

INTRODUCTION

There has been a plethora of laws made by some people of the world for the others with little knowledge of the beneficiaries. The former thought that they are superior, rightly in the position of making laws in the form of rules and regulations. They assume rights upon themselves to decide who their subjects are, with no respect and honour for those millions. This is the story of the modern legal history of tribals and indigenous people across the world. Such application of laws and enactments in force has successfully left majority of these people homeless with no livelihood and sustainability. Their futile resistance turned and proved to be wrong and suppressed with much vigour and power. The modern advocates are supposed to plead these laws as true and basic for the development of modern civilization. Those would be termed terrorists or to the least as criminals, under these laws, who would try to explain the true story of hypocrisy and fraud that has been continuously played by those men in power. However, in the later part of the 20th Century, various Indigenous movements have to a great extent materialised forcing various changes and shifting of power from colonial laws to those uplifting human rights and rule of law in the true sense of the term. The contribution of the UNO and its various organs are indispensable as they have played a vital role in making a substantive change in the laws of the tribal and indigenous communities in the later years. The Supreme Court has also come to their rescue in many important and critical cases. The most important of the various rights that needs immediate protection by various domestic laws today are those relating to the economic and social aspects of these peoples. This author and this thesis would make an effort towards this end with the vision of uplifting the human rights of the tribals and indigenous peoples in existence in India with special reference to the state of West Bengal where an empirical study has been conducted unearthing interesting facts. Therefore, the economic and social rights of the tribal and indigenous communities must be protected with the incorporation of new laws which will be in tune with and also in furtherance of the human rights movements across the world.

Tribes and tribal people are to be found in every part of the world as well as in every state of our country. Even when their number is not dangerously decreasing, their culture and indigenous knowledge are. The causes and consequences of such decline depend upon various socio economic factors as well as the political intent of the government and their various national and international policies. It also depends upon the steps taken by the various governments with the objective of protecting these least developed sections of our society. There have been many factors, general and specific that has caused great impact and turbulence to the tribal communities of different countries including that of ours. Some of the major factors being inter alia, exploitation, drainage of wealth, neglect. There have been instances of mass destruction in the veil of development. Various

developmental projects, is of the basic reasons behind the elimination, eradication and displacement of these indigenous communities in India.

These people for ages have been considered to be having very limited potential of contributing towards national income or towards social upliftment of the country. Even the projects and proposals for their improvement were intended to provide them some institutional care, medical support or providing financial assistance. However, these measures virtually backfired leading to greater isolation and making them even more vulnerable to the issues relating to human rights violation.

The problems in respect of tribals are aplenty. Majority of them emanates from the so called symbolization of tribals as undeveloped and uncivilised. This has to a great extent left them in the dark with neglect and ignorance surrounding them along with disrespect of their beliefs and aspirations. The very thought of accepting them as one of us has led to the mental gap that has been ever increasing between the two communities, the tribals and the non tribals. It has now become almost impossible to bridge. Time came when the efforts were made to shorten the disparity between the two. However, it was effective partially and to little effect, when states across the country took various projects sans any comprehensive rehabilitation plan to restore the tribals with land or other opportunities. This led to mass agitation amongst the tribals leading to application of police force to implement the projects killing innocent tribals. This has, unfortunately been the case in most of the countries across the globe especially with the advent of British colonization. Infliction of inhuman methods was applied indiscriminately making the tribals flee from their motherland. Such has been the stories of such human rights violation that many a times Supreme Court has stepped in to stop the states to deploy ways barbaric in nature and unrealistic in object. Mass displacement followed. Women were raped. Men killed, tortured, exploited in inhuman condition leading to the growth of unorganized labour in India.

Growth of human rights has been a boon to the tribal communities across the globe, of which Indian tribes were beneficiaries to some extent. So does the advent of electronic media which has to a great extent exposed the brutality and misleading statements of our elected bureaucrats as well as their so called measure to protect the simple people in the tribal belts of India by creating reservations. This benefited a few individuals by giving them a tenuous foothold in the Indian state structure as bureaucrats, law enforcers and politicians. However this facilitates the exploitation of the mass of the tribal people. It was inevitable for the tribal culture to hold out the onslaught of the dominant bourgeois culture which was sanctioned as developed and backed by the state.

