

## **Elimination of Discrimination against Women of Northeast States in Metro Cities of India: An Agenda**

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### **Abstract**

*The problem of gender-based violence is a serious concern throughout the world. Gender-based violence is one of the most prevalent human rights violations and it impedes women's ability to enjoy rights and freedoms on the basis of equality with men. It undermines the health, dignity, security and self-esteem of a person. Gender discrimination is a root cause of violence against women whether it is in the form of sexual abuse at home, emotional abuse in public spaces and sexual harassment at workplace. Racial discrimination is one of the notable form of human rights violation . What factors lead to gender based discrimination against women of northeast states in different parts of India and how such ecology is build up where she has to face gender-based discrimination and racial discrimination? To answer these questions, it is necessary to understand the nexus of social, economic, and cultural factors that cause discrimination. The women of northeast states face gender-based discrimination in their native place but they are subjected to racial discrimination when they move to other states in the country. Despite existence of discrimination based on ethnicity, gender, identity, race, religion, sexual orientation etc., faced by these women, there is a dearth of research in this area. The gender-based discrimination to which women of northeast states are subjected to when they move to other regions of the country needs to be studied from the perspective of gender-based discrimination in conjunction with racial discrimination. The present study is doctrinal and relies on secondary data. It is argued that policies and programmes framed for the elimination of gender-based discrimination against women of northeast states in different regions of the country requires to be framed in view of racial discrimination.*

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### **I. Gender-Based Discrimination: An Overview**

Gender discrimination is a global phenomenon and it is very prevalent in India.<sup>3</sup> Indian society is primarily a patriarchal society where the status of women has been considered to be inferior to their male counterparts<sup>4</sup>. Discrimination may occur at an individual, social, institutional, or cultural level.<sup>5</sup> It has become deeply rooted<sup>6</sup> and has been manifested in different forms and different degrees<sup>7</sup>. The available literature on the problem of discrimination suggests a qualitative difference between the discrimination different women are subjected to. The nature and pattern of discrimination may vary in space and time. The nature of discrimination to which women of northeast states is subjected to is different from the nature of discrimination women of other regions are subjected to.<sup>8</sup> The nature and the pattern of discrimination women of northeast states are subjected in their native place are qualitatively different from the nature of discrimination she is subjected when she moves to other states in the country. The recent trend on the nexus between crime and discrimination against women shows that the two social phenomena have various points of intersection<sup>9</sup>. At

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<sup>3</sup> Gender refers to the characteristics of women, men, girls and boys that are socially constructed. This includes norms, behaviours and roles associated with being a woman, man, girl or boy, as well as relationships with each other, *available at* <https://www.who.int/health-topics/gender> (last visited on December 23, 2024)

<sup>4</sup> N Jain & Meenam Osmany, *Gender Identity and Gender Discrimination Among Female Employees in India*, 10 OPUS: HR J., 9-27 (2019).

<sup>5</sup> JOHN F. DOVIDIO AND MICHELLE R. HEBL, *DISCRIMINATION AT WORK*, (Robert L. Dipboye & Adrienne Colella eds., 1<sup>st</sup> ed. 2004)

<sup>6</sup> Global Gender Gap Report 2023 shows that India has closed 64.3% of the overall gender gap, ranking 127th on the global index. It has improved by 1.4 percentage points and eight positions since the last edition, marking a partial recovery towards its 2020 (66.8%) parity level.

<sup>7</sup> It may range from moderate or mild to acute and complex ones.

<sup>8</sup> There could be a bias against educating a girl child or a bias against providing health care to an older woman. See Kshipra Jain & Malavika Belavangala, *Stages of Gender Discrimination in India: Through Mortality Rates and Sex Ratios*, 52 DEMOGRAPHY INDIA (2023)

<sup>9</sup> David Sugarman, Maury Nation, et al., *Hate and Violence: Addressing Discrimination Based on Race, Ethnicity, Religion, Sexual Orientation, and Gender Identity*, 8(6) PSYCHOLOGY OF VIOLENCE, 649–656 (2018).

times such discrimination may lead to an offence against women. The rape crisis is just one facet of the multitude of problems that reflect the gender discrimination scenario. Even where there is no intersection between discrimination and offence against women the adverse effects of both on the opportunities and health of the women are similar. They bring disadvantages and results in victimization of women.

