

## CHAPTER 1

### **RIGHTS OF TRIBAL PEOPLE: A CONCEPTUAL AND HISTORICAL PERSPECTIVE**

#### An Overview

The term tribe has been subjected to a lot of interpretations and analysis by various jurists, anthropologists, scientists, sociologists and political thinkers for quite some time now. The term also underwent a change in its meaning in the process of time. A proper definition of the term has been the objectives of many to decipher a lot of confusion that the term carries with it.

A conceptual understanding of the term is needed to actually understand who these people are and what their actual position in the society is. In the true sense of the term, tribes and indigenous peoples are different, tribes and adivasis are different, tribes and castes are different. Irrespective of the fact as to their differences, there still lies a lot of confusion as these terms are confused to have been used in the society and they tend to overlap in many areas. Thus to identify the actual tribals, a proper understanding of the term is necessary along with the differences it has with other similar terminology. The absence of a specific definition by any statute including the Constitution of India has made things worse for the peoples belonging to these categories.

In furtherance of the objective of analyzing the term, interpretation of the term given by various researchers both national and international, must be taken in to consideration. Along with the various interpretations, the characteristics of these people must also be analyzed to understand the various dimensions these definitions and interpretations try to address.

Along with the same, a proper historical development of the term must be studied to understand who these people actually are. Hence reference to epics and other sources of law, where the term has been used, is also needed to be studied. India throughout its historical past has been the subject matter of invasions and such acts of aggression have displaced and dispossessed the aboriginals of their main land. A proper study of the same should also be done to understand the strategic positional variation of these people due to such invasions. This will provide a basic idea about the places and geographic areas of the existence of these peoples and who these peoples are before and after such invasions, in the true sense of the term.

The growth of Hindu religion has to a great extent affected the personal life of the tribals. History reveals a lot of variations in the personal life of tribals due to the assimilation of tribals with the non tribal Hindus in India. This principle may also hold good with the advent of various invasions of various rulers of various religious sects. A lot of areas where these invaders marched through have flourished their religion amongst the natives of the country.

A gross classification of the tribes in India based on various traits and language family must also be studied to achieve a conceptual understanding of the term tribe in India.

### 1.1. Tribe: A Conceptual Understanding

The term tribe generally connotes a group of primitive or barbaric clan under some recognized chiefs.<sup>1</sup> According to Oxford Dictionary

*“A tribe is a group of people in a primitive or barbarous stage of development acknowledging the authority of a chief and usually regarding them as having a common ancestor.”*<sup>2</sup>

The term tribe has been identified by the Romans as political divisions and the Greeks equated it with fraternities. The term indigenous people and tribal people are in many a cases been used interchangeably. Even when there is no uniform definition of tribal people but a set of shared and distinct characteristics may lead to one. They are considered to be living descendants of ‘pre invasion’<sup>3</sup> inhabitants of lands and forests now dominated by others. The attachment to the territory is a significant feature of tribal existence which has also been accepted by various United Nations Agencies inter alia in their working definition of indigenous people. Others being an explicit commitment to cultural distinctiveness and a resolve to preserve both territory and culture as a means of reproducing a singular ethnic community.<sup>4</sup>

#### 1.1.1. Nomenclature

After studying the definition of the term tribe given by many sociologists, political thinkers and anthropologists, at various time, the researcher summed up the meaning of the term tribe with the aid of few of such definitions.

The word “Tribe” is derived from the Latin word “Tribus” meaning “one third”. The word originally referred to one of the three territorial groups that united together to form Rome. The Romans applied the word “tribus” to the 35 people who became a part of Rome before 241 B.C. A tribe was considered simply a territorially defined social group. They also called the conquered Gallic or Germanic populations ‘tribus’. Thus, Romans primarily identified the term tribe as a

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<sup>1</sup> John Simpson and Edmund Weiner (ed.), The Oxford English Dictionary (Oxford University Press., U.K., 1989)

<sup>2</sup> Tribal Society, Sociology Guide, available at <http://www.sociologyguide.com/tribal-society/> (visited on December 3, 2015).

<sup>3</sup> The various invasions that took place in India have been classified and discussed in details in Chapter 3 of this thesis.

<sup>4</sup> Richard Falk (ed.), *Maivan Clech Lam: At the Edge of the State: Indigenous Peoples and Self Determination 9* (Traditional Publishers. Inc. 2000)

‘political unit’ with ‘distinct name’, and occupying a ‘common territory’ under a ‘common leadership’. Apart from a tribe being a social group, which occupies a definite area, it has certain distinctive characteristics like cultural homogeneity and unifying social organization. The identity and culture of every tribe are closely linked to the land and natural resources emanating out of such land and also the environment in which they live in with their family or clan.

A tribe is generally defined as a social division of preliterate people. Again at times it can be noticed that the term tribe is defined as a series of generations, descending from the same progenitor. As a matter of practice, it is the tribals themselves who claims themselves to be the descendants of a particular mythical forefather.

Even the cultural anthropologists apply the term “tribe” to a unit of ‘social organization’ that is ‘culturally homogeneous’. According to them, these units usually consist of multiple kinship groups, such as the family, lineage, or clan. Endogamous marriage within these groups, are usually prohibited.

There is taboo on inbreeding. Thus when it comes to marriage, Exogamy is generally endorsed. Usually tribes are politically organized within a common culture and language.

A tribe is viewed, historically or developmentally, as a social group existing before the development of, or outside of, states. A tribe is a distinct people, dependent on their land for their livelihood, who are largely self-sufficient, and not integrated into the national society. It is perhaps the term most readily understood and used by the general public. Stephen Corry, director of Survival International, the worlds’ only organisation dedicated to indigenous rights, has defined tribal people as

*“...those which have followed ways of life for many generations that is largely self-sufficient, and is clearly different from the mainstream and dominant society”*.<sup>5</sup>

From the perspective of the terminology, a tribe is also understood as a political organization which usually refers to a group of people who share territory, language, cultural history, and usually some form of kinship<sup>6</sup>. Tribal groups generally do not have an official leader. Leadership is generally inherited. At times based on the factors like skills in dealing with a particular situation, temporary leaders are elected. However, these skilful men do not have an authority over anyone, but their suggestions are usually listened and adhered <sup>7</sup>to most of times.

The term “tribe” has also been used to refer to any non-Western or indigenous society. In some countries such as the United States of America and India, tribes are called indigenous peoples, and have been granted legal recognition and limited autonomy by the state.

There has been a debate as to how tribes may be characterized on the basis of the certain perceived

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<sup>5</sup> Elizabeth Palmer (trs.) Emilie Benveniste, *Indo-European Language and Society*, (Faber and Faber, London, 1973).

<sup>6</sup> especially corporate descent groups

<sup>7</sup> It depends upon the discretion of the actual leader whether such advice shall be accepted or not.

differences. The tribes have undergone a plethora of changes in the last few centuries be it social, political or economical. Today tribes are different from pre-state tribes<sup>8</sup> and contemporary tribes. This led to the controversy between cultural evolution and colonialism. It is generally felt that tribes reflect a way of life that predates, and is more “natural”, than that in modern states. Tribes also preserve primitive social ties, and there is a bond that keeps them together. Tribes are homogeneous and stable though parochial or narrow minded. It is believed that most contemporary tribes do not have their origin in pre-state tribes, but rather in pre-state bands. These tribal groups, also called “secondary” tribes, actually came about as modern products of state expansion. This was probably done when states treated tribal areas as extended administrative and economic areas, since direct political control was too costly. Moreover, states would encourage people to form clearly bounded and centralized polities, which could produce surpluses, and have a leadership which would be responsive to the needs of the neighbouring states. Examples of such state policies can be seen in the scheduled tribes of United States or British India. Another way in which the secondary tribes developed was through the bands forming themselves into organized groups in order to defend themselves against state expansion.

Taking into consideration the international definition of the Indigenous peoples is indeed problematic. The problem emanates from the fact that the population movement and the experiences in India have been different from those of new world. Whatever the differences are whether those especially associated with a given territory are indigenous to the territory or the area they live in is a question that will always be contested. What however has come to be accepted that they have developed a special relation in question. These territories, the communities in question have considered as their own as against those of other communities. They considered themselves to have prior settlement or numerical or other dominance. Following this they aspired to promote and protect the interests and the welfare of their community and confer on the member of their special rights and privileges.<sup>9</sup>

Tribes are primarily seen as a stage and type of society. They represent a society that lacks traits of the modern society and thus constitute a simple illiterate and backward society.<sup>10</sup>

The primary political objective of these communities are not to develop their own separate nation state but to have sufficient local control over the areas of their ancestors and their distinct culture. At the most they want their voice to be heard in the decision making process of the state. A typical example of this is the Latino population in the United States. Their primary concern is generally the protection of their culture through preservation of their land base.<sup>11</sup>

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<sup>8</sup> Pre state tribes may be stated to be tribes before colonisation and the formation of the state order that they belong today.

<sup>9</sup> Virginius Xaxa, “Tribes as Indigenous Peoples of India”, 34, EPW 3593 (December 1999).

<sup>10</sup> Ibid at p 3589.

<sup>11</sup> Ibid.

This attachment to a specific territory and insistence on the preservation of community on that territory distinguishes indigenous peoples from other ethnic minorities.<sup>12</sup>

One of the telling example of the attachment of indigenous peoples are the refusal of accepting an amount as huge as \$400 million as compensation in lieu of the famous Black Hills of South Dakota, USA.

#### 1.1.2. Constitutional Interpretation.

The Indian Constitution has made important provisions for the development and welfare of the tribes. A list of tribes was adopted for this purpose. The list has been modified from time to time. In 1971, the list contained names of 527 tribes. The people who have been listed in the Constitution and mentioned in successive presidential orders are called Scheduled Tribes. This is the administrative concept of tribe.

A tribe has been defined in various ways. The Constitution, however, does not provide a definition of a tribe. The people who have been listed in the Constitution have been termed as Scheduled Tribes. The Indian Constitution does not use the term 'Adivasi' and instead refers to the STs as 'Anusuchit Jana Jati'.

#### 1.1.3. Sociological, Political and Anthropological interpretations.

Many people used the term "tribal society" to refer to societies organized largely on the basis of social, especially familial, descent groups. A customary tribe in these terms is a face-to-face community, relatively bound by kinship relations, reciprocal exchange, and strong ties to place.<sup>13</sup>

The Hindutva forces term the tribes as 'Vanvasi'<sup>14</sup>. The Gandhians used the term from the culturological perspective and referred to them as 'Vanyajati'.

Academicians have been making their efforts to define tribe. The Dictionary of Sociology defines tribe as a:

*"Social group, usually with a definite area, dialect, cultural homogeneity and unifying social organisation."*<sup>15</sup>

According to the Imperial Gazetteer of India,<sup>16</sup>

*"A tribe as we find in India, is a collection of families or groups of families, bearing a common name, which as a rule, does not denote any specific occupation generally claiming*

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<sup>12</sup> Ibid.

<sup>13</sup> James Paul, *Globalism, Nationalism, Tribalism: Bringing Theory Back In*, (Sage Publications, London)

<sup>14</sup> This term not only conveys a sense of primitiveness but also tries to deny the territorial rights.

<sup>15</sup> John Scott and Gordon Marshall (ed.) *A Dictionary of Sociology* Oxford University Press., UK, 2009)

<sup>16</sup> Imperial Gazetteer of India, v. 1, p 308

*common descent from a mythical or historical ancestor and occasionally from an animal but in some parts of the country held together rather by the obligation of blood fued than by the tradition of kinship, usually speaking the same language; and occupying or claiming to occupy, a definite tract of country. A tribe is not necessarily endogamous, i.e., it is not inevitable rule that a man of a particular tribe must marry a woman of that tribe.*"<sup>17</sup>

The term tribe has been explained by Weiner in the following lines:

*"Everyone in Chotonagpur can recognize a tribal. A distinctive racial type, known by physical anthropologists as belonging to the proto-Austaloid stock, they are somewhat darker than other Indians and have features that are sometimes Mongolian in appearance. They live in their own villages, many of which are wholly homogenous. Perhaps the most distinctive feature of tribal life is the very attitude towards life itself. In contrast with their Hindu neighbours, the tribals are a carefree people, hedonistic in their simple pleasures.*"<sup>18</sup>

According to Gillin and Gillin,<sup>19</sup>

*"Any collection of preliterate local group which occupies a common general territory speaks a common language and practises a common culture, is a tribe"*<sup>20</sup>.

