



## The United Nations Declaration on The Rights of Indigenous Peoples vis-a-vis The Sixth Schedule of The Constitution of India: A Study on Tribal Right to Self-Governance

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### Abstract

The Systemic discrimination faced by the Indigenous Populations around the world has influenced the United Nations to take standard settings on this vulnerable section of the society seriously. The pace, however, is slow with no legally binding instrument passed by the organization. At present the ILO Convention of 169 and the United Nations Declaration on the Rights of Indigenous Peoples, 2007 are the legal instrument on the subject which recognizes some of the basic human rights of the community. One of the basic rights that is observed in both instruments is the right to self-governance. The idea is for the community to have their way of living and maintain their culture, customs, practices, and traditions, and governed by and for themselves. In India, from the time the drafting of the Indian Constitution began, the issue of administration of tribal community was discussed. This led to the incorporation of the Fifth and Sixth Schedule of the Indian Constitution. The latter in particular provides for a higher level of autonomy for the hill tribes of north-east India with the power to legislate, adjudicate, etc. through the constitution of the Autonomous District Council. Hence, the idea of self-governance that is recognized in a relatively contemporary international legal instrument such as the UNDRIP was already promulgated in a country like ours from the very beginning of independent governance in the form of the Sixth Schedule of the Indian Constitution. The present study will make a comparison between the UNDRIP and the Sixth Schedule with a special focus on the right to self-governance.

### I. Introduction

The status of Indigenous Peoples is distinct and important in the sense that they observe unique customs, beliefs, and culture and have a special relationship with nature. They are also characterized by distinct social, economic, or political systems. Preserving their traditional ways has often been seen to be the focus of several governments but they however experience systemic discrimination collectively or individually. Such discrimination is seen to be practised in different forms, such as neglect, indifference, poverty, lack of legal and constitutional rights, etc. José R. Martinez Cobo, who was the United Nations Special Rapporteur of the Sub commission on the Prevention of Discrimination and Protection of Minorities, in the year 1982, came up with a study which focussed on the systemic discrimination faced by Indigenous peoples worldwide.<sup>1</sup> In response to the findings, The UN Economic and Social Council (ECOSOC) created the Working Group on Indigenous Populations (WGIP) to focus on issues relating to the Indigenous Peoples worldwide. Its role was to make recommendations to the

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<sup>1</sup>Commission on Human Rights, *Study of the Problem of Discrimination against Indigenous Populations*, UN Doc E/CN.4/Sub.2/1982/2 (August 10, 1982).



Commission of Human Rights through the Sub commission. After a long process, the United Nations Development on the Rights of Indigenous Peoples (UNDRIP) was adopted in the year 2007.

In India, when we got our independence, one of the major tasks before the drafters of the Indian Constitution was the administration of tribal areas. It was clear, through the tribal uprisings and also the need to not marginalize the community, that India had to continue with providing protective safeguards. To study the position in such tribal areas and thereby propose a policy suitable to the community, the Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas, set up three sub-committees through which the fifth and sixth schedule was drafted and incorporated. The Sixth Schedule is considered to be evidence of the form of integrationist position taken by the Country concerning the Indigenous community. One that was suggested also by Scholars such as Verrier Elwin. Major considerations, therefore, on which the draft was prepared and accepted which we now see under the Sixth Schedule of the Constitution constitutes autonomy, integration, and development.

India is not a signatory to the ILO Conventions on the Rights of the Indigenous Peoples. It has, however, signed the UNDRIP which was a good initiative. Drawing a relationship between the UNDRIP and the Sixth Schedule is important to promote and protect the rights of the Indigenous Peoples of the Country. Also, one of the significant features that were seen in both the ILO Convention and the UNDRIP is the acceptance of the Indigenous People's right to self-governance. The tribal community in India also has a history of self-governance which was recognized by the British government and was sought to be maintained even after independence especially for the hill tribes.

The present study will make a comparison between the UNDRIP and the Sixth Schedule with a special focus on the right to self-governance.