## **II. Constitutional Protection against Gender Discrimination**

The Constitution of India guarantees equal rights to men and women and also provides power to the State to grant protective discrimination in favour of women. The Constitution of India includes the principle of gender equality in its preamble, fundamental rights, fundamental duties, and directive principles of state policy.<sup>10</sup>

Article 14 guarantees equality before law and provides equal protection of law to all. Article 15 prohibits discrimination against any citizen on the grounds of religion, race, caste, sex, etc., and Article 15(3) enables the State to make protective discrimination in favour of women. Article 16 provides to all its citizens equality of opportunities in matters of public appointments. Article 39(a) requires the State to direct its policy towards securing for men and women equally, the right to means of livelihood, while Article 39(c) ensures equal pay for equal work. Article 42 directs the State to make provisions for ensuring just and humane conditions of work and maternity relief. Above all, the Constitution imposes a fundamental duty on every citizen through Articles 51 (A)(e) to renounce practices derogatory to the dignity of women.

The National Commission for Women (NCW) is a statutory body set up by an Act of Parliament in 1992. The mandate of the NCW is to review constitutional and legal safeguards provided to women; to recommend remedial legislative measures; facilitate redressal of grievances involving deprivation of the rights granted to women. The NCW receives complaints relating to gender discrimination, violence against women, dowry harassment/ dowry death, privacy of women, domestic violence, trafficking of women, stalking, reproductive rights, cyber crime against women, bigamy etc. These cases are duly processed in the

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<sup>10</sup> MINISTRY OF WOMEN & CHILD DEVELOPMENT, NATIONAL POLICY FOR EMPOWERMENT OF WOMEN (2001), [www.wcd.nic.in](http://www.wcd.nic.in).

Commission under the NCW Act, 1990, and is referred to the appropriate authorities with the Commission's recommendations.

The NCW has constituted a North East cell in the Commission to address problems encountered by northeast women in the country and to take steps for their development and their empowerment. The North East Cell has been created to enhance the focus on women of NE and their problems and to intervene with the Central and State Government whenever necessary.

However, the NCW have not made any significant contribution in the elimination of gender-based discrimination against women from the northeast states in cities in India .

### **III. Policy and Programmes for Eliminating Gender Discrimination**

Various policies and programmes have been formulated in India that aims at women empowerment. Women empowerment has been recognized as a benchmark in determining the status of women<sup>11</sup>. To safeguard and promote the rights of women the National Commission for Women was established. The Constitution of India through its 73<sup>rd</sup> and 74<sup>th</sup> Amendment Act of 1992, provided reservation of 33% seats for women in Panchayati Raj and Municipalities thereby involving women in decision-making and development of society. In 2001, The Government of India adopted the National Policy for Empowerment of Women with an objective to bring about advancement and empowerment of women and to eliminate all forms of discrimination against women.<sup>12</sup>

On 9<sup>th</sup> July 1993 India ratified the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW). The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, was enacted to provide protection of women against sexual harassment at workplace and to prevent and redress such complaints of sexual harassment. The Women's Reservation Bill, 2023 was introduced before the Lok Sabha which sought to reserve one-third seats in Lok Sabha and State Legislatures for women. Despite all the efforts taken, there still remains a huge gap between the goals expressed

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<sup>11</sup> *Ibid.*

<sup>12</sup> NATIONAL POLICY FOR WOMEN, GOV'T. OF IND.,(2001) <https://pib.gov.in>

in the Constitution, legislations, policies, plans, programmes, and related mechanisms and the ground reality of the status of women in India.