As Ralph Linton says,

*"In its simplest form the tribe is a group of bands occupying a continuous territory and having a feeling of unity deriving from numerous similarities in culture and certain community of interests."*<sup>21</sup>

According to Revers,<sup>22</sup>

*"A tribe is a social group of simple kind, the members of which speaks a common dialect and act together in such common purpose as warfare"*

According to DN Majumdar,

*"A tribe is a collection of families, bearing a common name, members to which occupy the same territory, speak the same language and observe certain taboos regarding marriage profession or occupation and have developed a well assessed system of reciprocity and mutuality of obligation."*<sup>23</sup>

Further, we hardly find out any difference between minas of Rajasthan or the Bhumaj of West Bengal and their neighbours. Therefore, tribes have been considered as a stage in the social and

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<sup>17</sup> Imperial Gazetteer of India, v. 1, p.308, available at [http://dsal.uchicago.edu/reference/gazetteer/pager.html?objectid=DS405.1.I34\\_V01\\_338.gif](http://dsal.uchicago.edu/reference/gazetteer/pager.html?objectid=DS405.1.I34_V01_338.gif) (visited on December 3, 2015).

<sup>18</sup> Hari Mohan Mathur, "Tribal Land Issues in India: Communal Management, Rights, and Displacement", Social Change 164 (2006).

<sup>19</sup> An American Sociologist

<sup>20</sup> Nadgonde Gurunath, Bharatiya Adivasi, 3 Continental Publication, Pune, Third Edition, (2003).

<sup>21</sup> Supra Note 2.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

Cultural Revolution.

For S. C Sinha the tribe is ideally defined in terms of its isolation from the networks of social relations and cultural communications of the centres of civilisation. According to Sinha

*In their isolation the tribal societies are sustained by relatively primitive subsistence technology such as 'shifting cultivation and, hunting and gathering and maintain an egalitarian segmentary social system' guided entirely by non-literate ethnic tradition.*"<sup>24</sup>

"Tribe" is a contested term due to its roots in colonialism. The word has no shared referent, whether in political form, kinship relations or shared culture. Some argue that it conveys a negative connotation of a timeless unchanging past.<sup>25</sup>

L.M Lewis believes that tribal societies are small in scale are restricted in the spatial and temporal range of their social, legal and political relations and possess a morality, a religion and world view of corresponding dimensions. Characteristically too tribal languages are unwritten and hence the extent of communication both in time and space is inevitably narrow. At the same time tribal societies exhibit a remarkable economy of design and have a compactness and self-sufficiency lacking in modern society.<sup>26</sup>

It must also be understood that the definition of 'Indigenous Peoples' as projected by the UN Working Group for Indigenous Peoples has an European bias as it states,

*"Indigenous peoples and nations are those which, having a historical continuity with their pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of societies, now prevailing in 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 generation their ancestral territories and their ethnic identity as the basis of their continuous existence as peoples in accordance with their own cultural patterns, social institutions and legal system."*<sup>27</sup>

In Hindi heartland another very popular term was 'jana' which referred the tribes in India.<sup>28</sup>

Anthropologists worldwide over the years have defined the term tribe in various ways. To begin with,

F.G.Bailey<sup>29</sup> argues that;

*"If certain people have command over the resources and their access to the products of economy is not derived immediately through a dependent status on others, and are a*

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<sup>24</sup> Ibid.

<sup>25</sup> "Talking about 'Tribe' - Africa Action: Activism for Africa Since 1953", Africa Action, available at <https://en.wikipedia.org/wiki/Tribe> (visited on December 3, 2015)

<sup>26</sup> Supra Note 2.

<sup>27</sup> J J Roy Burman 2009.

<sup>28</sup> (Ray: 1972)

<sup>29</sup> 1960: 151

*relatively large portion of the total population in the area, they are termed as tribe.”*

Another eminent social scientist has defined tribes

*“...as having common territory with a tradition of common descent, common linguistic background, common cultural identity and a common name.”*<sup>30</sup>

According to G. M. Lewis<sup>31</sup>,

*“tribal societies are small in scale, people are restricted in the spatial level and political relations and possesses a morality, religion and worldview of corresponding dimensions, characteristically their languages are unwritten, but exhibit remarkable unity and coherence and they are also marked for their compactness and self sufficiency in economy, which is lacking in the modern societies”.*

Morgan<sup>32</sup> has described tribes,

*“as a completely organized society, with each tribe being individualized by a name, by a separate dialect; by a supreme government and by the possession of some territory which is of its own”.*

While defining the term tribe, R.C.Verma, stated

*“the autochthonous people of the land who are believed to be the earliest settlers in Indian Peninsula”.*<sup>33</sup>

As pointed out by R.C.Verma,

*“these are headed by tribal chiefs who exercise considerable influence over social, economic and religious affairs of their respective tribes”.*<sup>34</sup>

These groups are considered to be the first settlers of the land and territory they habituate and are thus nomenclated as Adivasis, meaning the first settlers. There has been a division of the tribes on various features.<sup>35</sup> Hierarchical discrimination was not in practice and each tribe possessed their unique nature headed by a headman usually acting as a chief. Usually the strongest and the boldest of the community used to be the chief, however, instances of intellectually higher person has also been held as chiefs of various clans and tribes in India. The community was self sustained and the function of the chief was not only to protect the community from external forces but also to regulate the internal affairs of the tribes. Usually the chief was guided by the customs and rituals of the community in furtherance of protecting the homogeneity of their socio economic and cultural features. With the passage of time the population density of the tribes led to the increase of territoriality and various dynasties and kingdoms were created. Unique blend of military and

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<sup>30</sup> J.J.Honingman (1964)

<sup>31</sup> 1968: 147

<sup>32</sup> 1871: 122

<sup>33</sup> Supra Note 2.

<sup>34</sup> Ibid

<sup>35</sup> This was the position before the advent of the caste system in India.

administrative powers were vested upon the chief of the community who followed and developed its own system of administration. Decentralization of authority was not present in most of the smaller tribes but certain larger tribal groups founded the concept of decentralization of various authorities. This gave birth to various traditional tribal institutions. These institutions were vested with various important powers and functions including the legislative, judicial and executive powers. A unique example of the existence of such an institution can be seen amongst the Santhals in Santhal Parganas in the form the 'Manjhi' system.<sup>36</sup>

As discussed earlier, according to The Oxford English Dictionary the word 'tribe' is derived from the Latin term '*tribus*' which was applied to the three divisions of the early people of Rome. With its changing dimensions, it meant a political unit consisting of a number of clans occupying a definite geographical area. Permanent settlement for a considerable period of time usually gave a geographical identity to a tribe. For that reason the process of identifying a particular tribe relating to a specified geographic area. This practice has been seen in a number of instances all over the worlds. The aboriginals of Australia, the Maori of New Zealand, and the Bhutias of North Bengal are to name a few. India is presumably named after a tribe called "Bharata".<sup>37</sup>

The term 'tribe' came to denote a race of people living within a given territory.<sup>38</sup> Western writers in India known as Orientalists followed by anthropologists and sociologists used this term with the same connotation and argued that the tribes of India belonged to three stocks—the Negritos, the Mongoloids and the Mediterranean.<sup>39</sup> The Negritos are found in various remote places in Asia, mostly in the south eastern zone. They are typical ethnic groups with various unique features which may relate them to the earliest inhabitants of the Peninsula region of India. These peoples are mostly located at Malaysia<sup>40</sup>, Thailand<sup>41</sup>, Philippines<sup>42</sup> and India<sup>43</sup>. They are believed to be the earliest inhabitants of the Indian Peninsula. In India, they are scarcely found among the tribals of Andaman and Nicobar Islands, known as the Onges, the Great Andamanese, the Sentinelese and the Peniyans.

#### 1.1.4. Colonial interpretation

A very important aspect of the terminology is that it has got its relevance only during the colonial exploration. However it is not true that colonization has affected all tribal populace of the world. As

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<sup>36</sup> 'Maniki' and 'Munda' system in Singhbhum is another example of tribal institution.

<sup>37</sup> States like Mizoram, Nagaland and Tripura are named after the Mizo, Naga and Tripuri tribes respectively.

<sup>38</sup> This was primarily because of the growth of nationalism in Europe,

<sup>39</sup> More about the traits of the tribes in India an elaborate discussion has been made in chapter 3 of this thesis.

<sup>40</sup> Semang peoples.

<sup>41</sup> The Mani peoples.

<sup>42</sup> Aeta, Agta, Ati, and 30 other peoples.

<sup>43</sup> Andamanese peoples.

a matter of fact, there were some places which were too remote and dangerous to reach for the colonial rulers. The situation however changed with the growth of population and commercial exploitation of these areas. The colonial rulers were ultimately able to extend their policy in such areas as well. In recent years scientific researchers have travelled the remotest places populated with indigenous people. It has been accepted by many a scientist that the indigenous populated places has been filled with wonderful natural resources of the world that has kept these populations existent even in great odds. In a majority of cases it is perhaps for these peoples that these natural resources still exists on earth. A great number of constructions of hydro electric projects have also led to the exploration of remotest places. The military has also been sent to certain remote areas of the world by the government for strategic military concerns<sup>44</sup>. It must also be mentioned that encroachers like animal traffickers and drug peddlers<sup>45</sup> have also reached various parts of the world indigenous and tribal regions and has been one of the biggest dangers to these population.<sup>46</sup>

The Indian Constitution uses the word Scheduled Tribes and not adivasi or indigenous people. As Roy Burman has pointed out that the Scheduled Tribes are referred to identify the Anuschi Jana Jati.<sup>47</sup>

#### 1.1.5. Features of Tribes

Almost all the definitions studied, have reflected the relationship between the land and tribals to be of vital importance. The key characteristics of the relation of tribal people to the land may be classified into two broad categories in furtherance to the example of the Black Hill case.<sup>48</sup>

Firstly, while the land is important for the economic and sheltering benefits, it is crucial for the continued existence of cultures where spiritual belief is directly tied to the social and political identity of the community and is directly linked to particular sacred places.

Secondly, it reflects the tribal tendency to hold land collectively, as opposed to individually.<sup>49</sup>

This second feature is one of the primitive approaches towards community building. It is the jurisprudence of tribal societies. The existence of tribals as a whole and not as an individual is the benchmark of indigenous civilization. This collective ownership of property includes a combination of possessory, use and management rights.<sup>50</sup> Thus the land base becomes the support for and focus

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<sup>44</sup> Africa has experienced this along with many other countries.

<sup>45</sup> The movie Blood Diamond reflects a true example of such practices in Africa and many other parts of the world.

<sup>46</sup> Ananya S James, *Indigenous Peoples in International Law*, 4 (Oxford University Press, 1996)

<sup>47</sup> J J Roy Burman, *supra* at 27.

<sup>48</sup> Jacqueline Hand, "Government Corruption and Exploitation of Indigenous Peoples", vol. 3/issue2, Santa Clara Journal of International Law 2 (2005)

<sup>49</sup> *Ibid.*

<sup>50</sup> Ananya, *supra* note 46, at p 106.

of the group as opposed to individual rights held by the tribe.<sup>51</sup> The English jurisprudence bifurcates in the upliftment in individual ownership over collective ownership. This again has been criticised for not having the requisite international standards in protection of environment, or in imparting the justice administration system in the form of distributive justice as for instance the rehabilitation of an offender in a society. The collective holding system has to a great extent helped these communities to be still in existence in whatever way they can even after so much atrocities from various non tribal, governmental and nongovernmental players. They have successfully resisted various planned attack of intrusion into their culture and society through their common efforts.

Another remarkable feature of tribal communities across the world is their effort to carry on the legacy of the ancestors. Irrespective of invasion and exploration in recent past or centuries ago, these communities try to maintain their pre-invasion history, culture, thoughts and visions to their children in order to preserve their continued existence as a community. Instances of passing of tribal know how and special skills are many. Irrespective of major hindrances, various tribes still follow their indigenous culture and social behaviour.

The presence of tribals and indigenous communities across the planet is another significant example of their presence and their need of protection. Their presence in the world forms a considerable number game. The study revealed that Indigenous people with its various annotation and connotations are estimated to be more than 250 million people which are about 4% of the world population. They consist of approximately 5000 distinct groups living in roughly 70 nations.<sup>52</sup> Their participation and contribution to the world economy is minimal and largely choice specific and their attitude to the modern development is usually antagonistic as they believe to be a threat to their community and culture. There are an estimated one hundred and fifty million tribal individuals worldwide.<sup>53</sup>

Sustainable economy of these groups makes them unique in various ways. This distinctive feature has many contrasting approach to those of the non tribals. As a matter of fact, the term sustainable with its various dimensions became an institution by itself. However, very little has been thought about those who originated the concept and practiced it in the true sense of the term. The indigenous communities across the globe had a sustainable way of life. Whether it is their economy or attitude towards life, it is the term sustainable that perhaps suits them the best.

The most unique feature of the tribals across most of the communities in the world is their sustainable economic system. Tribals have a long history of using the resources from the land and forest for various use of their house and even transforming them for commercial use by their unique know how and skilful artistry. Business in small scale is common amongst tribal societies.

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<sup>51</sup> Ibid.

<sup>52</sup> Supra Note 4 at p 9.

