

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL WRIT JURISDICTION

WRIT PETITION (CIVIL) NO _____ OF 2018

IN THE MATTER OF:

1) TRIPURA PEOPLE'S FRONT,

MOHAR KAMI, NORTH PULINPUR, TELIAMURA,

KHOWAI, TRIPURA-799203

REPRESENTED BY ITS PRESIDENT,

Ms PATAL KANYA JAMATIA

2) Ms. SARMILA MURASING,

D/o SURESH CHANDRA MURASINGH,

R/o VILLAGE NORTH TAKMACHARA,

P.S SANTI BAZAR, DISTRICT SOUTH TRIPURA,

TRIPURA-799125

3) Mr. SUNANTA KUMAR JAMATIA,

S/o ASTA KUMAR JAMATIA,

VILLAGE- CHARKALOK KAMI,

JAMPUIJALA, KALAIBARI, TRIPURA

PETITIONERS

VERSUS

- 1) UNION OF INDIA,
REPRESENTED BY THE SECRETARY,
MINISTRY OF HOME AFFAIRS,
NORTH BLOCK, CENTRAL SECRETARIAT,
NEW DELHI-110001

- 2) MINISTRY OF EXTERNAL AFFAIRS,
REPRESENTED BY THE SECRETARY,
MINISTRY OF EXTERNAL AFFAIRS,
SOUTH BLOCK,
NEW DELHI-110001

- 3) THE REGISTRAR GENERAL & CENSUS
COMMISSIONER OF INDIA,
2 A, MAN SINGH ROAD,
NEW DELHI-110011
REPRESENTED BY ITS SECRETARY

- 4) THE ELECTION COMMISSION OF INDIA,
NIRVACHAN SADAN.
ASHOKA ROAD,
NEW DELHI
REPRESENTED BY ITS SECETARY,

5) STATE OF TRIPURA,

REPRESENTED BY ITS CHIEF SECRETARY,

TRIPURA SECRETARIAT,

KHEJURBAGAN, AGARTALA,

TRIPURA- 799010

ALL CONTESTING

RESPONDENTS

A WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA FOR ENFORCEMENT OF THE
PETITIONERS RIGHTS GUARANTEED AND PROTECTED
UNDER PART-III OF THE CONSTITUTION OF INDIA

TO,

THE HON'BLE CHIEF JUSTICE OF INDIA

AND HIS LORDSHIPS OTHER COMPANION

JUSTICES OF THE SUPREME COURT

THE HUMBLE PETITIONER OF THE PETITION ABOVENAMED

MOST RESPECTFULLY SHOWETH:

- 1) The instant writ petition has been preferred under Article 32 of the Constitution by the petitioners in the representative

capacity of a majority of the indigenous people living in Tripura for enforcement of their fundamental rights guaranteed under Article 14, 15,19,21 and 29 of the Constitution. The indigenous people/original inhabitants of Tripura are called as “BOROKS (TWIPRASA)”. It is a known position that Tripura and Assam have faced the major brunt of illegal immigration from Bangladesh. The National Register of Citizens (NRC) is a population register first introduced in 1951 across India and currently undergoing update only in the State of Assam under the supervision of this Hon’ble Court in W.P(C) No 274/2009 (Assam Public Works v/s Union of India) and other connected petitions. The exercise in Assam was necessitated due to the persistent illegal influx problem that has plagued the state for over three decades now. The petitioners respectfully submit that Tripura is in worse condition. The uncontrolled influx of illegal migrants from Bangladesh to Tripura has caused huge demographic changes in Tripura which earlier was a predominantly tribal state but now has become a non-tribal state. The indigenous people who were once the majority have now become a minority in their own land. The petitioners have already approached the respondents and placed their demand for updating of the NRC. However no favorable response could be solicited. The petitioners submit that it is very necessary to update the NRC in Tripura

and also to detect and identify the illegal immigrants/non-citizens of India and deport them so that the socio-economic, socio-political and socio-cultural equilibrium is restored. The total inaction by the respondents in this regard have resulted in violation of the petitioners fundamental rights under Article 14, 15,19,21 and 29 of the Constitution.

- 2) That the petitioners herein have never approached any of the respondents seeking a relief similar to the relief sought for in this writ petition. However they did submit memorandum dated 18/02/2018 (Annexure P-11 & P-12) to the President and Prime Minister of India. However no favourable response in this regard has been received till date.
- 3) That the petitioners through the instant writ petition are invoking the civil original writ jurisdiction of this Hon'ble Court to issue a writ of mandamus, order or direction of like nature against all the respondents praying inter-alia that the respondents may be directed to update the National Register of Citizens as with respect to the State of Tripura in terms of Rules 3 and 4 of The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 by taking 19/07/1948 as the cut-off date as provided for in Article 6 of the Constitution of India.
- 4) That it is submitted that the petitioners, in the back-drop of the huge illegal immigration into their state, are inter-alia

raising the following specific issues for consideration by this Hon'ble Court:

- a) The fundamental right of the petitioners under Article 14 to be treated equally and fairly in the matter of detection and deportation of illegal immigrants from Tripura and also for updating the National Register of Citizens;
- b) The fundamental right of the petitioners under Article 14 to be treated equally in the matter of having an electoral roll comprising of only the legitimate citizens of India;
- c) The fundamental right of the petitioners under Article 21 to protect their own homeland, territory, culture, honour and dignity from illegal alien occupation which is an inviolable right;
- d) The fundamental right of the petitioners under Article 29 to conserve and preserve their distinct language, script and culture;
- e) The influx of illegal migrants into Tripura constitutes "external aggression" as provided for under Article 355 of the Constitution. And the Union is bound to protect the State from such external aggressions.
- f) The presence of illegal immigrants violates Articles 325 and 326 of the Constitution of India in that it has

diluted the political rights of the citizens of the State of Tripura.

It is stated that most of the issues stated above are already a subject matter of adjudication by a Constitution Bench of this Court in W.P(C) No 562/2012 (Assam Sanmilita Mahasangha v/s Union of India) in the context of illegal immigration into the State of Assam. It may be noted that the ground situation in Tripura qua the illegal immigrants is actually worse than Assam.

5) **DESCRIPTION OF PARTIES**

- a) The petitioner no 1 is a non-political, un-registered organisation which was established on 30/06/2014. Its primary aim and objective is to assert the socio-political, socio-economic and socio-cultural right and justice of the oppressed, dominated and marginalized Borok's and other indigenous people, the sons of the soil of Tripura. The petitioner no 1 is being represented by its President, Ms.Patal Kanya Jamatia, who is their authorized representative. It is submitted that Ms Jamatia is a post-graduate in Political Science. She was an active social activist during her student days. She had also served as a "Guest Lecturer" of Kok-Borok language (the dialect of the indigenous people) at the Udaipur College and Womens College, Tripura.

- b) The petitioner no 2 is a graduate from Tripura University and a indigenous person of Tripura. She is a qualified physiotherapist and currently based out of Agartala. The petitioner no 2 was an active social activist during her student days as well. She closely identifies herself with the causes being espoused in this writ petition in as much as that many members of her family have been victims of the atrocities meted out to the indigenous people by the illegal immigrants.
- c) The petitioner no 3 is educated person and an indigenous person of Tripura. He is working as a social worker since 2006 for the welfare of the ethnic persons of Tripura. The petitioner no 2 is also an Executive Member of the petitioner no 1 organisation. He closely identifies himself with the cause being espoused in this writ petition in as much as that he and several members of his family have been victims of the atrocities meted out to the indigenous people by the illegal immigrants.
- d) The respondent no 1 is the Ministry of Home Affairs who is primarily responsible for dealing with the issue of illegal trans-border infiltration. The petitioners understand that this is the nodal ministry for detection of illegal immigrants. It is also a signatory to the Tripura Accord. The respondent no 2 is the Ministry of External Affairs whose duty will be to

initiate bi-lateral talks with Bangladesh and draw up an effective and time bound plan of action for deportation of the illegal immigrants. The respondent no 3 is the authority under whom the National Register of Citizens is prepared. The respondent no 4 is the Election Commission of India who has a vital and definite role to ensure no names of illegal immigrants find place in the electoral rolls. The respondent no 5 is the State of Tripura whose primary duty is to effectively implement the measures at the field level for detection and deportation of the illegal immigrants.

6) **LIST OF DATES AND EVENTS:**

The relevant list of dates and events has been elaborately dealt with under the caption “Synopsis and list of Dates” (Pages B-LL). Therefore for the sake of brevity the same is not repeated in extenso herein under again:

- a) An “Instrument of Accession” was signed between the Governor General of India and the then Maharani Regent of Tripura State on 13/08/1947, a copy of which is annexed hereto and marked as **Annexure P-1(Pages 106-112)**
- b) The “Tripura Merger Agreement” was signed between the Governor General of India and the then Maharani Regent of Tripura State vide which the latter ceded to the Dominion Government full and exclusive

authority, jurisdiction and powers for and in relation to the governance of the State and agreed to transfer the administration of the State to the Dominion Government on the fifteenth day of October 1949. A copy of the “Tripura Merger Agreement” dated 09/09/1949 is annexed hereto and marked as **Annexure P-2 (Pages 113-117)**

- c) The princely State of Tripura merged with the Indian Union on 15/10/1949. On January 26, 1950 Tripura was accorded the status of a ‘C’ category state and on November 1, 1956, it was recognized as a Union Territory.
- d) It is submitted that Tripura gained full statehood on January 21, 1972, as per the North-East Reorganisation Act, 1971. And democratic set-up got further stretched upto the village level in 1978 with election to the local bodies that ultimately culminated in the introduction of three-tier Panchayati Raj System.
- e) Fresh communal disturbances occurred in early 1950 in East Bengal, West Bengal, Assam and Tripura. In this background India and Pakistan signed as agreement popularly known as the Nehru-Liaquat Agreement signed on 8th April, 1950. A copy of the Nehru-Liaquat Agreement signed on 8th April, 1950 is annexed hereto and marked as **Annexure P-3 (Pages 118-126)**

- f) During the Census of 1951, a National Register of Citizens was prepared under a directive of Ministry of Home Affairs by copying out in registers the census documents containing information on relevant particulars of each and every person enumerated.
- g) A Treaty for friendship, co-operation and peace, popularly known as the Indira-Mujib Agreement was signed between India and Bangladesh. A copy of the Treaty for friendship, co-operation and peace dated 19/03/1972 signed between India and Bangladesh is annexed hereto and marked as **Annexure P-4 (Pages 127-132)**
- h) The Tripura Tribal Areas Autonomous District Council (TTAADC) Act 1979 was passed by the parliament after a series of democratic movements launched by the Indigenous people of Tripura, under the provision of the 6th scheduled of the Indian constitution.
- i) As a result of series of discussions with the representatives of the Tripura National Volunteers (TNV) culminating in a tripartite agreement popularly known as the “Rajiv-Hranchhal agreement” to end the eight-year old insurgency an agreement was signed on August 12, 1988 in New Delhi by the Union Government, the Government of Tripura and the TNV. A copy of the Tripartite Agreement dated 12/08/1988 signed between

the Union Government, the Government of Tripura and the TNV is annexed hereto and marked as **Annexure P-5(Pages 133-138)**

j) The Tripura Government with a view to end the insurgency and to bring about an effective settlement of the problems of the indigenous tribal people of the State signed a Memorandum of Settlement (MOS) with the All Tripura Tribal Force (ATTF) on 23/03/1993. A copy of the Memorandum of Settlement dated 23/08/1993 signed between the Tripura Government and the All Tripura Tribal Force (ATTF) is annexed hereto and marked as **Annexure P-6 (Pages 139-145)**

k) In exercise of the powers conferred by sub-sections (1) and (3) of section 18 of the Citizenship Act, 1955 the Central Government notified The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 was notified on 10/12/2003

l) In response to un-starred question no 332 pertaining to deportation of illegal Bangladeshi migrants from India the Minister of State, Home Affairs submitted a statement to the Parliament indicating therein that the estimated number of illegal Bangladeshi immigrants in India as on 31/12/2001 was 1, 20, 53,950. And in Tripura there was approximately 3, 25,400 illegal immigrants. A copy of the record of proceedings of the parliament dated

14/07/2004 is annexed hereto and marked as **Annexure P-7 (Pages 146-149)**

m) This Hon'ble Court in a landmark judgment in *Sarbananda Sonowal versus Union of India* (2005) 5 SCC 665, allowed Writ Petition (Civil) No 131 of 2000. Consequently The Illegal Migrants (Determination by Tribunals) Act, 1983 and The Illegal Migrants (Determination by Tribunals) Rules, 1984 were declared to be ultra-vires the Constitution and struck down.

n) The United Nations Declaration on the Rights of Indigenous Peoples was adopted by the United Nations General Assembly during its 61st session at UN Headquarters in New York City on 13 September 2007. It is submitted that India is a signatory to the aforesaid Declaration. A copy of The United Nations Declaration on the Rights of Indigenous Peoples adopted by the United Nations General Assembly on 13/09/2007 is annexed hereto and marked as **Annexure P-8 (Pages 150-177)**

o) The petitioner no 1 was formed on 30/06/2014 by several well-meaning persons of the indigenous community of Tripura. The petitioner no 1 is a non-political organization. Its primary aim and objective is to assert the socio-political, socio-economic and socio-cultural right and justice of the oppressed, dominated and

marginalized Borok's and other indigenous tribal people, the sons of the soil of Tripura.

p) The petitioner no 1 filed a detailed memorandum on 23/09/2014 before the Governor of Tripura indicating the precarious state of the indigenous people of Tripura in their own homeland on account of unending and unprecedented illegal immigration. A copy of the memorandum dated 23/09/2014 submitted to the Governor of Tripura is annexed hereto and marked as **Annexure P-9 (Pages 178-181)**

q) The Citizenship (Amendment) Bill 2016, introduced in the Lok Sabha in 2016, seeks to enable Hindus, Sikhs, Buddhists, Jains, Parsis and Christians, who have fled to India from Pakistan, Afghanistan and Bangladesh without valid travel documents or those whose valid documents expired in recent years, to acquire Indian citizenship through the process of naturalisation.

r) The petitioner no 1 filed a detailed memorandum on 15/10/2016 before the Hon'ble Prime Minister indicating the precarious position of the indigenous people of Tripura in their own homeland on account of unending and unprecedented illegal immigration. A charter of demands was also placed for his consideration and necessary action. It is submitted that no effective response was received from the Prime Minister till date.

A copy of the memorandum dated 15/10/2016 submitted to the Hon'ble Prime Minister is annexed hereto and marked as **Annexure P-10 (Pages 182-186)**

- s) The petitioner no 1 submitted a detailed representation to His Excellency, the President of India as well the Prime Minister of India on 18/02/2018 detailing the ground situation prevailing in Tripura and their charter of demands. It was clearly demonstrated in the memorandum that as per the census data that the original indigenous people of Tripura i.e the Borok's had become a minority in their own home land. It was thus requested that necessary steps be urgently initiated by the Government of India to address this very pertinent issue. It is submitted that no favourable response has been received till date.

A copy of the representation dated 18/02/2018 submitted by the petitioner no 1 to His Excellency, the President of India is annexed hereto and marked as **Annexure P-11 (Pages 187-192)**

A copy of the representation dated 18/02/2018 submitted by the petitioner no 1 to the Prime Minister of India is annexed hereto and marked as **Annexure P-12 (Pages 193-196)**

7) ILLEGAL IMMIGRATION & AND ITS THREAT TO INDIA'S

INTERNAL SECURITY:

- a. Migration into a region has always altered the socio-economic and cultural fabric of the receiving society. The impact of illegal migration from Bangladesh on India's security can be identified through two indicators. First, conflict over scarce resources, economic opportunities and cultural dominance ensues between the locals and migrants, along with the resultant political instability caused by the mobilisation of popular perception against the migrants by the elites to grab political power. In Assam and Tripura, resistance to Bengali migrants had both socio-economic and cultural dimensions, which were politically mobilized and which brought forth the issue of ethnicity and migration to the fore. Second, the rule of law and integrity of the country are undermined by the illegal migrants engaged in illegal and anti-national activities, such as entering the country clandestinely, fraudulently acquiring identity cards, exercising voting rights in India despite being a Bangladeshi and resorting to transborder smuggling and other crimes.
- b. Besides Assam another state where resistance to illegal migration from East Pakistan (later Bangladesh)

morphed into a full-fledged insurgency is Tripura, where the indigenous community has been reduced to a minority because of the large-scale influx from Bangladesh. The indigenous community has been resisting the settlement of Bengalis from East Bengal/Pakistan, and later Bangladesh, in their land since independence. The first anti-Bengali and anti-refugee political group called Seng-krak was established in 1947 itself. Sang-krak, along with a clutch of tribal organisations, carried out a large number of violent protests against the Bengali settler throughout the 1950s and 1960s, forcing the Tripura government to enact laws against land alienation of the tribal population of the state. Resentment against the migrants, however, did not abate and tribal organisations, such as the Tripura Upajati Juba Samiti (TUJS), Tripura Sena and East India Tribal Union, agitated over a number of issues to assert their identity and demanded land rights for tribals and Kokhorok as the state official language. It was, actually, the formation of the Tripura National Volunteers (TNV) in 1978 that transformed their political agitation into an insurgent movement. Although the TNV reached a political settlement with the Union and state governments in 1988, militancy

did not subside in Tripura. The signing of the peace accord was immediately followed by formation of two new militant organisations– the National Liberation Front of Tripura (NLFT) and the All Tripura Tiger Force (ATTF) –in 1989 and 1990 respectively. These organisations continue to struggle against the Indian state even today, albeit in a feeble manner.