#### **IV. Gender Discrimination in North East India**

In comparison to the other regions of the country the northeast is better off when it comes to gender equality. Among the eight states of the NER, Meghalaya has a matrilineal society whereas the other seven states follow the patriarchal system.<sup>13</sup> Despite the predominance of various ethnic groups who do not believe in sex discrimination, studies have shown that gender inequality exists in the northeast region. Women are dominated by a patriarchal kinship system that results in social and economic dependence on men and stipulates their relatively lower status compared to men.<sup>14</sup> There is a huge gender gap in political participation of northeastern female members in the legislative bodies in both central and state legislatures<sup>15</sup>. Women are relatively disempowered and have an inferior status than men in the region<sup>16</sup>. The gender gap exists with regard to access to education, employment, and health<sup>17</sup>. A study conducted in 2013<sup>18</sup> found out that, among the northeastern states, Meghalaya, Manipur, and Mizoram show a relatively lesser degree of gender inequality with regard to work participation, literacy, infant mortality, and sex ratio however, the situation in Tripura, Assam, and Sikkim is adverse.

#### **V. Migration of North Eastern Women to Metro Cities**

The Northeast Region (NER) comprises of eight states namely Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura.

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<sup>13</sup> MIHIR K. SHOMEA & UDAY S. DAS, PURVOTTARAN- THE RISE OF NORTH EAST : PARADIGMS OF DEVELOPMENT IN THE VUCA WORLD, 146 (Debarshi Mukherjee & Mahasweta Saha eds., (2020)

<sup>14</sup> Soma Dhar, *Gender Inequality in Education, Health and Employment in North-east India* 1(4), INT'L J. HUM & SOC SCI STUDIES, 111-112 (2015).

<sup>15</sup> Hasmin Ahmed, *Gender Divide in the Political Representation in North East India*, 7(13) J. OF CRIT REV, (2020).

<sup>16</sup> Sanghamitra Choudhury & Shailendra Kumar, *Gender Discrimination and Marginalization of Women in North-East India*, 22(4) J.PUBLIC AFFAIRS (2022).

<sup>17</sup> It is observed that both in rural and urban areas, female participation in employment sector are very low in North-East region. See Smrita Barua, *Gender Inequality in North East India*, 7(4) INT'L J. HUM & SOC SCI STUDIES, 103-114 (2018).

<sup>18</sup> Bidisha Mahanta & Purusottam Nayak, *Gender Inequality in North East India*, MUNICH PERSONAL REPEC ARCHIVE (2013)

It shares borders with China, Bangladesh Myanmar, Nepal and Bhuta. As stated by the 2011 Census, the total geographical area of the northeast region is 2,62,179 sq km and it covers 7.98% of the India's total geographical area and 3.78% of the total population.<sup>19</sup> The northeast is a heterogeneous region consisting of approximately 200 ethnic groups with distinct culture, dialect, religion and traditions etc. Many races and cultures fuse and melt into the composite culture of the melting pot that is India.

In the northeast states, women enjoy greater mobility and visibility than women of other regions of the country. Practices such as dowry and female infanticide are very rare in the region which is indicative of the fact of greater gender equality in northeast states in comparison to their female counterparts from other regions in India.<sup>20</sup> Lack of employment opportunities, academic infrastructure and poor health infrastructure has led to increased migration of both men and women from those regions to the metro cities in India. Though both genders are subjected to discrimination, however, women are the biggest sufferers where discrimination is concerned. There is a qualitative difference in the nature and the pattern of discrimination to which they are subjected to. The worst form of discrimination to which women of northeast India are subjected in metro cities is gender-based discrimination. Studies conducted in India have revealed that gender-based discrimination in India against women of northeast origin staying in metro cities is rampant<sup>21</sup>. However, little attention has been given to the factors leading to their discrimination. Discrimination results in human rights violations and requires the state to identify such degrading treatment of women and come

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<sup>19</sup> MINISTRY OF DEV OF NORTH EAST REGION, GOV'T. OF IND., NER FACTS, <https://mdoner.gov.in>.

<sup>20</sup> In terms of gender equality, the northeast fared better than the rest of the country. Despite the preponderance of numerous ethnic groups that, on the whole, do not believe in sex discrimination, there is inequity between men and women in the region. See Pradip Borah, *A Brief Study on the Gender Inequality in North East India*, 6 J. CRIT REV. 146-155 (2019).