<sup>53</sup> Terminology, available at <http://www.survivalinternational.org/info/terminology> accessed on December 3, 2015

Involvement of women in collection and gathering of raw materials from the forest is common and their role in the economy un-debatable. The raw materials involved in the business and the skill needed are no longer easily available and the chance to work on them to explore the skill and practice is reducing at an alarming rate. The greener pastures of the urban and semi urban developments are attracting and alluring the younger generations to a more modern life whether or not they are better is another question to answer.

Tribal educational system is unique in the actual sense of the term. The most distinctive feature of tribal education does not involve any educational institute or school for tribal children. Tribal education does not depend upon schools and within books. They educate themselves through exposure in the environment under expert supervision. It provides ways of teaching and learning local knowledge relevant to protect the environment. This exposure to nature provides the tribals their much needed attachment to nature. However, the advent of colonial rulers has incorporated the western system of education and this has left the tribes to visit these educational institutes along with their cultural educational system. The practical approach of the indigenous education system targets for day to day use where as the formal education system is abstract as it is intended to pass examination.

The formal education system has disrupted the practical everyday life aspects of indigenous knowledge and ways of learning, replacing them with abstract knowledge and academic ways of learning. Many instances of loss of mass knowledge base to live a sustainable way of life is noticed in the last century amongst the tribals and indigenous people. One of such example is the handicraft industry which, in most tribal areas are dying a slow death as most of the current generation are not keen to carry on with the profession or trade of their ancestors as they are hoping to survive the onslaught the current economic situation is providing them with. Tribals have a broad knowledge of how to live sustainably. The indigenous knowledge may be integrated into the modern education system concerning the tribals and thereby promote sustainable lifestyle to them. This will also help them to retain their traditional knowledge and technical knowhow.

Tribals prefer traditional way of healing. In cases of health related issues, tribals seek help from specialists like Bhagat popularly known as Buva, Bhopa or Ojha. They generally use herbal remedies, cauterization, divination and exorcism, treated the more intractable cases. These people are highly respected in tribal societies and had considerable social power. Such is the popularity of these healing techniques that they are widely used and practices amongst the tribals even today. With the advent of modern form of medicine and healing techniques, the conventional tribal medical treatment has developed themselves to a hybrid form of healing that combines ritual with various quasi allopathic or complementary medical practices.

Tribal culture is unique in its own way as tribals prefer to have a simple life and filled with music, songs, liquor and merry making. Every tribal society has these three things in common. However, the cultural imbalance amongst tribals largely diminished because of foreign invasions upon tribal lands. There are many instances which suggest that the social, environmental, cultural and legal system of the tribes all across the globe where the British hegemony has been successful to flourish their business and trade and later their administration, has been detrimental to the system both in short term and long term. The man who works as a labor in the construction industry, the thousands of them involved in the big dream home projects and sky creepers, who work in the construction of big flyovers, bridges are those who have been either forced to leave their motherland or fled from the group which has lost its sustainability. Irrespective of these grave situations, the tribes in most part of the world has been successful in retaining their cultural traits within the clan or tribal community. They follow their own way of life, marriage, ceremonies, rituals, dialects, food and drinks. They regularly follow their cultural affiliations in almost all aspect of their life.

Another fundamental feature of tribal life is their code of conduct and their redress system. It is imperative to state that the tribals follow the primitive system of law. Customs have been the guiding stars for the tribals as far their laws are concerned. This has been acknowledged in a number of countries even today including India, Australia and United States of America. Customary laws form the basis of regulating their conduct. The tribals have been guided by their customary practices which have been guiding them for ages.

## 1.2. Reviewing the Tribes in India

### 1.2.1. Problems in Nomenclature

The indigenous people are vastly known as inter alia tribes, adivasis, jati, jana jati, natives or savages in Indian context. There has been long standing debate as to whether the term indigenous may be applied to their Indian counterpart as the latter has undergone a major transition during the last century under the colonial rule and have almost lost their basic indigenous identity and is in a form of a mixed category more aptly be termed as tribes or adivasis. At this outset, it is important to identify whether the word indigenous at all used in the Indian scenario.

India, from the very outset during 1984 stated that the scheduled Tribes of India are not indigenous. It was designated that India has long been a 'melting pot'. It was argued that it is now very difficult in India to come across communities which retain 'all their pristine tribal character'. However, if this logic is to be adhered to then there cannot be any tribal communities anywhere in the world.

The double standard reflected by India in the international forum when it was stated that the tribals

survive but not as indigenous communities. However, this distinction took place at much later stage as India being a party to the ILO Convention of 1957 on Indigenous and Tribal Population. India supported the document at the early stages when it only used the term Indigenous. In a number of Government publication the term adivasis and aboriginal have been used interchangeably. The current rejection of the term indigenous developed in the context of the Working Group in 1984 and later in 1992.<sup>54</sup>

The term tribe has not been defined in the Indian Constitution. However, Art. 342 state that the Scheduled Tribes are the tribes of those communities, which the President may specify by Official Notification.

The international definition of the term indigenous people is indeed problematic in the Indian context as the population movement and the experience in India have been different from the new world. The benchmark being the territory where they live in, being the primary determinant of indigenous shall always be debated. However, the communities in question have considered themselves as indigenous as against those of other communities. They consider themselves to have prior and preferential if not surely an exclusive right over the territory where they lived either on account of their prior settlement or numerical or other dominance. Following this they aspired to promote and protect the interest and welfare of the community and confer on the members of their, special rights and privileges.<sup>55</sup>

To abate the debate the term tribe shall be given preference in this thesis. The object of this research thesis is not only to identify the tribals but to understand the problems faced by them and what leads them to frequent retaliation. There is overwhelming discussions relating to tribal rights movement in the era of human rights in the international forum. And this paper would try to explore the various difficulties of this section of the Indian populace. The issue is to identify tribes. Even when there is no clear identifier of tribes, some basic patterns are developed to incorporate them in the Fifth and Sixth Schedule of the Indian Constitution.

As a matter of fact, considering the term ‘Adivasi’ to be equivalent to the term ‘Tribe’ in India would be gross mistake. It may be stated that this reinforce the anti-Indian feelings and a sense of deviation from the main stream among many of the tribes inhabiting, North Bengal, Sikkim and other North-Eastern States.<sup>56</sup> The term will be considered pejorative and humiliating to most of them. It must be realised that the term tribe itself is a colonial construct and ‘aboriginal’ ‘autochthon’ precepts are outcome of colonial conquests.<sup>57</sup> The so-called ‘friends of tribes’ in India have been

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<sup>54</sup> IWGIA, 1992 Report of the Working Group on Indigenous populations on the tenth session, Geneva, International work Group for Indigenous Affairs.

<sup>55</sup> Supra Note 9

<sup>56</sup> J.J.Roy Burman, “Adivasi Vs Indigenous Peoples Adivasi: A Contentious Term To Denote Tribes As Indigenous Peoples Of India” 32, *Mainstream*, 1 (2009)

<sup>57</sup> Ibid

amateurishly trying to romanticise the term in the name of radical empowerment.<sup>58</sup> The tribal situation in India is extremely heterogeneous and a unified approach may not do justice to all the communities.<sup>59</sup>

Bijoy<sup>60</sup> (2003) writes:

*“The 67.7 million people belonging to ‘Scheduled Tribe’ in India are generally considered to be ‘Adivasi’, literally meaning ‘Indigenous People’ or original inhabitants, though the term ‘Scheduled Tribe’ (ST) is not coterminous with the term ‘Adivasi’. Scheduled Tribe is an administrative term used for the purpose of ‘administering’ certain specific constitutional privileges, protection and benefits for specific section of peoples historically considered disadvantaged and ‘backward’. However, this administrative term does not exactly match all the peoples called ‘Adivasi’. Out of the 5653 distinct communities in India, 635 are considered to be ‘tribes’ or ‘Adivasis’. In comparison, one finds that estimated number of STs varies from 250 to 593.”*<sup>61</sup>

Bijoy<sup>62</sup> continues;

*“The application and use of the term adivasi or tribes in India is more of politics than of law. It has often been used to convey the position of exclusion of the tribes (Kumar: 2001: 4052-4054) and their subaltern status (Ekka: 2000-2001: 4610-4612).<sup>63</sup> The term Adivasi has been even used to focus the tribal rights (Dietrich: 2000), their resistance (Pati: 2001), protests (Viswanath: 1997), assertions (Hardiman: 1988, Rahul: 1998), struggles (Raman: 2002) and movements.<sup>64</sup> (Bijoy and Raman: 2003) The term in a way conveys a sense of ‘empowerment’ of the tribes.<sup>65</sup> This empowerment is being asserted by linking with the global indigenous people’s movement.”*<sup>66</sup>

It is important to note that the tribes in India are not the only group to claim indigenous status.<sup>67</sup> Even many of the Dalit intellectuals have made similar assertions.<sup>68</sup> The concept of the term scheduled tribe has been intentionally made complicated by political intent by incorporating a few Brahmins<sup>69</sup> and Rajput<sup>70</sup> communities within its fold. The political version of the term tribe may again be established when the Government of India itself refuses to grant indigenous status to the

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<sup>58</sup> Ibid

<sup>59</sup> Ibid

<sup>60</sup> Ibid

<sup>61</sup> Ibid

<sup>62</sup> Ibid

<sup>63</sup> Ibid

<sup>64</sup> Ibid

<sup>65</sup> Ibid

<sup>66</sup> Ibid

<sup>67</sup> Ibid

<sup>68</sup> (Massey: 1994)

<sup>69</sup> Jaunsari in Uttarakhand

<sup>70</sup> Kanaura in Himachal Pradesh

tribes.<sup>71</sup> The term 'Adivasi' has various popular usage and connotations as it has various popularly use in various parts of India and specifically in a few in north eastern states.<sup>72</sup> At times it is popularly used to refer to the tea plantation labourers and at times to identify the migratory population that inhibited during the Colonial invasion.<sup>73</sup> Santhal, Munda, Oraon and Ho are some of prominent examples in this regard. The local inhabitants, prior to the nomenclature like tribes or adivasi were never in favour of a terminology being imposed upon them as this literally outcasts and separates them from the mainstream.<sup>74</sup> The local tribes in these States also find it humiliating to identify them as 'Adivasi'.<sup>75</sup> The indigenous Rabha, Mech and Rajbansi tribes and ethnic groups in North Bengal prefer to identify themselves by their own names and not as 'Adivasi'.<sup>76</sup> It has been noticed that the use of the term adivasi or tribe has been used instead of their specific tribal names to those groups which used to migrate from other parts of the country to a distinct place for some work. One of the instances that may be given in this regard is the identification of the migrant plantation labourers from Chotanagpur as 'Adivasi' by the Sikkimese tribesmen.<sup>77</sup> Another instance being the Santhal, Oraon, Munda and Ho migrant tribes in the Sunderbans of West Bengal, working as agricultural labourers or cultivating small farms, are collectively referred to as 'Adivasi' by the local Bengali settlers, a majority of whom are Scheduled Castes.<sup>78</sup> The term 'Adivasi' therefore, remains a generic name in East and North-East India for identifying the migrant tribal labourers and small peasants from central India.<sup>79</sup>

In most places in North Bengal and North-East India, the adivasis are considered to be encroachers or intruders. During the Naxalite uprisal at Naxalbari in the late 1960s the Rajbansis en-block resisted the onslaught of the adivasi land grabbers. This lead to a complex and disturbing situation leading to a lot of ethnic clashes of various magnitude between the indigenous Bodos and adivasi encroachers in the Bodoland Territorial Council areas.

The situation became so antagonistic that in one incident there has been an onslaught of more than 100 Santhals by the dangerous Bodo militants. It has been documented that almost 40 per cent of the forests belonging to the Bodo areas have been the subject matter of encroached. It has also been seen that these encroachers are mostly the outsiders who migrated in these areas for shelter from various other adjacent areas and includes other tribals and non tribal communities. There has been a lot of disputes still unaddressed in these areas making this zone disturbed for quite some time. It may be referred in this regard that the government must take some logical steps to bring the

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<sup>71</sup> Supra note 56

<sup>72</sup> North Bengal, Sikkim, Arunachal Pradesh, Assam, Meghalaya, Nagaland and Tripura

<sup>73</sup> Supra note 56

<sup>74</sup> Ibid

<sup>75</sup> Ibid

<sup>76</sup> Ibid

<sup>77</sup> Ibid

<sup>78</sup> Ibid

<sup>79</sup> Supra Note 50 at p 5

situation under control and make the zone stress-free. It must be stated here that there are antagonistic relationship between the Boros and the adivasis in this area but the political intervention in the proper direction would mitigate the situation to a great extent.