## **II. Defining Indigenous Peoples**

Several communities claim themselves to be indigenous to a particular region. There is a lack of understanding of the concept of "Indigenous" in several States. The definition in itself is a very controversial one. Some nations do not accept the indigenous identity of some



communities to avoid their obligations for the promotion and protection of the human rights of the community. Even though there have been definitions by the ILO Conventions and the World Bank,<sup>2</sup> a universally accepted definition of indigenous peoples is still awaiting under international human rights law. It has always been debated, however, whether a formal and legal definition of such a diverse and heterogeneous community would at all be desirable. Because over the years, the community has been subjected to multiple definitions and classifications that have been imposed by others for them. Hence the community has time and again stressed their right to self-determination. That is, they have the right to define themselves rather than someone else defines them. Apart from this, the formal definition would also be futile because having rigid definitions would not accommodate different circumstances and characteristics hence limiting the flexibility of applying the legal international instruments to such communities.

However, as a working definition, the United Nations with the consent of indigenous representatives, accepted the definition given by Martinez Cobo, according to whom:

“Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of the society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their cultural patterns, social institutions, and legal systems.”<sup>3</sup>

Here, as you can see the important elements of the definition. First is historical continuity with pre-invasion and pre-colonial societies, the community must have existed or stayed in the region before the invasion. For Example, some Scholars say that in India the community that has existed in the State before Aryan Invasion is indigenous to the area.<sup>4</sup> The second element is that these communities should be distinct from other sectors of the societies, meaning that

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<sup>2</sup> World Bank Group, *Implementation of Operational Directive 4.20 on Indigenous Peoples: an independent desk review (English)*, Report No. 25332 (Jan 10, 2003).

<sup>3</sup> Commission on Human Rights, Study of the Problem of Discrimination against Indigenous Populations, UN Doc E/CN.4/Sub.2/1982/2 (August 10, 1982).

<sup>4</sup> Virginius Xaxa, “Tribes as Indigenous People of India” 34 *Economic and Political Weekly* 3589-3595 (1999).



they differ in terms of customs, practices, culture, language, and overall lifestyle. The third element is that these communities are not dominant sectors in society. Fourthly, they should be determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity.

Another definition of Indigenous Peoples is found under Article 1 of the ILO Convention 107.<sup>5</sup> According to this definition, Indigenous peoples are “tribal and semi-tribal populations in independent countries.” This definition divides members of such communities into two categories: *First*, that these population’s social and economic conditions are at a less advanced stage than the other sections of the society. Also, these communities must be regulated either wholly or partially by their customs and traditions or by-laws or regulations that are special for them. So, this category can also refer to tribes such as shifting cultivators or nomadic tribes who may not have historical associations with the particular region. Therefore, according to this category, it is the backwardness of these communities that prevent them from fully contributing to the progress of the national community of which they are part. *Second*, those who are regarded as indigenous because of their “descent from the populations which inhabited the country pre-invasion”. As was seen also in Martinez Cobo’s definition, historical continuity.

Legally, in India we do not use the term ‘Indigenous’, the equivalent to indigenous peoples have Scheduled Tribes (ST).<sup>6</sup> Article 366(25) defines Scheduled Tribes as those tribes or tribal communities as are deemed Article 342 as Scheduled Tribes which in turn defines the community as identified by the President as such. Hence, the definition of Scheduled Tribes here is also very vague. Identification of ST is also not mentioned in the Constitution, that is the criteria that influence the identification of a particular community as tribal. Based although on history and practice we find that some characteristics have been attached to a tribal community, as being primitive, having a distinct culture, are geographically isolated, are shy of contact with the community at large, and backwardness.<sup>7</sup> These characteristics today, do not

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<sup>5</sup> International Labour Organisation, Convention 107, art. 1.

<sup>6</sup> Indigenous and Tribal Populations, 1957 (No 107), para. 4.

<sup>7</sup> Government of India, “The Report of the Advisory Committee on the Revision of the Lists of Scheduled Castes and Scheduled Tribes” (Department of Social Security, 1965).



define all tribal communities in the country. Tribal Community in the country not being a homogenous one.

### **III. Rights of Indigenous Peoples under International Law: An Analysis**

Unlike the protection of other vulnerable groups such as Women, Children, etc., International Human Rights Law lacks legally binding conventions under the United Nations to protect the rights of the indigenous peoples. The International Labour Organisation, however, has taken progressive steps of adopting Conventions for the promotion and protection of the community's human rights.