- c. The political patronage extended to illegal migrants helped successive streams of migrants to cross the border easily, find shelter and jobs in India, and finally settle down permanently. One of the fallouts of large-scale illegal migration of Bangladeshis has been that the border areas, especially in Tripura, West Bengal and Assam, which earlier had a mixed composition of population, that is, both Hindus and Muslims cohabited, are giving way to new settlements based on exclusively religious identities.

8) **Original Inhabitants/Indigenous people/Natives**

- a) The words “Original Inhabitants”, “indigenous people” and “natives” are somewhat synonymous. Indigenous peoples, also known as first peoples, aboriginal peoples, native peoples, or autochthonous peoples, are ethnic groups who are the original inhabitants of a

given region, in contrast to groups that have settled, occupied or colonized the area more recently. Groups are usually described as indigenous when they maintain traditions or other aspects of an early culture that is associated with a given region. Not all indigenous peoples share this characteristic, sometimes having adopted substantial elements of a colonising culture, such as dress, religion or language. Indigenous peoples may be settled in a given region (sedentary) or exhibit a nomadic lifestyle across a large territory, but they are generally historically associated with a specific territory on which they depend. Indigenous societies are found in every inhabited climate zone and continent of the world.

b) Since indigenous peoples are often faced with threats to their sovereignty, economic well-being and their access to the resources on which their cultures depend, political rights have been set forth in international law by international organizations such as the United Nations, the International Labour Organization and the World Bank. The United Nations has issued a Declaration on the Rights of Indigenous Peoples (UNDRIP) to guide member-state national policies to the collective rights of indigenous people, such as culture, identity, language and access to

employment, health, education and natural resources.

Estimates put the total population of indigenous peoples from 220 million to 350 million.

c) The adjective indigenous is derived from the Latin word *indigena*, which is based on the root *gen-* 'to be born' with an archaic form of the prefix *in-* 'in'. Any given people, ethnic group or community may be described as indigenous in reference to some particular region or location that they see as their traditional tribal land claim. Other terms used to refer to indigenous populations are *aboriginal*, *native*, *original*, or *first* (as in Canada's First Nations).

d) The use of the term *peoples* in association with the indigenous is derived from the 19th century anthropological and ethnographic disciplines that Merriam-Webster Dictionary defines as "a body of persons that are united by a common culture, tradition, or sense of kinship, which typically have common language, institutions, and beliefs, and often constitute a politically organized group". (Quoted from Wikipedia). During the late twentieth century, the term *Indigenous people* began to be used to describe a legal category in indigenous law created in international and national legislation; it refers to culturally distinct groups affected by colonization.

- e) James Anaya, former Special Rapporteur on the Rights of Indigenous Peoples, has defined indigenous peoples as "living descendants of pre-invasion inhabitants of lands now dominated by others. They are culturally distinct groups that find themselves engulfed by other settler societies born of forces of empire and conquest".
- f) They form at present non-dominant sectors of 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 own cultural patterns, social institutions and legal system. The International Day of the World's Indigenous People falls on 9th August as this was the date of the first meeting in 1982 of the United Nations Working Group of Indigenous Populations of the Sub-commission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights. (Quoted from Wikipedia)
- g) In 1957, the International Labour Organisation, which predates the United Nations, was the first UN agency to adopt an international treaty on the rights of indigenous peoples i.e. the ILO Convention No. 107 "Concerning the Protection and Integration of

Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries” in 1957. India ratified the ILO Convention No. 107 on 29th September 1958, regularly submitted reports and one fine morning, the MEA officials woke up to find that there are no indigenous peoples in India.

- h) There is no universal and unambiguous definition of the concept of ‘indigenous peoples’ but there are a number of criteria by which indigenous peoples are globally can be indentified and form which each group can be characterized. The most widespread approaches are those proposed in the International Labour Organization (ILO) Convention no. 169 and in the Martínez Cobo Report to the UN Sub-Commission on the Prevention of Discrimination of Minorities (1986). The ILO Convention no. 169 states that people are considered indigenous either – (i) because they are descendents of those who lived in the area before colonization; or- (ii) because they have maintained their own social, economic, cultural and political institutions since colonization and the establishment of new states. Furthermore, the ILO Convention says that (iii) self-identification is crucial for indigenous peoples.

i) In 1970, then UN Sub-Commission on Prevention of Discrimination and Protection of Minorities recommended a comprehensive study of the problems of discrimination against indigenous populations. In 1971, Mr. José R. Martínez Cobo (Ecuador) was appointed Special Rapporteur for the study. Cobo's seminal report, "Study of the Problem of Discrimination against Indigenous Populations", was submitted in 1981 and in 1982. The definition of indigenous people as propounded by Working Group on Indigenous Populations (WGIP) and which was accepted by the UN is as follows- "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 on those territories, or parts of them. They form at present non-dominant sectors of 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 own cultural patterns, social institutions and legal systems." In the meanwhile, the ILO revised Convention No. 107 and adopted

Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. India refused to ratify the ILO Convention No. 169 until today. This refusal has nothing to do with the history or laws operating in the field.

9) **THE ILLEGAL IMMIGRANTS INFILTRATION ISSUE**

a) Contributory factors of illegal migration: The petitioner submits that the following are some of the major reasons that has contributed to the huge illegal immigration from Bangladesh to India:

- i. Increasing pressure on land and mounting unemployment in Bangladesh due to uncontrolled steep rise in population and high density of population (964 per sq. km, according to 2011 estimate).
- ii. The large scale migration from Bangladesh to India has been possible mainly due to the porous India-Bangladesh border of 4,096 kilometers, the fencing of which has not been completed so far.
- iii. Better economic opportunities across the border.

- iv. Competitive politics of vote-bank and the patronage extended to them by political parties/vested political groups in India
- v. Presence of strong pro-Bangladesh lobby in India often creates myths and confuses Indians about the gravity of the problem.
- vi. Large segments of population in Bangladesh uprooted severe floods and cyclones.

b) The Social consequences of illegal migration into Tripura can be summarised as follows:

- i. Crisis of identity: The influx of immigrants has created a crisis of identity among the indigenous people. Their cultural survival is in serious jeopardy, their political control has been weakened and their employment opportunities have been undermined by such illegal migration.
- ii. Environmental degradation: Large areas of forest land have been encroached upon by the immigrants for settlement and cultivation. The state has experienced a declining percent of land area under forest.
- iii. The State has over the years allowed thousands of the illegal immigrants, who

claim themselves to be Bengali Refugees, into core tribal areas earmarked by King Bir Bikram Manikya Bahadur as a Tribal Reserve. The indigenous people had good reasons to feel that they were being reduced to 'foreigners in their own land'. As a case in point in 1943, King Bir Bikram had earmarked 1950 sq. miles as Tribal Reserve, but in 1948, the Regent Maharani's Dewan, A.B. Chatterji (vide order no. 325 dated 10th Aswin, 1358 Tripura Era or 1948 AD) threw open 300 sq. miles of this reserve for refugee settlement. Later, more of these areas were opened up for such settlement. This has been a continuous process.

- iv. Difficult to identify the illegal migrants: Due to the similar language spoken by illegal migrants from Bangladesh and the indigenous Bengali speaking people of Tripura, it becomes difficult to identify and deport these people from Tripura.
- v. Community tension: The commission on integration and Cohesion found that tension usually exist with the presence of

high levels of migration combine with other forms of social exclusion like poverty, poor housing etc.

- vi. Over the years, the ethnic conflict between the migrant settlers and the indigenous tribesmen has only intensified. Tripura has seen communal flare up in the years 1973-74, 1979, 1980, 2000. In all these riots the indigenous people suffered a lot in the hands of the illegal migrants. There has been huge loss of lives and property belonging to the indigenous people. The local people have still not been able to return back to their villages from where they fled during the major riots of 1980 and 2000. Many of them have been falsely implicated in the riot cases and languishing in custody on account of trumped up false cases. The majority government has always supported the migrants in these very sensitive issues.

c) The economic consequences of illegal migration into

Tripura can be summarised as follows:

- i. The economic consequences between the illegal immigrants and the indigenous tribes-people in Tripura has much to do with the large-scale land alienation of tribals because land is seen not only as the prime economic resource in a rather backward pre-capitalist agrarian society like Tripura but also as the symbol of the ethnic preponderance
- ii. Increase financial burden: Immigration has increased pressure on the part of state government, as the government has to increase the expenditure on education and health facilities to the immigrants.
- iii. Displacing native workers: There is a genuine particularly during a recession that immigrants take jobs which would otherwise be taken by local people; in particular place and circumstances this leads to avoidable and conflict in as much as that the States resources are stretched
- iv. Decreases wage level with the increase of population: Illegal immigrants in every year

have been adding a good number of people in Tripura. It is one of the main reasons of population explosion. Due to this there has been a decreasing trend in the wage level.

d) The political consequences of illegal migration into Tripura can be summarised as follows:

- i. The failure of the government of the day to respond the issue of illegal migration led to the agitation by the tribal people of Tripura, firstly under the leadership of Tripura National Volunteers (TNV) and subsequently under All Tripura Tribal Force (ATTF). Tripura witnessed governmental instability, sustained civil disobedience campaigns and worst cases of ethnic violence. It may be noted that the petitioners do not completely agree and/or identify themselves with the charter of demands of the aforesaid two organisations particularly with respect to the cut-off date on and from which all the illegal immigrants who entered Tripura must be identified and deported. As per the petitioners herein the cut-off date must

be 19/07/1948 (Article 6 of the Constitution) and not mid-night of 24/03/1971.

- ii. Illegal voters: Most of the Bangladeshi immigrants have got their names enlisted in the voting list illegally, thereby claiming themselves as citizens of the state. The immigrant's population act as a vote bank for the political parties in Tripura. They form the majority of the voters in several constituencies thereby diminishing the political control of the indigenous people in their own home land.
- iii. On account of illegal immigration the indigenous tribal people lost out on numbers, thus facing the real threat of imminent marginalisation in share of political power. Electoral politics and the lust for votes of the illegal immigrants have only helped to deepen the fault lines.

e) British India's partition in 1947 left princely Tripura with no choice but to join one of the two post-colonial South Asian nation-states – India or Pakistan. After much palace intrigue and political activity, the Regent

Maharani Kanchanprava Devi, who was running the state on behalf of the minor king, Kirit Bikram Manikya Bahadur, decided to exercise the Instrument of Accession to join India. Just before Partition, she had got wind of a brewing conspiracy to merge Tripura with East Pakistan. An Islamic party, the Anjuman-e-Islamia, led by a rich contractor Abdul Barik, alias Gedu Miah, had managed to win the support of some leading palace nobles like Durjoy Karta for his plans to merge Tripura with East Pakistan. He had strong support from the Muslim League, which had been bolstered by its effortless takeover of the Chittagong Hill Tracts (CHT), despite strong local resistance. But determined action by all political parties and ethnic organisations foiled Barik's conspiracy and the Regent Maharani Devi moved rather swiftly to sign the Instrument of Accession that made Tripura a part of the Indian Union on 15 October, 1949.

- f) But the Partition and Tripura's merger with the Indian Union opened the floodgates of migration from East Pakistan that forever changed the demography of the erstwhile princely state, leading to a fierce ethnic conflict that ravaged the tiny state for more than three decades. Peace briefly returned to the State. But it must be noted that unless social justice on ethnic lines

is reinforced by economic development, in which the indigenous tribals are stakeholders rather than silent rejects and their land and livelihoods are restored, tribal insurgency and violence may resurface in the tiny state.

g) Twipra, as the indigenous tribes-people of the state call it, means 'land beside water.' In Tripura's days of yore, some of its kings controlled large tracts of eastern Bengal. Maharaja Bijoy Manikya is said to have 'taken bath in several rivers of Bengal.' So, Tripura's 'Bengal connection' is no post- Partition phenomenon. When the Manikya kings controlled Comilla and parts of Chittagong, Noakhali and Dhaka divisions of contemporary Bangladesh, they ruled over tens of thousands of Bengali subjects. In 1280 AD, following the submission of Ratna Fa to Mughisuddin Tughril, the Tripura kings first invited many Bengalis of high castes. Many of them were related to the 'Baro Bhuiyans' or twelve warlords of Bengal. Further, it was not just for the love of Bengali culture and language or to be able to utilize its potential as the lingua franca between several tribes speaking different dialects that the Manikya kings encouraged Bengali migration into the hill state. Bengalis were also used to organise and maintain the structure of a modern administration and

the hardy peasantry of eastern Bengal was issued jungle-avadi leases to reclaim large tracts of the undulating Tripura terrain for wet-rice settled agriculture that boosted royal revenues. This Bengali migration had started gathering momentum from the beginning of the twentieth century. Hence, on the eve of Partition, the indigenous tribes of Tripura were not as decisive a majority as the tribespeople of the neighbouring CHT, where Bengali-speakers were less than two per cent of the population in 1947.

- h) The huge influx of refugee population into Tripura from what is now Bangladesh has accentuated the problem of the land alienation of the tribespeople and added to their collective sense of loss and marginalisation. Almost all writers on Tripura insurgency have identified land alienation amongst the tribespeople as the major cause that has fuelled the violent insurgency that has eaten into the vitals of a once vibrant state. As long as the tribals had enough land and the immigrant population was limited to certain urban or semi-urban pockets or rural areas around the capital, land alienation of tribals did not emerge as a major problem. That began to change with the Independence and the merger of princely Tripura with the Indian Union. Between 1947 and 1971, 6, 09,998

Bengalis displaced from East Pakistan came to Tripura for rehabilitation and resettlement. Since the total population of the state in 1951 was 6, 45,707, it is not difficult to gauge the enormous population pressure created on tiny Tripura by the Partition. During this period, the state government primarily resettled the refugees on land under different schemes, some enabling the refugees to settle down with financial assistance and some just helping them buy land.

- i) The operation of these schemes accelerated the process of large-scale loss of tribal lands. The pauperisation of the tribals can also be discerned from the growing number of tribal agricultural labourers in three decades since the Partition. In 1951, cultivators constituted 62.94 per cent of the total tribal workforce in the state while only 8.93 per cent was in the category of agricultural labourers. But in 1981, only 43.57 per cent of the tribal workforce was cultivators and the number of agricultural labourers had risen to 23.91 per cent. It is also true that the percentage of landless agricultural labourers in Tripura's rural workforce has sharply raised from 4 per cent to 20 per cent in 1971 to 29 per cent in 1981. It is also true those rests are Bengalis and that it is almost in

keeping with the population ratio of the two communities in the state.

- j) In the wake of partition of India, the State of Tripura was exposed to a situation where a large number of persons who were permanent residents of the erstwhile East Pakistan (now Bangladesh) had exercised their choice of migrating to India from East Pakistan and settling down in different parts of Tripura. The people included in this category were Indian national even before the partition. Subsequently, by migrating to India at the time of partition, they had consciously adopted Indian citizenship. In other words, these people had migrated from the one part of the un-divided India to the other. The founding fathers of the constitution being conscious of the ground realities had provided for a Constitutional mechanism in the form of Article 6 of the Constitution of India. Accordingly the citizenship rights of such persons migrating to India at the commencement of the constitution are governed by Article 6 of the Constitution of India. However, in sharp contra-distinction to such migration of Indian citizens from the erstwhile East Pakistan to the Indian Territory on account of historical and political reasons, the State of Tripura has also been a mute spectator to

a large number of Bangladeshi Nationals who have illegally crossed over the Indo-Bangla border in the post partition era. These “illegal immigrants” have stealthily sneaked in through the porous Indo-Bangla border and entered Tripura. It is believed that initially such illegal migration was driven by economic reasons. However, taking advantage of the lack of adequate protection of the international border, such illegal migration of Bangladeshi Nationals into India Territory continues un-abated even today. Due to the complete lack of political will to tackle such external aggression by the Bangladeshi Nationals, these people continued to remain in Indian soil for past many years thereby posing serious threat to the question of identity of the indigenous people of Tripura as well as security of the nation. It is stated that the demographic invasion continues unabated even today, encouraged by governments, for various reasons.

k) The petitioners categorically state that this is not a communal issue and neither is it a Hindu-Muslim or indigenous people v/s Bengali imigrants issue, but an issue of foreign infiltrators who are inundating the land that for centuries has belonged to the Borok’s and the

other indigenous tribals of Tripura. It is basically an issue between Indians and non-indians/ foreigners.

- l) The Petitioners submit that it is high time that rest of the country realize and appreciate that Tripura's problem of illegal influx is not at all her own making. On the contrary millions of these illegal migrants have been forcible thrust upon her. While the rich natural resources of Tripura are undoubtedly national assets, her problems, particularly those which are not of her own creation, certainly must be dealt as a national problem. After all, the entire debate revolves around the issue of Citizenship including the right to franchise. The phenomenon of illegal presence of millions of foreigners in the soil of Tripura is known to the Central Government, State Government, Election Commission, Legislature and the Judiciary. Tripura has been facing a silent invasion for decades. As such the genuine threat to the entire country's territorial integrity cannot be over emphasized. It is needless to say and submit that Tripura is the integral part of India, got her freedom from the British rule on August 15, 1947, but she is yet to get her freedom from the fear of being extinct in the hands of illegal immigrants coming from erstwhile East Pakistan and present Bagladesh.