The laws enacted for forests, exploitation of natural resources, land acquisition, etc, being based upon colonial principles are in direct contravention of Part II, IV and the provisions of the sixth

schedule of the Constitution of India, thus giving the lie to the stated objectives of protecting tribal culture.

Although various steps have been taken to provide elementary care for the tribal and various tribal communities, in various states of our country, such measures have been proved to be of little effect and short lived. Most of them died midway. In some areas however, with the effort of the government, both central and state, the tribal people have got some relief, like protection of land against illegal transfers, participation in various handicraft fares and creation of handloom houses etc. But, it is not to the extent the situation demands. It is thus very much visible that the government has to play the pivotal role in securing a better habitat for these people for a better and sustainable future.

Tribals, being the ancient inhabitants of this world, have been facing various challenges for time immemorial. However, the era of the British colonialism was exceptional and has caused the gravest harm to the tribals and their life, liberty, population, economy, society, culture and religion among other things. It is them who introduced the theory of drainage of wealth amongst other things. Post independence era has not been really a boon or a blessing for these people as the march of civilization and so called developmental projects like dams, bridges etc. has caused havoc in the eradication and annihilation of natural tribal life and living process. This vulnerable section of the community is often the victim of circumstances. The laws relating to this community is far and few. Moreover they seem to be more exploitative than welfare. In most of the cases they act as a regulatory machine of exploitation than protection. Some legislation were made to fulfil international and national obligations but sadly without any real intent to protect, shelter and further the interests of the tribal communities, behind them.

The problem area, inter alia, is the paucity of adequate legislation to protect the rights of this section of the society. The existing legislations that deals with the basic rights of these people do not, to a great extent fulfil the basic need of these people or to further their actual interest. Neither, they fulfil the constitutional objectives in the form of equality before law and equal protection of law.

Since the protection of Human Rights of the tribal people is an issue that attracts global norms transcending national boundary, the present study has take into account the development of the laws relating to the tribal people in the international as well as the national sphere. The study has taken into consideration the part played by the judiciary, so far as protection and upliftment of these people are concerned.

United Nations Organization has played the most dominant role in acknowledging the indigenous communities in the international forum and voiced the need to protect them against gross and mass

violation of human rights. The role played by the United Nations is evident from the various resolutions passed by the General Assembly and the International Instruments passed by it as well as responding to various issues involving gross violation of Human rights in Africa, Australia, Asia and other parts of the world.

The UN Resolution and Convention on Human Rights have depicted the rights of human beings as to the indigenous communities, which constitute the basis for the making of national legislations., viz.,

1. The Universal Declaration of Human Rights.
2. The UN Declaration on the Elimination of All Forms of Racial Discrimination.
3. The General Conference of the International Labour Organization:
 - i. Indigenous and Tribal Population Convention, 1957
 - ii. Indigenous and Tribal Peoples Convention, 1989
4. UN Declaration on the Rights of Indigenous Peoples.
5. UN Convention on Biological Diversity, 1992
6. Convention on international Trade in Endangered Species of Wild Flora and Fauna, 1975
7. UN Resolution Concerning Indigenous and Tribal People.

In India, the Constitution was framed by taking into consideration the rights and duties of the people, including that of tribal communities. An attempt to incorporate those provisions shall also make the study more fruitful to portray the status of these communities. The Indian Constitution has certain specific provisions for the protection of these people. These rights may be classified under the following heads:

1. Educational and cultural rights. [Articles 15(4), 29, 46 and 350]
2. Economic rights. [Articles 244 and 275]
3. Social rights. [Articles 23 and 24]
4. Political rights. [Articles 164(1), 243, 330, 334 and 371]
5. Employment rights. [Articles 15(4), 16(4) and 16(4A)]

In addition to the aforesaid rights, the Fifth and the Sixth schedule of the constitution of India exclusively deals with the tribal communities and tribal areas. The 89th Constitutional Amendment Act, 2003, has amended Article 338 and added a new Article 338-A, which provides for the establishment of National Commission for the Scheduled Tribes to provide specific protection to the rights of these communities. The thesis also addresses this measure taken by the Parliamentarians in furtherance to the protection of social and economic condition of the tribals.