International Bill of Human Rights: Although the International Bill of Human Rights consisting of the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights (ICESCR) does not consist within its specific rights concerning the Indigenous Peoples, one can, however, turn to these documents particularly for their right to self-determination and right to non-discrimination. A reading of article 3 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) shows that it mirrors common article 1 of the ICCPR and ICESCR. The right to self-determination is central for and is complementary to the achievement of many other rights of the Indigenous Peoples such as the right to culture and political rights including the right to participate in decision making<sup>8</sup> in matters affecting their right, amongst others. Also, the UDHR does not specifically provide for the right to self-determination, even though its preamble explicitly speaks of the colonial experience and how 'disregard and contempt for human rights have resulted in barbarous acts', its provisions on human equality and that all are equal before the law; right against discrimination;<sup>9</sup> right to own property;<sup>10</sup> right to take part in the government of his country, directly or through freely chosen representatives<sup>11</sup> are specifically relevant for the Indigenous Peoples.

ILO Convention 107, 1957: After the Second World War, the members of ILO were concerned with raising labour standards around the world. Along with certain United Nations affiliates

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<sup>8</sup> The United Nations Declaration on the Rights of Indigenous Peoples, 2007, art. 4.

<sup>9</sup> Universal Declaration of Human Right, 1948, art. 7

<sup>10</sup> Universal Declaration of Human Rights, 1948, art. 17

<sup>11</sup> Universal Declaration of Human Rights, 1948, art. 21



and subsidiary organs such as UNESCO, ILO began the process of drafting a convention that would outline the obligation of states to the Indigenous peoples under their jurisdiction in the year 1946. This discussion however lasted for several years, 11 to be precise, and later adopted in the year 1957 as the ILO Convention concerning the Protection and Integration of Indigenous and Other Tribal and Semi- Tribal Populations in Independent Countries, 1957 (No. 107). However, the Convention was not ratified by many states. Nonetheless, it is considered a milestone for the rights of the community under International law because it was the first international instrument to have specifically addressed the human rights of the community. Although most of the provisions focussed on Social, Economic, and Cultural Rights, Article 5 of the Convention also extended political rights. It obligates the government of the state parties to seek collaboration between the Indigenous peoples and their representatives and also to provide for an opportunity for the full development of the community and participate in elective institutions. Part IV of the Convention also recommended vocational training for persons belonging to the community.

The problem with the document was that at the very beginning it started advocating the assimilationist goal meaning that they considered the Indigenous peoples as a community that is lower on the evolutionary scale than the colonizing community. For Example, it describes the Indigenous Peoples at a less advanced stage than the colonizers. It also suggests that the process of losing their tribal identity is inevitable. Hence, this instrument at the initial stage aimed at assimilating the culture of the community with that of the colonizing community. That was the idea of development under the Convention. This was one of the drawbacks of the treaty. Amongst others, it also provides for land rights.<sup>12</sup> Where it states that the Indigenous peoples “shall not be removed without their free consent from their habitual territories unless the Government wants to develop the said territory for the benefit of the community.” This Convention was then revised in the year 1989 to amend the process from the assimilationist to the integrationist one. It is therefore replaced by the ILO Convention 169.

The ILO Convention 169: The Convention is today known as the Indigenous and Tribal Peoples Convention, 1989 (169). It consists of 44 Articles that are organized in 10 categories

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<sup>12</sup> Indigenous and Tribal Population Convention, 1957, art. 14.1.



that outline the minimum standards of the rights of the Indigenous Peoples. Among other things, it recognizes:

“The aspirations of [Indigenous] peoples to exercise control over their institutions, ways of life and economic development and to maintain and develop their identities, languages, and religions, within the framework of the States in which they live.”<sup>13</sup>

Hence this Convention sought to give more autonomy to the community, rather than forcing them to assimilate with the culture of the ones who are “more advanced” so-called. This is supported by Article 7 which recognizes the right of a community to prioritize their own developmental needs. According to the Convention, the Governments should uphold these rights and recognize the community’s unique historical and socio-economic position within the state and their integral connection to their territories and protects them against displacement. It also guarantees the right to equal employment opportunities,<sup>14</sup> right to health care<sup>15</sup> and education,<sup>16</sup> which includes being educated in their languages.<sup>17</sup>

Currently, this Convention also, like the previous one, does not have enough takers. That is, only 21 nations have ratified the Convention. One of the reasons for such low acceptance is considered by a few Scholars as being the inclusion of the Right to Self- Determination under it. It was through this Convention that for the first time the Right to Self-Determination of the Indigenous Community was recognized. Such an obligation was not acceptable by many nations. The nations that have ratified the Convention also have not taken their obligation of implementing the instrument seriously. Hence, the implementation of the instrument is observed to be weak amongst the state parties.

