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# Rights of Indigenous People: A Comprehensive Study of Niyamgiri Hills Case and Saramakapeople and State of Suriname

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## ABSTRACT

*Sustainable development is indispensable for the survival of human beings. Every nation and its people have the right to development. However, if such development is at the cost of marginalized sections of society, it is short-term and unsustainable. Moreover, such development results in injustice in marginalized communities. Tribal people are part of such marginalized groups which are victims of such injustice. They have been deprived of their basic human rights for centuries.*

*Tribal people have their identity attached to their distinct culture and land. Apart from the identity crisis, they also face issues such as the right to property, displacement, rehabilitation, etc. It is vital for these people all over the globe to have easy access to their lands and territories, as well as to ensure that the natural resources on those lands and territories are protected and preserved. In every country of the world, tribal people are vulnerable, and their rights are often sacrificed in the name of development.*

*A comprehensive study of two different tribes in different parts of the world on the similar issue regarding rights of their community from oppression of corporate giants and sovereign authority, Dongria tribe in India and Saramaka people in Latin America are two such tribes that have the same story to tell. Both Tribes became victims of blindfolded developmental practices, and they fought against that. Fortunately, their voices were heard, and justice was delivered. The researchers in this paper have comparatively analyzed these two case studies. The present paper reflects the doctrinal research done by the researchers about the factual histories, issues, and the final decisions in both these cases.*

## I. INTRODUCTION

The success of a nation is determined by the development that occurs during the course of time

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but whether the development by distrusting the livelihood of the Native people of a particular place for the so-called development. Any development that will amount destruction of the rights of the humans and basically the native people of the place is a violation of international treaties and the rights of the indigenous people.

Law is an interconnected and interdisciplinary study that overpowers and governs other studies present due to that interconnection between other aspects of the society and thinkers, humans rights can be found under various social and Analytical thinkers existing in other domains. All domains mainly state a relationship between man and the state, which contains sovereign power and ideal aspects of a state should be and what are ought to be. A relationship that is constantly evolving with the required needs of a man from its state. Human Rights are present in various, and ever changing paradigms of multiple studies are all tried to define their ideal standards of the human rights that can be provided and protected by law. Human rights, according to jurists, are those unalienable privileges and rights guaranteed to all citizens by the state from the moment of their birth and which must be upheld at all times by the state's laws and regulations. Human rights, according to Merriam-Webster, are fundamental rights that are available to all people. These are the rights that are bestowed onto a person from the minute he or she is born on this planet.<sup>3</sup>

"Declaration des droits de l'homme et du citoyen" (Declaration of Rights for Man and Citizen) was issued on August 26, 1789, by the National Constituent Assembly, which detailed the rights of individuals and collectives during the French Revolution<sup>4</sup>. However, despite appreciation from certain Assembly members for the Magna Carta and other constitutional writings, such as the Declaration of Independence, this resolution rejected appeals to historical records that proclaimed human rights to be inherent, universal, and inherent<sup>5</sup>. We all are aware that rights are governed by obligations that every right is present with its corresponding duty, and both are interdependent. Human rights basic concept is based on equality regardless of their race, color, dignity, place of origin, caste, etc. in the present context in the study of social origins and their effects on human rights norms, practices, theories, producers, and institutions is a sociologist's view of human rights. After the industrial revolution in the mid-1800s, the notion of sociology of human rights evolved. Traditional jurists such as Karl Marx, Max Weber, and Emile Durkheim were skeptical about the concept of human rights, but

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<sup>3</sup> sociological-aspects-human-rights

<sup>4</sup> Declaration of Rights of Man and Citizens, 1789

<sup>5</sup> The Declaration of the Man and of the citizens, 1789

contemporary sociological jurists have assisted in its growth and acknowledgment.<sup>6</sup>