Another disturbing scenario notices because of infiltration of people of other areas in tribal zones is in Arunachal Pradesh. It is the indigenous Chakmas<sup>80</sup> who encroached the tribal lands of the tribes of Arunachal Pradesh as refugees. This led to a lot of disturbance in that area as well. Movements from the student wing of the local tribes were seen to be initiated against the encroaching Chakmas. The All Assam Tribal Sangha (AATS) comprising of various tribal organisations, including Bodo, Karbi, Dimasa and Tiwa student organisations are opposing the Adivasi demand for ST status of the Chakmas, alleging if granted, it would affect the interests of tribals of Assam. According to AATS, the Adivasis did not fulfil the requisite criteria of their inclusion in the ST list as they are not originally from Assam.<sup>81</sup>

The term 'indigenous peoples' itself appears to be contentious and subject matter of misuse in more than one ways. There have been many claimants to it. The Dalits<sup>82</sup>, the Vaishnavite Meiteis<sup>83</sup> and the caste Hindus<sup>84</sup> have claimed themselves to be indigenous. It will perhaps be always better to avoid using the popular NGO nomenclature 'Adivasi' in the tenors of serious academic discourse when dealing with the notion of indigenous groups in the Indian context.<sup>85</sup>

The tribes in all quarters of the country are not aboriginals of the regions where they inhabit at present. It must be understood that indigenous must not be referred to the concept of the first man in the specific geographical zone. There have been various views in this context including that of the famous historian Kosambi (1956) who viewed that the tribes had migrated to the plain areas at a much later date only after the vegetation had thinned out and wild animals became less numerous making the area less dangerous for human habitation and fit for settled cultivation.

Archana Prasad (2003), the young scholar from Jamia Millia Islamia, Delhi, feels that the tribes practising settled cultivation in the plains were pushed to the hills and forests by the profligate Aryan invaders and later Hindu settled cultivators and the outside traders.<sup>86</sup> The Kukis in Manipur or the Luseis of Mizoram have migrated to their present areas of dominance from South China and Chin Hills only a couple of centuries back.<sup>87</sup>

The Kukis were settled by the British in the Naga predominant areas so as to create a buffer

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<sup>80</sup> They have claimed to be indigenous and have applied in the international forum to declare them as indigenous.

<sup>81</sup> Supra note 56

<sup>82</sup> Claiming their Dravidian antecedence.

<sup>83</sup> Manipur

<sup>84</sup> Assam

<sup>85</sup> Supra note 56

<sup>86</sup> Ibid

<sup>87</sup> Ibid

between the Nagas and the Vaishnavite Meiteis.<sup>88</sup> The Sailo chiefs belonging to the Lusei tribe were encouraged by the British to operate as labour contractors for constructing roads in the remote areas of Mizoram.<sup>89</sup> The aboriginal tribes of the State who were pushed to the western borders along Tripura are now known as Tuikuk.<sup>90</sup>

An interesting discovery in this regard is the policy of the Tripura tribal kings to invite other communities<sup>91</sup> not indigenous to the area to work on the production of cotton through the popular jhum cultivation and also in the cotton mills. Other examples similar to this trend are the Totos<sup>92</sup> of Totopara in West Bengal and the Bodos<sup>93</sup> in Assam. Totos (believed to be migrant criminal clans who were pushed out by the Bhutan kingdom) are now residing in Toto para, in the border of India and Bhutan in the northern part of West Bengal. The researcher has conducted an empirical study of the tribals in West Bengal in Chapter 6 of this thesis, where he visited Toto para and found that a large section of Totos works as daily labourers in the Orange plantations in Bhutan.

The trend of moving from one place and settling in another is common in various parts of India including the matrilineal Khasis of Meghalaya. These groups belong to the Mon-Khmer linguistic group. Historical evidence as to their migration from the Kampuchea region to Meghalaya has been depicted in many writings. Again, the Denzong Bhutias<sup>94</sup>, is said to have migrated from Tibet.

The Santhals similarly has migrated to various parts of West Bengal and started inhabiting various places in Birbhum and Midnapur. Originally, they were from the Rajmahal Hills which is now in Jharkhand.

Thus the concept of aboriginals or the first man has been disputed by many sociologists and political thinkers at various national and international forums in addressing the debate between the indigenous and the modern nomenclature of tribe or adivasis. The concept of 'tribe' has undergone changes. The change which was inevitable due to plethora of reasons has been thoroughly depicted in a number of research work carried out and in scripted in various forms.

To begin with, it must be mentioned that tribal population is present in almost all countries of the world including India. Tribal peoples form a major segment of the world population. They are found all over the world. Various nomenclatures have been used to identify them such as 'jana', 'primitive', 'indigenous,' 'tribal,' 'aboriginal,' 'native,' and so on. India has a large number of tribal people. According to R. C. Verma they "constitute about 8.08% of the total population. They would be about 6.78 crores out of the total population of 83.86 crores according to 1991 census". The major tribes speaking various languages reside in both rural and urban areas of the country and

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<sup>88</sup> Ibid.

<sup>89</sup> Ibid.

<sup>90</sup> Ibid.

<sup>91</sup> Reangs and Chakmas

<sup>92</sup> Totos live in Toto para which is in the district of Alipurduar, West Bengal, India.

<sup>93</sup> Bodos are believed to be aboriginals of Bhutan who flocked in great numbers to Assam at a much later stage.

<sup>94</sup> It is the royal Sikkimese tribe.

include primarily the Santhals, the Gonds, the Bhils, the Oraons and the Minas. Majority of these tribes are domiciled in the forests. Of late there have been incidents of large scale evacuation of forest land for so called developmental projects forcing the tribal mass to come and work as daily wage laborer in urban areas of the country. Again the assimilistic approach of the international convention of ILO 109 which was adopted by India has led to a considerable number of tribal populations integrating with non tribals in the semi urban and urban areas. The concentration of tribal population can be noticed in almost all the states of India but the majority of them exists in the state of Madhya Pradesh, Orissa, Bihar, Jharkhand, Chattishgarh, Maharastra, Gujarat, Andhra Pradesh, West Bengal and the Northeastern Region. The Andaman and Nicobar Islands are also inhabited by several primitive tribes such as the Great Andamanese, Sentenelese, Onges, Jarwas, Sompens amongst others.

Tribal history is prehistoric and is culturally rich. In the absence of written inscription it is difficult for historians and anthropologists to portrait a clear picture of their past and glorious developments. This obscurity has led to a lot of debate and confusion which in turn created an illusion rather than a clear idea of the development of tribal history in India. It is still uncertain from the excavation discoveries as to whether India had a pre historic past. However, according to Nadeem Hasnain:

*"It has now become an established fact that the aboriginal tribes in India are, in most cases, survivals from the later prehistoric groups".<sup>95</sup>*

The Aborigines of India primarily comes from various regions of Asia and belongs to various races. In the absence of any constructive proof, the tribal history lacks its stability and a mere possibility based on presumption can be presumed. The existence of scripts of a much later stage merely helps to have a decent idea of the tribes in ancient India.

Some scholars believe that the builders of the Indus valley civilization might have been the aboriginal people. Their extinction is attributed to the disastrous alteration of the course of the Indus river resulting in destructive flooding of settlements and silting of fields. Another explanation put forward by Stephen Fuchs is that

*"the Aryan invaders might have destroyed the centres of Harrappan civilization and killed or dispersed its population. The discovery of unburied skeletons on the steps of a building in Mohenjodaro seems to support such an assumption" (qtd. in Hasnain 8).*

There is scanty information about the people who were destroyed. There are also no grounds to believe whether they spoke Dravidian languages.

The Vedic scriptures have some convincing information of the tribes in India. The inscriptions made it clear that the Aryans invaded from the Northwestern parts of India and fought against the non-

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<sup>95</sup> Supra note 56.

Aryans.<sup>96</sup> As Hasnain says:

*"The Asuras who captured the city of an Aryan sage Dabhiti were defeated by Indra and dispossessed of their booty"*<sup>97</sup>

The later Vedic period (1000 to 600 BC) witnessed the fusion of the Aryan and the non-Aryan. According to Kosambi,

*"The process of Aryanisation of the tribals and tribalization of the Aryans was on"*.<sup>98</sup>

### 1.2.2. Reference in Epics.

Various tribes have got its reference in the great epics The Ramayana and The Mahabharata. Tribes such as Sudras, Ahiras, Dravidas, Pulindas and Sabaras or Saoras are common instances of this.<sup>99</sup> A Bhil boy, Ekalavya, in the epic Mahabharata is a very common example as he had to offer his thumb to Dronacharya as gurudakhchina for secretly learning the arts of war from Dronacharya. There has been many other reference of tribals in the Mahabharata.<sup>100</sup>

It can be studied from various texts that it was during this phase of history when the tribes were used for tasks of the lower order. This process may ultimately led to the creation of the lower caste referred to as 'Sudra.' The tribes however, did not lead an isolated life. As Hasnain points out, their participation in sub-Puranic and epic traditions of myths and folktales gives evidence that they were not an isolated lot. One can see the impact of epic heroes/heroines such as Rama, Sita, Lakshmana, Ravana, Bhima, etc., on some of the tribes in central India in their myths and lore. The present day Gonds call themselves children of Ravana.

Apart from the greater epics like Ramayana and Mahabharata, various ancient Sanskrit literary works such as Panchatantra, Kathasarita Sagara, Vishnu Purana, Kadambah, and Harsha-Charita give descriptions of the tribals.<sup>101</sup>

### 1.2.3. Reference in Smritis and Sutras.

Texts such as the Dharma Sutra (600 to 300 BC) and Manusmriti (200 BC to 200 AD) mention the

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<sup>96</sup> In a research inscription it was noted that God Indra was invoked to smash the forts of the 'Dasyus.' He is described as casting his dart on the 'Dasyus' to establish Aryan supremacy. He is described as having killed both the 'Dasyus' and the 'Samyus.' Goddess Saraswati is again credited with having killed the Parvatas, a hostile tribe who dwelt on the banks of the Paushni. Vishnu conquered the bull-jawed Dasyus in his battles and together with Indra destroyed Sambara's cattles.

<sup>97</sup> Supra note 56.

<sup>98</sup> Ibid.

<sup>99</sup> Sabari, who was a tribal woman, is shown in the Ramayana as having offered fruits to Rama.

<sup>100</sup> Some of the other instances being the Pandava prince Arjuna being married to a Naga princess Chitrangada. The Mundas and the Nagas claimed to have fought on the side of the Kurus against the Pandavas. It has been inscripted that Ghatotkacha was born out of Bhima's tribal wife.

<sup>101</sup> The assimilation of tribal and non tribal peoples slowly and steadily created a new set of rules and customs for the society where both of them belong.

old process of fusion and assimilation of the tribes. The marriage between various tribals and non tribal people during this era brought germinated the caste system in India. The 'Nishadas' in these texts are cited as an example. Hasnain says:

*"The Chandalas, a tribe, were absorbed into Hindu society and assigned the task of removing dead bodies of animals and human beings as also whipping and chopping off the limbs of criminals".<sup>102</sup>*

Thus the process of out casting of tribals as lower from the existing mainstream started and continued.

The invasion continued by the non tribals upon the tribal areas during the feudal period (400-1000 AD).

The most noticeable thing of this era was the process of Sanskritization. This, to a great extent affected the tribal culture and customs. The Brahmin priests prepared suitable genealogies for themselves and the ruling Brahmin class spearheaded the process of Sanskritization as expressed and popularized by M. N. Srinivas.

Srinivas says:

*"Sanskritization may be briefly defined as the process by which a low caste or tribe or other group takes over the customs, rituals, beliefs, ideology, and style of life of a high and, in particular, a twice-born (dwija) caste. The Sanskritization of a group has usually the effect of improving its position in the local caste hierarchy. It normally presupposes either an improvement in the economic or political position of the group concerned, or a higher group self-consciousness resulting from its contact with a source of the 'Great Tradition' of Hinduism such as a pilgrim centre or a monastery or a proselytizing sect."<sup>103</sup>*

Virginous Xaxa was quick to points out in this regard that

*"Though M.N. Srinivas had the so-called lower class in mind when he coined this term, it can be extended to the tribals as well. This process of social change is also termed as "Hinduization".<sup>104</sup>*

### 1.3. Invasions in India and Tribal Confrontation

Historical inscription declares certain aspects of invaders being confronted by tribal people. One of the famous invaders was Alexander who wiped out tribal belts on the Northwestern border of India. Another invader Ajatasatru was incited to have destroyed the tribal republic of Vaisali.

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<sup>102</sup>

<sup>103</sup> Ibid.

<sup>104</sup> Xaxa Op.cit at p. 1519.

### 1.3.1. Various Major Invasions in a Nutshell

The Muslim invasion also during the 11th and 12th centuries, witnessed some dethroned Rajput rulers, establishing their rule in various tribal areas. This process also led to the replacement of the tribal chiefs or the headman. Instances of such displacement are ample in the pages of the past. The Parmar Rajputs expelled the Cheros from Shahabad, and the Chandels replaced the Bhuinya in the South Monghyr district of Bihar. This also to a considerable extent led to the loss of the traditional and customary laws being followed by these tribes and a new set of rules and regulations generated from Rajput philosophy being incorporated amongst the tribals. Consequently assimilation took place leading to loss of indigenous features of the tribes.

