association (Manipur), All Tiwa Women’s Association (Assam), Rabha Women’s Council, Mizo Hmeichhe Tangrual, Ka Synjuk Kynthei, etc. These women’s groups have helped women deal with trauma and agony owing to armed conflicts. They also have worked towards the economic empowerment of women affected by violence. Women in Manipur have historically participated in government life, economic and cultural activities. The discourse rallied around the fact that women had an equitable share of responsibilities and rights and had always possessed the confidence about these.

After the Independence of India, the local self-government in Assam started with the Assam Rural Panchayat Act, 1948. However, this Act did not have any provisions for Scheduled Tribes women. The Assam Panchayat Act, 1959 which replaced the Assam Rural Panchayat Act of 1948 introduced the “co-option of one woman if no woman was elected and co-option of one each from the Schedule Caste (SC) and Schedule Tribe (ST) if they constituted at least 5% of the total population of the area.”

Under the panchayati raj, there was no central legislation and every state government was free to enact the state Act if they wanted to, for local governance. Most states did not enact and those who did, did not hold regular elections and many allowed it to be defunct. That was the reason a constitutional amendment had to be passed in 1992 which forced all the states (except the few who were exempted by other provisions of the Constitution) to enact state panchayati raj laws.

Though some states had its own panchayat raj laws, not until the 73rd amendment to the Constitution of India in 1992, did the panchayati raj function regularly in Assam and also in the other states of Northeast India. The 73rd Constitutional amendment act for decentralization and creation of local governance has made an effort to give some special power to women in all the three tiers of panchayati raj. The provision contained in article 243D of the Constitution reads that “Not less than one third of the total number of seats reserved under clause shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.” Besides, women may contest election from unreserved seats. This provision has enabled women to participate in local government decision-making process. It has enabled them to gain administrative and political training at the local level. The growing number of women in Panchayats indicates the emergence of new social groups at the local level that are more conscious and articulate. Taking into account the national figure, out of 475 Zila Panchayats, 158 are headed by women. Out of the total 51,000 members of Panchayats Samities at block level, 17,000 are women. The data provided to the 14th Lok Sabha for Committee of Empowerment of Women
reveals that their actual number has exceeded the mandatory provision of 33% seats. For example, in Assam, women occupy 38.9% of the seats, in Arunachal Pradesh they represent 38.5%, in Manipur 36.5%, in Sikkim 38.2% and in Tripura the total women members represent 34.6%. The work participation rate has increased from 22.3% in 1991 to 25.7% in 2001 at all India level.72

However, there is a cause of concern because relatives of elected women representatives interfere in the official activities of the latter. Though in some cases the relatives nurture, encourage and lend support to women elected representatives, male relatives in many cases even participate in official proceedings on behalf of women, a practice that should not be approved. But prevalence of patriarchal values and a high rate of illiteracy among women, their non-availability due to their work, corrupt leadership and bureaucracy that favour the elite and middle class are some of the obstacles towards the empowerment of women through the panchayati raj system. This makes women’s representation ineffective as many of the decisions are made in their absence. The AC Nielsen ORG-MARG study commissioned by the Ministry of Panchayati Raj among elected representatives of panchayat raj institutions showed that about one-fifth of the women were illiterate. The survey on the social background of the elected women representatives indicates that the majority of them are from Scheduled Castes (SCs), Scheduled Tribes (STs) or Other Backward Classes (OBCs) thereby showing that political representation of women in Panchayats is not confined to the elite.73

In Nagaland, the representation of women is negligible. The Nagaland Legislative Assembly has never had even a single woman legislator up to now. However, under Rule 4 (b) of the Village Development Model Rules 1980, 25% women representation in the Village Development board is compulsory. So there is evidence that women are slowly moving into governance. A woman holds the post of Chief in the Village Council in Dimapur.74 The same source however indicates that Naga women “enjoy a far better position than the women belonging to the caste society in other parts of India.”75 Nevertheless, Naga is still a “patrilineal and patriarchal society,” indicating that women have minimal role in the decision making process and have no right to inheritance or hereditary property. A breakthrough for Naga women’s property rights is the case of Phila Wung, who managed to reverse the appeal decision of the Apex court of Tangkhul Naga Long (TNL) that women had no right over ancestral property. The President of the TNL overturned the decision and released Phila and her mother’s property, setting a precedent in a traditional court.76