<sup>21</sup> Mala Mukherjee & Chandrani Dutta, *Contested Urban Spaces in Delhi: Experiences of Discrimination of Women from Northeast India* 4(2) J.SOC INCL STUDIES, 258-280 (2018). A survey conducted by Northeast Policy Research stated that despite Delhi being the preferred destination for women Delhi is the worst hit by discrimination followed by Bangalore.

up with policies and programs capable of preventing it<sup>22</sup>. Several studies that have been carried out in the context of discrimination or violence against women of northeast origin in metro cities of India is studied either from the standpoint of gender or ethnicity. However, the issue of discriminatory practices against women of northeast states is amenable to be studied from the point of view of gender in conjunction with their ethnicity. It needs to be investigated why the women of the region fail to get protection from the laws created to prevent gender-based discrimination. The researcher after a review of the available literature on the problem observed that there's a dearth of studies on the issue related to gender-based discrimination against women from northeast states.

## VI. Nature and Pattern of Discrimination

Cities such as Delhi, Mumbai, Bengaluru, etc, in recent times have observed the 'pull' side of migration thereby attracting migrants from different corners of the country.<sup>23</sup> However, the northeast states of India have been providing push factor to their inhabitants desiring of better academic avenues, better employment opportunities and medical requirements. Delhi remains hostile against northeastern women due to their different physical and cultural attributes, as they continue to face harassment both at their workplace and residence leading to their increased vulnerabilities.<sup>24</sup> In the past decades, many scholars admit that racism and racial ideology in India were not recognised by the government or academic fraternity, although people from northeast states experience racism in their daily lives in metropolitan cities. While northeasterners are racially viewed as being polluted, women are perceived as sexually available.<sup>25</sup> They are constantly referred to as "chinky" while walking on streets by a passerby, in a workplace by their colleagues, by other students at university or colleges, and even from friends. The word "chinky" is not used by northeasterners to refer to themselves

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<sup>22</sup> R. J COOK, HUMAN RIGHTS OF WOMEN: NATIONAL AND INTERNATIONAL PERSPECTIVES, 228 (1994).

<sup>23</sup> Mala Mukherjee & Chandrani Dutta, *Migration of North-East Women in Delhi: A Macro-Level Analysis*, 3 J SOCL INCL. STUDIES, 95-112 (2017).

<sup>24</sup> *Ibid.*

<sup>25</sup> I. Aye, *Sexy Chinkies in Indian Cities: Can we Embrace a Slant-eyed Mary?* ACTA THEOLOGICA, 160-179 (2023).

or each.<sup>26</sup> The project report on 'North East Migration and Challenges in National Capital: City's Silent Racial Attack on its Own Countrymen' released by the North-East Support Centre and Helpline (NESCH) emphasizes the issues faced by the people of the north east states in Delhi such as:

- Harassment from landlords, employees and assaults on the street are commonplace.
- They find difficulty in finding a house for rent.
- They are also subjected to racism, as people from the northeast have different facial features from mainland people.
- They are questioned on what they eat (dog or snake-eaters)
- They are ridiculed for their accent as they do not speak Hindi perfectly.
- While big cities in India are cosmopolitan, northeastern women routinely face harassment and discrimination, as they are presumed to be “fast and loose” by some men.<sup>27</sup>

A survey conducted in 2012 by the Centre for North East Studies and Policy Research, Jamia Milia Islamia in collaboration with the National Commission for Women, reported that women from north-east India residing in four metros of Mumbai Delhi, Bangalore and Kolkata faced discrimination on a daily basis. The survey reported that 26% of the respondents were heckled and molested, 42% faced verbal abuse and 23% of respondents were harassed by landlords. The behaviour and attitude of the police has made it difficult for the people to trust them, due to which 80% of the women who faced harassment did not approach the police to register their cases and those who did were dissatisfied and unhappy. In this survey, Delhi (81%) reported the highest number of racial discrimination incidents against people from northeast followed by Bangalore at 60%.<sup>28</sup>

The Ministry of Home Affairs on 5<sup>th</sup> February 2014 constituted a committee under the chairmanship of M.P Bezbaruah, member of the North Eastern

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<sup>26</sup>Duncan McDuie-Ra, *The 'North-East' Map of Delhi*, 47(30) *ECO AND POL. WEEKLY*, (2012).