Depending on the locale, indigenous people are referred to as First People or Native People. Indigenous people have lived in the area since its inception, making them the area's original occupants. Previously, several attempts were made under international law to classify indigenous people. For instance, the International Labor Organization, the United Nations, and the World Bank have attempted to define who indigenous people are. Native people of any society amount to certain special rights and protection due to their fundamental indifference towards the industrializing society. Native people are considered the first person to be residents of a particular place from the era of documentation, and to be the fact the native people are protected towards their kind, livelihood, place, and the surrounding they are living in due to the favorable conditions for their tribe and people. Rights are claims, but not all claims are rights. In the absence of recognition, claims have no weight; claims that cannot be enforced are worthless. When society recognises a claim as a right, it becomes a right that the state must uphold and enforce.<sup>7</sup>

## **II. STATISTICS OF INDIGENOUS TRIBES AND TRIBES IN INDIA**

According to the 2011 census, India's tribal population totals 8.6% of the country's total population, or around 104 million people (68 million people according to the 1991 census).<sup>8</sup>This is the most populated human race in the world. Indian states Jammu and Kashmir, Himachal Pradesh, and Uttar Pradesh have a common ancestry with the eastern Indian states of Assam and Meghalaya as well as Mizoram and Nagaland. Andhra Pradesh & Andhra Pradesh are among the states in central India that have a high concentration of tribal peoples. This area is bordered on the north by the Narmada River and on the south-east by the Godavari River.

The term "Adivasi" is used to describe tribal people in India. The term "Adivasi" refers to a wide range of Indian aboriginal ethnic and tribal groups. Even while other terms for Indian tribes include "forest dwellers," "hill people," and "girijan," Adivasi was coined particularly for that reason in the 1930s, implying that they were the original and autochthonous occupants of a certain location.

Special rights and seats in legislatures and schools have been granted to 573 groups classified as Scheduled Tribes. Only 18 Chaimals live in the Andaman Islands' Gonds and Santals. The

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<sup>6</sup> Legal service India E-Journal Article on Human Rights and Sociology

<sup>7</sup> Theory of Function of will of Rights by Hohfeld(1919, 36)

<sup>8</sup> "Indigenous Peoples in India," International Work Group of Indigenous Affairs, and Accessed 16, August 2016 from <http://www.iwgia.org/regions/asia/india>

Gonds have a population of 7.4 million, while the Santals have a population of 4.2 million. The Central Indian states, which house the majority of the country's indigenous population, are home to the vast majority of the country's indigenous population.

It is in these Central Indian states, which are home to most of the country's indigenous population that they are concentrated.

The Lokur Committee produced this broad working definition in its Advisory Committee Report on the Revision of Scheduled Castes and Scheduled Tribes, which the national government generally adheres to. It describes "Scheduled Tribes" as communities of Indigenous people with "primitive features, distinctive culture, geographical isolation, shyness of interaction with the population at large and backwardness."<sup>9</sup>.

For the Scheduled Tribes, whose "backwardness" in terms of social, educational, and economic standing is recognised by the Indian Constitution; the Constitution uses paternalistic and discriminatory language to ensure that they are "protected" from societal injustice. Articles 15(4)<sup>10</sup> and Article 46<sup>11</sup> prohibit different forms of exploitation. In India, the government has designated various historically disadvantaged groups of people as Scheduled Caste (SCs) and Scheduled Tribes (STs). There are several organisations that fall within one of the categories established in the Indian Constitution. It was under British control in India that the "Depressed Classes" were referred to. This term is used in contemporary literature to describe the Scheduled Castes, or Dalits. Previously, they were known as the Untouchables. India's Scheduled Caste and Scheduled Tribe populations make up around 16.6 percent and 8.6 percent of the total population, respectively (according to the 2011 census). 1,108 castes from 29 states are listed in the Constitution (Scheduled Castes) Order of 1950, while 744 tribes from 29 states appear in the Constitution (Scheduled Tribes) Order of 1950<sup>12</sup>.

In India the recognition of Adivasi people or scheduled tribal people preferential but necessary due to their rights are affected on a daily basis due to the corporate greed and due to their resource rich surroundings but these resources are their livelihood rather a consideration for development. It is the role and obligation of the state to safeguard the rights and welfare of all of its citizens, regardless of whether they are actively participating or otherwise.