During the Mughal rule (12-18th century), the tribal chiefs and the Hindu rulers in tribal areas of Central India and Bihar were forced to show their allegiance to the Turko-Afghan and Mughal rulers. In 1585 and 1616 A.D., the Mughal Muslim army marched into Chotanagpur and defeated the Raja of Khukra. Similarly, the tribal areas of Assam were also subjugated by another Muslim general. During this period, a number of tribes were converted into Islam in the Northwest frontier region. The Gond dynasty which had its 'Garha' near Jabalpur and ruled the region for more than two hundred years also faced defeat at the hands of the Muslim and Maratha rulers. The loss of their power compelled the tribes to convert to Islam, but some of them still retained their identity. The Muslims of the Lakshadweep Islands and the Siddi Muslims of Gujarat are the best examples of such conversion. R. C. Verma points out that

*"when the Moghuls invaded South India, they forced the Banjaras, an enterprising tribe of Northwestern India to employ their cattle for transporting their supplies. That is how the Banjaras migrated to Andhra Pradesh and other adjoining areas in the South"<sup>105</sup>.*

But it was a common affair that religious reasons are given in many other cases amongst many other religions as well.

The tribals were also influenced by some streams of the Bhakti Movement. Some became followers of Chaitanya Mahaprabhu when they came in contact with him during his travels. There has been instances of complete loss of tribal traits by taking up Hinduism, Islam or Christianity in different period of history. For example, the Bhuiyans of Jharkhand, surrendered their tribal traits and converted to Hinduism. Tribal authority and cultural traits was substantially eroded by these influences.

Apart from cultural and social subjugation there have been instances of economic withering of tribal societies under the Zamindari and other colonial systems of administration.

There have been other instances of invasion that also to a considerable extent affected the

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<sup>105</sup> Ibid

customary life of the tribes in India. The Persians, the Greeks, the Sakas, the Huns and other hordes of nomadic invaders periodically invaded tribal areas in India from the Northwest.

In furtherance of the Doctrine of Discovery, the British invasion started and reached India through the East India Company. East India Company, authorized by the British penetrated into various tribal regions in search of resources. They used forest produces for their business. Ramachandara Guha and Madhav Gadgil in their essay "State Forestry and Conflict in British India" (1989) shows the commercial exploitation of natural resources of the tribes by the British colonial rulers. There has been indiscriminate felling of trees for timber. This lead to the loss of vital resources needed for sustenance of tribal life. The use of land for commercial cultivation like tea, rubber and coffee plantations have compromised on the naturally grown habitation, leading to the extinction of thousands of flora and fauna. New mode of transportation was built to transfer forest resources from tribal belts to the ports for transportation to Europe. In the process new inroads were made in forest areas. Routes from forest to sea coasts were built to transport goods on one hand and transfer armed forces to the forests in cases of conflicts on the other.<sup>106</sup>

In another article entitled "The Making of the 1878 Forest Act" Guha points out the following:

*"The early years of the expansion of the railway network, 1853 onwards, led to tremendous deforestation in peninsular India owing to the railways' requirements of fuel wood and construction timber. Huge quantities of durable timber were also needed for use as sleepers across the newly laid tracks. The Grand Trunk Road, which was built through tribal labour, helped in business, and there was an inflow of outsiders adding to the population."*<sup>107</sup>

This change in the surroundings affected the tribes in India like never before. Loss of land led to a complete up-rootment of the self sustained economy of the tribal peoples and most of them had no other alternative for sustenance. This led to a number of armed conflicts where the tribals were easily overpowered by the more powerful settlers. There has been loss of tribal life. Instances of death by starvation became a common affair. The tribal peoples had little option left but to start working for the settlers as labourers.

The tribals were also cheated and adversely affected by the non tribal middlemen who operated between the new rulers and the tribals. Stories of exploitation of the tribals by merchants and moneylenders were common. Various literary works of eminent authors depicts the condition of tribal exploitation during this era. The outsiders started grabbing tribal land and property for personal economic gains. The condition of tribals deteriorated and pushed them more into the hills and forests. The cultural position of the tribes changed dramatically during this period as the tribal people were forced to take up the cultural practices of the non tribals. The so called and self created

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<sup>106</sup> Ramachandra Guha and Madhav Gadgil, "State Forestry and Social Conflict in British India", 123 Past & Present, 150 (1989).

<sup>107</sup> R Guha, "An Early Environmental Debate: The Making of the 1878 Forest Act", 27 IESHR 70 (1990).

upper castes started their exploitation over poor tribals and led to the loss of rich and indigenous cultural features of the tribal peoples. This process is very close to the processes described by M.N. Srinivas in his thesis on Sanskritization.

Francis Gautier puts it as,

*“The missionaries arrived in India on the heels of the British. And their first prey were the Adivasis, the tribal people who they promptly proceeded to name as the ‘original’ inhabitants of India, who were colonized by the ‘bad’ Brahmins, during the mythical Aryan invasion.”*<sup>108</sup>

The Christian missionaries also came into the picture with the patronage of the British government. It is during this time the welfare provided by these missionaries in areas like health care, education and support, Christianity spread among the tribals. Christianity was an easy alternative to the caste ridden and complicated Hinduism as it preached less complicated beliefs and rituals and egalitarian principles.

After the Sepoy Mutiny in 1857, Christianity spread rapidly amongst the tribals with the patronage of the Government. In a case study with reference to the tribals of Chotanagpur region, Joseph Bara rightly points out that the Mutiny of 1857 temporarily jolted the official zeal. The specific tribal situation of Chotanagpur made the colonial rulers give the missionaries a signal to go ahead in full swing. This was part of a mission to civilize the most backward populations where the missionaries would prove expedient. Bara gives an instance of how a government official supported the missionary activity. For instance, as Bara points out: [...] Chotanagpur had an extraordinarily zealous official in E .T. Dalton (first as deputy commissioner of Ranchi and then as commissioner of Chotanagpur from 1857 to 1875) at Ranchi. Having realized the need of special treatment of the tribals in the scheme of colonial 'civilization', Dalton acted as a patron of the Mundas and the Oraons, and western education was one of his priorities.... Soon he found in the Christian missionaries, who were fast expanding their operation, a good companion which effectively meant placing the colonial government's educational responsibility on the missionary's shoulder. Thus, the western education and the Christian missionaries became a single vehicle as far as the tribals were concerned.<sup>109</sup>

Mahasweta Devi's novels, which are concerned with tribal history, elucidated that, the missionaries, with the patronage of the government, spread Christianity among the tribals and helped them with health care and education. Unlike Hinduism and Islam, Christianity spread widely in the tribal regions with the patronage of the British government and established a firm footing there. The result was a feeling of discontent and unrest among the tribals.

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<sup>108</sup> Francis Gautier, “Rewriting Indian History, Nalanda Digital Library”, available at <http://www.naturalresourcehub.org/> (Accessed on August 15, 2015).

<sup>109</sup> Ibid

In 1871, the British Government of India 'notified' certain tribes as 'criminals' and passed the notorious 'Criminal Tribes Act of 1871'. Those who fell into this group, according to the British, were nomadic cattle grazers, wandering singers, acrobats, etc., and also those who resisted the British aggression from time to time. This was done in an effort to subjugate these tribes and bring in larger areas under the British territorial rule.<sup>110</sup>

### 1.3.2. Tribal Movements

At this stage, a number of movements took place, the Kherwar movement (1871 -80), the Birsa Munda Movement (1874-1901), the Bhil Rebellion (1879-80), the Sardari Movement (1881-95), the Bastar Uprising (1910-11), and the Tana Bhagat Movement (1920-35) raised voices against the oppression and exploitation by landlords and British rulers on the poor tribals.

The Santhal Insurrection which has a very convincing historical impact took place as a reaction to the atrocities of the non tribals upon the tribals. It all started when some non tribals got hold of santhal land in furtherance of some deal. This led to the payment of rent by the Santhals to the Hindu chiefs. As the Santhal tribals fail to pay the rent due they started losing their lands. Initially, the Santals did not pay much attention to the 'dikus' (aliens), but when their traditional economy was affected to such an extent, they stood against the administrator and the landlord. Around 1885, 'Santhal hul,' broke out. However this insurrection was short lived and the British troops put down the Santhal rebels at ease. Consequently, specific reformatory measures in the Damin-i-koh and other crucial parts were taken up by the British. More powers were given to the administrators over tribal land alienation and indebtedness issues. The old rules and regulations gave way to the new policy of the administrators in the Santhal Parganas. The new regulations eroded the authority of the head man leading the Dikus to take up matters arbitrarily and compromised the interest of the tribes in the region. Frequently increase in rents on land holdings without any notice or consultation, imposition of fines on non payment of exorbitant rents was to name a few. The new judicial system also contributed to the destruction of the santhal status to merely serfs.

Such atrocious condition of the Santhals led to their protest in 1871. Two Santal brothers, Sido and Kanhu, came to the forefront providing leadership for mass uprisings. Their objective was clearly stated:

*"we should slay all the Dikus (aliens) and become rulers of ourselves... We should only pay eight annas (fifty paise) for a buffalo plough and four annas for a bullock plough, and if the rulers (both British and Indian aliens) did not agree we should start fighting..."<sup>111</sup>*

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<sup>110</sup> Mahasweta Devi, "Year of Birth – 1871", available at <http://www.indiatogether.org/bhasha/budhan/birth1871.htm> (Accessed on December 3, 2015)

<sup>111</sup> Quoted in Srivastava. 13.

Another tribal movement which gained much popularity among the tribals was the Birsa Munda Movement (1874-1901). Ranchi and the Santhal Parganas were in the grip of exploitation in the closing years of the nineteenth century. The domination of the 'dikus' still continued. Around that time the Christian missionaries were also active in this region. There was a feeling of discontent and unrest among the tribals. At this stage Birsa, a Munda youth, organized his people to raise their voice against the oppression and exploitation by the landlords and the British rulers. Today the Munda and other tribes of the Ranchi district hail Birsa as their God. They call him Birsa Bhagwan. Mahasweta Devi's novel, *Aranyer Adhikar*, is based on this movement. Like the Mundas, the Oraons of this region also launched a powerful movement known as the Tana Bhagat Movement. The Oraons had seen oppression and deprivation at the hands of the local Zamindars and policemen. Jatra Bhagat, an Oraon, proclaimed that he had a vision of Dharmu or God. He had received a revelation for the other fellow Oraons. His message swept over the country, and people from far and near began to come for his darshan. His followers gave up worshipping spirits (ghosts) and stopped animal sacrifice. People gave up non-vegetarian food, wine, tobacco and group songs and dances. They were asked not to pay rent to the Zamindars and not to work for the aliens. Jatra warned his people in strong words that if they did not obey his orders they would soon perish. Acting upon Jatra's advice people began refusing to work for the landlords and disobeyed rules and regulations imposed by the British rulers who in turn issued orders for the arrest of Jatra and his close disciples. Jatra was imprisoned. After completing his term in jail, Jatra lived for a short period. The followers of Jatra are called 'Tana Bhagats' because 'tana' means pulling together. Jatra was trying to pull together all Oraons into his fold. Apart from these movements in the Chotanagpur regions, uprisings also took place in other parts as well. The Bastar Uprisings that took place in Central India in 1910-11 is such an example. The monopoly of the outsiders has been cited as the main reason for this uprising. K. S. Singh quotes a letter sent by B. P. Standant, Chief Secretary and the Commissioner for the Central Provinces to the Secretary to the Government of India, Forest Department, Shimla. The letter cites the following reasons: [...] the inclusion in reserves of forest and village lands, highhanded treatment and unjust exactions on the part of Forest Officials, maltreatment of pupils and parents by school masters in order to extort money, forcible collection by school masters of money to purchase supplies for Tahsildar and Inspector, purchase by school masters of supplies at one-fourth of the market price, similar acts by the State Police, with the addition that they exact begar and beat village servants to compel the cheap supply of grain, the demand of excessive begar by the Tahsildar and non-payment for supplies in connection with the camps of officials, the exaction of excessive begar by Malgujars, interference with the rights of manufacturing intoxicating liquor, a practice of officials of getting houses built by begar, even compelling the labourers to feed

themselves, exactions by the lessees of villages... and general oppression on the part of officials. The petitioners add that this oppression began with the advent of Rai Bahadur Panda Baijnath, that they had petitioned him without result, and that their present object was merely to ensure that some one should come and hear them. (Qtd. in Singh, Tribal Situations 178-179) Singh further says: It was a total revolt. The outburst was accompanied by murder, arson, looting and general savagery, it was a regular revolt against civilization, against schools, against forest conservancy, against the opening up of the country by Hindu settlers, in short it was a movement of Bastar state for Bastar forest dwellers. (179) It was during the colonial period that the tribals were studied by scholars and designated as 'tribals.' A number of administrators and anthropologists who were engaged in studying the tribes provided classified information about the tribals and their population.