<sup>27</sup> Vishal Arora, *A Northeast Indian Woman on Sexual Abuse in Big Cities*, *THE DIPLOMAT*, May 23, 2017.

<sup>28</sup>Manash Pratim Gohain, *81% of North-eastern Women Harassed in Delhi: Survey*, *TIMES OF INDIA*, (Jan. 24, 2014).

Council, to deal with issues faced by the people of northeastern states in different parts of the country. The committee submitted its report to the Ministry of Home Affairs on 11<sup>th</sup> July 2014. The Committee in its report provided various suggestions such as providing legal aid and setting up of special courts; strengthening the law enforcement agencies; special police initiatives; creating awareness and removing wrong perceptions; educating people about the northeast, providing support system for victims, appointment of nodal officers by each state government etc.<sup>29</sup>

Pursuant to the suggestions of the Bezbaruah Committee, the Delhi Police formed a Special Unit for North East Region (SPUNER) in order to handle the numerous complaints of molestation and harassment reported by people from northeast states. This special unit comprises of police officers hailing from all the north east states and is headed by an officer of the rank of Additional Commissioner of Police.<sup>30</sup> A special helpline (1093) was also introduced on 14 February 2014. A Facebook page – “Delhi Police for North-east Folks” was launched on 9 May 2014 and till 15 October 2016, was visited by over 1.50 crore people<sup>31</sup>.

In *Karma Dorjee v. Union of India*<sup>32</sup> the Supreme Court in an attempt to enhance inclusion and security directed the Union Government, Ministry of Home Affairs to take proactive steps to monitor the redressal of the issue of racial discrimination faced by people of northeast states. The court directed the forming of a Monitoring Committee consisting of Joint Secretary (North East), MHA and two other members to be nominated by the Union Government. The Committee was to be accessible to grievances, suggestions and complaints and meet periodically to discuss the redressal of grievances including the execution of the recommendations of the Bezbaruah Committee.

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<sup>29</sup> REPORT OF THE COMMITTEE UNDER THE CHAIRMANSHIP OF SHRI M.P BEZBARUAH TO LOOK INTO THE CONCERNS OF THE PEOPLE OF THE NORTHEAST LIVING IN OTHER PARTS OF THE COUNTRY (2014), <https://www.mha.gov.in/sites/default/files/2022-08/ReportOfMPBezbaruahCommittee%5B1%5D.PDF>

<sup>30</sup> *Special Police Unit for Northeast Residents*, TIMES OF INDIA, (Sept. 5, 2014).

<sup>31</sup> *Karma Dorjee v. Union of India*, W.P (Civil) No. 103 of 2014 (Ind.)

<sup>32</sup> *Ibid*

The working of the Committee constituted in terms of order passed in *Karma Dorjee v Union of India* was questioned in *Alana Gomei v Union of India & ors*<sup>33</sup>, as the Committee was constituted a year after the judgement was passed, on 16<sup>th</sup> March 2018 and had met only three times instead of meeting on a monthly basis.

A study was conducted by the Centre of Criminology and Victimology, National Law School, Delhi under the aegis of the Indian Council of Social Science Research, to analyze the hate crimes and racial discrimination against people from the northeast states in six metropolitan cities of Delhi, Mumbai, Bengaluru, Hyderabad, Chennai and Pune. The report stated that racial discrimination against people from the northeast increased after the outbreak of Covid-19 in 2020. They were abused, harassed and traumatised and were called “coronavirus” due to their resemblance to the chinese. According to the study, 78% of the respondents believed that physical appearance was the important reason for prejudice against them. In this study, Mumbai recorded the highest number of incidents of racial hatred. 34% of the respondents faced refusal to file FIR by the police and non-reporting of cases amounted to 32.3%. 60% of the respondents stated that their studies and work was seriously hampered by such experience.<sup>34</sup>

The continuation and increasing incidents of racial discrimination and hate crimes faced by the northeastners throughout the country reflect a poor implementation of the recommendations made by the Bezbaruah Committee and the directions of the Supreme Court of India.