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6 "Indigenous Peoples in India," International Work Group of Indigenous Affairs, and Accessed 16, August 2016 from <http://www.iwgia.org/regions/asia/india>

<sup>10</sup> Article 15: Prohibition of discrimination on the grounds of religion, race, caste, sex, or place of birth. (special laws regarding scheduled tribe)

<sup>11</sup> Article 46: Promotion of educational and economic interest of Scheduled Castes, Scheduled Tribes and other weaker sections.

<sup>12</sup> Survey of India, 2011

### **III. ATTEMPTS TO DEFINE THE INDIGENOUS PEOPLE AND TRIBAL PEOPLE**

ILO General Conference passed a convention (convention no. 107) in 1957 to protect and integrate indigenous, tribal, and semi-tribal peoples. It is still in effect immediately. International Labor Organization (ILO) changed its prior convention in 1985 because of new global views and practices toward these workers. They saw the necessity to alter the previous convention. According to ILO Convention 169, enacted in 1989, indigenous peoples are individuals who are derived from populations who lived in the country or a geographical region to which the country belongs at the time of conquest or colonization, or even before it was constituted as a country. The definition is based on recommendations from multiple international agencies and an expert committee constituted by the ILO."

The World Bank's Operational Directive said that the variety of indigenous peoples was continuously changing, making it difficult to provide a consistent definition for them. According to the Operational Directive, indigenous tribes often meet the following characteristics: "The terms 'indigenous peoples,' 'indigenous ethnic minorities,' 'tribal groups' and 'scheduled tribes' describe social groups with a social and cultural identity distinct from the dominant society, making them vulnerable to being disadvantaged in the development process."

Another definition can be found in the "UN Study on Discrimination against Indigenous Populations." As a consequence of this research, a working definition was produced, although another definition was offered because several important components were lacking; Indigenous tribes, peoples, and countries regard themselves as unique from the rest of civilization because of their ties to pre-invasion and pre-colonial cultures that emerged on their country. As the cornerstone of their continuous existence as a people, they are dedicated to the preservation, development, and transmission of their ancestral land and ethnic identity to future generations in line with their own cultural traditions.

### **IV. WORLDWIDE ISSUES REGARDING INDIGENOUS PEOPLE AND TRIBAL PEOPLE**

#### **Mining Warning**

Throughout thousands of years of coexistence with the environment, indigenous people and their communities have not caused damage to the ecology. Due to mining the species reserved and present in a particular ecosystem can be extinct due to failure to maintain their natural habitat. The ecosystem works on the delicate balance of the species and its relation with the resources and non-biotic elements.

**Development Crisis**

'Development' proponents disregard the Adivasis' political and economic rights to their lands. Furthermore, native communities that have lived in these locations for many years are financially influenced. Cultural genocide and exploitation result as a result of this. These disputes are fueled by widespread corruption and privatization. The 'resource curse' plays out in locations like Niyamgiri in this way.

**Green Washing in the Workplace**

Vedanta's bauxite mining project in Andhraut would devastate the environment and the lives of Adivasis. The corporation's deceptive claim that aluminum is "green" conceals the material's disastrous environmental consequences. Bauxite refining, in practice, produces 'red mud,' a poisonous solid waste that cannot be recycled. As a result, nonrenewable resource extraction and use must be reduced.

**Protector in Ecological System**

The Movement was a reaction to the logging of trees and the loss of forests. The purpose of their demonstration was to safeguard wildlife and their natural environment. They resisted a corporate behemoth that sought to mine their mountains for minerals, leaving their natural sanctuary barren and uninhabitable. Adivasis have traditionally been stewards of the environment and its resources. The purpose of their demonstration was to safeguard wildlife and their natural environment. They resisted a corporate behemoth that sought to mine their mountains for minerals, leaving their natural sanctuary barren and uninhabitable. In some areas the tribal people are seems as rebels who are against the state interest but in reality they are safeguarding their society.