The first Census of India took place in the year 1881. The term used to incorporate the indigenous communities was "forest tribes" and not merely tribes. This was incorporated as a sub-heading under the category of Agricultural and pastoral castes. In the Census Report of 1891, V.A. Bains, the Commissioner of Census, classified the castes according to their traditional occupations. As Verma records:

*"Under the category of Agricultural and Pastoral castes; he formed a subheading called 'Forest Tribes.' The first nomenclature of the term tribe may be found in the Census of 1901 where these communities are termed freely as hill tribes, primitive tribes, savage tribes, backward tribes etc. In the Census Report of 1901, they were classified as 'Animists' In the 1911 census, the so called animists in the table for caste and others have been incorporated by Gait, who was in charge of the 1901 and 1911 census. In 1911 they were termed as 'tribal animists' or people following tribal religion".*

Gaits predecessor Marten, who was in charge of the 1921 census, followed the same pattern to the exception of incorporating "tribal religion" from "animism". The British policy on tribes began with the first census in 1921. In the Census Report of 1921, they were specified as 'Hill and Forest Tribes' and in the 1931 census they are described as Primitive Tribes. The Government of India Act specified them as Backward Tribes. However, the Census Report of 1941 classified them as 'Tribes' only. Thus, the term 'tribe' was designated by the British for these people.

The distinction on the basis of religion between tribes and other castes ere even carried forward by Hutton even though not very convincingly. The presumption of being a tribe as being an animist was however not the convincing distinction between tribes and castes. Keeping this dis-satisfaction in mind the census keepers they observed that there were difficulties in distinguishing the religion of the tribes from that of the lower strata of the Hindu society.

Keeping these observations in mind, Ghurye (1963:205) went to the extent of observing that the so called aboriginals who form the bulk of the scheduled tribes and who have been designated in the

censuses as animists are best described as “backward Hindus”.

Historical evidence establishes the existence of tribes or indigenous peoples in the territory of India. However, the term tribe was first used by the British to recognize these uncivilized<sup>112</sup> communities. It was during this time onwards the recognition of the term ‘tribes’ was officially recorded. Various classifications of tribes were initiated by the British administration to nomenclature these people according to their policies objected towards economic exploitation and territorial expansion. Some of the tribes were referred as primitive tribes, some as backward tribes and some as criminal tribes. Jagannath Pathy in "The Idea of Tribe in the Indian Scene" tried to identify the term tribe and its origin. He states that before India was colonized, there was no equivalent indigenous word for the English term 'tribe'. The Sanskrit word *atavikajana* simply denoted an agglomeration of individuals with specific territorial kinship and a cultural pattern. The so-called tribes were called nations and people. The so-called tribals called themselves people and others as outsiders. It was used to dominate and oppress the peoples and nations. Another term 'noble savage' was coined to divide the struggling people. The word indicates economic and political relations between the so-called tribal and the civilized capitalist world. It also denotes a special kind of social origin and a stage of evolution in human history. During the colonial expansion, the British faced opposition from non-Aryan and non-Muslim people. At that time

*"tribals were characterized as food gathering communities and animists and shifting cultivators were added to the list of tribes"*<sup>113</sup>

It is pertinent here to mention that the line between the tribe and caste is very arbitrary. For people who are classified as tribe in one region are known by caste in other regions. It is worth mentioning the major debates that concern tribal development. K.S. Singh foregrounds the nature of the studies done by the British in this regard. He states: The ethnographers took a placid and synchronic view of tribal society. Their view was inspired by the then model in anthropology. Tribal communities were treated as isolates, tribals as Noble Savages, and their primitive condition was described as a state of Arcadian simplicity. (Singh, "Colonialism" 400) The anthropologists looked at the Sanskritization of tribal chiefs in negative terms and held the view that it was not good for the tribals. They also rationalized and justified the British rule. The administrators however, took a diachronic view of the tribal society and described the pattern of changes in the agrarian system, which suggested that primitive people were not immune to the impact of colonialism. There was a proposal by two administrator-anthropologists, J.P. Mills and G.H Hutton to keep the tribal areas under the direct control of British administration (Singh 1984: 405)<sup>3</sup>. The nationalists, on the other

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<sup>112</sup> Uncivilised, the term was used in rampant to identify the natives, aboriginals and tribals in various countries. Lately, the term has been subjected to debate and criticism as the question was raised as to the authority to determine the features of civilized communities. Currently the meaning of the term in the dictionary has also been changed and is no longer in use to identify these peoples.

<sup>113</sup> Pathy 347

hand, expressed their apprehension saying that the new constitution of fully excluded areas was an imperial design to separate the tribals from other communities and thus weaken national unity. The Indian National Congress at its session held at Faizpur felt that "this was yet another attempt to divide the people of India into different groups" (Qtd. in Singh, "Colonialism" 407). The isolationist school of policy makers comprised anthropologists and British members of the I.C.S of which G. H. Hutton was the arch-exponent. However, it was Verrier Elwin who got identified with the isolationist stance in the pamphlet *the Loss of Nerve* published in 1941. In this pamphlet, he recommended isolation of the tribals and suggested that the administration should be so adjusted as to allow the tribes to lead their life without interference from outside agencies. He said in conclusion: I am not one of those who advocate a policy of absolute isolation, but I do urge a policy of isolation from debasing and impoverishing contact. The aboriginal cannot remain as he is-but is it necessary for him to pass through a long period of degradation before he emerges as the civilized man of the future? Could we not keep him in his innocence and happiness for a while till "civilization" is more worthy to instruct him and until a scientific age has learnt how to bring development and change without causing despair? (Qtd. in Singh, "Colonialism" 408). In another pamphlet, *The Aboriginal*, Elwin reiterates his thought: I advocate, therefore, for the aboriginals a policy of temporary isolation and protection, and for their civilized neighbors a policy of immediate reform.. .The essential thing is not to uplift them into a social and economic sphere to which they cannot adapt themselves, but to restore to them the liberties of their own countryside [...] But whatever is done, and I would be the last to lay down a general programme, it must be done with caution and above all with love and reverence. The aboriginals are the real swadeshi products of India, in whose presence everyone is foreign. These are the ancient people with moral claims and rights thousands of years old. They were here first; they should come first in our regard.<sup>114</sup> He was attacked by "A.V. Thakkar, who propagated the idea of assimilation of the tribes instead of isolation" (Guha, "Savaging" 2382).

Elwin later denied having been an isolationist. He explained that his idea was of

*"a temporary isolation for certain small tribes, but this was not to keep them as they were, but because at that time the only contacts they had with the outside world were debasing contacts, leading to economic exploitation and cultural destruction"*<sup>115</sup>

He said that he had condemned the policy of isolation. But the confusion arose out of the inept phrase, 'the National Park,' that he coined in the late thirties to underline the need for the protection of the tribes against exploitation. As there were negotiations for transfer of power, the administrators and anthropologists were active to ensure the protection of tribal interests. As Singh

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<sup>114</sup> Quoted in Singh, "Colonialism" 408

<sup>115</sup> Elwin, "The Tribal Perspective" available at

[http://shodhganga.inflibnet.ac.in:8080/jspui/bitstream/.../14\\_references.pdf](http://shodhganga.inflibnet.ac.in:8080/jspui/bitstream/.../14_references.pdf) (Visited on August 15, 2015)

mentions: Sir John Hubbock prepared a note on the backward tribes. He was of the opinion that the British interest in tribal affairs should continue even after the transfer of power. Hubbock also suggested the formation of a group of anthropologists, and administrators and missionaries which would do more for the hill tribes than an anthropological dictator of the kind suggested by Elwin. Sir John Hubbock and Sir Kenneth Fitze who had served in Western and Central India showed concern that with the transfer of power the missionaries would not be able to do good work. They were also critical of Elwin's aim to Hinduize the tribes. The Secretary of State was also critical of the isolationist stance. (Singh, "Colonialism" 410) In all these debates tribals were nowhere in the picture. They were the objects of the critical gaze. The Adibasi Mahasabha and its leader Jaipal Singh did not attract any notice. K. S. Singh writes: "Hubbock was of the opinion that Jaipal Singh's influence did not extend beyond the Mundas" ("Colonialism" 412). Thus, the British felt that the tribals were their responsibility and the former formulated policies for the tribals. The principle of partial and full exclusion was later embodied in the Indian Constitution. Constitutional guarantees of protection had to be combined with programmes of rapid development which did not find any place in the colonial framework. After Independence, the government chalked out a number of provisions to safeguard the interests of the tribals and their development without hampering their culture. It is pertinent here to mention Nehru's views on this issue. His policy was to approach tribal life with respect. He said:

*"The Tribals may be allowed to develop on their own genius and we should not impose anything on them"*<sup>116</sup>

He wanted them to advance, but at the same time not "lose their artistry and joy in life and the future that distinguishes them in many ways" (qtd. in Elwin, "The Tribal Perspective" 220). The Indian Constitution adopted by the Constituent Assembly on 26 January 1950 visualized a policy of progressive acculturation of tribal communities. Thus the former policy of their isolation and segregation was finally abandoned. According to the constitutional provision certain tribes were listed as Scheduled Tribes and special facilities were to be provided for their uplift and education. The main criteria adopted for specifying certain communities as Scheduled Tribe include, as Verma points out: (i) traditional occupation of a geographical area, (ii) distinctive culture which includes whole spectrum of tribal way of life, i.e. language, customs, traditions, religious beliefs, arts, crafts etc., (iii) primitive traits depicting occupational pattern, economy etc. and (iv) lack of educational and techno-economic development. (Verma 6) There was a suggestion by Jaipal Singh that the term 'adibasi' should be used instead of 'Scheduled Tribe' but Dr. Ambedkar, Chairperson, Drafting Committee of the Constitution, said that

*"the word Adivasi is really a general term which has no specific legal de jure connotation.*

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<sup>116</sup> Quoted in Verma

*Whereas, the word 'Scheduled Tribe' has a fixed meaning, because it enumerates the tribes".*<sup>117</sup>

It has to be mentioned here that all aboriginal people are not included in the list of Scheduled Tribes. Verma says that there are about 360 Scheduled Tribes (sub-tribes being many more) speaking more than 100 languages. Tribals have come a long way. Their situation has been changing. With the facilities available to them, their situation is improving to some extent. Some of them are in public positions as doctors, engineers, academics, legislators and so on. They are becoming aware of their reality. Some of them are engaged in research studying what has been said about them. Therefore one has to be careful in using terminology. The fact that term like 'tribals', 'primitive', 'native' etc. as Edward P. Dozier says,

*"are often placed within quotation marks and indicate the shaky and unsure ground upon which they rest as designation for the societies which are studied".*<sup>118</sup>

From the foregoing account it seems safe to infer that tribal history is marked by struggle and subjugation by outsiders. These are some of the views available on the tribals from sociological accounts but to complete the picture it would be pertinent to look at a few literary texts in order to know how imaginative perceptions of the tribals have contributed to understanding. These divisions are made by scholars like H.H. Riseley, B.S.Guha, D.N.Majumdar and others. The Banjaras are called Lambadas in Andhra Pradesh and Sugali in Karnataka. The British Government decided on a policy of segregating tribes into special areas where their lives and interests would be adequately protected. An Act was passed in 1874 to specify tribal areas into scheduled regions. In 1935 provisions for special treatment of tribal areas were incorporated by constituting partially excluded areas. In the subsequent years up to 1947, a number of acts and regulations were promulgated.<sup>119</sup>

#### 1.4. Colonial Period and Tribes

The colonial era perhaps have witnessed the worst that has ever happened to tribals in India. Tribals and other indigenous communities of various parts of the world also faced similar situations. The various enactments and systematic destruction of the indigenous functioning of various tribes in India was initiated by the colonial rulers.

##### 1.4.1. Colonial Period Laws and Tribals

Some not so well known groups of peoples including nomadic cattle grazers, acrobats, wandering

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<sup>117</sup> (Verma 6)

<sup>118</sup> Ibid.