The work has also reviewed *inter alia*, the enactments in connection to the tribal people of India, namely,

1. Criminal Tribes Act, 1924
2. Indian Forest Act, 1927
3. The Protection of Civil Rights Act, 1955
4. Forest Rights Act, 2006
5. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006
6. The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996
7. Land Acquisition Act, 1894
8. The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989
9. The West Bengal Land Reforms Act, 1955
10. Gram Nyayalayas Act, 2008

Apart from the discussion of the aforesaid enactments and the various rules and executive orders made in this regard, special emphasis to the Constitution of India and the special rights granted to the tribals there of has been analyzed. Study has also been made to understand the extent these provisions have been fruitful to the protection of the interests of tribals in India.

The objective of this research and preparing of this thesis is to understand the true situation of the position of tribal and indigenous peoples in India and summarise the various emerging issues and dimensions of tribal life and culture. It also systematically identifies the vulnerabilities the modern legal and political conditions pose for their economy, culture and human rights.

The study also tries to analyze the cause and effect relationship of the current scenario concerning tribal life and their welfare in India with special reference to the tribals in West Bengal. In a nutshell, the following objectives of the study were made to reveal the immediate and updated position of tribals in India:

1. To research into the dynamics of tribal life
2. The changing pattern of tribal life due to population explosion
3. To make a comparative study and examine the nature of the life and culture of various tribes in India.
4. To understand the true meaning of the term tribe and analyze the rational of using the term over indigenous that is mostly used in international forums.
5. To make a viable distinction of tribes and castes in India which are either used simultaneously or parallel

6. To review the various international developments in the field of indigenous rights movement and the response of India in this regard, including the Universal Periodic Review.
7. To analyze the various legislations prevailing in India on tribals and the mechanism of they intend to function.
8. To make a general study of the achievements of these legislations and executive functioning.
9. To study and identify the role of judiciary in protecting the rights of tribal people from the wrath of state vigor and from the atrocities of non tribals. A special note on the position of tribal courts and its implementation of justice through the principles of Primitive Law system shall also be addressed.
10. To review the role of National Human Rights Commission and the National Commission for Scheduled Tribes in protecting the rights of tribals and tribal communities in India.
11. To evaluate the concept of tribal rights in furtherance of their composite culture and their sustainable economy and to bring out ways to protect them and also to prevent them from extinction.
12. To identify the various ways they can be helpful to the Indian economy in their inherent and sustained way of life.
13. The study also aims at providing various remedial measures and suggestions to prevent the violation of rights of the tribals and their communities.
14. An analysis of the ILO 107 and ILO 169 and why the later should be adopted by India in protecting the rights of the tribal peoples in India.
15. To understand the position of India in submitting the #rd Universal Periodic Report due in the first quarter of 2016.

The findings of this study will rebound to the benefit of the society considering that the tribals are just another set of people living parallel with our system. Having their (indigenous) own systematic way of life shall not hinder the way of life the other part of the society practice. It must be understood that the tribals carry with them their immense indigenous knowledge which is needed to be explored from a better system of human life on earth. The greater demand for their upliftment and preventing them from various inhuman conditions the state and the non tribals provide is an example of the acknowledgement of the world community to the need of co existence of tribal and indigenous communities.

Thus the institutions and government functionality applying the recommended approach would derive better results than what they have achieved with the existing system and would benefit from

the intended results of this study. This will also act as a guiding process for further study and research in this field of study for those concerned and interested in this area of research.

The study will help the researchers and others interested to uncover critical legal areas in the tribal economy and social life of the tribals in India, which was not explored before.