## VII. Discrimination: A Human Rights Perspective

Article 2 of the Universal Declaration of Human Rights (UDHR) provides that every human being is entitled to all the rights and freedoms within the Declaration ‘without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or another status.’ Similarly the International Covenant on Civil and Political Rights (ICCPR)1966,<sup>35</sup> requires states to respect and ensure the rights in the Covenant without any distinction. The International Covenant on Economic Social and

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<sup>33</sup> W.P No. 53/2015 (Ind.)

<sup>34</sup> *Report on Racial Discrimination against Northeast People*, <https://forumias.com/blog/report-on-racial-discrimination-against-northeast-people/>

<sup>35</sup> International Covenant on Civil & Political Rights, Art. 2

Cultural Rights (ICESCR) 1966, requires state parties to guarantee that the rights enunciated in the Covenant will be exercised without discrimination of any kind on the grounds mentioned in the UDHR.<sup>36</sup>

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which was adopted in 1979, focuses specifically on women,<sup>37</sup> stating that ‘discrimination against women’ shall mean ‘any distinction, exclusion or restriction made based on sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. Critics argue that a lot of states that ratified CEDAW continue to discriminate against women and girls<sup>38</sup>. The CEDAW, expects the State to take appropriate steps to deal with gender stereotyping<sup>39</sup>. Article 5(a) of the CEDAW requires the States to modify cultural and social patterns that reinforce gender stereotypes.<sup>40</sup> India ratified the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) in 1993. However, the due diligence obligation under the CEDAW, adopted as a General Recommendation in 1992, mandates the intervention of the state in cultural practices to secure the rights against violence against women<sup>41</sup>. The Convention has made a significant attempt to bring the international law of human rights into the private realm<sup>42</sup>. It mandates countries to pursue by all appropriate means and without delay a policy of eliminating discrimination against women.

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<sup>36</sup> International Covenant on Economic, Social & Cultural Rights, Art. 2(2).

<sup>37</sup> Simone Cusack & Lisa Pusey, *CEDAW and the Rights to Non-Discrimination and Equality*, 14(1) *MELB. J. INT'L L.*, 54 (2013).

<sup>38</sup> T.S Session, *Convention on the Elimination of All Forms of Discrimination against Women*, (2005).

<sup>39</sup> S Cusack, *Gender Stereotyping as a Human Rights Violation*, *UNOCHR*, 13-30 (2013).

<sup>40</sup> T Tannvi & Sharmila Narayana, *The Challenge of Gender Stereotyping in Indian Courts*, 8(1) *COGENT SOC. SCI.* (2022).

<sup>41</sup> Rashida Manjoo, *State Responsibility to Act With Due Diligence in the Elimination of Violence Against Women*, 2(2) *INT. HUMAN RTS L. REV.*, 240-265 (2013).

<sup>42</sup> Rosann Mariappuram, *Outcomes of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in the Arab World*, (CUNY Academic Works, 2015))

### VIII. Gender-Based Discrimination and Penal Laws

The criminal law is the foundation of the criminal justice system<sup>43</sup>. The law defines the acts that may lead to an arrest, prosecution, and imprisonment. States punish a range of acts in their criminal codes.<sup>44</sup> The criminal law prohibits conduct that causes or threatens the public interest; defines and warns people of the acts that are subject to criminal punishment; distinguishes between serious and minor offenses; and imposes punishment to protect society and to meet the needs for retribution and rehabilitation. As a general rule, strict construction must be applied to criminal statutes.<sup>45</sup> The essence of criminal law has been said to lie in the maxim “*actus non facit reum nisi mens sit rea*”,<sup>46</sup> which translates to “the act does not make a man guilty unless his intentions were so”. *Actus reus* or “wrongful act” along with *mens rea* or ‘guilty mind’ are essential elements of crime that must be proved beyond a reasonable doubt.<sup>47</sup> The concept of *mens rea* reflects the idea that a crime generally must consist of a “mental element” sufficient to warrant punishment.<sup>48</sup> However, a defendant can be convicted for certain offences even in the absence of *mens rea*. The courts have recognized the exceptions to the *mens rea* liability such as strict liability cases, vicarious liability and public nuisance cases.<sup>49</sup> The trial and punishment of offenders is a very complex process<sup>50</sup>. Victims often do not report crimes against them. Law and