The latest national act on property rights, “The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013“ was passed on 29 August 2013 in the Lok Sabha77 and on 4 September 2013 in the Rajya Sabha.78 The bill was approved by the President of India, Pranab Mukherjee on 26 September 2013. It was enforced on 1 January 2014 and applies to the whole of India excluding the states of Jammu and Kashmir. This Act does not recognize the property rights of members of the family such as the widow, the divorced daughter who returns to her natal home, the women-headed households and the elderly parents who are dependent on their offsprings. This is a pertinent concern in the context of the given state of conflict where the vulnerability of women and their dependents is a major factor in further marginalization and violence.

Access to political opportunities and participation in political decision-making process are important components of capability
and autonomy in the exploration of women’s talent and efficiency that are necessary for the country’s development. Therefore, to achieve women empowerment, advancement should be facilitated in coordination with the social sectors such as the male gentry, religious heads, political leaders who should come forward and shun their personal interest and ego to understand and appreciate that women are equally important segments of society as men.

4.3 Violence against women (VAW)

Despite having some of the best gender indicators in India, violence against women in the Northeast is still widespread. Violence within and outside the community is a serious issue as women are the targets. Within the communities and the families, women suffer from patriarchal attitudes towards their subordinate roles. However, violence against women is also being frequently experienced outside the communities. Killings, abductions, illegal detentions, torture and sexual assault by the security forces are commonly reported, with indigenous women being the most affected. The Armed Forces (Special Powers) Act provides sweeping powers to armed forces personnel to search and destroy habitations and houses, to detain people on suspicion and to kill with impunity.

According to a recent article, from January 2013 to November 2014, nearly 4000 girls and women were raped in Assam. This statement was made on behalf of the Chief Minister Tarun Gogoi, who also heads the Home Ministry in reply to a written question by Assam Forest Minister Rockybul Hussain. The last CEDAW session shadow report states the case of a 36-year-old mother of eight children along with two other men from New Canaan village in Senapati District of Manipur, who were picked up by state forces in August 2011 while collecting pig’s feed. They were blindfolded, kicked with boots and beaten by policemen till they lost consciousness. The mother suffered multiple injuries which disabled her to breastfeed her five-month old baby. In this connection, a memorandum was submitted to the Home Minister and to the National Human Rights Commission in September 2011. But to date, no action has been taken.

The conflict situation has led to a deteriorating condition in the home sphere, the work place and at the community level. Incidences of domestic violence have been on the rise so much so that it has been ranked 4th in the national statistics according to the findings of India’s third National Family Health Survey (NFHS-III). The Prevention of Domestic Violence Act, 2005, contrary to the popular expectation and official claim, has not been well implemented in any state of the Northeast. The main problem areas identified are the absence of, or lack of awareness and insensitivity among different stakeholders notified under the Act, as well as proper budgetary allocations.

The Protection of Women from Domestic Violence Act, 2005, is enforced in Nagaland to tackle domestic violence. Its effectiveness is yet to be seen, as there is no proper mechanism to efficiently use it. Military personnel have also been perpetrators of violence against women in Naga areas. Rape and assault on women are part of the tactics used by the military to repress the Nagas’ struggle for self-determination.

Crime and violence against women in the Northeast are expected to increase sharply with the development activities being planned and carried out in the region with the Trans Asian highways, railways, ports, the Look East Policy, free trade agreements etc. and many
other projects that will make women more vulnerable in this already fragmented context of conflict that they live in. For example, the conflict has created a situation wherein the number of widows and single mothers has risen that the social fabric is challenged with questions related to property rights of women. This is because women are not recognized as equal partners in the inheritance of land and natural resources in many indigenous customary practices, although in reality, there is an increasing number of women-led households and women farmers. Naga customary law states that the line of inheritance in the family passes among the male members and excludes women. In cases where there are no male members in the family to inherit the ancestral property, the property is passed on to the male relatives. In such cases, women are not only dispossessed of their rights over land and natural resources making them more vulnerable, but also excluded from all processes like developmental initiatives since these projects are directly related to land and natural resources of the communities.