Despite its weaknesses, the instrument is celebrated by the Indigenous Peoples. Many leaders consider it to be an important step towards achieving respect for the human rights of the community, thereby improving the standards of living, etc. Hence the ILO Convention 107 was a pioneering instrument but considering its shortcomings the revised instrument is a landmark

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<sup>13</sup> Indigenous and Tribal Peoples Convention, 1989, Preamble of the Convention.

<sup>14</sup> Indigenous and Tribal Peoples Convention, 1989 (169), art. 20-23.

<sup>15</sup> Indigenous and Tribal Peoples Convention, 1989 (169), art 25.

<sup>16</sup> Indigenous and Tribal Peoples Convention, 1989 (169), art. 27.

<sup>17</sup> Indigenous and Tribal Peoples Convention, 1989 (169), art. 28.



in the history of Indigenous Peoples' human rights. The ILO reports on the implementation of the Convention every five years. It was this Convention that paved the way to the adoption of the UN Declaration on the Rights of Indigenous Peoples.

The UN Declaration on the Rights of Indigenous Peoples: Although the document is only a declaration and therefore lacks binding nature, nonetheless the fact that it had come from the United Nations itself and not through its agents that is the ILO, had a considerable impact and hence an important step. It was adopted in the year 2007 to enshrine the rights that “constitute the minimum standards for the survival, dignity, and well-being of the Indigenous peoples of the world.”<sup>18</sup> In the words of the then United Nations Secretary-General Ban Ki-Moon, on the International Day of the World's Indigenous People in 2008:

“The Declaration is a visionary step towards addressing the human rights of indigenous peoples. It sets out a framework on which States can build or re-build their relationships with indigenous peoples. The result of more than two decades of negotiations, it provides a momentous opportunity for States and indigenous peoples to strengthen their relationships, promote reconciliation, and ensure that the past is not repeated.”<sup>19</sup>

The UNDRIP is a comprehensive document on the rights of the Indigenous Peoples which recognizes the right of indigenous peoples both individually as well as a community to enjoy the fundamental freedoms as enshrined under the UN Charter and the International Human Rights Laws. Before the UNDRIP, as is understood that the International human rights laws did not include group or collective rights except for the right to self-determination. This Declaration however is ground-breaking in this regard.

It declares their right to political, economic, social, and cultural development.<sup>20</sup> In matters relating to their internal and local affairs, the document declares their right to political, economic, legal, social, and cultural autonomy for their development.<sup>21</sup> It also recognizes their

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<sup>18</sup> United Nations Declaration on the Rights of Indigenous Peoples, 2007, art 43.

<sup>19</sup> UNOHCHR, “*The United Nations Declaration on the Rights of Indigenous Peoples: A Manual for National Rights Institutions*”, available at <<https://www.ohchr.org/documents/issues/ipeoples/undripmanualforhris.pdf>> (last visited on June 10, 2021).

<sup>20</sup> United Nations Declaration on the Rights of Indigenous Peoples, 2007, art. 3.

<sup>21</sup> United Nations Declaration on the Rights of Indigenous Peoples, 2007, art. 3, 4 & 5.





right to life, liberty, and security including the right against genocide or any other act of violence.<sup>22</sup> Land being of utmost importance for the development and the tribal ways of life, their right to it and resources which were traditionally owned, occupied or otherwise used or acquired by the community is recognized by the declaration,<sup>23</sup> also making it an obligation of the states to give legal recognition to such territories.

With regard to their economic social and cultural rights, the Declaration and Convention No. 169 affirms the Indigenous Peoples' rights to health, education, employment, housing, sanitation, social security, and an adequate standard of living. It also consists of several provisions to protect the community's right to cultural equality which is considered as one of the most defining characteristics of the community.