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<sup>43</sup> GEORGE P. FLETCHER, *BASIC CONCEPTS OF CRIMINAL LAW*, OXF UNIV PRESS, USA, 1998).

<sup>44</sup> Harald Hoffding, *State's Authority to Punish Crime*, 2 J. AM. INST. CRIM. L. & CRIMINOLOGY, 691 (1911).

<sup>45</sup> This means that a criminal statute might not be enlarged by implication or intent beyond the fair meaning of the language used or the meaning that is reasonably justified by its terms<sup>45</sup>. See Jerome Hall, *General Principles of Criminal Law*, THE LAWBOOK EXCHANGE, LTD, (2010).

<sup>46</sup> Eugene J. Chesney, *Concept of Mens Rea in the Criminal Law*, 29 AM. INST. CRIM. L. & CRIMINOLOGY 627 (1938-1939)

<sup>47</sup> Mens Rea : A Defendant’s Mental State, Find law available at findlaw.com.

<sup>48</sup> Michael A Foster, *Mens Rea: An Overview of State-of-Mind Requirements for Federal Criminal Offences*, CONGRESSIONAL RESEARCH SERVICE (2021)

<sup>49</sup>The strong public interest clubbed with a comparatively moderate penalty justifies extending criminal responsibility to cases where there is no *mens rea*. See R A.Wasserstrom, *Strict Liability in the Criminal Law*, 12 STAN. L. REV., 731 (1959).

<sup>50</sup> Herbert L. Packer, *Two Models of The Criminal Process*, 113(1), UNIV PENN L. REV.,1-68 (1964).

morality are often interlinked. Morality influences criminal law more often than not. Penal laws are motivated by morality and vice versa is also true i.e. law enforces morality<sup>51</sup>. Law has its limitations in general and penal laws in particular. Where criminal law fails to permeate to acts prohibited under the penal laws the moral principle may reach to the acts prohibited<sup>52</sup>. It is a matter of study how to enforce moral principles against the persons accused of offenses against women involving gender-based discrimination.

### **IX. Conclusion and Suggestions**

Gender-based discrimination in metro cities against the women of northeast states is a complex phenomenon and it should not be viewed only as a law-and-order situation. Proper implementation of the suggestions of the Bezbaruah committee and the direction of the Supreme Court in *Karma Dorjee v. Union of India*<sup>53</sup> is required to prevent racial discrimination faced by northeast women in different parts of the country. The Special Unit for North East Region (SPUNER) formed by the Delhi Police can be replicated by all the states in India. Strict liability offences should be created to deal with the offences of discrimination against women where the niceties and technicalities of the criminal law of the land help them escape from their wrongful acts. Sensitizing the people from mainland India about the northeast through various forms of media is necessary for enhancing inclusion and security of women in the Indian society. Better connectivity between the mainland and the northeastern regions can bring familiarity with each other, bridge the gap between the cultural conditions and help the people from mainland India to know the culture and life habits of each other. The respective state governments should prepare database of women who have moved to other regions of the country and also provide helpline numbers to be contacted at the time of distress.

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<sup>51</sup>Mitchell.N Berman, *Justification and Excuse, Law and Morality*. 53 DUKE LJ, 1 (2003).

<sup>52</sup> H.L.A HART, *LAW, LIBERTY, AND MORALITY*, (Stanford University Press, 1963).

<sup>53</sup> *Supra* note 30.