10) **RELEVANT CONSTITUTIONAL PROVISIONS VIS-
À-VIS CITIZENSHIP OF INDIA**

The subject of citizenship is dealt with in Articles 5 to 11 of the Constitution. Article 5 provides that every person who has his domicile in India and satisfies one of the three conditions (a), (b) and (c) shall be a citizen of India. Article 6 deals with persons who have migrated to the territory of India from Pakistan and lays down conditions under which a person would be a citizen of India. It divides such persons into two classes; i.e. those who migrated to India before 19-7-1948 and those who migrated after that date.

The first class of persons is deemed to be citizens if they have been ordinarily resident in India for six months after the migration. The second class of persons -can be deemed to be Indian citizens if they register themselves as such. The words "At the commencement of the Constitution" are expressly used in these two articles and thus there is no difficulty in appreciating that they deal with citizenship of persons as existing on that date.

Then follows Article 7 which begins with a non-obstante clause and is in the nature of a proviso to the earlier two articles. Article 7 provides that a person who would be a citizen of India by virtue of the provisions in Articles 5 and 6 shall not be deemed to be such if he "has after the 1st day

of March 1947 migrated from the territory of India to the territory now included in Pakistan".

It appears necessary to read Article 7 in the light of the earlier Articles, as these earlier articles deal with citizenship on the date of the commencement of the Constitution, it seems reasonable to infer that Article 7 also deals with a situation on that date.

11) **RELEVANT STATUTORY PROVISIONS**

A) **THE FOREIGNERS (TRIBUNALS) ORDERS, 1964**

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
ORDER

New Delhi, the 23 rd September, 1964 G.S.R. 1401.

In exercise of the powers conferred by Section 3 of the Foreigners Act, 1946 (31 of 1946), the Central Government hereby makes the following order, namely:-

1. Short title- This Order may be called the Foreigners (Tribunals) Order 1964.

2. Constitution of Tribunals:-

(1) The Central Government may by order, refer the question as to whether a person is or is not a foreigner within the meaning of the Foreigners Act, 1946 (31 of 1946) to a Tribunal to be constituted for the purpose, for its opinion.

(1-A) The registering authority appointed under sub-rule (1) of rule 16F of the Citizenship Rules, 1956 may also refer to the Tribunal the question whether a person of Indian Origin, complies with any of the requirements under sub-section (3) of Section 6A of the Citizenship Act, 1955 (57 of 1955).

(2) The Tribunal shall consist of such number of persons having judicial experience as the Central Government may think fit to appoint.

(3) Where the Tribunal consists of two or more members, one of them shall be appointed as the Chairman thereof.

3. Procedure for disposal of questions-

(1) The Tribunal shall serve on the person, to whom the question relates, a copy of the main grounds on which he is alleged to be a foreigner and give him a reasonable opportunity of making a representation and producing evidence in support of his case and after considering such evidence as may be produced and after hearing such persons as may desire to be heard, the Tribunal shall submit its opinion to the officer or authority specified in this behalf in the order of reference.

(1-A) The Tribunal shall, before giving its opinion on the question referred to in sub-paragraph (1A) of paragraph 2, give the person in respect of whom the opinion is sought, a reasonable opportunity to represent his case.

(2) Subject to the provisions of this Order, the Tribunal shall have power to regulate its own procedure. 4. Powers of Tribunals:- The Tribunal shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely: (a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of any document; (c) issuing commissions for the examination of any witness. (No.1/1/64-F.III)

4. Powers of Tribunals:-

The Tribunal shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) issuing commissions for the examination of any witness.

B) THE CITIZENSHIP (REGISTRATION OF CITIZENS AND ISSUE OF NATIONAL IDENTITY CARDS) RULES, 2003

4. Preparation of the National Register of Indian Citizens.-

- (1) The Central Government shall, for the purpose of National Register of Indian Citizens, cause to carry

throughout the country a house-to-house enumeration for collection of specified particulars relating to each family and individual, residing in a local area including the Citizenship status.

- (2) The Registrar General of Citizen Registration shall notify the period and duration of the enumeration in the Official Gazette.
- (3) For the purposes of preparation and inclusion in the Local Register of Indian Citizens, the particulars collected of every family and individual in the Population Register shall be verified and scrutinized by the Local Registrar, who may be assisted by one or more persons as specified by the Registrar General of Citizen Registration.
- (4) During the verification process, particulars of such individuals, whose Citizenship is doubtful, shall be entered by the Local Registrar with appropriate remark in the Population Register for further enquiry and in case of doubtful Citizenship, the individual or the family shall be informed in a specified proforma immediately after the verification process is over.
- (5) (a) Every person or family specified in sub-rule (4), shall be given an opportunity of being heard by the Sub-

district or Taluk Registrar of Citizen Registration, before a final decision is taken to include or to exclude their particulars in the National Register of Indian Citizens.

- (b) The Sub-district or Taluk Registrar shall finalize his findings within a period of ninety days of the entry being made, or within such reasonable extended time for which he shall record the reasons in writing.
- (6) (a) The draft of the Local Register of Indian Citizens shall be published by the Sub-district or Taluk Registrar, for inviting any objections or for inclusion of any name or corrections for the family or individual particulars collected and proposed to be finally entered in the National Register of Indian Citizens.
- (b) Any objection against a particular entry or for inclusion of a name, or corrections if any, in the Local Register of Indian Citizens may be made within a period of thirty days from the date of publication of the draft of the Local Register of Indian Citizens, spelling out the nature and reasons for the objection in such form as may be specified by the Registrar General of Citizen Registration.

(c) Subject to the provisions contained in clause (a) of sub-rule (5), the Subdistrict or Taluk Registrar shall consider such objections and summarily dispose off the same within a period of ninety days, and thereafter submit the Local Register of Indian Citizens so prepared to the District Registrar of Citizen Registration who shall cause the entries in the Local Register of Indian Citizens, to be transferred to the National Register of Indian Citizens.

(7) (a) Any person aggrieved by the order of the Sub-district or Taluk Registrar under sub-rule (5) or sub-rule (6), may prefer an appeal within thirty days from the date of such order, to the District Registrar of Citizen Registration.

(b) The District Registrar of Citizen Registration shall take a final decision, after giving an opportunity of being heard to the person so aggrieved, within a period of ninety days from the date of appeal.

(c) In case the appeal is allowed, the particulars shall be entered in the National Register of Indian Citizens.

C) Legal framework in India

I. Article 339 (1) of the Constitution of India relating to control of the Union over the

administration of Scheduled Areas and the welfare of Scheduled Tribes stated, “(1) The President may at any time and shall, at the expiration of ten years from the commencement of this Constitution by order appoint a Commission to report on the administration of the Scheduled Areas and the welfare of this Scheduled Tribes in the States The order may define the composition, powers and procedure of the Commission and may contain such incidental or ancillary provisions as the President may consider necessary or desirable.”

- II. As instructed by the Article 339 (1) of the Constitution of India, which is different from the executive, legislative or judicial decisions of any government, the Government of India established “Scheduled Areas and the Scheduled Tribes Commission” in 1960 headed by Shri UN Dhebar as the Chairperson. In its report dated 14th October 1961, the Commission defined Scheduled Tribes in the following way:

“The Tribe

The term “Tribe” is nowhere defined in the Constitution and in fact there is no satisfactory definition anywhere. To the ordinary man the word suggests simple folk living in hills and forest; to people who are a little better informed, it signifies colourful folk famous for their dance and song; to an administrator it means a group of citizens who are the special responsibility of the President of India; to an anthropologist it indicates a special field for study of a social phenomenon. In their own way all these impressions are correct. Even the Constitution has not defined them clearly except by declaring that the Scheduled Tribes are “the tribes or the tribal communities or parts of or groups within tribes or tribal communities” which the President may specify by public notification (Article 342). As these groups are presumed to form the oldest ethnological sector of the population, the term “Adivasi” (‘Adi’ = original and ‘Vasi’ = inhabitant) has become current among certain people. The International Labour Organisation has classified such people as “indigenous”. It is clear that India in 1961 itself before the UN started the debate on the discrimination against

indigenous peoples in 1970 had accepted that Scheduled Tribes are indigenous peoples as they are presumed to form the oldest ethnological sector of the population i.e. "Adivasi" ('Adi' = original and 'Vasi' = inhabitant).

In this context it may be noted that while the Government of India refers to indigenous peoples as "Scheduled Tribes", Adivasi has become the popular term for India's indigenous or tribal peoples. It is a Sanskrit word meaning "original people". Contrary to the official government position, this term reflects the widely recognized fact that the people in question are the earliest known settlers on the Indian subcontinent and North-East India. The indigenous or tribal peoples of India's north-eastern region (the seven states Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, and Tripura) do not call themselves, nor are they normally referred to in literature, as Adivasi in spite of the fact that the meaning of the term very much applies to the respective people. Representatives of these peoples prefer to use the English term

"indigenous peoples". This fact deserves to be kept in mind while attempting to define the "original inhabitants of Tripura".

III. This Hon'ble Court in *Kailas & Ors vs State Of Maharashtra Tr.Taluka* reported in (2011) 1 SCC 793 observed that "Bhils are probably the descendants of some of the original inhabitants of India known as the 'aborigines' or Scheduled Tribes (Adivasis), who presently comprise of only about 8% of the population of India. The rest 92 % of the population of India consists of descendants of immigrants. Thus India is broadly a country of immigrants like North America."

12) **RIGHTS OF THE INDIGENOUS PEOPLE OF TRIPURA**

a) The Sixth Schedule of the Indian Constitution provides a separate administrative system for the tribal areas of the Northeastern region to protect the tribes from political and economic exploitation. To safeguard the rights and interests of the tribal people in India, the 'scheduled areas' were formulated under the Indian Constitution. The Indian Constitution envisaged bringing about

development and progress among the tribal communities and further assimilation of these groups with mainstream Indian society. The various provisions of the 6th Schedule also allowed these indigenous people to preserve their distinct identity, history, customary practices and traditional beliefs. However the constitutional safeguards have not necessarily guaranteed them their share of special rights in as much as that the unbated influx of illegal immigrants have uprooted the indigenous Tipra people of Tripura from their lands and deprived them of their livelihoods.

- b) In this regard it is further submitted that despite the safeguards provided under the 6th Schedule the prescribed powers has still not been transferred. Education has been given only upto Class-V and necessary departments were not handed over. Further the election process was done by the State machinery and counting of election was also done in State offices but not TTAADC areas ignoring the provision provided in Sixth Schedule of the Constitution. It may be further stated that the illegal immigrants entered in TTAADC areas. These people fraudulently acquired Indian citizenship and other documents and succeeded in de-reserving large portions of the TTAADC areas where they have settled down. A prime example in this regard is Aparashkar ADC Village

Committee of Kamalpur Sub-Division, Dhalai District, Tripura.

- c) The United Nations Declaration on the Rights of Indigenous Peoples was adopted by the United Nations General Assembly during its 61st session at UN Headquarters in New York City on 13 September 2007. It is submitted that India is a signatory to the aforesaid Declaration. The Declaration sets out the individual and collective rights of indigenous peoples, as well as their rights to culture, identity, language, employment, health, education and other issues. It also "emphasizes the rights of indigenous peoples to maintain and strengthen their own institutions, cultures and traditions, and to pursue their development in keeping with their own needs and aspirations". It "prohibits discrimination against indigenous peoples", and it "promotes their full and effective participation in all matters that concern them and their right to remain distinct and to pursue their own visions of economic and social development". The goal of the Declaration is to encourage countries to work alongside indigenous peoples to solve global issues, like development, multicultural democracy and decentralization. According to Article 31, there is a major emphasis that the indigenous peoples will be able to protect their cultural heritage and other aspects of their

culture and tradition, which is extremely important in preserving their heritage.

- d) Before his death the foresighted and people's King-Maharaja Bir Bikram had reserved 2060 square(BORGO) miles of land for the PANCHA TRIPURIS (Debbarma,Reang,Jamatia,Noatia/Tripura and Halam) in Khowai,Kamalpur,Kailasahar,Dharmanagar,Udaipur,Amarpur,Belonia,Sonamura.No one was allowed to visit and settle in these lands except the Pancha tripuris. But the subsequent governments in clear violation of the Merger Agreement made with the Indian Union, de-reserved this whole vast tracts of land and allotted these lands to the illegal immigrants who had then crossed over from East Pakistan(Present Bangladesh), after communal riots had taken place and this trend has continued till the present times.As a result of which the sons of the soil or the tiprasas lost almost every fertile plain lands in the hands of the incoming settlers and finally had to move over to the hills.
- e) Taking advantage of the innocence and poverty of the indigenous people,some sections of non indigenous people have managed to secure a lease of 90 years in the lands exclusively reserved for the tribes for serving their business purpose and have set up Brick Kilns/factory and Rubber Estate.It may be noted that

contrary to the Provisions of the 6th schedule of the Constitution the State govt. till the year 2008 has facilitated the illegal allotment of land to 13,864 non-indigenous families in the Khaas Jami under ADC areas who are otherwise the same illegal settlers and outsiders .The 'Forest Rights Act, 2006' is also being grossly violated and misused in Tripura.

- f) Loss of tribal land was an important consequence of the illegal migrant influx, as the immigrants were often rehabilitated in the tribal areas and also encroached upon tribal lands. The Dhebar Commission Report of 1961 had noted that the influx of displaced persons into Tripura had adversely affected tribals and accelerated the land problem (Gol 1961). Here, it is important to note the differing ap-proaches of the Left and the Congress, which was in power at the centre and the state. Dasarath Deb, who was also a Member of Parliament, suggested to Prime Minister Jawaharlal Nehru that: "some area or areas of Tripura shall have to be set aside for the tribals alone, and no other person belonging to non-tribal community should be allowed to settle there. (Jyoti Basu 1996: 170; Nripen Chakraborty 2004: 119)
- g) Until post-1960s, there was no initiative taken to restore tribal alienated land. Subsequently, the then Maharani de-reserved 777 square miles of land in 1948 to increase

the land revenue and resolve the rehabilitation problem. Later, the state government through an ordinance also de-reserved 300 square miles of Tribal reserved land out of the total of 2060 square miles. It was at this juncture that the Tripura Land Revenue and Land Reforms Act (TLRLR), 1960 came into force to restrict the transfer of tribal land to non-tribal. As per section 187 of the Act; no transfer of land by a person who is a member of Scheduled Tribe to a person who is not a member of any tribe shall be valid without the previous permission of the collector in writing. The drawback of this Act however was that it did not provide any provisions for restoration of illegally transferred land. The Act was amended in 1974 which rectified this lacuna in the form of a provision for restoration of the illegal transferred land. As per the provision of the amended Act; if a transfer of land belonging to Scheduled Tribe is made on or after first January 1969, in contravention of the provisions of subsection [1], any revenue officer appointed for the purpose by the state government may provide an opportunity to the transferee to be heard, and by an order in writing eject the transferee and restore the transferred land (TLRLR Act 1960, second Amendment Act, 1974). In 1986, the total number of petition received by Sub-Divisional Officers (S.D.Os) and Collectors were 19,089

(total land involved=18,840.22 acres) out of which 3,633 no. of petition has been restored physically (total land involved=3,226.51 acres). This Act however is critiqued for asserting 1968 as the cut off year, which indigenous peoples opine has no rational or logical basis. There has not been any explanation provided by the state as to why 1968 was made the cut off year to rationalise the transfer of land. It was argued that the Act virtually legalised the (illegal) transfer of Boroks lands that had taken place before January 1969. Many argue that it would have been far more efficacious to identify the cut off year as 1960 if any genuine effort for land restoration is to take place to indigenous communities. This is so because real and massive influx actually began only in 1961 with the settlement of the illegal immigrants from East Bengal who now have become a clear majority in Tripura dominating both its landscapes and its politics.

13) **ETHNIC CLASHES AND VIOLATION OF FUNDAMENTAL RIGHT TO LIFE AND DIGNITY UNDER ARTICLE 21**

The Writ Petitioners state that State of Tripura has repeatedly witnessed ethnic clashes and violence leading to loss of human lives and destruction of properties. The State is unable to ensure the safety and security of its inhabitants

thereby resulting in a direct infringement of Article 21 of the Constitution of India. The ethnic riots and armed movements witnessed in Tripura over the years have been detailed under the caption "Synopsis & List of Dates" which the petitioners seek liberty to refer and rely on. It is submitted that the continuous and frequent ethnic clashes and conflicts is hugely disruptive of community development and is also in gross violation of the right to life and dignity. Ethnic clashes arises out of existential threat perceptions, fear of being reduced to minority in one's own homeland and/or giving up territories to foreigners, imposition of foreign or alien culture. Ever since the dawn of human civilization every group and community in the world has fiercely defended their homeland from alien attack and illegal occupation. Right to protect their own homeland, territory, culture, honor and dignity from illegal alien occupation is an inviolable right that exists in every group and community. The petitioners submit that the unabated influx of illegal immigrants into their land violates this basic right of the Tripura Community and has put at jeopardy the very existence of their culture, religion and national identity. There is a simmering belief that the vote bank politics would not allow a permanent solution to this problem. The local population of Tripura is increasingly feeling more alienated as the vested groups have given the ethnic clashes the

colour of an "anti bengali propaganda" which is actually an ethnic and economic conflict. As a illustration the unprovoked attack on IPFT (Indigenous People Front of Tripura) during a peaceful rally at Agartala on 23/08/2016 in broad daylight by certain miscreants who are suspected to be illegal migrants.