Indigenous people avoid contact with the civilizations outside their own existence due to maintaining their race as factor of consideration and as indigenous people are not in contact with the world as a factor of globalization, they are in general are not immune of the diseases present in the modern civilization. There are certain factors involved for non-involvement by Indigenous people to other modern society present:

- i. Spread of diseases
- ii. Lack of proper immunities
- iii. Educational, Cultural and Economical
- iv. Race

## V. LAND GRABBING AND TRIBAL RIGHTS- A HISTORICAL PERSPECTIVE

As many as 300–370 million people, or around 5–7 percent of the world's population, are termed "Indigenous people.". These people speak more than 5,000 languages from around the world, and they live in some of the world's most biodiverse areas. As a result of what has been labelled "modernity" and "globalisation," their existence as unique peoples and civilizations is under danger<sup>13</sup>.

- In certain parts of the world tribal people are considered a threat to the state due to the non-entrance policy of tribe's for example sentinels islands in India or cetin tribes Amazon rainforest that in combat with the Brazilian Army for the safeguard of the land they are residence for several centuries. Tribal community in general is extremely protected of their land due to the living standards and resources they acquire from their land and in some cases religious belief are in the consideration. The tribal People believe that the land they are living on is a part of or have a significant meaning related to it because it helps them survive and provides for them.

- The United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR) in 2007. It covers indigenous people's rights, including cultural, ethnic, and linguistic freedoms. As a result, they may avoid prejudice and pursue their own ideas on how to improve their society and the economy.<sup>14</sup>

- In this particular Article Rights of Indigenous people are discussed and their ownership rights on their land whether state have the authority to allow mining or displaced the indigenous people from their ancestral land. This Particular Article also mentioned a Case study with comparison with the Landmark case of Niyamgiri tribe case and Saramaka People vs. State of Suriname and comparative analysis on the decision and the aftermaths of the case and present situation.

In contrast to the original tribal people, who were prohibited from cutting down huge chunks of trees, outsiders have frequently been permitted to do so, and mono plantations have progressively replaced the once-mixed forests that formerly covered the region. Bribing local authorities to obtain unlawful use of forestland has been much more successful for non-tribes than for their forest counterparts, who have been unable to do so.

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<sup>13</sup>World Bank, "Operational Directive 4.20: Indigenous Peoples," in *Indigenous Peoples and International Organizations*, ed. Lydia Fliert (Nottingham: Russell, 1991); United Nations, "State of The World's Indigenous Peoples," United Nations Permanent Forum on Indigenous Issues (2009); International Work Group for Indigenous Affairs, *The Indigenous World 2000/2001*

<sup>14</sup> United Nation charter, 2007



## **VI. TRIBAL RIGHTS UNDER INTERNATIONAL LAW**

### **Cultural Rights:**

According to the Universal Declaration of Human Rights, indigenous peoples have a fundamental human right to equality. To be free from violence or genocide and to live in peace, Article 7 of the Universal Declaration of Human Rights protects the right. It is also ensured that they be not subjected to any kind of cultural deterioration in any way.

Indigenous peoples have long battled for the right to self-determination, making it a core value. Article 3 protects this right to self-determination. As a political and cultural force, they may develop a reputation for themselves with this authority. Self-government and cultural survival need the ability to manage and protect one's own land and natural resources.

### **Ownership and Control Rights**

Article 36 of the declaration states that they have a right to the land and territory that they originally had in their possession. There is nothing stopping them from using their natural resources however they see appropriate. The state must protect its land and natural resources in order to preserve the traditions and cultures of its population.

### **Social and Economic Rights**

According to Article 21, indigenous peoples have a right to continually improve their social and economic conditions in order to better their own well-being.

On June 27, 1989, the United Nations adopted the United Nations Indigenous and Tribal Peoples Convention, No. 169, which acknowledged indigenous and tribal peoples' land ownership rights. People who have lived here for millennia deserve to have their rights to the land respected. To protect indigenous groups' traditional rights to food and traditional activities on land that is not entirely theirs, additional steps will be adopted if the conditions are suitable. Consider both nomadic peoples and moving farmers when it comes to this.