Although there is a plethora of laws available for the protection of tribal population in India but the laws are insufficient to address the root cause of the problem and perspective of tribal population. It is therefore felt necessary to amend the existing laws in tune with the international standard and/or to make new legislation to address the plight of tribal population and their distress in India.

The thesis has undertaken a set of research questions that is needed to be addressed. Some of the relevant and interesting questions are summed up hereunder *in seriatim*:

1. Why the term indigenous not been accepted even when the tribals are to a great way indigenous?
2. Why are tribal rights infringed?
3. Why are their rights not protected at par with that of non-tribals?
4. How are tribals and castes different?
5. Is tribal history a living word or a dead letter?
6. Why identifying tribal still a problem?
7. Why the tribals should not be provided with basic human rights?
8. Are de-notified tribes still “Criminal”?
9. Does tribal uprooting lead to displacement in their economy?
10. Does tribal land acquisition lead to the imbalance of tribal culture and economic setup?
11. Does re-adjustment possible without a replacement in land after acquisition amongst the tribes?
12. How tribal rights movements would get momentum?
13. How tribal movement got the hammering from States and how Judiciary came to its rescue?
14. Would education lead to social change of the tribes?
15. Would indigenous method of education be retained for tribals?
16. Could indigenous knowledge give a direction to the unsolved problems of modern educated society?
17. Why legislations are not up to date with the international standards?
18. Why India is not accepting the ILO 169 and still carrying on with the rejected ILO 107?
19. Why tribals should be left to live than to die?
20. Why the Judiciary is not pro-active to protect tribal rights?

The methodology used in this research involved a comprehensive study of the materials available in the subject as well as the observations of the researcher. It is a combination of doctrinal as well as non doctrinal methods. The research is primarily based on doctrinal method.

A part of the study is empirical and involves a study of tribals in the state of West Bengal, including Particularly Vulnerable Tribal Groups. The universe of the study being West Bengal having a population of 91,347,736 according to 2011 census report, a comprehensive study of the 19 districts has been made with special reference to those districts where tribal communities are present. The units considered is 400 on a whole, from four districts. Two from North Bengal and two from South Bengal has been taken. Darjeeling, Alipurduar, Bankura, and 24 Parganas (N) are the four districts chosen from North and South Bengal. About 100 units from each district have been taken into consideration to provide a proportionate representation. Apart from observation through surveys, questionnaires were framed to be answered by the units involving *inter alia* representative of the tribes in various districts of the state. A structured interview was also framed to collect the answers of the respondents to reflect the notion of the units taken into consideration. Wherever convenient, telephonic interviews with the respondents were taken.

The survey took place on the basis of stratification of age, sex and number of persons. The groups taken into consideration involved both males and females, comprising of different age group.

The study categorically involved the collection of data, from both primary and secondary sources including various surveys done by the researcher personally, sharing of experiences with experts in this field of study, visiting libraries, educational institutions, government institutions working for tribals, books published, articles published, videos uploaded on the said issues, personal collections, and previous research works made in this field of study.

Various cases both Indian and foreign, have been studied and analyzed to have a comprehensive idea of the approach of the judiciary in furtherance of the efforts to protect these communities. The various writ petitions filed before the Supreme Court of India in respect of tribal rights have been a new dimension in the process of judicial law making in India in furtherance of the protection of human rights of the tribal people and tribal communities.

Further interviews were conducted to gather first hand information to further the object of this research. Electronic devices have aided in the entire process of data collection. The research took note of the views of the historians and anthropologists as well as sociologists and economists to make a positive unbiased contribution to this research.

The raw data thus collected were examined to detect errors and omissions and subsequent corrections were made wherever possible. The editing involved careful scrutiny of the completed

questionnaires and schedules. Care was taken to make the data as accurate as possible. To protect consistency with other facts proper tabulation were done. Wherever necessary, coding was made by assigning numbers and other symbols. The coding was done at the designing stage of the questionnaire and subsequent record of the same. Special care was taken to minimize coding errors as far as possible. The samples thus collected were analyzed by the application of computer software available for analysis of data. Microsoft Office and SPSS (IBM SPSS Statistics 19) have been used largely for collection and analysis of data respectively.