A documentation done by AIPP and its members on the ground between 2011 and 2013 reveals that out of nine violations against women listed in Northeast India, only two were resolved and their remedy implemented.

The urgency of the issue of violence against indigenous women in the northeast is of grave concern. There exists spousal and familial violence in the Northeast states but the context in which VAW is occurring is significantly different from the context in other parts of India.

5. CONCLUSION

Indigenous peoples in Northeast India are confronted with extra constitutional regulations like the Armed Forces Special Powers Act (1958), special legal concessions for extractive industries to exploit natural resources, which are increasingly threatening indigenous communities, their lives and livelihoods, their social cohesion and community, and ultimately their identity. Such legal mechanisms and proposed plans range from land redistributive reforms in Manipur, the establishment of the Special Development Zone in Nagaland, increasing cases of resource conflicts between indigenous people and immigrants in Assam, the condoned encroachment into indigenous peoples’ lands and resources by settler communities in Tripura, to the grand development schemes in Arunachal Pradesh, Manipur and almost all the Seven Sister states. All these are already impacting and will definitely impact indigenous communities on their personal lives and properties, land, and food security.

Trafficking, violence against women and the discrimination that indigenous women face prevent them from taking the lead in decision-making processes, not only in the public sphere but also in the traditional decision-making institutions. The marked increase in the frequency of violence committed against women in recent years is a matter of concern, moreover as many of them go unreported. Violence against women arising from the entry of development and corporate project is expected to increase. Dams, mineral and oil exploration companies are given authorization without any consultation with the communities, violating India’s national legislation. The constitutionality of the AFSPA, despite the sustained campaign by several sectors not only in the Northeast but among human rights defenders elsewhere, has been
upheld by the Supreme Court of India. Despite introducing legislation to end violations, e.g., Immoral Traffic (Prevention) Act on trafficking, implementation is still weak. India has failed to respect, protect and fulfill its obligations to indigenous peoples in Northeast India under international law and national laws, and its avowed commitment to the UN Declaration on the Rights of Indigenous Peoples.

6. PEOPLES’ RECOMMENDATIONS

To the Central and State Governments:

On national security laws:

On economic and other development projects:
2. Stop all extractive projects being implemented in Northeast India without the FPIC of the affected indigenous peoples especially concerning the extractive industries for chromite in Manipur, Ukhrul and Chandel; the Manipur Oil Block and the ONGC in Nagaland, and the National Hydroelectric Power Corporation Project in Manipur.
3. Seek and respect the FPIC of all affected communities for all extractive industries, dam construction, infrastructure building and other developments with potential adverse impacts to indigenous peoples before the inception of any project. All information related to developments in indigenous lands must be provided and accessible to affected communities in a timeframe that sufficiently guarantees enough time for the communities to study the information, consult among themselves and seek added information, and to process these among themselves without coercion and incentive.

On the respect, protection and fulfillment of the rights of indigenous peoples:
4. Fully implement the Forest Rights Act 2006 in its true spirit and ensure community claim on community land, forest and natural resources.
5. Ratify the ILO Convention no. 169.

On remedies:
6. Provide appropriate remedies for the displaced indigenous peoples of the Northeast who live in relief camps including, but not limited to, repatriation, compensation, and other such kind of arrangements agreed to by the affected communities.
7. Provide financial, technical and security
support to indigenous women for their full and effective participation and representation in decision-making bodies; as well as ensuring a gender-sensitive environment to enable their independence and full participation.

On awareness-raising:
8. Conduct greater awareness and education campaigns on the rights of indigenous peoples among the entire state bureaucracy to sensitize officials and authorities in indigenous peoples’ areas.

On specific issues:
9. Put in place mechanisms to implement the anti-trafficking legislations in Northeast India including measures for accountability of police forces.

10. Recognize and respect the full mandate of the Tripura Tribal Areas Autonomous District Council to exercise the provisions under the Sixth Schedule of the Constitution of India without any restriction.

11. Provide effective access to justice to victims of human rights violations including the death of two children in December 2013 in Balajhar, Assam, among others.