### **Certain State Responsibilities**

Native people of any community are considered to be backward as compare to the recent standards of the society but the native people are first citizen. The state is required to provide indigenous peoples with financial and technical aid after speaking with them. When indigenous people's rights are infringed, they are entitled to adequate complaints and effective remedies. Indigenous people are required and protected by the state under special circumstances by the

state due to the special status presented to them for safeguard their heritage and cultural practices. It was created in 1987 by the Indian Council of Indigenous and Tribal Peoples (ICITP) and is a member organisation of the World Council of Indigenous Peoples. During the ICITP workshop, an agreement was reached: Indian Scheduled Tribes are part of the larger category of "indigenous people."

A total of 461 ethnic groups, together referred to as Scheduled Tribes, make up India's indigenous population. Article 341<sup>15</sup> and Article 342<sup>16</sup> of the Indian Constitution allow the president to prepare a list of Scheduled Tribes and Scheduled Castes after consultation with the governor of the appropriate state. In many interpretations of India, indigenous peoples and their rights are acknowledged.

Indigenous people and Tribal people won't let globalization be the factor of involvement due to corporate greed and rights and their cultural and political rights are ignored compared to the environmental resource in compare to their lives. According to the reports the people of every tribe are dependent on the environment and their lives and livelihood are interdependent on the resources presented in the environment, in several cases development and extraction of these resources can and cause permanent damage to the established tribes.

## **VII. SARAKA PEOPLE AND NIYAMGIRI TRIBE- VICTIMS OF ENVIRONMENTAL INJUSTICE (WHAT IS ACTUAL CASE)**

### **Dongria Tribes and the Niyamgiri Hills Case**

The Niyamgiri hills in Odisha state have quite a tremendous of biodiversity in the form of forests that is home to a lot of different flora and animals, including endangered Bengal tigers and Indian elephants. In 2004, the state of Orissa recognized this region as an elephant reserve. Niyamgiri Hills' forest region was also home to the Dongria Kondh, an Indian tribe who had been particularly vulnerable.

The Niyamgiri hills in Orissa state are home to endangered Bengal tigers and Indian elephants. The Dongria Kondh, one of India's most vulnerable tribes, reveres both the mountains (masculine) and the land (female). Their art represents repeating events, and their survival is dependent on the ecosystem's integrity.

Communication strategies in the Kandhamal Kondh language may be split down into four broad categories. The Dongria Kondh communities' dwells in the Niyamgiri hill range in

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<sup>15</sup> Article 341: Scheduled Cates, Constitution of India, 1949

<sup>16</sup>Article 342: Scheduled Tribes, Constitution of India, 1949

Odisha state, eastern India and are known for their unique jewellery, tattoos, and hairstyles. They have been threatened with mining by Vedanta Resources, which intended to harvest \$2 billion worth of bauxite that lies beneath the surface of the hills. Millions of people rely on the Vamshadhara River for drinking and agricultural water. The Dongria have contributed to the conservation of their woodlands' great biodiversity. Tigers, leopards, giant squirrels, and sloth bears are native to the region.

It was in 1997 that the state of Odisha inked an agreement with a UK-based mining corporation, Vedanta Resources, to build an aluminium refinery at the foot of Niyamgiri Mountain. Vedanta Resources is a former FTSE 100 mining firm that was formed by Indian billionaire Anil Agarwal, who still serves as Chairman and owns more than half of the company's shares. The Dongria would have suffered immense losses if the mine had gone forward; their current good health, self-sufficiency, identity as a people, and thorough knowledge of their environment would have all been lost. Anil Agarwal would have received a major chunk of the benefits.