<sup>119</sup> Elwin. op.cit. at p. 25

singers etc were for the purpose of territorial expansion and administrative policies been declared as Criminal Tribes and an Act was passed in furtherance of such declaration commonly known as the notorious Criminal Tribes Act of 1871. Those groups which resisted the British aggression were also included within this group of criminal tribes. This Act was intended to even incorporate the children and women under its purview. This was done in an effort to subjugate these tribes and bring in larger areas under the British territorial rule.<sup>120</sup> Even after passing of this draconian law, the British administration faced a lot of retaliation in their process of expansion of territories for the purpose of drainage of wealth. Whenever any sacred or heritage place of the tribals have been encroached, the colonial rulers faced retaliation from the tribes causing bloodsheds on either side. This led to the change of strategy of the British administration as they started to camouflage their objective under the garb of developmental projects. “The Thirteenth Schedule to the Govt. of India (Provincial Legislative Assemblies) Order, 1936 specified certain tribes as backward in the then provinces of Assam, Bihar, Orissa, Central Provinces and Berar, Madras and Bombay.” A Census was conducted as the first attempt to list ‘primitive tribes’ in India in 1931. The discriminatory terms such as ‘backward’ or ‘primitive’ were ‘Eurocentric’ and imbibed a cultural bias in its application. Certain so called development schemes were practically imposed upon these communities and on their land. Even studies of the culture of these tribes made it easier for the colonial rulers to formulate their exploitative schemes. Ethnographic studies were conducted for the first time in 1931 to collect cultural profiles of the tribal masses in India.<sup>121</sup> The cultural profiles of the tribes gave valuable information about their, religion, language, geographic habitation, etc. The 1931 Census uses the term ‘Hinduised tribes’ for Koch, Mech, Poliya, etc. The use of ‘Hinduised tribes’ signifies the fact that some of the tribes had started worshipping Hindu Gods<sup>122</sup> and were interacting with non-tribes. Likewise, the 1931 Census also used terms such as ‘Munda speaking tribes’ for those staying in the Chota Nagpur plateau and Santhal Paraganas, ‘border tribes’ for tribes in Baluchistan, ‘jungle tribes’ in Western Ghats or ‘forest tribes speaking Dravidian<sup>123</sup> language’, and ‘hill tribes’ for Khonds, Sawaras, etc. This information also played a crucial role in formulating State policies for the British administration and constructing their legal framework with the objective of encroaching upon the tribal land. The classification of tribes made reflected the geographical habitation of tribes. Such geographical locations were primarily forests, hills and certain plateaus. The use of tribes in different ways in the 1931 Census also signifies the geographical habitation of the tribes. Hence, it can be inferred that the tribes were concentrated in

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<sup>120</sup> Later in 1952, the Government of India officially “de-notified” the stigmatized ones.

<sup>121</sup> Post-independence such studies were resumed in 1961.

<sup>122</sup> When asked about their religion, when it was found that some of the traits are common to Hinduism, they were brought under the said religious category even when they were not Hindus in the strict sense of the term. The broad interpretation of Hinduism also was responsible for such assimilation.

<sup>123</sup> The Dravidian language family has two branches. Gondi-Kui and Telugu. Tribes such as Koya, Samantha and Chenchu belongs to this language family.

the forests, hills and plateau.<sup>124</sup>

The official use of terms such as ‘primitive’ or ‘backward’ tribes put forth the necessity of development for the tribes. And the development agenda for the tribes was supplemented by development activities by the European missionaries. Francis Gautier puts it as,

*“The missionaries arrived in India on the heels of the British. And their first prey was the Adivasis, the tribal people who they promptly proceeded to name as the ‘original’ inhabitants of India, who were colonised by the ‘bad’ Brahmins, during the mythical Aryan invasion.”*<sup>125</sup>

However, the tribes were exposed to education and the outside world through the missionaries.<sup>126</sup> It is during this phase that the tribal religion got diluted as the tribals chose the options available to them in furtherance of their situation. Some converted to Christianity or Hinduism while the others carried on their tribal religious affairs. Infrastructural development was one of the significant steps towards the transportation of wealth in the form of raw materials from primitive areas to the British Headquarters where the factories were situated to convert them to finished goods and to transport them to various parts of the world. In order to achieve higher goals substantive changes were made to the legal system of the country. In order to acquire land and forest the British passed The Land Acquisition Act, 1897 and The Forest Act, 1978 respectively. The concept of ‘patta’ was first initiated to create a reservation over the land or inhabiting the forest. The Forest Act, 1878 clearly gave the State authority over the forests for the purpose of protection and reservation of forests and to prohibit or permit shifting cultivation. Moreover,

*“in the case of a claim to a right in or over any land, other than a right of way or right of pasture, or a right to forest produce or a water-course, the Forest Settlement-officer shall pass an order admitting or rejecting the same in whole or in part”.*<sup>127</sup>

This process slowly and steadily infringed the right over forest produce of the tribes which no longer remained within their exclusive domain. The modes of utilization over the land and forest resources varies a lot from the way it was used by the tribals. Mining, deforestation for timber in building roadways and railways created a permanent destruction to the natural environment that was protected by tribal inhabitants for centuries. The Explosives Act, 1884 was enacted to provide exclusive right to use the land for mining and prohibits the free use of the natural resources by the tribes. Special licenses were created for tribals to enter and use certain specified resources upon their own ancestral land. The Explosives Act, 1884 also put restriction on possession, manufacture, transport and importation of substances categorized as ‘explosives’. This Act became very significant in the mining areas which were rich sources of metals and minerals. This act was later

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<sup>124</sup> Chota Nagpur plateau, Western Ghats, tribal areas in Baluchistan and North-West frontier province.

<sup>125</sup> Hasnain Nadeem, *Tribal India*, (Palaka Prakashan, Delhi. 1991).

<sup>126</sup> It has been a general practice of Christian missionaries all across the globe.

<sup>127</sup> Census of India, 1931

used to displace the tribes from their land and resources. The displaced and poor tribals looking for alternative source of sustenance were very easily used by the colonial rulers as cheap and bonded labour for India and other colonial countries. The ever growing exploitation of the tribals led them further up the hills or more into the denser part of the forests to save themselves from the civilized rulers. The British administration was efficient to demarcate the Scheduled Areas for the purpose of administration of tribal inhabited areas. These Scheduled Areas underwent change according to the administration's needs of the Crown. While the Scheduled Districts Act, XIV, 1874 gave more autonomy to the local government, section 52-A(2) of Government of India Act, 1919 curtailed this autonomy since it gave the Governor-General in the Council overriding power. The British had also enacted a few legislations which secured tribal rights only by giving the authority on rights of permission to the district administration.

The Acts were not full-fledged measures and were rather token measures which could be used according to need.

*“The Bombay Province Land Revenue Code, 1879 prohibited transfer of land from a tribal to a nontribal without the permission of the district collector. In 1901, in Gujarat, some measures of protection were provided (when it formed part of the Bombay Province) by amendment of Section 73-A and 79-A in the Bombay Land Revenue Code, 1879 and a ban on transfer of land of tribes in those scheduled villages in which survey and settlement had not been introduced, without prior permission of the collector. In Bihar, the Chhotanagpur Tenancy Act, 1908 prohibited transfer of lands by sale, etc., except with the sanction of the deputy commissioner.”<sup>128</sup>*

By giving the authority to the district collector to prohibit transfer of tribal land into the hands of non-tribes, it limited the scope of right of control over forests of the tribes and gave space to arbitrariness while taking such decisions. The British policies nevertheless officially recognised the tribes and tried to look at tribal life through various studies and missionaries.

#### 1.4.2. Post-Colonial Period and Tribals in India.

State Policy Post-Independence Even after Independence, interests of the majority took precedence while formulating policies. Though tribal friendly legislations such as Schedules V and VI, etc., were introduced, often the interests of the tribes took a backseat. For instance, The Coal Bearing Areas Act, 1957 guards the economic interest of the Central Govt. by giving rights over land containing coal or likely to contain coal to the State while alienating the land rights of the native

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<sup>128</sup> Tribal Land Rights: Myth or Reality, available at <http://www.indlaw.com/ActionAid/?Guid=f7ef1f2e-db9c-4327-b648-b43949e9bff4> (Accessed on July 20, 2015)

tribes. Likewise, Entry 56 of the Union List empowers the Central Government to exercise control over regulation and development of inter-State rivers and river valleys. One of the primary consequences of such control is construction of dams to use water resources for commercial as well as domestic purposes. Construction of dams has witnessed large scale displacement of tribes in India. The Land Acquisition Act, 1894 has been used to procure such land, which emphasized on 'pattas' despite the fact that tribal land was common property resource and was not necessarily owned through 'pattas', essentially an individual ownership phenomenon. Such legal measures ignore the economic interests of the tribes. Apart from economic interests of the mainstream society, there have been instances wherein environment interest was given precedence over the tribal rights. The Wildlife Protection Act, 1972 empowers the State to declare a forest area as a sanctuary, national park or closed area and thereby, restricts activities within The Scheduled Districts Act, XIV of 1874 gave special powers to the local Government to specify the enactments supposed to be in force in a specially administered area. Without an enactment by the local government, the acts meant for British India could not be enforced in the Scheduled Districts, which were primarily inhabited by the tribes. Section 52-A(2) of the Government of India Act, 1919 gives the Governor-General in Council the power for special modified administration of various areas, regarded as backward, thereby exempting these areas from administration under the provisions of this Act. For instance, in a declared sanctuary area, the State empowers the collector of the area to acquire land. The collector has the authority to 'proceed to acquire such land or rights, except where by an agreement between the owner of such land or the holder of rights and the Government the owner or holder of such rights has agreed to surrender his rights to the Government, in or over such land, and payment of such compensation, as is provided in the Land Acquisition Act, 1894 (1 of 1894)'.<sup>129</sup> Once again the Land Acquisition Act is being used for procuring as well as compensating the land which is insensitive to the rights of the tribes. Further, there was no policy of resettlement and rehabilitation for long after Independence. Yet the State policy has evolved over the years and continues to be so and thereby, strives to address the rights of the vulnerable and the deprived in society. It has acknowledged the need for giving autonomy to the tribal areas, while working towards tribal development. "The Panchsheel of Pandit Jawaharlal Nehru which laid the foundation of State Policy towards tribal development aimed at providing an enabling framework for the tribal people to move according to their own genius in a system of self-governance while sharing the benefits of development, retaining the best elements of their tradition, cultural life and ethos."<sup>130</sup> This balanced approach encouraged development while preserving cultural heritage. The Tribal Sub-Plan strategy was introduced for the first time in the Fifth Five Year Plan for the rapid socio-economic development of tribal people. And the State or an UT plan undertook the welfare and

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<sup>129</sup> Kumar, B.B., *Re-organisation of North-East India*, (Omsons Publications, New Delhi, 1996).

<sup>130</sup> National Tribal Policy Draft, Ministry of Tribal Affairs, Govt. of India, New Delhi, July 2006

development measures for tribals, which is called a sub-plan. The benefits given to the tribals and tribal areas of a State or a UT from the TSP are in addition to what percolates from the overall Plan of a State or an UT. At the same time, the Constitutional provisions and protective legislations (reservation in education, employment, legislature, etc.) encouraged active participation of the tribals in mainstream society. These policy measures laid the foundation for subsequent policies for tribal development. The Government made efforts to give autonomy to the tribal areas for better administration. The Fifth and Sixth Schedules of the Constitution define the administration of Scheduled Areas and give the respective State and its Governor the primary responsibility of ensuring so the Fifth Schedule applies to scheduled areas and scheduled tribes in States other than Assam, Tripura, Meghalaya and Mizoram and it made provisions for the Tribal Advisory Council (TAC). The TAC is crucial while implementing any specific State or central Act in a scheduled area.

The Sixth Schedule applies to control and administration of scheduled areas in Assam, Tripura, Meghalaya and Mizoram. The Sixth Schedule introduced the district councils and regional councils for the administration of tribal areas. The district councils gave rise to autonomous district councils later which gave more power in the hands of the local administration. In precise, post-Independence, the State policy was a mix of positive as well as negative measures from the viewpoint of tribal identity and rights.

In the post independence period, the distinctions between tribes and castes have been categorized with much needed clarity.

### 1.5. Caste and Tribes: Relationship

Castes and tribes are assumed to belong to two different set of social organization. Caste being regulated by the hereditary division of labour, hierarchy, the principle of purity and pollution, civic and religious disabilities, etc, and tribes on the other hand are devoid of these attributes suffered by the castes.

The tribes and the castes are being seen to be governed by two different set of principles relating to social organization. It is said that kinship bonds govern tribal society where every member of the community is believed to be equal to the others. The lineage and clan tend to be the chief unit of ownership as well as of the production and consumption. In contrast, inequality, dependency, and subordination are integral features of caste society. Again the tribes are not so sharply differentiated like that of the castes on the basis of various religions. The next difference lies in psychological disposition of members. The tribals are said to take direct unalloyed satisfaction in the pleasure of the senses, like food, drink, sex, dance and song whereas the caste people maintain certain

ambivalence about such pleasures. Tribals again have a homogeneous society and not heterogeneous like the caste people.