14) **RIGHT OF THE INDIGENOUS PEOPLE TO PRESERVE THEIR UNIQUE CULTURE AND TRADITIONS**

- i. The father of our Nation, Mahatma Gandhi, highlighted the importance of culture in the following words: "I do not want my house to be walled in on all sides and my windows to be stuffed. I want the culture of all the lands to be blown about my house as freely as possible. But I refuse to be blown off my feet by any."
- ii. Lord Denning, One of the Worlds's most liberal and influential Judge of the last Century in his book "In due course of Law has written: "In recent times England has been invaded - not by enemies - not by friends, but by those who seek England as a haven. In England there is social security - a National Health Service and guaranteed housing - all to be had for the asking without payment and without working for it.

Once here, each seeks to bring his relatives to join him. So they multiply exceedingly ...”

- iii. The right to culture in human rights law is essentially about the celebration and protection of humankind's creativity and traditions. The right of an individual to enjoy culture and to advance culture and science without interference from the state is a human right. Under international human rights law governments also have an obligation to promote and conserve cultural activities and artefacts, particularly those of universal value. Culture is overwhelmingly applauded as positive in the vast majority of human rights instruments.
- iv. In the preamble to the Universal Declaration on Cultural Diversity (2001), culture is defined as “...the set of distinctive spiritual, material, intellectual and emotional features of society or a social group, and that it encompasses, in addition to art and literature, lifestyles, ways of living together, value systems, traditions and beliefs.”
- v. This definition is in line with the conclusions of the World Conference on Cultural Policies (MONDIACULT, Mexico City, 1982), of the World Commission on Culture and Development (Our

Creative Diversity, 1995) and the Intergovernmental Conference on Cultural Policies.

- vi. That seen from the various dictionary definitions, "Culture" of a group or a society is a compendium of its distinct characteristics which includes Language and Dialect, Science and Technology, Cuisine, Aesthetics - art, music, literature, fashion, and architecture, Values, ideology, social conventions, including norms, taboos, and etiquette, Gender roles, Recreational activities such as festivals and holidays, Commercial practices, Social structure and Religion.
- vii. **RELEVANCE OF CULTURE:** The significance of culture in the growth of human development is well recognized. In the Report of the UN world commission on culture and development - our creative diversity - summery version, July 1996 Paris, it is stated thus: "If the communities of the world are to improve their human development options they must first be empowered to define their futures in terms of who they ultimately want to be. Every community has its cultural and spiritual affiliations reaching back symbolically to the dawn of time, and it must be in a position to honour them. These cultural patterns play an irreplaceable role in defining individual and group identity and provide a shared "language" through

which the members of a society can communicate on existential issues which are beyond the reach of everyday speech. But also, as each one of us goes further and deeper into the unexplored territory of his singularity, we have good reasons to hope that he or she will discover there the unmistakable footprint of a common humanity"

- viii. Prof. Amartya Sen, recipient of the 1998 Nobel Prize for Economics, discusses the role of culture in addressing development. According to Sen "Cultural matters are integral parts of the lives we lead. If development can be seen as enhancement of our living standards, then efforts geared to development can hardly ignore the world of culture." In his paper "How Does Culture matter" (March 2002), Prof. Sen states that culture does matter to development because it is about the way the people live, and how the quality of their lives are improved. Prof. Sen argues Culture has an economic component. Tourism provides economic wealth. Preservation of historical sites, the absence of crime, are all economic assets, so culture can also be economically rewarding.
- ix. In Keeping the Promise: United to Achieve the Millennium Development Goals, Declaration of the 2010 United Nations Millennium Development Goals

Summit, it has been so declared: "We acknowledge the diversity of the world and recognize that all cultures and civilizations contribute to the enrichment of humankind. We emphasize the importance of culture for development and its contribution to the achievement of the Millennium Development Goals."

- x. In 2010 and 2011, the United Nations' General Assembly adopted three historic resolutions, which marked a profound shift in perspective on culture: from a view of culture as decorative' or secondary to key development initiatives, to one which recognizes its fundamental role in addressing global challenges effectively and sustainably. Following the 2010 UN Summit on the MDG and its outcome resolution called "Keeping the promise: united to achieve the Millennium Development Goals", two other important resolutions specifically on culture and development were adopted, which emphasized the importance of culture as "an essential component of human development, a source of identity, innovation and creativity for the individual and the community".
- xi. The Resolutions also stressed that culture is "an important factor in the fight against poverty, providing for economic growth and ownership of development processes", and acknowledged "the positive

contribution of culture in achieving sustainable development goals including the Millennium Development Goals.

- xii. That the World Commission on Culture and Development has declared that "Culture is the fountain of our progress and creativity and must be carefully nurtured to grow and develop."
- xiii. The role of culture in creating green jobs, reducing poverty, making cities more sustainable, providing safe access to water and food, preserving the resources of oceans and forests, and strengthening the resilience of communities in the face of disasters, is truly major and irreplaceable. UNESCO argues that placing culture at the heart of our strategies is both the condition for enabling sustainable development, and a powerful driving factor for its achievement. In a Statement by a group of United Nations experts on the World Day for Cultural Diversity for Dialogue and Development on 21st May 2010, the importance of the States' responsibility to create an environment conducive to cultural diversity and enjoyment of cultural rights are highlighted in the following words: "On the occasion of the World Day for Cultural Diversity, noting that universal values of human rights should serve as a bridge among all cultures and

should not be subservient to social, cultural or religious norms, we remind States of their responsibility under international law to create an environment conducive to cultural diversity and the enjoyment of cultural rights in which all persons, including national or ethnic, religious and linguistic minorities and those based on other attributes, as well as indigenous peoples, have the right: to express themselves and to create and disseminate their work in the language of their choice, and particularly in their mother tongue; receive quality education and training that fully respect their cultural identity; and have the right to participate in the cultural life of their choice and conduct their own cultural practices, subject to respect for human rights and fundamental freedoms."

xiv. CULTURE UNDER PROTECTION OF RIGHT TO INTERNATIONAL COVENANTS: There are several international treaties, declarations protection and promotion of cultural rights. Prominent amongst them to which India is a signatory country are as under:

a. Universal Declaration of Human Rights (1948):

Article 27 provides: "Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author."

- b. The Indigenous and Tribal Populations Convention, 1957 (No. 107): The Indigenous and Tribal Populations Convention, 1957 (No. 107) was a first attempt to codify international obligations of States in respect indigenous and tribal populations and was the first international convention on the subject, and was adopted by the ILO at the request of the UN-System. India ratified the convention in 1958. Article 13 provides "1. Procedures for the transmission of rights of ownership and use of land which are established by the customs of the populations concerned shall be respected, within the framework of national laws and regulations, in so far as they satisfy the needs of these populations and do not hinder their economic and social development. 2. Arrangements shall be made to prevent persons who are not members of the populations concerned from taking advantage of these customs or of lack of understanding of the laws on the part of the

members of these populations to secure the ownership or use of the lands belonging to such members."

- c. International Covenant on Economic, Social and Cultural Rights (1966): The ICESCR, adopted by the General Assembly in December 1966 and entered into force in 1976. It elaborates the principles laid out in UDHR and is legally binding on all states who have signed and ratified its provisions. Article 15 upholds the right of everyone to: "1. (a) To take part in cultural life; (b) To enjoy the benefits of scientific progress and its applications; (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author; 2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture; 3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity; 4. The States Parties to the present Covenant recognize the benefits to be

derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields."

d. Principle 22 of the United Nations Conference on Environment and Development (Rio Declaration on Environment and Development, 1992) - Earth summit; "Principle 22: Indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development." The Convention on Biological Diversity, 1992 recognizes the close and traditional dependence of many indigenous and local communities embodying traditional lifestyles on biological benefits arising from the use of traditional knowledge, innovations and practices relevant to the conservation of biological diversity and the sustainable use of its components."

e. United Nations Declaration on the Rights of Indigenous Peoples, 2007 Article 26: 1.

Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired; 2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired; 3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.”.

Article 27 "States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or

used. Indigenous peoples shall have the right to participate in this process.”

15) RIGHT TO CULTURE UNDER ARTICLES 19, 21 AND 29 OF THE INDIAN CONSTITUTION:

a) It is submitted that Culture is a form of expression and therefore is protected under Article 19 of the Constitution of India and any law that infringes on the free exercise of the right to culture must therefore satisfy the test of law under Article 19 (2) of the Constitution of India. The early approach to Article 21 which guarantees right to life and personal liberty was circumscribed by literal interpretation in A.K. Gopalan AIR 1950 SC 27. But in course of time, the scope of this application of the article against arbitrary encroachment by the executives has been expanded by liberal interpretation of the components of the article in tune with the relevant international understanding. Thus protection against arbitrary privation of "life" no longer means mere protection of death, or physical injury, but also an invasion of the right to "live" with human dignity and would include all these aspects of life which would go to make a man's life meaningful. (Francis Coralie Mullin v. UT of Delhi (1981)1SCC 608, P. Rathinam v. Union of India

(1994)3SCC394, at SCC p. 409, para 27, C. Masilamani Mudaliar V. Idol of Sri Swaminathaswami Swaminathaswami Thirukoil, (1996) 8 SCC 525, at page 536)

b) In D.A.V. College v. State of Punjab, (1971) 2 SCC 269, at page 273 and subsequently in T.M.A. Pai Foundation v. State of Karnataka, I(2002) 8 SCC 481, at page 555, this Hon'ble Court has held that "Article 29(1) gives the right to all sections of citizens, whether they are in a minority or the majority religion, to conserve their language, script or culture."

c) Writ Petition (civil) No. 562 of 2012, Assam Sanmilita Mahasangha & Ors. vs Union of India & Ors. On December 17, 2014, the Honourable Court observed that illegal migration has resulted in "periodic clashes between the citizens of India and migrants", leading to loss of life and property, and thereby violating the constitutional rights of the Assamese people. It reaffirmed that illegal migration had eroded the cultural way of life of the Assamese people as they were being swamped by the illegal migrants who had no right to be in India.

16) SOCIO-CULTURAL PRACTICES OF THE
INDIGENIOUS PEOPLE OF TRIPURA AND GRADUAL
INVASION AND DESTRUCTION:

a) Tripura achieved the status of full-fledged statehood on January 21, 1972. Etymologically it derives its identity from the ethnic group Tipera, or Tripuri in its Sanskritized form, which belongs to the Kirata or the Indo-Mongoloid stream. People speak here Kok Borok language belonging to the Tibeto-Burman family of languages. Kok-borok has been the main dialect for inter-tribe communication. It is spoken by about 80 per cent of indigenous population. In the pre-independence era, Tripura was a tribal dominated state but its aboriginal population got merged in the process of large scale immigration from erstwhile East Pakistan. The immigrants now constitute over sixty eight per cent of state population and their mother tongue, Bengali, is the official state language against Kok-borok, which enjoys the status of second language.

b) The population of Tripura is characterized by the presence of nineteen tribes with their own cultural identity and social diversity. The Scheduled Tribe population (including Chakma) of the state is 11,66,813 which is 31.78 per cent of the total

population of the state (Census 2011). The ST population of the state comprise, tribes namely the Tripuri, Jamatia, Noatia, Riang, Halam, Chakma, Mag, Garo, Munda, Lushai, Oraon, Santal, Uchai, Khasia, Bhil, Lepcha, Bhutia, Chaimal and Kuki have their own cultural heritage. However, of these Tripuri and the Riang are the numerically dominant tribes living since historical times. Most of the tribal communities live in hill areas and have been living in fraternity and peace. Each tribe has its own dialect, religion, social customs and cultural varieties.

- c) The tribes of Tripura are categorized into three types. The Tripuri, Riang, Jamatia, Noatia, Koloj, Rupini, and Murasing are indigenous to the state. In the second category are the tribes who have a major presence in the neighbouring states of Tripura. The tribes that fall in this category are the Lushai, Kuri, Halam, Mag, Chakma, Garo, Khasi, Lepcha and Bhutia. In the third category comprise the tribes who have come from mainland India. They are the Munda, Santhal, Oraon and Bhil. The indigenous Riang are classified as the only Primitive Tribal Group (now reclassified as Particularly Vulnerable Tribal Group) in the state, incidentally the major PTG out of the only two PTGs inhabiting the whole of north east India. Riangs of

Tripura, like other communities, immigrated to this land in successive waves in the historical past. They grew in isolation and were sometimes subjugated by one another. Each community had its own social and administrative organization starting from village level and to the chieftainship of the whole tribe.

- d) There are four predominant religions – Hinduism, Islam, Buddhism and Christianity. Most of the tribals have their own tribal customs and beliefs, but in the broader sense of religion it is better to say that the tribal religion in Tripura is a curious mixture of Hinduism and folk religion. There are Buddhist tribes like the Mag and Chakma, and Christian ones like the Garo and Kuki. Vaishnavism is practiced by the Murasing. Of the many festivals, the one that occupies the pride of the place is the worship of Choddo Devota or Chouddo Devata (Fourteen Gods) associated with Kharchi, the state festival. Next in importance are Ker and Garia puja. A mention may be made of two other important and popular festivals of Tripura – Durga puja and Diwali. The fairs of Tripura are mainly of socio-religious in nature.
- e) There have been multiple impacts of demographic changes that took place in Tripura following immigrant's settlement from erstwhile East Pakistan in

the aftermath of India's independence and partition. Apart from the political, economical, social impacts it has also affected the Cultural and topographical aspect of Tripura. Most of the names of different villages, hamlets, rivers, tributaries, markets, area, hills, hillocks, towns etc have been changed to suit the tongue of immigrant Bengali's, who had since become majority population. This created the impression that Tripura state did not belong to Native Tripuri people, rather it created the false idea that the land had since been occupied by Indo-Aryan language speakers, which it was not till mid 20th century in true senses.

- f) Tripura is also a land of many fairs and festivals. The tribal community of Tripura celebrates different festivals round the year. Festivals like Buisu or Bisu, Garia and Gajan Festival, Hojagiri, Kharchi festival, Ker festival are celebrated by the tribals of Tripura. In accordance with that the other non tribal communities celebrate festivals like Durga puja, Diwali, Holi and many others with much gaiety. Music and dances are integral part of the tribal people of Tripura. Some of their indigenous musical instruments are the *sarinda*, *chongpreng*, and *sumui* (a kind of flute). Songs are sung during religious occasions, weddings,

and other festivals. Each tribal community has their own repertoire of songs and dances. The Tripuri and Jamatia tribe perform gorja dance during the Gorja puja. Jhum dance (also called tangbiti dance) in the harvest season, lebang dance, mamita dance, and mosak sulmani dance are other Tripuri dances.^[7] Reang community, the second largest tribe of the state, are noted for their hojagiri dance performed by young girls balancing on earthen pitchers.^[7] The Bizhu dance is performed by the Chakmas during the Bizhu festival (the last day of the month of *Chaitra*). Other tribal dances are wangala dance of the Garo people, hai-hak dance of the Halam branch of Kuki people, sangrai dance and owa dance of the Mog tribe, and others.

- g) Each tribe of the state has its own cultural activities. They have their distinct dance and music which are mainly folk in nature. Folk songs and dance are performed on occasions like weddings, religious and other festivals. Bizu Dance, Lebang Boomani Dance, Garia Dance, Hai Hak dance, Jhum dance and so on are some of the important dance and song forms in Tripura. The food types of Tripura represent the food of the tribal people. One of the most important ingredient of Tripuri cuisine is Berma. It is basically

fermented dried puthi fish. The food of Tripura is made mainly without oil.

- h) The invasion of the illegal immigrants has had an adverse impact on the culture, language and traditions of the indigenous people. As a matter of illustration it is submitted that the traditional Borok religious practices and rituals in all the major traditional temples of Tripura like Matabari, Lakhi Narayan Bari, Jaganath Bari and Durgabari have been gradually replaced by the religious practices of the majority immigrant population. Further the royal family had established Chouda-Devta Mandir (Temple of 14 Deities). The head priest of this temple has been historically a "Borok". However this tradition has also been forcibly broken by the immigrants and now one of them functions as the head priest. The indigenous people have been completely sidelined in the matter of administration of the shrine.
- i) The Tipra Priests have been evicted from the Religious places like the Hakcharama Temple during the year 1980 riot. The temple has been re-named and presently known as Tripureshari Temple. The Priest of the Tipra people especially Jamatia Hoda has been allowed to perform only for one day during the Durga Puja as opposed to earlier religious

practices of the indigenous people. Further the place of Sangrongma Deity which is one of the most important Deity of the Tipra people has been forcibly occupied by the Anandamayee Ashram which is located near Kali Temple of Palace Compound Agartala. All these things have been heaped on the indigenous people by the majority community with a view to completely erase and destroy their glorious history and traditions. The State is duty bound to take steps to preserve and restore the traditional socio-cultural practices of its indigenous people. It has however failed to do so thereby violating the fundamental rights of the petitioners under Article 21 and 29(1) of the Constitution.

