

# The Indigenous Group-Differentiated Rights in North-East India

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**Abstract:** The North-Eastern region of India is one of the most culturally diverse regions in the world. The different tribal groups living in the North-East India are regarded in this study as falling under the category of indigenous peoples. Within the Indian Union, various forms of special rights given to the indigenous communities living in the North-Eastern states of India. We can observe such special rights in different ranges that went beyond the symbolic recognition. This includes the territorial and non-territorial autonomy, special land and forest rights, recognition and accommodation of tribal customary laws and traditional self-governing institutions, and various external protective measures like Inner Line Permit, among others. Such differential citizenship measures in North-East India are discussed and elaborated in this study as constituting a form of group-differentiated rights within the Indian state. This paper emphasizes that India's dealing of cultural diversity in North-East India constitutes a form of multicultural accommodation of diversity.

**Keywords:** North-East India; Group-Differentiated Rights; Indigenous rights; differentiated citizenship.

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## I. INTRODUCTION

The Northeast India comprises of eight states that includes Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, and Tripura. It is one of the most culturally diverse geographical regions in the world. It is home to many indigenous communities that enjoy various special rights that vary from group to group, and the nature of such rights is also different based on different considerations. In the Northeast India, we found ample number of indigenous rights given to different tribes residing in different corners and in states. Some states are formed predominantly by the tribal group(s) itself. These are Arunachal Pradesh, Meghalaya, Mizoram, Nagaland, and Sikkim. In other states, many indigenous peoples reside and some of them also enjoy, to considerable extent, some form of indigenous rights. For instance, many indigenous tribal groups enjoy some kinds of indigenous rights in the state of Assam.

The rising group-centric claims and the growth of the politics of recognition by the state led to differentiated citizenship in different parts of the world, leading to the rise and growth of group-differentiated rights<sup>1</sup>. Will Kymlicka termed these as 'group-differentiated rights' which is projected in this study as one of the most proper and suitable term to indicate different policies and rights allocated on the basis of cultural membership. He popularized the term to inclusively call all those rights that are differentiated in nature on the basis of cultural membership of individuals. The North-East region of India contains many cases of recognition and accommodation of diversity that can be argued as reflections of differentiated citizenship rights. Since independence, it witnesses several special rights to different communities, which is referred as forming its own case of group-differentiated rights.

In this research paper, the specific rights of the tribes in the North-East India can be found as group-specific or group-targeted in nature. It meant that the specific arrangement is directed to protect the interests of the communities in North-East India variously. Those rights, targeted at the protection of specific category of people are rights often providing shields against the majority culture or people, against the attempts of assimilation of majority culture into the dominant culture. Such group-differentiated rights in North-East India varies significantly in nature and way of protection. In this paper, those indigenous group-specific or group-differentiated rights found in different forms in North-East India is discussed and elaborated.

## II. Material And Methods

This research work is a qualitative one based on the descriptive method. The data are gathered from the secondary sources that includes books, journal articles, news articles etc. The concept of group-differentiated

rights popularized by Will Kymlicka is invoked in this study to relate different measures of specific rights to different communities.

### **III. Discussion**

The indigenous people practice unique traditions, retain social, cultural, economic, and political characteristics that are distinct from the neighboring societies generally observed. It is not easy to define indigenous people in the context of North-East India. The term indigenous is not properly, and perhaps cannot be, defined in the context of North-East India which can get full acceptance. The politics of citizenship in the region make many cultural groups to express and claim themselves as indigenous peoples because this term is understood as a category that can help them to get politically dominant status. The Indian state instead use the term Schedule Tribe as a category to indicate marginalized and culturally distinct communities mostly found in North-East India<sup>2</sup>. Generally, the STs are considered as the category that represents the communities eligible to be called as indigenous. In general understanding, the indigenous peoples in NE India are those ethno-cultural groups that occupy particular territory generally before the advent of the colonial rule. In most of the cases, they are recognized as Scheduled Tribes (STs) in North-East India. The Schedule Tribes in North-East India are generally living in the geographical region before the advent of the colonial rulers. Their way of living, livelihood practices, traditional self-governing mechanisms exhibit the characteristics of indigenous peoples, and consistently stick to their urge to enjoy self-government rights as we understood generally by the term. For analytical purpose, the use of term indigenous people is restricted strictly to those groups which strongly holds on the way of livelihood that are internationally recognized as indigenous in nature. Therefore, in this paper, the indigenous groups in North-East India are those groups that are classified under the general category of Schedule Tribes.

#### ***The Indigenous Group-Differentiated Rights in North-East India***

In North-East India, we have various kinds of recognition and accommodation of ethno-cultural diversity and differences. In a nutshell, we have indigenous rights in various forms. This varies from mere symbolic recognition of indigenous cultural symbols to internal self-government rights that vary significantly group to group. We have indigenous rights to self-rule, measures of exclusion, and sensitive forest rights legislation. If critically observe, those can be linked with the United Nations Declaration on the Rights of Indigenous Peoples.