12. Facilitate a process for the peaceful resolution of resource conflicts between the Bodoland Territorial Autonomous Districts and Karbi Anglong and other conflicts in Northeast India.

13. Undertake substantive consultations with affected communities regarding the Nagaland Special Development Zone (NSDZ) tabled by the Nagaland legislative assembly.

NOTES
10. Article 366 (25) defines scheduled tribes as “such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under Article 342 to be Scheduled Tribes for the purposes of this constitution”.
13. These criteria are used by the Government of India and its agencies with modalities for determining the claims for inclusion in, exclusion from and other modifications in orders specifying the list of Scheduled castes and Scheduled tribes. The National Commission for Scheduled Castes and Scheduled tribes also in their guidelines for examining the proposals of inclusion/exclusion from the list of Scheduled Tribes used the same criteria. Also refer C.R. Bijoy et al (eds) *India and the Rights of Indigenous Peoples*, Chiang Mai, AIPP, 2010, pp13-14
15. Sixth Scheduled: Provisions as to the Administration of Tribal Areas in the States of


20. Ibid
22. Ibid.
23. Ibid.
24. Ibid.


31. See Annexure 1.
38. See httpp://www.satp.org/.
43. He was speaking at a press conference on the UN Committee on racial discrimination and Dibang Dam at the Manipur Press Club, which was jointly organized by North East Dialogue Forum,
Centre for Research and Advocacy, Manipur (CRA), Social Action Development Organization (SADO), People’s Platform Secretariat (PPS) and Village Women Coordinating Committee (VWCOC), http://kanglaonline.com/2014/10/nhcp-is-a-racially-discriminatory-project-unmm-secretary/, accessed 28th October 2014.


46. NEPA Factsheet, Factsheet for violation of indigenous peoples rights, Forcible oil extraction from indigenous peoples’ land.


48. NEPA Factsheet, Factsheet for violation of indigenous peoples rights, Drilling work by ONGC in Tripura.


54. UNDP_Human_Trafficking_and_HIV_SouthAsia_2007.

55. Unless indicated, there is no certainty of the indigenous background of the individuals in the cases referred to. However, in most of the cities referred, a majority of women come from lowland indigenous communities.

56. Unless notified, most of the information contained in this paragraph directly comes from a factsheet submitted by L.M. Tabitha from NWUM to AIPP.


60. https://www.academia.edu/9154140/HER_BODY_HER_RIGHTS_In_Reference_to_Women_Trafficking_in_North_East_India, HER BODY, HER RIGHTS: In reference to women trafficking in North East India.

61. Extracts from India: Significance of the United Nations Convention against Transnational Organized Crime (UNTOC) to address human trafficking: Interview with Mr. G K Pillai, Union Home Secretary, Government of India.


68. https://www.academia.edu/9154140/HER_BODY_HER_RIGHTS_In_Reference_to_Women_Trafficking_in_North_East_India, HER BODY, HER RIGHTS: In reference to women trafficking in North East India.

69. Combating Human Trafficking in Assam, Northeast , India, NEDAN Foundation.


71. Recalled in the paragraph 12 of the August 2014 69th report of the Special Rapporteur on minority issues, A/69/266.


74. https://www.academia.edu/9154140/HER_BODY_HER_RIGHTS_In_Reference_to_Women_Trafficking_in_North_East_India, HER BODY, HER RIGHTS: In reference to women trafficking in North East India.


77. Ibid. There is no certainty on the indigenous background of the women referred to in this study. However, due to the presence of many indigenous peoples in Assam, many women are from indigenous background.


82. Lower House of the Indian parliament.

83. The Upper House of the Indian parliament.

84. McDuie-Ra in http://vaw.sagepub.com/content/18/3/322.abstract.

85. See http://vaw.sagepub.com/content/18/3/322.abstract.

86. India NGO shadow report for the 58th Session of CEDAW.

87. http://guwahatinow.com/nearly-4000-women-raped-assam-last-two-years/. No certainty on the indigenous background of the women referred to in this study. However, due to the presence of many indigenous peoples in Assam, many women are from indigenous background.


89. Ibid.