- j) It has been a persistent effort of the majority immigrant population to erase all things that are historically connected to the indigenous people thereby permanently impacting their culture and traditions. As a matter of illustration major rivers of the State which earlier had historically significant “ko-borok” names have been changed. The names of the rivers Saidra, Kosoma, Kormoti and Dongar have been changed to non-borok names Howrah, Khowai, Gomti and Dombur respectively. Even the name of the historically important Bikramsagar Lake (Named after

their King) has been changed to Rudrasagar Lake. The names of several historical monuments have also been changed. The royal palace known as the Ujjayanta Palace has since become the State Museum. The Statue of the Maharaja Radha Kishore Manikya who built this Palace was not established but statue of some other persons who were not even remotely connected with the state has been established in front of the Palace thereby undermining the dignity and prestige of the Royal Family. The name of the "Stabol Ground" has been changed to Swami Vivekananda Maidan. Similarly the name of Udaipur College which was set up by the royal family has been changed to Netaji Mahavidyalaya. There are several other examples which the petitioner craves leave to bring on record subsequently through an additional affidavit.

- k) The indigenous tribes of Tripura have always had a hierarchy that have passed on for ages. There has been a dilution of the cultural heads of every tribe. The head of every ethnic group is known as "Okra/Rai." The head of the regional area is known as "Sardar (Panchai)/Galem". The head of the village is called "chokdiri". On instruction of the Chokdiri (Head of Village), the "khandol" i.e the messenger and calls for

the meeting in the village. All the above traditional posts have been abolished by the immigrants through the administration. Hence the traditional cultural and practices of the indigenous people have been adversely affected by the ever increasing illegal immigrant population thus directly affecting their fundamental rights guaranteed under Article 29(1) and 21 of the Constitution.

- l) Maharaja Bir Bikram Kishore Manikya Bahadur Debbarma had reserved land for the 5 Tipras. It was dereserved and arranged settlement to the Refugees & Illigel Infiltrators. The Maharaja also constituted 50 Mondols in the year 1929 to preserve Socio-Cultural system having 9 members Executive Committee and 10 Volunteers to maintain peace, law & order. This Socio-Cultural structure of the Tipra people was ignored and totally destroyed. Today none of these mondols exist and most have been replaced by organised clubs that have political affiliation.

17) **GROUND OF CHALLENGE :**

- a. FOR THAT it is a known position that Tripura and Assam have faced the major brunt of illegal immigration from Bangladesh. The National Register of Citizens (NRC) is a population register first

introduced in 1951 across India and currently undergoing update only in the State of Assam under the supervision of this Hon'ble Court in W.P.(C) No 274/2009 and other connected petitions. The exercise in Assam was necessitated due to the persistent illegal influx problem that has plagued the state for over three decades now. The petitioners respectfully submit that Tripura is in worse condition. In this regard it is submitted that original inhabitants of Tripura are called as "BOROKS". The uncontrolled influx of illegal migrants from Bangladesh to Tripura has caused huge demographic changes in Tripura which earlier was a predominantly tribal state but now has become a non-tribal state. The indigenous people who were once the majority have now become a minority in their own land. The petitioners have already approached the respondents and placed their demand for their land and other rights through updation of the NRC as well as detection, deletion and deportation of the illegal migrants. However no favourable response could be solicited. The petitioners submit that it is very necessary to update the NRC in Tripura and also to detect and identify the illegal immigrants/non-citizens of India and deport them so that the socio-economic, socio-political and socio-cultural equilibrium is

restored. The total inaction of the respondents in this regard have resulted in violation of the petitioners fundamental rights under Article 14, 15 and 21 of the Constitution.

- b. FOR THAT the problem of presence of a large number of illegal immigrants is no more limited to the State of Tripura. As a matter of fact these immigrants are present across the country as would be evident from the statement dated 14/07/2004 given on the floor of the parliament by the Minister of State, Home, Government of India. It is therefore necessary that the NRC be updated in Tripura at the earliest to protect and preserve the distinct culture and tradition of its indigenous people which is a fundamental right guaranteed under Article 29 of the Constitution.
- c. FOR THAT it has been a consistent demand of the indigenous tribal people of Tripura to identify and deport "Bangladeshi migrants", introduce an Inner Line Permit (ILP) system to restrict their entry into tribal autonomous council areas in Tripura, restoration of alienated tribal lands and inclusion of tribals' Kokborok language in the 8th Schedule of the Constitution. However the respondents have failed to take any steps with respect to the aforesaid demands thereby posing a serious threat to the indigenous

people who have already been reduced to a minority in their own State. This inaction on part of the respondents have directly infringed upon the fundamental rights of the petitioners guaranteed under Article 14, 15, 19, 21 and 29 of the Constitution.

d. FOR THAT the Election Commission of India issued a circular to the Government of Assam directing it to remove non-citizens from the electoral list. Following that, an intensive revision of electoral rolls began in Assam, involving door to door survey in order to enlist only genuine Indian citizens. The persons who could not provide evidence in favour of their Indian nationality were marked with D in the electoral rolls, to indicated doubtful or disputed status of their Indian nationality. It is submitted that around 370,000 persons were thus declared as D voters by the Election Commission of India. The persons marked as D voters were barred from contesting the elections and casting their votes. The Election Commission of India further directed the D voters to be put on trial before the Foreigners Tribunals set up under the Foreigner (Tribunal) Order of 1964. The petitioners categorically assert that the electoral rolls of Tripura are also full of people whose credentials of Indian Citizenship is suspect. Hence it is necessary that a

similar exercise is also undertaken by the respondent no 4 in Tripura.

- e. FOR THAT it is an admitted fact that the State has virtually done nothing till date to detect and deport those illegal immigrants who have entered into the State of Tripura after 19/07/1948. The central government has totally failed in its constitutional obligations in this regard. In this regard it may be noted that, as a result of series of discussions with the representatives of the Tripura National Volunteers (TNV) culminating in a tripartite agreement popularly known as the “Rajiv-Hrankhal agreement” to end the eight-year old insurgency an agreement was signed on August 12, 1988 in New Delhi by the Union Government, the Government of Tripura and the TNV. For the first time, the problem of illegal migration in Tripura had been recognized by Government of India in 1988. According to this accord it the government solemnly assured that, “Stringent measures will be taken to prevent infiltration from across the border by strengthening arrangements on the border and construction of roads along vulnerable sections of the Indo-Bangladesh border in Tripura section for better patrolling and vigil. Vigorous action against such infiltrators would also be taken under the law”.

Subsequently the State signed a Memorandum of Settlement (MOS) with the All Tripura Tribal Force (ATTF) on 23/03/1993. It may be noted that Clause 2(B) of the MOS inter-alia stipulated to the effect that “Action would be taken in respect of sending back all Bangladesh foreign nationals who have come to Tripura after 25th March, 1971 and are not in possession of valid documents authorizing their presence in Tripura. However no further action has been taken by the State in terms of the commitments made with respect to detections and deportation of the illegal immigrants. Even after so many years of signing the bipartite agreement, problem of illegal trans-border infiltration could not be solved. Rather, palpably the detecting and deporting the infiltrators has been becoming remote with the passage of each day and consequently the indigenous people of Tripura, irrespective of their language, caste, creed and religion are already a minority in their own State. At this stage it may be noted that the petitioners do not completely agree and/or identify themselves with the charter of demands of the aforesaid two organisations particularly with respect to the cut-off date on and from which all the illegal immigrants who entered Tripura must be identified and deported. As per the

petitioners herein the cut-off date must be 19/07/1948 (Article 6 of the Constitution) and not mid-night of 24/03/1971. It is further submitted that the founding fathers of our Constitution never intended to extend protection to illegal infiltrators and confer citizenship upon them at any stage. However, notwithstanding the same, the Government of India has failed to initiate effective steps to free the country from such illegal infiltrators. This inaction on part of the respondents have directly infringed upon the fundamental rights of the petitioners guaranteed under Article 14, 15, 19, 21 and 29 of the Constitution.

- f. FOR THAT Article 6 of the Constitution of India clearly states that a person, who came to India from the territory then included in Pakistan and whose parents or grandparents were born in India as understood under the Government of India Act, 1935, would be treated as an Indian Citizen. However, for acquiring citizenship, this Article has stated that such a person should migrate to India before July, 19, 1948. There is a rider, too, that if any other person had come to India before six months of the commencement of the Constitution in order to be treated as Indian Citizen, he or she must get himself / herself registered as an Indian Citizen with the prescribed authorities in the

manner laid down by the Government of India. The Constitution was enforced with effect from January 26, 1950. Therefore, any person who came to India, the last date should be before 19 January, 1949 at the latest. It is thus seen that there are two cut-off dates, i.e July, 19, 1948 without application and January 19, 1949 with application, for acquiring Indian Citizenship. These are the laid down under the Constitution of India and till now provisions of Article 6 of the Constitution have remained unchanged.

- g. FOR THAT Article 6 of the Constitution brings forth a closure to the issues of citizenship of such category of migrants from Pakistan by spelling out cut off dates in clear and unequivocal terms. Therefore, all persons illegally entering the Indian territory from Bangladesh contrary to the Constitutional scheme and beyond the time frame prescribed by the Constitution is required to be treated as an offender under the Indian Law and the Government is constitutionally bound to take action against such a person by ensuring his/ her removal from the territory of India at the earliest.
- h. FOR THAT the writ petitioner on 18/02/2018 submitted a detailed representation to the Hon'ble President & Prime Minister of India detailing the ground situation prevailing in Tripura and their charter

of demands. It was clearly demonstrated through census data that the original indigenous people of Tripura i.e the Borok's had become a minority in their own home land. It was thus requested that necessary steps be urgently initiated by the government of India to address this very pertinent issue. It is submitted that no favourable response has been received till date on the said representation which has infringed the petitioners fundamental right guaranteed under Article 14 of the Constitution.

- i. FOR THAT Article 14 of the Constitution guarantees the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. Whatever be the reasons, if any, the people of Tripura cannot be compelled to waive of their fundamental right guaranteed under Article 14 and accept illegal immigrants who have entered the State from 1950 till date.
- j. FOR THAT the Central Government failed to take note of its consistent stand on the issue large scale influx of person from the then East Pakistan into India (Assam/Tripura) before and following Indo-Pak War of 1971. It has been noted by this Hon'ble Court in Sarbananda Sonowal (1) at para 56 that on 03.11.1971, Dr. Nagendra Singh, India's

representative in the 6th Committee of the General Assembly on the definition of aggression, made a statement to the effect that influx of large number of persons from across the border into India is an *act of aggression*.

- k. FOR THAT it is submitted that the citizens of the country for whom the Constitution has envisaged the goals of economic, social and political justice has a right to full and meaningful exercise of their fundamental rights for their individual and/or community development. The goals set out for the people of India in the preamble are a basic feature of the Constitution of India and therefore cannot be compromised and/or avoided to be complied with by the State. The State is under a Constitutional duty to create positive atmosphere which encourages the process for achieving these goals for its citizens and not enact legislations which impedes the process of achieving these goals. Not doing absolutely anything to detect and deport the millions of illegal immigrants staying in Tripura has deprived the citizens of their right to derive maximum benefit from the state measures which promotes goals set out in the preamble and directive principles of state policy enshrined in the Constitution. Unregulated economic

activities of migrant aliens promotes cheap labour practices and increase in crimes which is hugely detrimental to dignity and economic growth of the citizens (both as individual and as community) of the Country more particularly belonging lower income group of the society. By depriving the maximum benefit of state measures, thus encourages class discrimination without any intelligible differentia. This is most unfair to the indigeneous communities of Tripura.

- I. FOR THAT it is submitted that the State is the custodian of the natural resources which is to be used for the benefit of the people. In a country of over billion Population with scarce natural resources, depleting forest cover and agricultural land, increase in pollution, limited economic opportunities and almost half of the population living in abject poverty, the State cannot arbitrarily increase the population of the state without an effective policy for settlement, economic and political rights of the migrant population. Any action by the State without laying down any measures for protection of the said cultural and economic rights of the Citizens of India living in the state of Tripura which are guaranteed as fundamental rights under Article 19, 21 and 29 of the Constitution of India would

be both constitutionally as well as judicially susceptible.

m. FOR THAT Article 29 (1) of the Constitution confers a fundamental right on all sections of citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own to conserve the same and any invasion of this right would be ultra-vires. In this regard the petitioner respectfully submits that the unabated influx of the illegal immigrants from Bangladesh has resulted in rapid changes in the demographic patterns in the state of Tripura and it is emerging as a serious threat to the very identity of its indigenous people. It is submitted that indigenous communities are losing control of their land while illegal Bangladeshi immigrants have embarked on a large-scale land grab policy. This has also given rise to ethnic problems. The problem of immigration is also leading to change in demography in the state, and a serious threat to the unity, integrity and security of India. The presence of millions of illegal immigrants in Tripura has adversely affected the language, script and culture of the local indigenous people which have been dealt with in details in the foregoing paragraphs. As a matter of fact the local indigenous people have already been

reduced to a minority in Tripura. Hence this inaction on part of the respondents have directly infringed upon the fundamental rights of the petitioners guaranteed under Article 29 (1) of the Constitution.

- n. FOR THAT the need of the hour is an national migration policy recognising the colonial relations with today's Bangladesh as well as the land and other rights of the multiple smaller communities of the northeast that live in the constant fear of the 'outsider'. Without this, suspicion of the 'other' often ending in mindless violence will endure.
- o. FOR THAT the right conferred upon the citizens residing in the territory of India or any part thereof to conserve their language, script or culture is made by the Constitution absolute. Therefore any legislation that directly or indirectly affects this very valuable fundamental right has to be necessarily struck down as ultra-vires.
- p. FOR THAT it is essential to note that the land rights of the tribal's as guaranteed under Tripura Land Revenue and Land Reforms Act (TLRLR), 1960 have been consistently violated. A number of non-tribal villages have come up in notified tribal blocks in clear violations of the aforesaid Act. The Government of Tripura has never taken any measure to prevent

encroachment of tribal lands. This has led to development of consciousness that the Government of Tripura because of its vote-bank politics seeks to reduce tribal's to minorities in their own land. The fears of losing land and identities connected with land have been one of the root causes of conflicts between the indigenous tribal people and the vast majority of illegal immigrants. Special Rapporteur of the United Nations Sub-Commission on Human Rights José R. Martínez Cobo, in volume V of the Study of the Problem of Discrimination against Indigenous Populations describing the relationship of indigenous peoples with land stated: "It is essential to know and understand the deeply spiritual special relationship between indigenous peoples and their land as basic to their existence as such and to all their beliefs, customs, traditions and culture. For such peoples, the land is not merely a possession and a means of production. The entire relationship between the spiritual life of indigenous peoples and Mother Earth, and their land, has a great many deep-seated implications. Their land is not a commodity which can be acquired, but a material element to be enjoyed freely."

- q. FOR THAT Article 13 of the International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries stated that while applying the Convention “governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship.”
- r. FOR THAT the Sixth Schedule of the Indian Constitution provides a separate administrative system for the tribal areas of the Northeastern region to protect the tribes from political and economic exploitation. To safeguard the rights and interests of the tribal people in India, the ‘scheduled areas’ were formulated under the Indian Constitution. The Indian Constitution envisaged bringing about development and progress among the tribal communities and further assimilation of these groups with mainstream Indian society. The various provisions of the 6th Schedule also allowed these indigenous people to preserve their distinct identity, history, customary practices and traditional beliefs. However the constitutional safeguards have not necessarily

guaranteed them their share of special rights in as much as the impugned provision seeking to confer citizenship to the illegal immigrants have uprooted the indigenous people from their lands and denied of their livelihoods. Because of rampant and illegal settlements primarily by the illegal immigrants their entire social and cultural fabric has been considerably weakened and undermined. Many have lost their livelihood and are living in extreme poverty. This resulted in causing a threat to their tradition and identity leading to widespread unrest. Despite the serious demographic, economic, security and political ramifications of the illegal immigrants in the Tripura, these developments continue to remain substantially outside the realm of the security discourse in the country.

- s. FOR THAT the illegal immigration to the State of Tripura in itself has led to a perceptible change in the demographic pattern of the State and has reduced the people of Tripura to a minority in their own State. The same is detrimental to the economic and political well-being of the State and acts as a potent force against the cultural survival, political control and employment opportunities of the people.

t. FOR THAT the population patterns of Tripura have been changed as a result of illegal migration of foreign nationals. The huge magnitude of the problem and the serious threat to the territorial integrity of the nation that this influx of foreign nationals possesses is clearly revealed by the following figures of census report of Tripura. The huge change in demography is obvious from the following charts.