#### **IV. Autonomy under the Sixth Schedule of the Indian Constitution**

In India, tribal peoples particularly those living in the hills of North-East India were uniquely administered when compared to the mainland people or people of the plain areas. This administration was observed right from the colonial period with the legislations<sup>24</sup> classifying the areas into Scheduled Districts, Backward Tracts, Excluded and Partially excluded areas over the years. After independence, the "philosophy of maintaining status quo and isolation (under the British policy) was replaced by the policies of development and integration through a separate Sixth Schedule of the Constitution."<sup>25</sup> The Schedule is the product of the draft first made by the North-East Frontier (Assam) Tribal and Excluded Areas (also known as the Bordoloi Sub-Committee) which was the sub-committee of the Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas entrusted with the objective of drafting provisions within the constitution for the promotion and protection of the rights of tribal people and their administration. Although there were numerous arguments for and against the draft, it was realized that since the tribal people of the area have their roots in their own unique culture, integration should take place gradually and not abruptly. Their scarce land and meagre resources require protection from the people of the plains and there is a need of

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<sup>22</sup> United Nations Declaration on the Rights of Indigenous Peoples, 2007, art 7.

<sup>23</sup> United Nations Declaration on the Rights of Indigenous Peoples, 2007, art. 10, 26 and 27.

<sup>24</sup> The Constitution of India, sch. 6.

<sup>25</sup> Government of India, "Report of The High-Level Committee on Socio- economic, Health and Educational Status of Tribal Communities of India" (Ministry of Tribal Affairs, 2014).



preserving their social customs. And hence, the Schedule. It was with the objective that the Schedule would preserve the autonomy, culture, and economic empowerment of the hill tribal community to ensure the preservation of peace and local self-governance through social, economic, and political justice, that it was incorporated under the Indian Constitution.

The areas in the state of Assam, Meghalaya, Tripura, and Mizoram that has the majority of the tribal population are to be identified as ‘autonomous districts’ under Para 1 of the Schedule.<sup>26</sup> The administration of the area is done through the District Councils established under Para 2. It was observed in the case of *T. Cajee v. U Jormanik Syiem*<sup>27</sup> that the “District Council under the scheme of the Sixth Schedule is both an administrative and a legislative body.” The Council consists of a total of 30 members which includes 4 members nominated by the Governor and 26 elected based on adult suffrage. Although the issue of whether members should all belong from the tribal community of the area has been discussed in the court of law<sup>28</sup>, it was concluded in the case of *Secretary, Executive Committee, North Cachar Hills District Council v. Neithang Hmar*<sup>29</sup> that since the District and Regional Councils constituted under the Sixth Schedule “is a body corporate and therefore, shall have perpetual succession and a common seal and shall by its name sue and be sued. Therefore, once constituted, it sheds its character of being composed of only Scheduled tribespeople.” Often termed as a ‘mini constitution’ the vast 21 paragraphs provision includes legislative, judicial, executive, and financial autonomy.

### Legislative autonomy

The District Councils are authorized to make laws on matters relating to the areas through Para 3 of the Schedule through which the autonomous nature of the administration was sought.<sup>30</sup> The matters on which the District Councils may legislate are lands, forests, canal or watercourse for agriculture, *jhum* or other shifting cultivation, village or town committees or councils, village or town administration, appointment or succession of chiefs or Headmen, marriage, social customs, etc.

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<sup>26</sup> The Constitution of India, sch. 1.

<sup>27</sup> AIR 1961 SC 276.

<sup>28</sup> *Upendra Reang v. State of Tripura* (1995) 3 Gau LR 307.

<sup>29</sup> 1973 ALR 312 Gau.

<sup>30</sup> *Regional Provident Fund Commissioner v. Shillong City Bust Syndicate*, AIR 1996 SC 1546.



With regard to the applicability of central laws, the President is empowered to issue notification directing that that legislation will not apply to the autonomous districts in the tribal areas under the Schedule.

#### Judicial autonomy

The District councils are empowered to constitute village councils or courts for the administration of justice for cases where both parties are scheduled tribes. Based on this, the district councils in these areas have constituted classes of courts to deal with cases of different categories. Under Para 4 the District Councils are also empowered to make rules for the constitution and powers and the rules relating to the procedure of such courts.

#### Executive autonomy

The District Councils may, under para 6, “establish, construct, or manage primary schools, dispensaries, markets, cattle pounds, ferries, fisheries, roads, road transport and waterways in the district and may, with the previous approval of the Governor, make regulations for the regulation and control thereof and, in particular, may prescribe the language and how primary education shall be imparted in the primary schools in the district.”