Sample, which is a small representative of the larger whole, was carefully dealt with by the researcher so that proper representation is done along with accuracy and homogeneity. To make the process simpler and less expensive sample method was preferred in the said research. Random sampling method has been used to make the process bias free.

A sample design has been made before initiating the collection of data. After a thorough study of the universe, i.e., the tribes in West Bengal, optimum number of units have been decided. After studying the units, the optimum size of the samples have been selected. Collection of data followed thereafter after reaching the tribal areas of the respective districts selected for collection of data. Patent errors were removed and probability sampling process was adhered to make the process simple and reliable. The raw data thus collected were homogeneously grouped where meaningful relationships are found. Data having common characteristics were placed in one class and thus the entire data collected were classified accordingly. Classification was further done on the basis of sex, age, literacy of the tribals as well as their social, economic and cultural quotient.

Tabulation of data was done both of the data so collected by primary and secondary means.

An effort was made to study the process used by some other countries like Australia, South Africa and United States of America, in relation to tribal rights, who have suffered a similar fate in the hand of colonial rulers. Even when the mode of exploitation varied between countries, the method adopted for the welfare of the tribes have been found to be quite identical and in tune with the international movements for the protection of tribal and indigenous rights. In the era of globalization and industrialization the ways of protecting tribal rights is noteworthy in this research and that has been done to a considerable extent. The object to formulate a comprehensive structure for sustaining economic and social welfare of tribes and in India with special reference to West Bengal has been attempted in this research work.

A variety of case laws have been referred and analyzed in this thesis to uplift the rights of the tribes and various indigenous groups. The Supreme Court of India, in *Pandey Orson v. Ram Chandra*

Sahu AIR 1992 SC 195 by striking down the verdict of the Patna High Court which took a very literary view of the term “transfer”.

The Supreme Court further reiterated the need of the provision in beneficial legislation to be read for the protection of a class of citizens who are not in a position to keep their property to themselves in the absence of protection.

Again on the basis of a Writ petition being filed in the Supreme Court against the acquisition of land by NHPC, by Koel Karo Jan Sangathan in 1984, without a proper rehabilitation program, the Hon’ble SC was pleased to pass a stay on further construction unless adequate rehabilitation measures were announced.

Another interesting case law emanated in the Bihar High Court where the decision of the District Magistrate was challenged by a tribal lady Bhagini, who lives with her daughter in law in her own hut. Her son who left for Assam has never returned as they were thrown out of their habitat along with many others. The Hon’ble High Court passed a stay order in favour of her by uplifting the rights of tribal communities.

In a landmark judgment in *Banwasi Seva Ashram v. State of U.P.* 1987 SCC 304, Supreme Court stated that the judiciary may become a forum for addressing and ventilating the problems of distributional equality with respect to tribals.

While discussing on the issue of distribution of government largess amongst the tribals, the Supreme Court in *R.D.Shetty v. International Airport Authority* 1979 SCC 489, stated that in the absence of any right or entitlements to the benefits, law requires that the government largess should not be distributed in an arbitrary and discriminatory manner.

In a momentous pronouncement in *Indira Sawhney V. Union of India*, 1992, the Supreme Court categorically rejected the government’s attempt to identify a backward class by reference to an exclusive economic indicator.

In another effort to protect the rights of the adivasis a PIL was filed in the Supreme Court of India seeking protection and enforcement of collective right to habitat of the adivasis has against an attempt to evict them from a forest declared to be reserved. A direction made by the court upheld the rights of the adivasis, refraining the Government from doing any activity that deprives the rights of the adivasis in *Banwasi Seva Ashram v. State of UP* AIR 1987

CJ Edward D. White, in *United States vs Sandoval* 231. US, 28 (1913) held that the enabling act applied generally applicable federal Indian Statutes to the Pueblo. It repudiated the earlier contention that the Pueblos were not Indians. The Statehood Act acknowledged Pueblo land as

Indian Country the citizenship of Indians did not prevent Congress from enacting laws to protect and benefit tribes.