Decadal growth in density of population during hundred years

Census Years	Scheduled Caste	Scheduled Tribe	Others	Total	Density of Population
1901	(A)	91679	81646	173325	17
1911	(A)	111308	118305	229613	22
1921	(A)	171610	132827	304437	29
1931	(A)	192240	190210	382450	36
1941	(A)	256991	256019	513010	49
1951	40457	237953	367297	645707	62
1961	119725	360070	66210	1142005	109
1971	192860	450544	912938	1556342	148
1981	310384	583960	1158714	2053058	196
1991	451116	853345	1452744	2757205	263
2001	555724	993426	1650053	3199203	305

Ratio of Tribal and Non-Tribal population at the beginning of the century, after annexation to the Indian Union, and at the closure of the century

Census Years	Tribe	Percentage	Non-Tribe	Percentage	Total
1901	91679	52.89	81646	47.11	173325
1951	237953	36.85	407754	63.15	645707
2001	993426	31.05	2205777	68.95	3199203

Growth of Population in Tripura against ST population

Year	Total Population of the state	Population of the Tribes	Percentage of the Tribal Population against Total Population of the State	Population of the Non-Tribes	Percentage of the Non-Tribal Population against Total population of the state
1931	3,82,450	1,92,240	50.26	190210	49.47
1941	5,13,010	2,56,991	50.09	256019	49.81
1951	6,45,707	2,37,953	36.85	407754	63.15
1961	11,42,005	3,60,070	31.52	781935	68.48
1971	15,56,342	4,50,508	28.94	1105834	71.06
1981	20,53,058	5,83,770	28.43	1469288	71.57
1991	27,57,25	8,53,345	30.94	1903860	69.06
2001	31,99,203	9,93,426	31.05	2205777	68.95
2011	36,73,917	11,66,813	31.78	2507104	68.22

- Please note that the total population figure of 5, 13,010 in 1941 also include the population that lived in Chakla-

Roshnabad, Komila and Syhlet. These 3 places became part of East Pakistan in 1947. It's only the hill Tripura part that merged with the Indian Union. During 1947 the population of the indigenous people in Hill Tripura was almost 93%.

- Please note that 31.78 % of ST population in 2011 also includes the Chakma Tribe which has also infiltrated from erstwhile East Pakistan now presently Bangladesh. It is submitted that the actual ST percentage of the native indigenous people of Tripura is under 20%.

u. FOR THAT this Hon'ble Court in *Sarbananda Sonowal versus Union of India* (2005) 5 SCC 665 came to the categorical conclusion to the effect that "...there can be no manner of doubt that the State of Assam is facing "external aggression and internal disturbance" on account of large-scale illegal migration of Bangladeshi nationals. It, therefore, becomes the duty of the Union of India to take all measures for protection of the State of Assam from such external aggression and internal disturbance as enjoined in Article 355 of the Constitution." In this regard the petitioner submits that the same situation prevails in Tripura hence the observations of this Court will also

be equally applicable to Tripura. The constitutional mandate of Art 355 enjoining a duty upon the Union of India to protect the State from such external aggressions, obviously stood compromised on the ground of political expediency. In the result, it was the people of the State of Tripura which not only had to bear the burden of such population explosion but also face other civil and political consequences. This had resulted in violation of Article 21 of the petitioners by the respondents.

v. FOR THAT having regards to the Sixth Schedule to the Constitution ensuring special protection to the tribal population of North East India, it is the duty of the Union of India to protect the constitutional rights of tribal people and usurping of their land rights by the illegal migrants.

w. FOR THAT the United Nations Declaration on the Rights of Indigenous People adopted on 13.09.2007 and duly signed by India envisaged the need to respect and promote the inherent rights of the indigenous people which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to land, territories and resources. Hence, it is the duty of the Union of

India to protect such rights of the indigenous people of Tripura on account of its total inaction.

x. FOR THAT the United Nations Declaration adopted on 13.09.2007 had envisaged that the indigenous people shall have a right to live in freedom, peace and security and shall not be subjected to forced assimilation and destruction of their culture. However, the ramification due to the vast and incessant flow of illegal migrants into the State of Tripura has disrupted the traditional socio fabric of Tripura and the rights thereto of the indigenous people.

y. FOR THAT such a vast and incessant flow of illegal migrants has impaired the economic and political well-being of the State of Tripura and have to be categorized as “aggression” as envisaged under Article 355 of the Constitution. It is also the core factor behind the outbreak of insurgency in the State of Tripura having adverse effect not only to the Tripuri community but has more dangerous dimensions of greatly undermining the national security of our country.

18) That the petitioners seek the leave and liberty of this Hon’ble Court to add, alter, modify, amend and/or substitute

any of the afore-stated grounds if so advised at a later stage.

19) The petitioners state and submits that the impugned inaction of the respondents are in violation of the petitioners rights guaranteed under Article 14, 29 (1) and the 6th Schedule of the Constitution. The petitioners are therefore seeking enforcement of the rights guaranteed and protected by Part III of the Constitution.

20) That the petitioners have no other equally efficacious and alternative remedy except to approach this Hon'ble Court by way of filing the instant writ petition. The issues raised herein have ramifications nationwide and this Court has already on earlier occasion extensively dealt with the issue of illegal immigration vis-à-vis the State of Assam in (2005) 5 SCC 665.

21) The petitioners states and submits that they have never earlier filed any other writ petition before this Hon'ble Court or in any other High Court praying inter-alia that the respondents be directed to update the National Register of Citizens as with respect to the State of Tripura in terms of Rules 3 an 4 of The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 by taking 19/07/1948 as the cut-off date as provided for in Article 6 of the Constitution of India; issue a writ of mandamus, order or direction of like nature be issued against the respondents to

set up an effective mechanism for the detection of illegal immigrants in the State; to set up appropriate numbers of Foreigners Tribunal in terms The Foreigners (Tribunals) Orders,1964 for speedy and effective trial of the persons detected as illegal immigrants in the State; to immediately take effective steps towards ensuring the deportation of the persons declared as illegal immigrants by a competent court from the territory of India; to immediately take effective steps for intensive revision of the electoral rolls in Tripura so that the names of all the non-citizens are deleted from the same; to forthwith take steps for properly fencing and sealing the entire Tripura (India)- Bangladesh border and increase border patrolling for preventing illegal immigrants from entering into Indian territory; to constitute a National Immigration Commission or any other appropriate body to frame a National Immigration Policy and a National Refugee Policy; to take effective steps for conservation and preservation of the distinct culture and traditions of its indigenous people in furtherance to its commitments given in the several UN International Covenants; to immediately take effective steps for restoring land illegally and forcibly alienated back to the indigenous people and to immediately take effective steps for including Kokborok, lingua franca of indigenous communities of Tripura in the Eighth Schedule of the Constitution.

22) That this petition is made bonafide and for the ends of justice.

23) In view of the aforesaid facts and circumstances of the present case the petitioners most humbly pray that this Hon'ble Court may be graciously pleased to pass the following

PRAYER

In the aforesaid premises it is therefore prayed that your Lordship would graciously be pleased to admit this writ petition, call for the records and issue notice upon the respondents to show cause as to why the reliefs prayed for should not be granted. And upon cause or causes being shown this Hon'ble Court may be pleased to issue:

- a) a writ in the nature of Mandamus or any other appropriate writ(s), order(s) or direction(s) directing the respondent no 1 and 5 to set up an effective mechanism for the detection of illegal immigrants in the State;
- b) a writ in the nature of Mandamus or any other appropriate writ(s), order(s) or direction(s) directing the respondent no 1 and 5 to set up appropriate numbers of Foreigners Tribunal in terms The Foreigners (Tribunals) Orders, 1964 for speedy and effective trial of the persons detected as illegal immigrants in the State;

- c) a writ in the nature of Mandamus or any other appropriate writ(s), order(s) or direction(s) directing the respondents no 1 and 2 to immediately take effective steps towards ensuring the deportation of the persons declared as illegal immigrants by a competent court from the territory of India;
- d) a writ in the nature of Mandamus or any other appropriate writ(s), order(s) or direction(s) directing the respondent no 4 to immediately take effective steps for intensive revision of the electoral rolls in Tripura so that the names of all the non-citizens are deleted from the same;
- e) a writ in the nature of Mandamus or any other appropriate writ(s), order(s) or direction(s) directing the respondent no 1 and 3 to forthwith update the National Register of Citizens with respect to the State of Tripura strictly in accordance with Rule 3 and 4 of The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 by taking 19/07/1948 as the cut-off date as provided for in Article 6 of the Constitution of India ;
- f) a writ in the nature of Mandamus or any other appropriate writ(s), order(s) or direction(s) directing the respondent no 1 and 5 to forthwith take steps for properly fencing and sealing the entire Tripura (India)- Bangladesh border and increase border patrolling for preventing illegal immigrants from entering into Indian territory;

- g) a writ in the nature of Mandamus or any other appropriate writ(s), order(s) or direction(s) directing the respondent no 1 to constitute a National Immigration Commission or any other appropriate body to frame a National Immigration Policy and a National Refugee Policy;
- h) a writ in the nature of Mandamus or any other appropriate writ(s), order(s) or direction(s) directing the respondent no 1 to take effective steps for conservation and preservation of the distinct culture and traditions of its indigenous people in furtherance to its commitments given in the several UN International Covenants;
- i) a writ in the nature of Mandamus or any other appropriate writ(s), order(s) or direction(s) directing the respondent no 5 to immediately take effective steps for restoring land illegally and forcibly alienated back to the indigenous people;
- j) a writ in the nature of Mandamus or any other appropriate writ(s), order(s) or direction(s) directing the respondent no 1 and 5 to immediately take effective steps for including Kokborok, lingua franca of indigenous communities of Tripura in the Eighth Schedule of the Constitution;
- k) Issue Rule Nisi in terms of prayers (a), (b), (c), (d), (e), (f), (g), (h),(i) and (j) above;
- l) Pass such other further or other writ, orders or directions as your Lordships may deem fit and proper in the facts and circumstances of the instant case.

AND FOR THIS ACT OF KINDNESS, YOUR PETITIONER AS IN
DUTY BOUND SHALL EVER PRAY.

Drawn by

Filed by

Manish Goswami

(_____)

Advocate

Advocate for the Petitioner

Drawn on: 24/08/2018

Filed on: 28/08/2018

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL WRIT JURISDICTION

WRIT PETITION (CIVIL) NO. OF 2018

IN THE MATTER OF:

TRIPURA PEOPLE'S FRONT & ORS PETITIONERS

VERSUS

UNION OF INDIA & OTHERS RESPONDENTS

AFFIDAVIT

I, Ms Patal Kanya Jamatia, D/o Late Brahmapada Jamatia, aged about 43 years, residing at Village Moharbari, P.O. North Pulinpur, P.S. Teliamura, District Khowai, Tripura-799203, presently in Delhi do hereby solemnly affirm and declare as under:-

1. That I am the President of the petitioner no 1 organisation in the accompanying Writ Petition and as such I am well acquainted with facts and circumstances of the case. I am also competent and authorized to swear this affidavit on behalf of all the petitioners.
2. That the contents of the List of dates (Pages B-LL) , Writ Petition (Pages 1-103, paras 1-23) and Application for permission to file lengthy list of dates (Pages 197-200, paras 1- 4) have been drawn by my Advocate under my instructions. I have read and understood the contents of the

above and I say that the same are true and correct to my knowledge and belief and I believe the same to be true.

3. That the Annexure P-1 to P12 (Pages 106-196) are true and correct copies of its respective original.

DEPONENT

VERIFICATION

I, the above named deponent do hereby verify that the contents of para 1 to para 3 of the above affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed there from.

Solemnly affirmed on this the 28th day of August'2018 at New Delhi.

Place: New Delhi

Dated: 28/08/2018

DEPONENT

ANNEXUREP-1

INSTRUMENT OF ACCESSION, 1947

Whereas, the Indian Independence Act, 1947 provides that as from the fifteenth day of August, 1947 there shall be set up an Independent Dominion known as INDIA, and that the Government of India Act, 1935 shall with such omissions, additions, adaptations and modification as the Governor-General may by order specify to be applicable to the Dominion of India.

And whereas the government of India act, 1935 as so adapted by the Governor-General provides that an Indian state may accede to the dominion of India by an Instrument of Accession executed by the ruler thereof.

Now therefore I, Kanchan Prabha Devi, Maharani Regent of Tripura state in the exercise of my sovereignty in and over my said State do hereby execute this my Instrument of Accession and I hereby declare that I accede to the Dominion of India with the intent that the Governor-General of India, the Dominion legislature, the Federal Court and other Dominion authority established for the purposes of the Dominion shall, by virtue of this my Instrument of Accession but subject always to the terms thereof, and for the purposes only of the Dominion exercise in relation to the State of TRIPURA (hereinafter referred to as 'the State') such functions as may be vested in them by or under the

Government of India Act, 1935, as in force in the Dominion of India on the 15th day of August, 1947 (which Act as so in force is hereinafter referred to as 'the Act'), and I further declare that the Dominion of India may, through such agency or agencies and in such manner, as it thinks fit exercise in relation to the administration of civil and criminal justice in this State all such powers, authorities and jurisdiction as were at any time exercisable by His Majesty's representative for the exercise of the functions of the Crown in its relations with Indian States.

2. I hereby assume the obligation of ensuring that due effect is given to the provisions of the Act within this State so far as they are applicable therein by virtue of this my Instrument of Accession.
3. Without prejudice to the provisions of paragraph 1, I accept the matters specified in the schedule hereto as the matters with respect to which the Dominion Legislature may make laws for this State.
4. I hereby declare that I accede to the Dominion of India on the assurance that if an agreement is made between the Governor-General and the Ruler of this State whereby any function in relation to the administration in this State of any law of dominion legislature shall be exercised by the Ruler of this State, then any such agreement shall be deemed to

form part of this Instrument and shall be construed and have effect accordingly.

5. The terms of this my Instrument of Accession shall not be varied by any amendment of the Act or of the Indian Independence Act, 1947, unless such amendment is accepted by me by an Instrument supplementary to this Instrument.
6. Nothing in this Instrument shall empower the Dominion Legislature to make any law for this State authorising the compulsory acquisition of land for any purpose, but I hereby undertake that should the Dominion for purpose of a Dominion law which applies in this State deem it necessary to acquire any land, I will at their request provide the land at their expense or if the land belongs to me transfer it to them on such terms as may be agreed, or in default of agreement, determined by an arbitrator to be appointed by the Chief justice of Delhi.
7. Nothing in this Instrument shall be deemed to commit me in any way to acceptance of any future Constitution of India or to fetter my discretion to enter into an arrangement with the Government of India under any such future Constitution.
8. Nothing in this Instrument affects the continuance of my sovereignty in and over this State, or save as provided by or

under this Instrument, the exercise of any owners, authority and rights now enjoyed by me as Ruler of this State or the validity of any law at present in force in this state.

9. I hereby declare that I have executed this Instrument on behalf of this State and that any reference in this Instrument to me or to the Ruler of the State is to be construed as including a reference to my heirs and successors.

Given under my hand this 13th day of August, Nineteen hundred and forty - seven.

Sd/ Kanchan Prabha Devi
Maharani Regent of Tripura

I do hereby accept this Instrument of Accession.

Dated this 13th day of August, Nineteen hundred and forty-seven.

Sd/Louis Mountbaten
Governor-General of India.

SCHEDULE

The matters with respect to which the Dominion legislature may make laws for this State.

A. DEFENCE

1. The naval, military and air force of the Dominion and any other armed forces raised or maintained by the Dominion, any armed forces, including forces raised or maintained by an Acceding state, which are attached to, or operating with, any of the armed forces of the Dominion.
2. Naval, military and air force works, administration of cantonment area.
3. Arms, Fire-arms, ammunition.
4. Explosives.

B. EXTERNAL AFFAIRS

1. External affairs, the implementing of treaties and agreements with other countries, including the surrender of criminals and accused persons to parts of His Majesty's Dominion outside India.
2. Admission into, and emigration and expulsion from, India, including in relation thereto the regulation of the movements in India or persons who are not British subjects domiciled in India or subjects of any acceding State, pilgrimages to places beyond India.
3. Naturalisation.

C. COMMUNICATION

1. Posts and Telegraphs, including telephone, wireless broadcasting and other like forms of communication.
2. Federal railway, the regulation of all railways other than minor railways in respect of safety, maximum and minimum rates and fares, station and service terminal changes, interchange of traffic and the responsibility of railways administrations as carrier of goods and passengers, the regulation of minor railways in respect of safety and responsibility of the administration of such railways as carriers of goods and passengers.
3. Maritime shipping and navigation, including shipping and navigation on tidal waters, admiralty jurisdiction.
4. Port quarantine.
5. Major ports, that is to say, the declaration and administration of the ports, and the constitution and powers of port authorities therein.
6. Aircraft and Air navigation, the provision of aerodromes regulation and organization of Air traffic and of aerodromes.
7. Lighthouses, including lightships, beacons and other provisions for the safety of shipping and aircraft.
8. Carriage of passengers and goods by sea or by air.

9. Extension of the powers and jurisdiction of members of the police force belonging to any unit to railway area outside that unit.

D. ANCILLARY

1. Elections to the Dominion Legislature, subject to the provisions of the Act and of any order made thereunder.
2. Offence against laws with respect to any of the aforesaid matters.
3. Inquiries and statistics for the purpose of any of the aforesaid matters.
4. Jurisdiction and powers of all courts with respect to any of the aforesaid matters, but except with the consent of the Ruler of the acceding state, not so as to confer any Jurisdiction and powers upon any courts other courts ordinarily exercising jurisdiction in or in relation to that State.

TRUE COPY

ANNEXURE P-2

TRIPURA MERGER AGREEMENT

AGREEMENT made this ninth day of September 1949, between the Government-General of India and His Highness the Maharaja of Tripura.^[1]

WHEREAS in the best interests of the State of Tripura as well as the Dominion of India it is desirable to provide for the administration of the said State by or under the authority of the Dominion Government:—

It is hereby agreed as follows:—

Article I

The Maharaja of Tripura cedes to the Dominion Government full and exclusive authority, jurisdiction and powers for and in relation to the governance of the State and agrees to transfer the administration of the State to the Dominion Government on the fifteenth day of October 1949 (herinafter referred to as the said day).