#### Financial autonomy

Through para 7 of the schedule, a district fund is constituted for autonomous districts which are subject to audit by the Comptroller and Auditor-General, in which all amounts received in the course of administration are to be credited. The District Council is also authorized to collect land revenue in respects of all land under its jurisdiction; taxes on professions trades callings and employment; taxes on animals, vehicles, and boats; taxes on the entry of goods into a market for sale therein, and tolls on passengers and goods carried in ferries; and taxes for the maintenance of schools, dispensaries or roads.<sup>31</sup>

### **V. The Schedule concerning The Declaration**

It is to be noted that India is not a party to the ILO Convention No. 169. However, it did vote in favour of the Declaration of 2007.

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<sup>31</sup> The Constitution of India, para. 8 sch. 6.



The Sixth Schedule is an effort of achieving the goal of providing autonomy to the tribal community of the four states while at the same time slowly integrating them with the rest of the country. An analysis of the Schedule shows that although the United Nations Declaration on the Rights of Indigenous Peoples is of much recent origin, that is 2007, the latter's special feature of the right to self-governance and autonomy finds its place in the former. Therefore, although India's position on self-determination is controversial with the reservations it makes to the common Article of the International Covenant on Civil and Political Rights (ICCPR) and The International Covenant on Economic, Social and Cultural Rights (ICESCR), some aspects of self-governance has been accepted for the community to "be able to negotiate their own liberal political space and to grow according to their genius."<sup>32</sup>

Article 18 of the UNDRIP provides that the "Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their procedures, as well as to maintain and develop their indigenous decision-making institutions." With the establishment of District Councils and its members being the tribal people themselves, to administer issues relating to the tribal community with legislative, judicial, executive, and financial powers, the sixth schedule affirms the right to participate in the decision-making of the tribal people of the Sixth Schedule areas.

As regards education, the UNDRIP provides that "Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their languages, in a manner appropriate to their cultural methods of teaching and learning."<sup>33</sup> The District councils are empowered to establish primary schools in the area that would ensure education for the children of the community and also being educated in their languages and learn of their own unique culture and traditions.

The indigenous peoples have the right to maintain their distinct political and legal institution as per Article 5 of the Declaration which again, through the establishment of the District

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<sup>32</sup> Patricia Mukhim, "Sixth Schedule and Tribal Autonomy", *The Statesman*, July 14, 2013, available at <<https://www.thestatesman.com/supplements/north/sixth-schedule-and-tribal-autonomy-5573.html>> (last visited on June 10, 2021).

<sup>33</sup>The United Nations Declaration on the Rights of Indigenous Peoples, 2007, art. 14.



Councils (which is both an administrative and legislative body) as a political, and courts under it as a legal institution is fulfilled.

Forced assimilation or destruction of their culture is a violation of the right of the Indigenous Peoples according to Article 8 of the Declaration. The Sixth Schedule is more of an integrationist arrangement than an assimilationist one that is taken by the country for the indigenous community. Also, with the authority given to the district council in legislating on issues relating to social customs, marriage, and traditions, the preservation of culture and customs of the community have enhanced.

The Declaration is indeed applicable universally for all indigenous communities, it is however difficult in a country like India, where the nature of the tribal communities is heterogeneous and the pace of development and growth varies. Therefore, provisions such as the fifth and sixth schedules are specific to a region or area.

## **VI. Conclusion**

Therefore, it can be seen that the idea of self-governance that is recognized in a relatively contemporary international legal instrument such as the UNDRIP was already promulgated in a country like ours from the very beginning of independent governance in the form of the Sixth Schedule of the Indian Constitution. The Hill tribe of India are unique in the sense that their exposure to the plains area and people of the plains was very rare and hence their way of living when compared to that of the tribal community in the plains was different. Therefore, although for the administration of the tribal community of the other parts of the country we also have the Fifth Schedule of the Indian Constitution, the level of autonomy found in the Sixth Schedule is not seen in the former. The modern set-up under the Indian Constitution for the administration of the tribal area is highly influenced also by the British administration, where the British Government chose the policy of isolation in dealing with the tribal community. Hence the autonomy in governance continued under the Sixth Schedule. The idea is for the community to have their way of living and maintain their culture, customs, practices, and traditions, and governed by and for themselves. The implementation of the Schedule however is not without flaws, which is a subject of another study.