In another case worth a review, in South Dakota, the Congress specifically abrogated Treaty Rights of the Cheyenne River Sioux Tribe as to their hunting and fishing rights on reservation lands that were required for a reservoir. The court giving the judgement in favour of the interpretation of implied abrogation over express abrogation when the rule is express abrogation over implied abrogation. [South Dakota Vs Bourland, 508 US 679, 113 S CT 2309 (1993)]

In India another case has to be reflected in this review to make the contention of the Indian judiciary at par with the rights of the tribals when in the Vadanta's Case. April 2013, the British resources giant Vadanta was directed to obtain approval of tribal people before mining their land. SC confirmed that the tribals need to have a decisive voice in industrial projects affecting their lives.

The Hon'ble Supreme Court observed, "If the bauxite mining project, in any way, affect their right to worship their deity, known as Niyam Raja, in the hilltop of the Niyamgiri range of hills, that right has to be protected".

In a very famous case, commonly known as the Mathura Rape Case 1972, Rape of minor tribal girl ultimately led to the criminal Law (second) amendment Act 1983. It led to the development of the law of presumption in rape cases in the Indian Evidence Act.

If the victim says that she did not consent to the sexual intercourse, the court shall presume that she did not consent as a rebuttable presumption.

In State of Karnatake vs. Appa BabuIngale and others AIR 1993 SC 1126, the Supreme Court dealt with the identity of a tribal in a remote village where a family belongs to a joint Hindu family. It was held that the presumption is for the incorporation within the tribe than ousting. The Supreme Court further incorporated the need of protecting the identity of these communities and help the tribals against exploitation.

Along with various cases, a number of books and articles have also been reviewed. Some of them are stated in brief.

One of the interesting works on tribal administration has been done by the researcher specifically with regard to tribal administration in Darjeeling, Dr Lalan P Gupta's Tribal Development Administration is of great relevance. Here he has made a thorough research in this field with special reference to administration of justice on tribals and the various laws and rules relating thereof.

One of the contemporary books on tribal rights is one edited by Dr Subhram Rajkhoa and Dr Manik Chakraborty published by Cambray Publication named “Indigenous People and Human Rights.” This book is a compilation of various articles reflecting the various stories of exploitation of the tribals and the maladministration and lack of legislative intent to protect the tribes from non-tribals.

Dr Debal Deb the founder member of Vrihi, an NGO is pioneer in the field of protection of rice varieties in Eastern India. In his book “Seeds of Tradition, Seeds of Future, Folk rice Varieties of Eastern India” he has specifically acknowledged the traditional knowledge of the tribes to be more scientific and sustainable.

Stephen Pevar, in his *The Right of Indians and Tribes*, addresses the most significant legal issues facing Indian and Indian tribes today. Such issues like tribal sovereignty, social and economic exploitation and deprivation, reservations, various laws etc have been discussed in details in his hard researched work.

Another write up by Stephan Corry is worth a mention. In his book, *Tribal Peoples for Tomorrows World*, the author reflected a true and unbiased picture of the indigenous and tribal peoples across the world. It refutes criticism of tribal rights and answers issues relating to their life, history, their need, and their contribution to this planet.

In *Indian Tribes, Then and Now*, H.C,Upreti deals with the tribal social structure and the changes that has occurred with the passage of time. It analyses inter alia the various tribes in India and an anthropological analysis as well.

Darrell A Posey and Graham Datfield of International Development Research Centre, Canada-walks in the same direction of Dr Debal Deb as in the book “Beyond Intellectual Property: Towards Traditional Resource Rights for Indigenous Peoples and Local Committees”. They reflected a plethora of instances where the seeds of intellectual property germinated from tribal communities and how they were stolen by the foreign non-tribal intruders for economic political and social gains.