Article II

The Maharaja shall with effect from the said day be entitled to receive from revenues of the State annually for his privy purse the sum of Rupees Three lakhs and thirty thousand only [R330,000] free of taxes. This amount is intended to cover all the expenses of

the Ruler and his family, including expenses on account of his personal staff, maintenance of his residences, marriages and other ceremonies etc. and will neither be increased nor reduced for any reason whatsoever.^[1] The said sum may be drawn by the Maharaja in four equal installments in advance at the beginning of each quarter from the State Treasury or at such other treasury as may be specified by the Government of India.

Article III

The Maharaja shall be entitled to the full ownership, use and enjoyment of all private properties (as distinct from State properties) belonging to him on the date of this agreement.^[1]

The Maharaja will furnish to the Dominion Government, before 10 October 1949, an inventory of all the immovable property, securities and cash balances held by him as such private property.^[1]

If any dispute arises as to whether any item of property is the private property of the Maharaja or State property, it shall be referred to a judicial officer qualified to be appointed a High Court judge and the decision of that officer shall be final and binding on both parties.^[1]

Article IV

The Maharaja shall be entitled to all the personal rights, privileges, immunities and dignities enjoyed by him as the Ruler of

Tripura, whether within or without the State, immediately before 15 August 1947.

Article V

All the members of the Maharaja's family including Her Highness the Rajmata shall be entitled to all the personal privileges and titles enjoyed by them, whether within or without the territories of the State, immediately before the 15th day of August, 1947.^[1]

Article VI

The Dominion Government guarantees the succession, according to law and custom, to the *Gaddi* of the State and to the Maharaja's personal rights, privileges, dignities and titles.^[1]

Article VII

No enquiry shall be made by or under the authority of the Government of India and no proceedings shall lie in any Court of Tripura against His Highness the Maharaja or Her Highness the Mararani Regent whether in a personal capacity or otherwise in respect of anything done or omitted to be done by them under their authority during the period of Regency administration of the State.^[1]

Article VIII

- The Government of India hereby guarantees either the continuance in service of the permanent members of the

public services of Tripura on conditions which will be no less advantageous than those on which they were serving before the date on which the administration of Tripura is made over to the Government of India or the payment of reasonable compensation.^[1]

- The Government of India further guarantees the continuance of pensions and leaves salaries sanctioned by the Government of His Highness the Maharaja to members of the public services of the State who have retired or proceeded on leave preparatory to retirement before the date on which the Administration of Tripura is made over to the Government of India.^[1]

Article IX

Except with the previous sanction of the Government of India no proceedings civil or criminal shall be instituted against any person in respect of any act done or purporting to be done in the execution of his duties as a servant of the State before the day on which the administration is made over to the Government of India.^[1]

In confirmation whereof Mr. Vapal Pangunni Menon, adviser to the Government of India in the Ministry of States has appended his signature on behalf and with the authority of the Governor-General of India and Her Highness Queen Kanchanprava Devi,

Maharani Regent of Tripura, has appended her signature on behalf of His Highness Maharaja Bir Bikram Kishore Manikya Bahadur Debbarma, the minor Ruler of Tripura, his heirs and successors.^[1]

Dated New Delhi, The 9 September 1949.

Sd/- Kanchan Prabha Devi,

Maharani Regent, Tripura

Sd/- V P Menon,

Advisor to the Government of India

Ministry of States

TRUE COPY

ANNEXURE P-3

Agreement Between India and Pakistan On Minorities

A

THE GOVERNMENTS of India and Pakistan solemnly agree that each shall ensure, to the minorities throughout its territory, complete equality of citizenship, irrespective of religion, a full sense of security in respect of life, culture, property and personal honour, freedom of movement within each country and freedom of occupation, speech and worship, subject to law and morality. Members of the minorities shall have equal opportunity with members of the majority community to participate in the public life of their country, to hold political or other office, and to serve in their country's civil and armed forces. Both Governments declare these rights to be fundamental and undertake to enforce them effectively. The Prime Minister of India has drawn attention to the fact that these rights are guaranteed to all minorities in India by its Constitution. The Prime Minister of Pakistan has pointed out that similar provision exists in the Objectives Resolution adopted by the Constituent Assembly of Pakistan. It is the policy of both Governments that the enjoyment of these democratic rights shall be assured to all their nationals without distinction.

Both Governments wish to emphasise that the allegiance and loyalty of the minorities is to the State of which they are citizens, and that it is to the Government of their own State that they should look for the redress of their grievances.

B

In respect of migrants from East Bengal, West Bengal, Assam and Tripura, where communal disturbances have recently occurred, it is agreed between the two Government:

1. That there shall be freedom of movement and protection in transit;
2. That there shall be freedom to remove as much of his moveable personal effects and household goods as a migrant may wish to take with him. Moveable property shall include personal jewellery. The maximum cash allowed to each adult migrant will be Rs. 150/- and to each migrant child Rs. 75/-;
3. That a migrant may deposit such of his personal jewellery or cash as he does not wish to take with him with a bank. A proper receipt shall be furnished to him by the bank for cash or jewellery thus deposited and facilities shall be provided, as and when required, for their transfer to him, subject, as regards cash to the exchange regulations of the Government concerned;
4. That there shall be no harassment by the Customs authorities. At each Customs post agreed upon by the Governments concerned liaison officers of the other Government shall be posted to ensure this in practice;

5. Rights of ownership in or occupancy of the immoveable property of a migrant shall not be disturbed. If, during his absence, such property is occupied by another person, it shall be returned to him, provided that he comes back by the 31st December, 1950. Where the migrant was a cultivating owner or tenant, the land shall be restored to him, provided that he returns not later than the 31st December, 1950. In exceptional cases, if a Government considers that a migrant's immoveable property cannot be returned to him, the matter shall be referred to the appropriate Minority Commission for advice.

Where restoration of immoveable property to the migrant who returns within the specified period is found not possible the Government concerned shall take steps to rehabilitate him.

6. That in the case of a migrant who decides not to return, ownership of all his immoveable property shall continue to vest in him and he shall have unrestricted right to dispose of it by sale, by exchange with an evacuee in the other country, or otherwise. A Committee consisting of three representatives of the minority and presided over by a representative of Government shall act as trustees of the owner. The Committee shall be empowered to recover rent for such immoveable property according to law.

The Government of East Bengal, West Bengal, Assam and Tripura shall enact the necessary legislation to set up these Committees.

The Provincial or State Government, as the case may be, will instruct the District or other appropriate authority to give all possible assistance for the discharge of the Committee's functions.

The provisions of this sub-paragraph shall also apply to migrants who may have left East Bengal for any part of India, or West Bengal, Assam or Tripura for any part of Pakistan, prior to the recent disturbances but after the 15th August, 1947. The arrangement in this sub-paragraph will apply also to migrants who have left Bihar for East Bengal owing to communal disturbances or fear thereof.

C

As regards the Province of East Bengal and each of the States of West Bengal, Assam and Tripura respectively, two Governments further agree that they shall:

1. Continue their efforts to restore normal conditions and shall take suitable measures to prevent recurrence of disorder.
2. Punish all those who are found guilty of offences against persons and property and of other criminal offences. In view of their deterrent effect, collective fines shall be imposed,

where necessary. Special Courts will, where necessary, be appointed to ensure that wrong-doers are promptly punished.

3. Make every possible effort to recover looted property.
4. Set up immediately an agency, with which representatives of the minority shall be associated, to assist in the recovery of abducted women.
5. NOT recognize forced conversions. Any conversion effected during a period of communal disturbance shall be deemed to be a forced conversion. Those found guilty of converting people forcibly shall be punished.
6. Set up a Commission of Enquiry at once to enquire into and report on the causes and extent of the recent disturbances and to make recommendations with a view to preventing recrudescence of similar trouble in future. The personnel of the Commission, which shall be presided over by a Judge of the High Court, shall be such as to inspire confidence among the minority.
7. Take prompt and effective steps to prevent the dissemination of news and mischievous opinion calculated to rouse communal passion by press or radio or by any individual or organization. Those guilty of such activity shall be rigorously dealt with.
8. Not permit propaganda in either country directed against the territorial integrity of the other or purporting to incite war

between them and shall take prompt and effective action against any individual or organisation guilty of such propaganda.

D

Sub- paragraphs (1), (2) , (3), (4), (5), (7) and (8) of C of the Agreement are of general scope and applicable, according to exigency, to any part of India or Pakistan.

E

In order to help restore confidence, so that refugees may return to their homes, the two Governments have decided (i) to depute two Ministers, one from each Government to remain in the affected areas for such period as may be necessary; (ii) to include in the Cabinets of East Bengal, West Bengal and Assam a representative of the minority community. In Assam the minority community is already represented in the Cabinet. Appointments to the Cabinets of East Bengal and West Bengal shall be made immediately.

F

In order to assist in the implementation of this Agreement, the two Governments have decided, apart from the deputation of their Ministers referred to in E, to set up Minority Commissions, one for East Bengal, one for West Bengal and one for Assam. These Commissions will be constituted and will have the functions described below.

1. Each Commission will consist of one Minister of the Provincial or State Governments concerned, who will be Chairman, and one representative each of the majority and minority communities from East Bengal, West Bengal and Assam, chosen by and from among their respective representatives in the Provincial or State Legislatures, as the case may be.
2. The Two Ministers of the Governments of India and Pakistan may attend and participate in any meeting of any Commission. A Minority Commission or any two Minority Commissions jointly shall meet when so required by either Central Minister for the satisfactory implementation of this Agreement.
3. Each Commission shall appoint such staff as it deems necessary for the proper discharge of its functions and shall determine its own procedure.
4. Each Commission shall maintain contact with the minorities in Districts and small administrative headquarters through Minority Boards formed in accordance with the Inter-Dominion Agreement of December, 1948.
5. The Minority Commissions in East Bengal and West Bengal shall replace the Provincial Minorities Boards set up under the Inter-Dominion Agreement of December, 1948.

6. The two Ministers of the Central Governments will from time to time consult such persons or organizations as they may consider necessary.
7. The functions of the Minority Commission shall be :-
 1. To observe and to report on the implementation of this Agreement and, for this purpose, to take cognizance of breaches or neglect.
 2. To advise on action to be taken on their recommendations.
8. Each Commission shall submit reports, as and when necessary, to the Provincial and State Governments concerned. Copies of such reports will be submitted simultaneously to the two Central Ministers during the period referred to in E.
9. The Governments of India and Pakistan, and the State and Provincial Governments, will normally give effect to recommendations that concern them when such recommendations are supported by both the Central Ministers. In the event of disagreement between the two Central Ministers, the matter shall be referred to the Prime Ministers of India and Pakistan who shall either resolve it themselves or determine the agency and procedure by which it will be resolved.
10. In respect of Tripura, the two Central Ministers shall constitute a Commission and shall discharge the functions

that are assigned under the Agreement to the Minority Commissions for East Bengal, West Bengal and Assam. Before the expiration of the period referred to in E, the two Central Ministers shall make recommendations for the establishment in Tripura of appropriate machinery to discharge the functions of the Minority Commissions envisaged in respect of East Bengal, West Bengal and Assam.

G

Except where modified by this Agreement, the Inter-Dominion Agreement of December, 1948, shall remain in force.

JAWAHARLAL NEHRU.

Prime Minister of India.

LIAQUAT ALI KHAN.

Prime Minister of Pakistan.

NEW DELHI

April 8th, 1950

TRUE COPY

ANNEXURE – P4

TREATY OF FRIENDSHIP, CO-OPERATION AND PEACE

BETWEEN INDIA AND BANGLADESH

MARCH, 19, 1972

Following is the text of the Treaty of Friendship, Co-operation and Peace between the Republic of India and the People's Republic of Bangla Desh signed in Dacca on March 19, 1972 by the Prime Ministers of India and Bangladesh.

INSPIRED by common ideals of peace, secularism, democracy, socialism and nationalism,

HAVING struggled together for the realization of these ideals and cemented ties of friendship through blood and sacrifices which led to the triumphant emergence of a free, sovereign and independent Bangla Desh,

DETERMINED to maintain fraternal and good neighborly relations and, transform their border into a border of eternal peace and friendship,

ADHERING firmly to the basic tenets of non-alignment, peaceful co-existence, mutual co-operation, non-interference in internal affairs and respect for territorial integrity and sovereignty,

DETERMINED to safeguard peace, stability and security and to promote progress of their respective countries through all possible avenues of mutual co-operation,

DETERMINED further to expand and strengthen the existing relations of friendship between them,

CONVINCED that further development of friendship and co-operation meets the national interests of both States as well as the interests of lasting peace in Asia and the world,

RESOLVED to contribute to strengthening world peace and security and to make efforts to bring about a relaxation of international tension and the final elimination of vestiges of colonialism, racialism and imperialism,

CONVINCED that in the present day world international problems can be solved only through co-operation and not through conflict or confrontation,

REAFFIRMING their determination to follow the aims and principles of the United Nations Charter, the Republic of India on the one hand, and the People's Republic of Bangla Desh, on the other, have decided to conclude the present Treaty.

ARTICLE 1

The High Contracting Parties, inspired by the ideals for which their respective peoples struggled and made sacrifices

together, solemnly declare that there should be lasting peace and friendship between their two countries and their peoples, each side shall respect the independence, sovereignty and territorial integrity of the other and refrain from interfering in the internal affairs of the other side.

The High Contracting Parties shall further develop and strengthen the relations of friendship, good neighbourliness and all round co-operation existing between them, on the basis of the abovementioned principles as well as the principles of equality and mutual benefit.

ARTICLE 2

Being guided by their devotion to the principles of equality of all peoples and States, irrespective of race or creed, the High Contracting Parties condemn colonialism and racialism in all forms and manifestations and are determined to strive for their final and complete elimination.

The High Contracting Parties shall co-operate with other States in achieving these aims and support the just aspirations of peoples in their struggle against colonialism and racial discrimination and for the national liberation.

ARTICLE 3

The High Contracting Parties reaffirm their faith in the policy of Non-Alignment and peaceful co-existence as important factors

for easing tension in the world, maintaining international peace and security, and strengthening national sovereignty and independence.

ARTICLE 4

The High Contracting Parties shall maintain regular contacts with each other on major international problems affecting the interests of both States, through meetings and exchanges of views at all levels.

ARTICLE 5

The High Contracting Parties shall continue to strengthen and widen their mutually advantageous and all round co-operation in the economic, scientific and technical fields. The two countries shall develop mutual co-operation in the fields of trade, transport and communications between them on the basis of the principles of equality, mutual benefit and the most-favoured nation principle.

ARTICLE 6

The High Contracting Parties further agree to make joint studies and take joint action in the fields of flood control, river basin development and the development of hydro-electric power and irrigation.

ARTICLE 7

The High Contracting Parties shall promote relations in the fields of art, literature, education, culture, sports and health.

ARTICLE 8

In accordance with the ties of friendship existing between the two countries each of the High Contracting Parties solemnly declares that it shall not enter into or participate in any military alliance directed against the other party.

Each of the High Contracting Parties shall refrain from any aggression against the other party and shall not allow the use of its territory for committing any act that may cause military damage to or constitute a threat to the security of the other High Contracting Party.

ARTICLE 9

Each of the High Contracting Parties shall refrain from giving any assistance to any third party taking part in an armed conflict against the other party. In case either party is attacked or threatened with attack, the High Contracting Parties shall immediately enter into mutual consultations in order to take appropriate effective measures to eliminate the threat and thus ensure the peace and security of their countries.

ARTICLE 10

Each of the High Contracting Parties solemnly declares that, it shall not undertake any commitment, secret or open, toward one or more States which may be incompatible with the present Treaty.

ARTICLE 11

The present Treaty is signed for a term of twenty five years and shall be subject to renewal by mutual agreement of the High Contracting Parties.

The Treaty shall come into force with immediate effect from the date of its signature.

ARTICLE 12

Any differences in interpreting article or articles of the present Treaty that may arise between the High Contracting Parties shall be settled on bilateral basis by peaceful means in a spirit of mutual respect and understanding. DONE IN DACCA ON THE NINETEENTH DAY OF MARCH, NINETEEN HUNDRED AND SEVENTY TWO.

Sd/- INDIRA GANDHI

Sd/- SHEIKH MUJIBUR RAHMAN

Prime Minister

Prime Minister

For the Republic of India

For the People's Republic of

Bangladesh

TRUE COPY

ANNEXURE P-5

Memorandum of Understanding with the Tripura National Volunteers (TNV)

12 August 1988

The following is the text of the "memorandum of settlement" to end insurgency in Tripura:

Preamble

Government of India have been making efforts to bring about a satisfactory settlement of the problems of tribals in Tripura by restoring peace and harmony in areas where disturbed conditions prevailed.

The Tripura National Volunteers (TNV), through their letter dated 4 May, 1988, addressed to the Governor of Tripura and signed by Shri Bejoy Kumar Hrankawl, stated that keeping in view the Prime Minister Shri Rajiv Gandhi's policy of solution of problems through negotiations, TNV have decided to abjure violence, give up secessionist demand and to hold negotiations for a peaceful solution of all the problems of Tripura within the Constitution of India. The TNV also furnished its by-laws which conform to the laws in force. On this basis, a series of discussions were held with representatives of TNV.

The following were the outcome of the discussions:

Deposit of Arms and Ammunition and stopping of underground activities by TNV.