The formation of the states in North-East India makes some indigenous group a majority in their respective states. The creation of Meghalaya, Mizoram from the then Assam are based on ethno-cultural basis. Apart from language, the concentration of tribes in those areas played a big part in the demand, and later on formation of regional state in North-East India. The sixth schedule provides for the administration of tribal areas in Assam, Meghalaya, Tripura and Mizoram to safeguard the rights of the tribal population in these states. The Acts of Parliament do not apply to the Sixth Schedule area directly on the mentioned subjects, or applied with specific modifications or exceptions as the Council found fits. This gives territorial autonomy with formation of autonomous district councils that enjoys special powers to decide over the important socio-cultural and political affairs of the targeted communities. Recently, Arunachal Pradesh state legislative assembly passed a resolution in favour of bringing the entire state under the Sixth Schedule of the Indian Constitution with the argument that it is essential to safeguard the interests of the indigenous communities of Arunachal Pradesh. The autonomous councils have wide-ranging powers to make laws on land, forest management, agriculture, village administration; and have the power to execute them.

Article 371A and Article 371 G give some exclusive power to the state legislatures of Nagaland and Mizoram to hold important decision-making power regarding the applicability of parliamentary laws. Article 371A is a special provision with respect to the State of Nagaland which provides that no Act of Parliament in respect of religious or social practices of the Nagas, Naga customary law and procedure, administration of civil and criminal justice involving decisions according to Naga customary law, ownership and transfer of land and its resources, shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides. Article 371G gives similar power to the state of Mizoram which provides that no Act of Parliament in respect of religious or social practices of the Mizos, Mizo customary law and procedure, administration of civil and criminal justice involving decisions according to Mizo customary law, ownership and transfer of land, shall apply to the State of Mizoram unless the Legislative Assembly of the State of Mizoram by a resolution so decides. These two provisions provide a very strong form of multiculturalism through which the Indian union commits to protect the culture of the indigenous peoples. Article 371C provides special provision with respect to the state of Manipur. Article 371F provides special provision with respect to the state of Sikkim. Article 371H provides special provision with respect to the state of Arunachal Pradesh. These are some of the group rights that provided in the Indian Constitution.

The traditional self-governing institutions of different tribes are allowed in North-East India. For instance, we have Doloiship, Syiemship, Nokmaship in Meghalaya that are protected under the Indian Constitution. The different traditional institutions protected variously under the Indian Constitution runs as per the traditional customary laws of the respected communities that vary from group to group, region to region to region, and also in many cases, from village to village, and clan to clan<sup>3</sup>. In the areas of Assam where the indigenous communities do not form the majority, we have the presence of non-territorial statutory councils formed by the state govt. The statutory councils in Assam are constituted for social, economic, educational, ethnic, and cultural advancement of the Scheduled Tribe communities living in core areas as well as in Satellite Areas covering many districts of Assam. Both the territorial and non-territorial councils present in North-East India basically grounded on the realization of the Indian Union that the indigenous groups living in those areas requires special protection and care. Apart from all the territorial and non-territorial arrangement of tribal autonomy, one important aspect that requires special care is the indigenous way of dealing land relations. On the importance of land rights, Will Kymlicka wrote, “The survival of indigenous cultures throughout the world is heavily dependent on protection of their land base, and indigenous peoples have fought tenaciously to maintain their land”<sup>4</sup>. Each tribe in North-East India carries different way of managing land relations. These are protected through the special protective measures of sixth schedule, Article 371A, Article 371G in different ways.

Another important aspect that requires special mention when the discussion of indigenous rights is concerned is the issue of forest rights. The forest plays an important part in the living and livelihood of tribes, and also carries important value to the tribal cultural survival and tribal identity. The relation of tribes with the nearby forest areas is undeniable, close, and also universal phenomena found in all the indigenous groups around the world. The Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006; popularly known as the Forest Rights Act given the indigenous communities to claim their right over the forest lands<sup>5</sup>. The Forest Rights Act is not specific to North-East India, but so far, it is implemented in Assam, and Tripura. When discussed about the rights of indigenous peoples; it is also essential to consider the mechanism that provides for restricted entry into some of the areas inhabited mostly by the indigenous peoples.

The Inner Line Permit is a requirement to visit some or whole areas of Arunachal Pradesh, Mizoram, Manipur, and Nagaland. It restricts the entry of other Indian citizens in those territories where the mechanism is working. The concept begins during the colonial period under the Bengal Eastern Frontier Regulation Act 1873 that introduced the concept in the region. With the introduction of Inner Line Permit, the traveler in the demarcated areas requires an official document or permit of travelling that are normally issues for a limited period of time. It is believed to limit the exposure of tribes, tribal cultures from the outside forces. The movement for the restricted entry of outsiders in their demarcated area or state is increased in the recent decades in North-East India.

Therefore, we have territorial and non-territorial autonomy, recognition of traditional decision-making institutions and customary laws, recognition of indigenous knowledge system, culturally defined notions of rights, recognition of the requirement of special forest rights, restricted entry of outsiders in North-East India. This forms a web of group-differentiated rights in North-East India.

#### **IV. Conclusion**

In this study, it is tried to show that politics of cultural diversity in North-East India went beyond the symbolic recognition, and indeed form some strong existence of differentiated citizenship rights prescribed by the theorists of multiculturalism. Those differentiated citizenship rights vary in its nature, and extend from group to group; thus, regarded in this study as group-differentiated rights.

#### **References**

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<sup>3</sup> Goswami, Atul. (2002). *Traditional Self-Governing Institutions among the Hill Tribes of North-East India*. New Delhi: Akansha Publishing House.

<sup>4</sup> Kymlicka, W. (2007). *Multicultural Citizenship: A Liberal Theory of Minority Rights*. New York: Oxford University Press.

<sup>5</sup> *Forest Rights Act*. (n.d.). Retrieved March 10, 2022, from Ministry of Tribal Affairs, Government of India: <https://tribal.nic.in/FRA.aspx>.