The Niyamgiri Mountain in the Andaman and Nicobar Islands of India was anticipated to contain 75 million tonnes of bauxite, which Vedanta Resources planned to acquire and mine. The Dongria Kondhs, who are members of the greater Kondh community, led protests against Vedanta Resources right away. Bauxite is abundant in the Niyamgiri hills, which are located in the state of Odisha. The project, on the other hand, put the Dongria Kondh tribe's livelihood and habitat at jeopardy. As a result, under the pretext of development, tribes were uprooted and the environment was damaged.

A joint venture between Vedanta and OMC to mine bauxite, an essential raw ingredient for aluminum, from the Niyamgiri hills for the refinery sparked a protest from around 110 communities in the area. They believe that Niyamgiri's mountains house their god Noam Raja, who is worshiped by several indigenous groups.

Because the Forest Rights Act of 2006 was not recognized by the Union Environment Ministry in 2010, the second stage of forest clearing for a mining project was rejected. The ruling was appealed all the way to the Supreme Court. Vedanta Aluminum Limited and the Government of Odisha signed a Memorandum of Understanding (Mou) in 2003. (VAL). An alumina refinery and a bauxite mining plant offered substantial profits for the state's industrial progress.

Because of evidence that Vedanta-owned firms were harming human health and the environment, India's Supreme Court halted the Niyamgiri Hills mine in 2007. The only exception was Vedanta, which received authorization to extract bauxite from an existing mining site.

Vedanta and the State of Orissa were granted permission by the Indian Supreme Court in 2008 to conduct a joint mining operation. Since environmental standards were repeatedly broken during a Ministry of Environment and Forests site inspection in 2010, the agreement was terminated as a consequence.

The Odisha government is disputing the authority of Gram Sabah's in acquiring land for development projects. This is a dubious and irrational action, writes Praveen Agrawal. The lack of uniformity in the PESA has been a major problem since its inception.

Compensation is increased from the average registered sale deed to between two and four times the average compensation. Those that don't own land may also make claims. The Indian government's Ministry of Environment and Forests denied the project's second forest clearance in 2010. An appeal to the Supreme Court followed. Courts concluded in 2013 that Gram Sabhas, or village councils, must provide their approval before the project can go forward.

### **Saramaka People vs. State of Suriname<sup>17</sup>**

Suriname, a republic on South America's north-eastern coast, is one of the nine countries that make up the immense Amazon jungle. The Amazon occupies 94 percent of Suriname's territory, with a surface area of 163,820km<sup>2</sup>. The bulk of indigenous peoples in the interior of the country still follow their traditional ways of hunting and farming.

Saramaka people are direct descendant of the Maroon Tribe. The Saramaka is one of Suriname's six different Maroon communities. Their forefathers were forcibly brought to the nation as African slaves in the 17th century. There are twelve matrilineal clans among the Saramaka people.

About 34,000 people reside in 63 localities along the Upper Suriname River, as well as many displaced communities in the northern and western areas of Suriname.<sup>18</sup>By evicting the Saramaka indigenous people and violating their land rights, the Inter-American Commission on Human Rights (IACHR) determined that Suriname had violated the Saramaka's human rights (IACHR).

In the Upper Suriname River region, indigenous Saramaka people have had their land and property rights seized by the government. Their property rights have been violated by the government, according to the Commission. As a result, the State has not been able to protect the fundamental rights of its citizens, including their right to own property.

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<sup>17</sup>IACHR Series C no 185, IHRL 3058

<sup>18</sup>Saramaka People v. Suriname, Preliminary Objections, Merits, Reparations and Costs,

It was awarded to Saramaka chief captain Wazen Eduards and law student Hugo Jabini for ensuring the rights of indigenous peoples and Maroons to protect their lands in the Philippines. ". When the case was decided by the binding Inter-American Court, it altered international law by requiring free, prior, and informed authorization for important development projects in the Americas to be given in advance. Only their towns' 9,000 square kilometers were saved, but they also laid the foundation for thousands of others to be saved as well.