The TNV undertakes to take all necessary steps to end underground activities and to bring out all undergrounds of the TNV with their arms, ammunition and equipment within one month of signing of this memorandum. Details for given effect to this part of settlement will be worked out and implemented under the supervision of the Central Government.

The TNV further undertakes to ensure that it does not resort to violence and to help in restoration of amity between different sections of the population.

The TNV undertakes not to extend any support to any other extremist group by way of training, supply of arms or providing protection or in any other manner.

Rehabilitation of undergrounds

Suitable steps will be taken for the resettlement and rehabilitation of TNV undergrounds coming overground in the light of the schemes drawn up for the purpose.

Measures to prevent infiltration

Stringent measures will be taken to prevent infiltration from across the border by strengthening arrangements on the border and construction of roads along vulnerable sections of the Indo-

Bangladesh border in Tripura section for better patrolling and vigil. Vigorous action against such infiltrators would also be taken under the law.

Reservation of seats in the Tripura Legislative Assembly for tribals

With a view to satisfying the aspirations of tribals of Tripura for a greater share in the governance of the State, legislative measures will be taken including those for the enactment of the Bill for the amendment of the Constitution.

The Constitutional amendments shall provide that notwithstanding anything contained in the Constitution, the number of seats in the Legislative Assembly of Tripura reserved for scheduled tribes shall be such number of seats as bears to the total number of seats, a proportion not less than the number, as on the date of coming into force of the constitutional amendment, of members belonging to the scheduled tribes in the existing Assembly bears to the total number of seats in the existing Assembly.

The Representation of the People's Act, 1950, shall be amended to provide for reservation of 20 seats for the scheduled tribes in the Assembly of Tripura. However, the amendments shall not effect any representation in the existing Assembly of Tripura until its dissolution.

Restoration of alienated lands of tribals

It was agreed that following measures will be taken:

- i. Review of rejected applications for restoration of tribal land under the Tripura Land Revenue and Land Reforms Act, 1960;
- ii. Effective implementation of the law for restoration;
- iii. Stringent measures to prevent fresh alienation;
- iv. Provision of soil conservation measures and irrigation facilities in tribal areas; and
- v. Strengthening of the agricultural credit system so as to provide for an appropriate agency with adequate tribal representation to ensure easy facilities for both consumption and operational credit to tribals.

Redrawing of the boundaries of Autonomous District Council Area

Tribal majority villages which now fall outside the autonomous district council area and are contiguous to such areas will be included in the autonomous district and similarly placed nontribal majority villages presently in the autonomous district and on the periphery may be excluded.

Measures for long-run Economic development of Tripura

Maximum emphasis will be placed on extensive and intensive skill-formation of the tribal youths of Tripura so as to improve their prospects of employment including self-employment in various trades such as motor workshops, pharmacies, electronic goods, carpentry, tailoring, stationary, weaving, rice and oil mills, general stores, fishery, poultry, piggery, horticulture, handloom and handicrafts.

Special intensive recruitment drives will be organised for police and paramilitary forces in Tripura with a view to enlisting as many tribal youths as possible.

All-India Radio will increase the duration and content of their programmes in tribal languages or dialects of Tripura. Additional transmitting stations will be provided for coverage even of the remote areas of the State.

The demands relating to self-employment of tribals, issue of permits for vehicles to tribals for commercial purposes, visits of tribalmen and women to such places in the country as may be of value for the viewpoint of inspiration, training and experience in relevant fields will be considered sympathetically by the government.

At least 2,500 *Jhumia* families will be rehabilitated in five centres or more in accordance with model schemes based on agriculture, horticulture including vegetable growing, animal husbandry,

fisheries and plantations, with a view to weaning them away from *Jhum* cultivation. The scheme would also provide for housing assistance.

In the autonomous district council area of Tripura, rice, salt and kerosene oil will be given at subsidised rates during lean months for a period of three years.

Conscious effort will be made for effective implementation of the provisions of the Sixth Schedule of the Constitution in so far as it relates to Tripura.

TRUE COPY

ANNEXURE P-6

Tripura State Government and ATTF accord 1993

MEMORANDUM OF SETTLEMENT

This indenture made on this the twenty-third day of August. One thousand nine hundred and ninety three BETWEEN the All Tripura Tribal Force (hereinafter referred to as the ATTF) on the ONE PART and the Governor of Tripura (which expression shall unless excluded by or repugnant to the subject or context include his successors in office and assigns) on the OTHER PART

PREAMBLE: Where as the government of Tripura have been making concerned efforts to bring about an effective settlement of the problems of the tribal who are presently minority in Tripura an attempt have been made on a continuing basis to usher in peace and harmony in areas in which disturbed conditions have prevailed for long.

AND

Whereas All Tripura Tribal Force have given a clear indication that they would like to give up the path of armed struggle and would like to resume a normal life and they have decided to abandon the path of violence and to seek solutions to their problems within the framework of the Constitution of India and, therefore, they have responded positively to the appeals made by the Government of

Tripura to join the mainstream and to help in the cause of building a prosperous Tripura

AND

Whereas on a series of discussions between the parties here to and based on such discussions it has been mutually agreed by and between the parties hereto that the FIRST ATTF shall give up the path of violence and surrender to the Other Party the Government of Tripura along with all their arms and ammunition ending their underground activities and the Governor of Tripura will provide some economic package and financial benefits and facilities hereafter provided

2. (B). Action is taken against foreign Nationals: - Action would be taken in respect of sending back all Bangladesh foreign nationals who have come to Tripura after 25 th March, 1971 and are not in possession of valid documents authorizing their presence in Tripura.

(C) Restoration of alienated land: - Effective steps would be taken in items of the Tripura Land Revenue and Land Reform Act, 1960 for restoring land alienated by tribal.

(D) Inclusion of Tribal majority villages in ADC Area: - Tribal majority villages which now fall outside the ADC area and are contiguous to the ADC area, would be included in the TTAADC.

(E) Introduction of Inner line permit: - The case for introduction of an Inner-Line Permit system would be taken up with the government of India . The State Government will insist on the Movement of India to approve this demand.

(F) Village Police Force for the ADC: - The constitution of village Police Force under the administrative control of the TTAADC is acceptable in principle to the State Government and the State Government will take up with the Government of India for Constitutional amendment, if required, to fulfil this demand.

(G) Increase in the Number of Seats for Sch. Tribes Candidates in the TTAADC: -The demand for more representation of Scheduled Tribe Members in the Autonomous District Council is acceptable to the State Government in principle and efforts will be made amendment of the rules which deal with reservation of seats for Scheduled Tribe in order to increase the numbers of reserve seats to 25 (Twenty-five).

(H) Setting up of a Cultural Development center: - Upajati Sanskritik vikas Kendra (Tribal Cultural development Centre) with arrangements for training would be set up in the TTAADC area.

(I) Improvement of KOKBORAK and other Tribal Languages: - A Bhasha commission would be setup for the improvement of Kok Borok and other Tribal Languages, Steps Would also taken for the

introduction in phase of Kok Borak at Progressively higher levels of education.

(J) Preservation of Ujjanyanta Palace as historical Monument and shifting of Tripura Legislative Assembly. Respecting sentiments of all sections of the population, especially the tribal of Tripura, steps would be taken to construct a separate building for The Tripura Legislative Assembly and to retain the Ujjanyanta Palace as a Historical Monument .

(K) Renaming of the Village Rivers , Etc.: - Steps would be initiated to ensure that all villages and rivers which earlier had tribal names and which were subsequently renamed, are given their original tribal names.

(L) Jhumia re-settlement: - Area based for resettlement of jhumias would continue to be implemented in order to provide for a strong economic base for the jhumias of Tripura.

(M) Industrial Development in TTAADC: - All necessary steps would be taken to ensure the promotion of industrial activities in TTAADC areas.

(N) Secured accommodation and escort for Office Bearers: - The President, Vice-President, Convener and 4 (four) other members of the Executive Committee of the ATTF will be given secured accommodation subsequent to their surrender and they will also be given personal security guard for such period as may be

decided by the Government. They will be provided with Police escort during their movement outside Agartala as and when required.

(O) Housing Facilities: - After surrender, ATTF personal shall be provided with a house with GCI sheet raffling with a floor area of 220 square feet for their accommodation as early as possible and the ATTF personal shall take part in constructing such houses, provided that the cost of each house shall not exceed Rs. 20,000/= (Rupees Twenty thousand.

(P) Drinking water Facilities: - Steps would be taken by the State Government to Provide Drinking water in the resettlement colonied set up by the Government to resettle the ATTF personal.

(Q) Government Employment or Economic Package: - All ATTF personal, on their surrender, will be provided with government employment according to their qualification or economic facilities as provided here in and till such Government employment or economic facilities are given, each surrendered ATTF personal shall be paid subsistence allowance at the rate of Rs.500/= (Rupees five hundred) only per month, so, however, that the subsistence allowance shall not be paid beyond a period of 10 (ten) months.

IN WITNESS WHEREOF THE ATTF is being represented by

(I) shri Lalit Debbarma, President,ATTF,

(2) Shri Ramendra Reang, Vice-President, ATTF,

(3) Shri Rabindra Reang, General Secretary, ATTF,

(4) Shri Dilip Debbarma, Treasurer, ATTF,

(5) Shri Santaram Reang Accountant, ATTF,

And the Governor of Tripura being

represented by Sri M. Damodaran,

Chief Secretary to the Government of Tripura,

Have hereunto set their hand on the date, month and year as
afore-mentioned.

Signed on behalf of First

Party ATTF by-

1. Sd/-Shri Lalit Deb barma)

President, ATTF.

2. Sd/-Shri Ramendra Reang

Vice President, ATTF.

3. Sd/-Shri Rabindra Reang

General Secretary, ATTF.

4. Sd/-Shri Dilip Deb Barma

Treasurer, ATTF.

5. S/d-Shri Santaram Reang

Accountant, ATTF .

Signed for and behalf of the Governor of Tripura

Sd/-M. Damodaran

Chief Secretary

Government of Tripura

In the presence of:-

(Shri Bidyanath Majumder)

Minister, PWD etc. Deptt, Tripura

(Shri Dasarath Deb)

Chief Minister, Tripura

TRUE COPY

ANNEXURE – P7

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

RAJYA SABHA

UNSTARRED QUESTION NO. 332

TO BE ANSWERED ON THE 14th JULY, 2004/ASADHA 23, 1926
(SAKA)

DEPORTATION OF ILLEGAL BANGLADESH MIGRANTS

332. SHRI DATTA MEGHE:

Will the Minister of HOME AFFAIRS be pleased to state:

- (a) Whether an Action Plan was prepared which visualized deportation of at least 100 illegal Bangladeshi migrants per day:
- (b) If so, the details in regard thereto;
- (c) The State-wise details of the likely number of illegal Bangladeshi migrants in the country;
- (d) How many such illegal Bangladeshi migrants have been deported during last three years, year-wise and
- (e) The efforts made to identify and deport 100 illegal Bangladeshi migrants per day, as visualized in the Action Plan in this regard?

ANSWER

MINISTER OF STATE IN THE MINISTRY OF HOME
AFFAIRS

(SHRI SRIPRAKASH JAISWAL)

(a) To (e): A statement is attached.

Estimated Number of Illegal Bangladeshi Immigrants in India as
on 31.12.2001.

Sl. No.	Name of the State/UT	Estimated Numbers
1	ANDHRA PRADESH	
2	ARUNACHAL PRADESH	800
3	ASSAM	50,00,000
4	BIHAR	4,79,000
5	GOA	-
6	GUJARAT	100
7	HARYANA	550
8	HIMACHAL PRADESH	-
9	JAMMU & KASHMIR	-

10	KARNATAKA	-
11	KERALA	-
12	MADHYA PRADESH	700
13	MAHARASHTRA	20,400
14	MANIPUR	-
15	MEGHALAYA	30,000
16	MIZORAM	-
17	NAGALAND	59,500
18	ORISSA	30,850
19	PUNJAB	150
20	RAJASTHAN	2,500
21	SIKKIM	-
22	TAMIL NADU	-
23	TRIPURA	3,25,400
24	UTTAR PRADESH	26,000
25	WEST BENGAL	57,00,000
26	A & N ISLANDS	3,000
27	CHANDIGARH	-

28	DADAR & NAGAR HAVELI	-
29	DAMAN & DIU	-
30	DELHI	3,75,000
31	LAKSHDWEEP	-
32	PONDICHERRY	-
	TOTAL	1,20,53,950

True Copy

ANNEXURE – P8

UNITED NATIONS DECLARATION
ON THE RIGHTS OF INDIGENOUS PEOPLES

Resolution adopted by the General Assembly

[without reference to a Main Committee (A/61/L.67 and Add.1)]

61/295. United Nations Declaration on the Rights of Indigenous Peoples

The General Assembly,

Taking note of the recommendation of the Human Rights Council contained in its resolution 1/2 of 29 June 2006,¹ by which the Council adopted the text of the United Nations Declaration on the Rights of Indigenous Peoples, Recalling its resolution 61/178 of 20 December 2006, by which it decided to defer consideration of and action on the Declaration to allow time for further consultations thereon, and also decided to conclude its consideration before the end of the sixty-first session of the General Assembly,

Adopts the United Nations Declaration on the Rights of Indigenous Peoples as contained in the annex to the present resolution.

107th plenary meeting

13 September 2007

Annex

United Nations Declaration on the

Rights of Indigenous Peoples

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfillment of the obligations assumed by States in accordance with the Charter,

Affirming that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind, Concerned that indigenous peoples have suffered from historic injustices as a

result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

Considering that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

Considering also that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights²

and the International Covenant on Civil and Political Rights, as well as the Vienna Declaration and Programme of Action, affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law,

Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

Encouraging States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

Recognizing that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

Article 1

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and

fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights⁴ and international human rights law.

Article 2

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

Article 3

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 6

Every indigenous individual has the right to a nationality.

Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

2. States shall provide effective mechanisms for prevention of, and redress for:

- (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
- (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
- (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
- (d) Any form of forced assimilation or integration;
- (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.
2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.
2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.
2. States shall take effective measures to ensure that this right is protected and also to ensure that

indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Article 15

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and

aspirations which shall be appropriately reflected in education and public information.

2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

Article 16

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.
2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

Article 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.
2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.
3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

Article 18

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 own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

Article 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and

retraining, housing, sanitation, health and social security.

2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Article 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the

right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.
2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and

to uphold their responsibilities to future generations in this regard.

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs

and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.
2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.
3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 30

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.

2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.
2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 33

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right

of indigenous individuals to obtain citizenship of the States in which they live.

2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Article 35

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

Article 36

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and

social purposes, with their own members as well as other peoples across borders.

2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

Article 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.
2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

Article 38

States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including

legislative measures, to achieve the ends of this Declaration.

Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

Article 40

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

Article 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this

Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Article 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Article 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

Article 44

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

Article 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

Article 46

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.
2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for

the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

True Copy

- 1) That the petitioners through the instant writ petition are invoking the civil original writ jurisdiction of this Hon'ble Court to issue a writ of mandamus, order or direction of like nature against all the respondents praying inter-alia that the respondents be directed to update the National Register of Citizens as with respect to the State of Tripura in terms of Rules 3 and 4 of The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 by taking 19/07/1948 as the cut-off date as provided for in Article 6 of the Constitution of India. The petitioners further pray that a writ of mandamus, order or direction of like nature be issued against the respondents to set up an effective mechanism for the detection of illegal immigrants in the State; to set up appropriate numbers of Foreigners Tribunal in terms of The Foreigners (Tribunals) Orders, 1964 for speedy and effective trial of the persons detected as illegal immigrants in the State; to immediately take effective steps towards ensuring the deportation of the persons declared as illegal immigrants by a competent court from the territory of India; to immediately take effective steps for intensive revision of the electoral rolls in Tripura so that the names of all the non-citizens are deleted from the same; to forthwith take steps for properly fencing and sealing the entire Tripura (India)-Bangladesh border and increase border patrolling for preventing illegal immigrants from entering into Indian

territory; to constitute a National Immigration Commission or any other appropriate body to frame a National Immigration Policy and a National Refugee Policy; to take effective steps for conservation and preservation of the distinct culture and traditions of its indigenous people in furtherance to its commitments given in the several UN International Covenants; to immediately take effective steps for restoring land illegally and forcibly alienated back to the indigenous people and to immediately take effective steps for including Kokborok, lingua franca of indigenous communities of Tripura in the Eighth Schedule of the Constitution.

- 2) That the petitioners are filing the present application for permission to file lengthy list of dates on and amongst the grounds mentioned in the Writ Petition as well and the same is not being repeated for the sake of brevity of the matter.
- 3) That it is submitted that the history of illegal infiltration into the State of Tripura is more than a century old problem. Therefore to trace back the history and put all the facts and circumstances in its correct perspective the petitioners are constrained to file a lengthy list of dates and events. It is therefore submitted that it is just, proper and expedient that the permission as prayed for may be granted in favour of the petitioners.

- 4) That this petition is made bonafide and for the ends of justice.

PRAYER

In the premises as aforesaid it is, therefore, most respectfully prayed that this Hon'ble Court will be graciously pleased to:

- a) permit the petitioners to file lengthy list of dates and events
- b) pass any other or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the present case.

AND FOR THIS ACT OF KINDNESS, YOUR HUMBLE PETITIONERS AS IN DUTY BOUND SHALL EVER PRAY.

Filed by

Date: 28/08/2018

New Delhi

(_____)

Advocate for the Petitioners