Some of the articles surveyed are worth reviewed:

Tribe in India: A Problem of Identification and Integration by K.S.Mathur is a fair critique of the activities and attitude of the government towards the tribes. Reflecting his study of the unequal treatment of the tribes, he emphasized the contribution of the British Government’s effort of classification of tribes in India, which was later taken up by the government of independent India. This led to the formation of the Schedule Castes and Scheduled Tribes.

Another interesting Article is Nirmal Kumar Bose's Integration and Secularism. Here the author emphasizes the influence of various religions contributing towards the loss of indignity amongst tribal communities.

Mala Mukherjee in her article Tribal's Right to Equality was eloquent to reflect the variety of judicial interpretations relating to the rights of tribal people. She also referred a number of problems the tribals face from the non tribals. The advocate of Nagpur also emphasized the importance of collective approach of the tribes for better bargains from the government.

Contemporary Struggles of the Tribal Peoples of India by Jaganath Pathy is yet another example of the struggle of the tribes in India against the atrocities of the non tribals over the tribals with the aid of the government. Stories of the land acquisition and the destruction of clans have been the highlights of his article.

Pradip Prabhu's Tribal Movements: resistance to Resurgence is an exploration of the tribal movement during the later part of the 20th century. It reflects the struggle to possess, control over resources that the tribals used to possess for centuries. The emerging perspectives within tribal movements shift from resistance to resurgence, towards development.

David Hardman in "Healing, Medical Power and the Poor: Contests in Tribal India" refers to a workshop in Surat on access to healing and medical intervention for tribal people which brought academics, workers, activists reiterating the deteriorating traditional medicinal systems. The author emphasized that rather than eroticizing and romanticizing tribal communities, it is their pauperization that needs to be addressed and remedied.

Dilip D'Souza's "De-Notified Tribes: Still 'Criminal'?" the author tells the fate of tribals in the hands of British and later by the Independent Indian Government. Pinya Hari Kale was arrested, beaten up and killed in the police custody solely because he belongs to a criminal tribe even when it is now de-notified.

Mr. M K Bhasin in his famous research article Genetics of Cates and Tribes of India: Indian Population Milieu has done a commendable job on the various anthropological aspects of mankind and how the human being first came up and how it reached the different parts of the globe. He highlights the importance of India in this regard as the corridor for the development of human habitat in various parts of Asia. Being an anthropologist the author made an in-depth analysis of political, natural and historical perspective of human habitat in India.

Articles written by Apoorv Kurup must be mentioned to acknowledge his contribution amongst the modern generation researchers on tribals along with veteran thinkers like Guha and Roy. Kurup's,

'Tribal law in India: How Decentralized Administration is Extinguishing Tribal Rights and why Autonomous Tribal Governments are Better', Indigenous Law Journal, Vol.7, Issue.1 2008 is worth a study to identify the true position of tribals in India.

Chapterisation plays a very important role in structuring the research thesis. Apart from a relevant systematic introduction the thesis has been distributed in the following seven chapters.

Chapter 1 Rights of Tribal People: Conceptual and Historical Perspectives

Chapter one introduces the conceptual and historical perspective of the rights of the tribals in the Indian context. The rights of the tribals along with their nomenclature have been elaborated in details from the stand point of sociologists, political thinkers, anthropologists and legal experts. The chapter also clarifies how the term indigenous and aboriginals have been discontinued and the term tribals have been taken in to consideration. The term scheduled tribe has been distinguished from scheduled caste to identify the subjects within this research. Again a research has been done on how the term tribe actually came into the Indian context with the aid of Colonial rulers and how it has been continued. A brief history of various invasions in India and tribal resistance has been discussed to identify the reason for the current geographical positioning of these peoples. A brief anthropological analysis has been done to identify the types of various traits of Indian tribes in existence today.