### **Violations against the Inter-American Convention on Human Rights**

- Article 1: Obligation to Respect Rights
- Article 1(1): Obligation of Non-Discrimination
- Article 2: Obligation to Give Domestic Legal Effect to Rights
- Article 3: Right to Juridical Personality
- Article 21: Right to Property
- Article 25: Right to Judicial Protection

Saramaka People applied to the Inter-American Court under the Articles listed, and Suriname refused international responsibility for these crimes and raised requirements for this application brought by the Saramaka people in the Inter-American Court of Human Rights.

It is stated that their property was granted logging and mining concessions without their permission or knowledge. Members of the ILC's Database of Good Practices have contributed their knowledge and expertise to help advance people-centered land governance, as seen by the inclusion of this case study.<sup>19</sup>

To ensure the protection of the rights protected by the American Convention, States Parties are obligated to conform their domestic laws to Convention standards. According to Article 2 of the American Convention, domestic legislation must be adapted to the American Convention "in order to achieve practical results."<sup>20</sup>

### **Guidelines Mentioned by International American Charter on Human Rights**

It has been more than a decade since the Saramaka people have been searching for justice that should be a matter for the state to begin with and under the Inter American Commission of Human Rights Article 2 and that the state should organise their legislation in favour of Indigenous people and their territory and rights. In this instance, the state fails to fulfill its

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<sup>19</sup> The Rise of Peoples' Rights in the Americas: The Saramaka People Decision of the Inter-American Court of Human Rights

<sup>20</sup>YakyeAxa, Indigenous Community v. Paraguay. Merits, Reparations and Costs. Judgment of June 17, 2005.

obligation to safeguard the state's indigenous people.

An argument may be made for people-centered land governance. The judgement of the Inter-American Court of Human Rights has had a significant effect on human rights legislation since it was handed down. Also affirmed by the court is its commitment to defend indigenous and tribal peoples' rights to their land<sup>21</sup>. It emphasizes the need of indigenous peoples appointing their own representatives for dialogue and governance, as well as ensuring that domestic laws and policies do not just announce rights, but also incorporate actual mechanisms to make such rights effective.

The Inter-American Court of Human Rights ruled in favour of the Saramaka People v. Suriname on November 28, 2007. This is a problem in Suriname when it comes to government personnel issuing logging and mining licences without their full and effective involvement. Supreme Court ruled in favour of indigenous people's right to use and enjoy natural resources in and around the historically-held territory.<sup>22</sup>

Saramaka people's land shall be delineated, marked, and awarded collective title in accordance with Saramaka customary laws and following prior, effective, and fully informed consultations with the Saramaka people, according to the Human Rights Act and ten additional legislation<sup>23</sup>.

Governments must take whatever procedures are required to identify the land that the peoples in question have traditionally occupied and to ensure that their ownership and occupancy rights are successfully protected. Appropriate processes for resolving land claims by the peoples affected must be created within the national legal system.<sup>24</sup>

People's rights to the natural resources on their land must be protected, especially those of indigenous groups. Participation in resource management and protection are among these peoples' human rights. In order to ensure that these people's interests are protected before authorising or implementing such programmes, governments must build or maintain systems that allow these people to be consulted<sup>25</sup>.

## **VIII. "INDIGENOUS SOVEREIGNTY" AND RIGHT TO SELF-DETERMINATION: JUSTICE TRIUMPHS**

In the context of the State, "indigenous sovereignty" refers to a claim of autonomy and legitimacy as a sovereign power. That notion of cultural and legal diversity should be

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<sup>21</sup> ILC case study Suriname

<sup>22</sup> The American Journal of International Law, Vol. 102, No. 4 (Oct., 2008)

<sup>23</sup> [www.culturalsurvival.org](http://www.culturalsurvival.org)

<sup>24</sup> <https://www.ohchr.org/>

<sup>25</sup> Article 15 OHCHR

preserved. This source discusses the rights of indigenous peoples to self-determination.<sup>26</sup> Self-determination is one of the most widely accepted international norms in practise (Hannum, 1990). However, complications arise almost immediately after deployment. When reservations and caveats are added to the notion, it gets more complicated.<sup>27</sup>

Academics believe that the concept of "indigenous sovereignty" plays an important role in the acknowledgement of indigenous identities and rights as distinct and autonomous. Irrespective of indigenous language and vocabulary, the term "indigenous sovereignty" implies colonial thinking that sees assimilation as the ultimate goal of the indigenous sovereignty movement.<sup>28</sup>

“The power of indigenous communities to imagine themselves, to be creators of them as subjects rather than objects of law and history, it enables the re-conceptualization of Aboriginal identities as bearers of rights, obligations and unique nationhood, as agents of their own destiny.”<sup>29</sup>

Using the term "indigenous sovereignty" does not imply a recognition of inherent sovereignty under the governance of the nation-state. From Indigenous Traditional Knowledge, which is exclusive to each Indigenous country, tribe, first nation, hamlet, and so on. Whichever the nation state undertakes, indigenous sovereignty is a reality.<sup>30</sup>

## **IX. THE VICTORY OF TRIBES: A WAY OF FUTURE HOPE**

Law provides protection for the people and their territorial rights as well but due to for the so called development the state take advantage of the resources available to sustain the living of the Indigenous people. Development of a nation should be rapid but not at a cost of lost in an ancient civilization and culture that is persevered for decades.

The ILO Convention 169 must be ratified by India. Site visits and "impact assessments" on the indigenous population are only done after getting their "free, prior, and informed agreement" in compliance with The Forest Rights Act, 2006 and after doing these visits and conducting a "impact assessment" on the indigenous community. If the affiliate agrees, they must then order "forest clearances" that include plans for restoration, resettlement, and adequate compensation.

Infrastructure projects, including public-private partnerships, are exempt from the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement

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<sup>26</sup>“Indigenous sovereignty” and right to self-determination in international law: a critical appraisal, First Published March 15, 2021

<sup>27</sup>“Indigenous sovereignty” and right to self-determination in international law: a critical appraisal, First Published March 15, 2021

<sup>28</sup> Indigenous people and their sovereignty

<sup>29</sup> Otto, 1995, Paragraph 83

<sup>30</sup>[https://brooklynworks.brooklaw.edu/Journal\\_of\\_law\\_and\\_Policy](https://brooklynworks.brooklaw.edu/Journal_of_law_and_Policy), Volume 7

(Amendment) Ordinance, 2015. "Ensure that effective methods for implementing tribal land rules are in place, including the return of acquired lands to their original owners.

Enforce current anti-discrimination laws and propose implementing comprehensive anti-discrimination legislation, which includes security force training and consequences for behaving indiscriminately. The 1949 Constitution uses terminology like "primitiveness" and "backwardness" to describe Scheduled Tribes, which should be removed from all Ministry of Tribal Affairs materials on the internet. The UN Special Reporter on Indigenous People's Rights will accompany you on a trip to India. Create an Indigenous Peoples' Rights National Implementation Plan in accordance with the World Indigenous Peoples' Conference Outcome Document.

### **Achievements under Saramaka case**

The State must: delimit, demarcate, and title Saramaka lands, and refrain from any actions that could affect the Saramaka people's existence, value, use, or enjoyment of their territory until this is done; affirm the Saramaka people's legal personality and thus their collective juridical capacity, in accordance with their own customary laws and traditions; and affirm the Saramaka people's legal personality and thus their collective juridical capacity, in accordance with their own customary laws and traditions. Before granting concessions for any development or investment project in Saramaka territory, conduct environmental and social impact assessments. Then put in place the necessary safeguards and procedures to ensure the Saramaka people's social, economic, and cultural survival.

## **X. CONCLUSION**

As the environment and people are co related to each other but the knowledge the some communities those are protector and reside only in the natural habitat provided by the nature and dependent on it. It's the duty of the state and authorities to safeguard the people from any exploitation from effect of globalization and the corporate giants in extraction of the resource present in the areas reversed under the protected area for protected people. Even though the people are not educated and live in the present society they still a apart of the state and the law is able to safeguard their interest as per their needs in both the cases tribal people got their basic rights and goal secured by the law itself.

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