Chapter 2 Civil and Economic Rights of Tribals: The International Perspective

Chapter two of the research thesis is dedicated to the international movements and outcome of indigenous and tribal peoples in the international scenario. Apart from identifying the various features to be a part of the indigenous community, the chapter analyzes various conventions of ILO and UN. These instruments have been studied in details taking into consideration the various social and economic rights of the tribals. This analysis actually explains the dynamics of indigenous movement across the globe and how the laws have been changing to meet the need of these communities. The chapter identifies certain important socio economic rights and tries to find out how various international instruments have acknowledged and incorporated those rights to uplift the valid demands of indigenous peoples in the international forum. Perhaps this chapter and its findings are going to be the future of tribal development in India.

Chapter 3 Civil and Economic Rights of Tribals: The Indian Perspective

Chapter three of the thesis is the backbone of the research as it identifies the origin of various socio economic rights of the tribals in India. The study helps to understand the various socio economic rights of the tribals as those developed with the development of their family. The chapter analyses

in details the anthropological development of tribes in India and how their social and economic rights developed with time. A brief analysis of their historical development with the geographical locations they live in makes a very interesting and distinctive picture of the presence of various tribes and tribal communities in India. The various traits and family of tribal communities and their customary practice in and around their clan and community makes the way for the legal analysis and the intended laws they should have in the years to come in tune with the international conventions whose objective is to preserve the distinctive culture and practice of these communities.

Chapter 4 Role of State Legislative Organs and Executive Organs in the Protection of Civil and Economic Rights of Tribal People in India

Chapter four of the research brings forth the laws in force in India relating to the tribal people. The chapter also makes a brief analysis of how these laws have been made by the colonial rulers and are more exploitative in nature than protecting the socio economic interests of the tribal communities. The colonial laws have actually done the most significant damage to the tribes in India. The large scale uprootment of these communities due to large development projects even after independence has contributed to their ever growing injustice. The advent of human rights in the post world war two led to a new beginning of indigenous movement in the world. The enormity of these movements can now be felt in the Indian legal scene in the last two decades. Laws in tune with the international communities are now becoming part of the Indian legal system. This chapter analyzes the various major enactments that have worked its way through the Indian juridical system to protect the rights of these communities. The chapter also analyzes the basic constitutional provisions on Scheduled Tribes along with the National Commission for Scheduled Tribes. Various domestic and state legislative and executive functioning have also been made an important part of this chapter.

Chapter 5 Role of Judiciary in Protecting the Civil and Economic Rights of Tribals in India

Chapter five of the thesis reflects the response of judiciary to the issues of indigenous and tribal peoples. The chapter identifies the English common law setup and the judiciary in India which has been a continuation of the British setup on Indian soil. The English doctrines made to reduce the tribal rights on their own soil as *res nullius* has been highlighted. The change in the judicial outlook during the last few decades after the abolition of tribal court system has also been highlighted. The Constitutional provisions and its interpretation followed by the advent of Public Interest Litigation (PIL) have been some relief to these communities. Famous cases both Indian and foreign have been referred to make a clear understanding of the position of the judiciary in dealing with the problems of tribals in India.

Chapter 6 Protection of Civil and Economic Rights of Tribal People in West Bengal: An Empirical Study.

Chapter six of the study is an empirical research on the state of West Bengal. The State can be classified into two parts viz., North Bengal and South Bengal. The research conducted on two districts from each parts including the Particularly Vulnerable Tribal Groups have revealed interesting but clear picture of the vulnerable condition of the tribals in the state. The researchers' firsthand experience while talking and spending time with the tribals and other respondents in these districts provided an unforgettable experience of the position of the tribals in West Bengal.

Chapter 7 Conclusion and Suggestions

Chapter seven of the research thesis identifies the various difficulties faced by the tribal communities in India. It puts forth the findings of the research in brief. It tries to analyze the questions raised at the beginning of the research and tries to identify the answers to those questions and to identify how the objectivity of research categorically reduces the bias of the researcher. It also provides the reasons for such conditions of the tribals. The thesis is concluded with the findings of the researcher.

The conclusion is followed by the various measures, the researcher thinks appropriate to address these challenges in the form of suggestions and recommendations. A set of short and long term recommendations have been listed to address the plight of tribal peoples in India.