### 1.5.1. Castes

The Indian society is highly stratified and is divided into castes, scheduled castes, scheduled tribes etc. It should be understood at the outset that our intention is not to give the detailed account of individual castes, their ceremonies, and their machinery for regulating their relation with other castes, nor of their own internal conduct, but to examine caste in terms of Mendelian population groups. Hindu caste system is a highly complex institution, though social institutions resembling caste in one respect or another are not difficult to find elsewhere, but caste as we know it in India, is an exclusively Indian phenomenon. The word 'caste' comes from the Portuguese word 'casta', signifying breed, race or kind. Risley (1915) defines it as "a collection of families or groups of families bearing a common name; claiming a common descent from a mythical ancestor, human or divine; professing to follow the same hereditary calling; and regarded by those who are competent to give an opinion as forming a single homogeneous community' is generally associated with a specific occupation and that a caste is invariably endogamous, but is further divided as a rule, into a smaller or smaller circles each of which is endogamous (this is called Jati), so that a Brahman is not only restricted to marrying another Brahman, but to marrying a women of the same subdivision of Brahmans." The internal exogamous division of the endogamous caste is 'Gotra'. There are several stages of groups and the word 'caste' is applied to groups at any stage. The word 'caste' and 'sub-caste' are not absolute but comparative in significance. The larger group will be called a caste while the smaller group will be called a subcaste. These divisions and subdivisions are introduced on different principles. At theoretical level, Gotra or Got is derived either from the Gotrakara rishis of early Vedic time or from Gotra of some Brahman priests who ministered to a non-Brahman caste. In reality, Gotras are exogamous units of various kinds, territorial, occupational, totemistic and so forth.<sup>131</sup>

The feature of the castes are: hierarchy; endogamy and hypergamy (male of higher caste marrying a female of lower caste) occupational association; consciousness of caste membership and restriction on food, drink and smoking; distinction in dress and speech and confirmation to peculiar customs of particular caste; ritual and other privileges and disabilities; caste organization and caste mobility.

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<sup>131</sup> M. K. Bhasin, "Genetics of Castes and Tribes of India: Indian Population Milieu", 6(3): International Journal of Human Genetics, 252 (2006).

The essence of the caste is the arrangement of socio-economic hereditary groups than hierarchy. The popular impression of the hierarchy is derived from the idea of Varna with Brahman at the top and scheduled caste at the bottom. Only the two opposite ends of the hierarchy are relatively fixed, in between and especially in the middle regions, there is considerable room for debate regarding mutual positions. In a dispute over rank each caste would cite as evidence of its superiority the items of its diet, the other caste groups from which it accepted or refused to accept food and water, the ritual it performed and the custom it observed, its traditional privileges and disabilities and the myth of its origin. This fact of mutual position and arguments regarding it permit social mobility in certain areas. Mobility is not a recent phenomenon, but is restricted. All Hindus regard scheduled castes as being at the bottom of the ladder, but the category of scheduled castes is not homogeneous. In each linguistic area there are a few scheduled castes which form a hierarchy.<sup>132</sup>

### 1.5.2. Classification of Castes

Castes may be considered as the biggest curse that Hindu religion brings to its followers. The classification may be stated as follows:

(1) Based on Colour: It is generally believed that in the early Vedic period there were no castes in Punjab. Only the fair skinned invaders called themselves Aryans and they called the dark skinned aborigines as Dasyus, Dasas or Asuras. The term Varna (colour) is often confused with caste (Jati, Jat), though it is far from having the same meaning. The Rig vedic society was divided into four classes on the basis of Varna,

three categories of twice-born (Dvija)—Brahman, Kshatriya and Vaishya, and fourthly the Sudra below whom were the outcastes.

(2) Based on Purushukta: In the Purushukta of the Rig-Veda, there is a mantra interpreted by scholars as such: “The Brahmans were born from the mouth of God, the Kshatriyas from his arms, and the Vaishyas from the thighs and Sudras from his feet.” Some people regard this Mantra as the basis of the caste system.

(3) Based on Division of Occupation: After the Aryan invasion into Ganges valley, the stratification in the Indian society began. Social mechanisms were built up in order to carry on the organization of production and supply of services. One such well known mechanism was caste. Caste was not wholly an economic structure. Yet undeniably, it was built up on the basis of monopolistic guilds which were endogamous, each of these guilds grew up into separate caste. Exchange of goods and services was a highly stratified affair and each caste specialized in certain type of industry or delivery of goods. So each unit in the economic structure was virtually a monopoly of one caste and

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<sup>132</sup> Ibid at pg 253.

every tribe if possible was brought into more than one caste according to their specialization. Each caste or tribe was allowed to preserve its diverse socio-cultural pattern as long as it did not give rise to conflicts with Brahmanical priesthood. Brahmans were trying for the uniformity of the rites and practices at a community level, local communities were allowed to carry on their modified version at family level. Traditionally, each caste was associated with hereditary occupation and had a limited monopoly over it e.g. Brahmans (priestly and learning); Kshatriyas (warrior and aristocracy); Vaishyas (land owners and traders); and Sudras (crafts and service). It is not true to say that every member of the caste practised the associated occupation exclusively. It can only be said true of castes like Dhobi (washerman) and Kumhar (potter). However, generally speaking most practised agriculture along with their traditional occupation. Even agriculture as a single occupation cannot be associated with castes, as agriculture also means number of things: land ownership, tenancy and labour. Often the artisans and servicing castes do not earn enough from traditional occupation, so they augment their income by working as casual labourers or tenants on land. An analysis of the occupational statistics for 84 selected castes in 1931 showed that only 45 per cent of their members were following the traditional occupation.<sup>133</sup>

Occupations practiced by high and low castes are considered high and low, respectively. Manual labour is looked down and certain occupations like swine-herding and butchery are considered to be polluting and low. Castes are governed by their own organization of authority. A greater uniformity has been retained at the economic level of caste than perhaps in relation to customs regulating marriage in particular. Though, there is a wide prevalence of the above model in all parts of non-tribal India, the system of economic inequalities has been encapsulated so to say, in regional moulds.

The Saryuparis of Avadh (Uttar Pradesh), Namboodaris of Kerala, Chitpavans of Maharashtra, Chattopadhyays of Bengal and Iyengars of Tamil Nadu are all Brahman, but these categories are essentially regional. In the same way, the Jats of Haryana, the Bhumiyars of Bihar, the Reddys of Andhra and Vakilagas of Karnataka are cultivating castes, but the regional structure imposes boundaries which are generally recognised especially for inter-marriages. The Chamars of Uttar Pradesh, the Balais of Bengal, the Magirs of Gujarat, the Mahars of Maharashtra, the Malls of Andhra or the Adi-Dravidas of Tamil Nadu are all toiling scheduled castes but they are all highly concentrated in specific regions. It is, therefore, clear that, in spite of its wide prevalence, the caste system is, in many ways, also a regional phenomenon. The status and position of every caste group may be determined on an All India scale of social hierarchy, but the caste group itself, in many important respects is also a regional category.<sup>134</sup>

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<sup>133</sup> Census of India, 1931, Vol. 1, Part 2, pp. 416-19

<sup>134</sup> M. K. Bhasin, 'Genetics of Castes and Tribes of India: Indian Population Milieu', *Int J Hum Genet*, 6(3): 233-274 (2006) at pg. 259

The concept of tribes in India has been derived from these perceptions developed through research and study of decades by various anthropologists and sociologists from India and abroad. Lately there has been efforts from the tribals themselves to self describe themselves, their features and characteristics. The tribals in their own way and language through their literature through poetry, songs and folklores, political texts articulated their relationship with the larger society. One is stuck by the magnitude of such endogenous effort to define and sustain tribal identity in various ways<sup>135</sup>. One has to visit the exhibitions organized by the tribal people themselves covering the entire gamut, their life and culture, in order to understand how they perceive their identity in its multiple forms and project it at various levels and how they are keen to preserve it.<sup>136</sup> This reflection of the tribals may be in furtherance of their effort to reach out to non tribals and the larger society but on their own terms and conditions. This may also be considered to be an effort to adapt with the changing socio-economic scenario of the country.

Parallely the international community through various conventions have tried to come to a reasonable and logical understanding of the tribals and indigenous communities of the world. The ILO Convention no 189 has played a significant role in identifying the rights and liberties of these communities and provides them a respectable position on the international stage.

### 1.5.3. Tribal-Caste Continuum

To start with, tribes enjoy a class less society unlike that of castes which is the basis of Hinduism.

Tribe and caste are very different from each other from the perspective of their origin. Tribes are unique to the land they have been living for ages. Castes, on the other hand, are necessarily non tribals, and within the religious fold of Hinduism. Tribals have their own distinctive religious affiliation in most cases which is somewhat close to that of nature worship.

Another important aspect of tribes is their nature to be secluded from the world different to theirs which is not so in case of castes. From the purview of language, tribes follow their inherited dialects unlike that of castes. Tribals have been within their land and been enjoying self sustaining economy contrary to the castes who have been subjected only to certain lower category functioning in non tribal society.

One of the common aspects that the tribes and castes share is the need of care and protection of both these communities from the various atrocities being practices against them. Another similarity that has come up of late is that they are interdependent. Another major similarity is the dilution of tribes and castes due to marriage, conversion of tribes to Hinduism etc. it has been noticed of late that the electronic media has played some influential role in conversion of tribes to Hinduism.

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<sup>135</sup> K.S.Singh, The Emerging Tribal Scenario, India International Centre Quarterly p 85

<sup>136</sup> Id. at p 86

Tribals are free to choose any profession or business they want but that is not possible in most cases as caste system specifically identifies people of the religion with certain functioning.

According to Bailey tribe and caste should be viewed as continuum.<sup>137</sup> He seeks to make distinction not in terms of totality of behaviour but in more limited way in relation to the political economic system.<sup>138</sup> Briefly Bailey's argument is that a caste society is hierarchical while a tribal society is segmentary and egalitarian.<sup>139</sup> But in contemporary India both caste and tribe are being merged into a different system which is neither one nor the other.<sup>140</sup>

The ethnographic records establish that the contacts varied from semi-isolation to complete assimilation. Many castes amongst the Hindus have actually emerged out of the tribal stratum. The recent studies of tribes of Himalayan western and middle India have left no doubt that some of the tribes are Hinduized to the extent that they have been assimilated with the different castes at different levels in the caste system.<sup>141</sup>

#### 1.6. Tribes in India: Classification

The Anthropological Survey of India under the People of India project has identified approximately 461 tribal communities and 174 of them are sub groups. The entire country has broadly been classified into five tribal regions which are widely spread in terms of population density, level and pace of change and development and social formations including political and agrarian structures. The heterogeneous nature of the tribals in their language, culture and physical features are prominent in these five areas.

Firstly, the North Eastern Tribal region

Secondly, the tribal Middle India which stretches from Gujarat to West Bengal across Madhya Pradesh and upper regions of Andhra Pradesh.

Thirdly, The Southern Pockets comprising of the Nilgiri Hills and other adjoining hilly areas. The homeland of the most backward and isolated tribes of the mainland of the country.

Fourthly, the North-Western Himalayas incorporating the border areas of Himachal Pradesh and Uttar Pradesh comprising of the poorest and backward and low populated tribes.

Fifthly, the Andaman and Nicobar Islands where there are two groups:

The Onges, Jarawas and the Great Andamanese and

The Great Nicobereese who are the richest of all these groups due to their coconut trade. The

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<sup>137</sup> Tribal-Caste Continuum, available at, <http://www.sociologyguide.com/tribal-society/tribal-caste-continuum.php> (Accessed on August 15, 2015)

<sup>138</sup> Ibid

<sup>139</sup> Ibid.

<sup>140</sup> Ibid.

<sup>141</sup> Ibid.

Laccadive, Minicoy and Aminidivi Islands having the largest concentration of tribals with high level of literacy.

#### 1.6.1. Traits of Indian Tribes

India with about 1000 million people has the second largest population in the world and it is one of the world's top twelve mega diversity countries and has vast diversity of human beings, fauna, flora and environmental regimes. Its present population includes stone-age food gatherers, hunters, fisher-folk, shifting cultivators, peasant communities, subsistence agriculturists, nomadic herders, entertainers, as well as those engaged in mechanized and chemicalized agriculture, mechanized fishing, tapping offshore oil and natural gas, running atomic power plants and producing computer software. India has been peopled by human groups carrying a diversity of genes and cultural traits. We have almost all the primary ethnic strains Proto-Australoid, Mediterranean, Mongoloid, Negrito and a number of composite strains. It is homeland of over 4000 Mendelian populations, of which 3700 endogamous groups are structured in the Hindu caste system as 'jatis'. Outside the preview of caste system there are a thousand odd Mendelian populations which are tribal autochthones and religious communities. Like any other plural society, India offers a cauldron where the processes of unification as well as of fragmentalisation are unceasingly taking place. This presents a situation of cultural, biological and environmental richness and diversity, and one where the constant interactions between communities are aiding the formation of bridges, thus creating a sense of unity. It is in these terms that India offers an ideal case for examining unity in diversity both biological and socio-cultural perspectives.<sup>142</sup>

##### 1.6.1.1. Dravidian

The Mediterranean people form a bulk of the tribal population and are generally known as the Dravidians. These are found in large numbers in various parts of the world including the southern part of India. Because of the typical tongue of the language, which includes Telegu, Tamil, Kannada and Malayalam, are easily noticeable. Apart from the southern part of the country these people are present in some parts of central and eastern India as well. In certain remote places in India a few scheduled tribes are also noticed to be inheriting this language family. They are the Gond tribes and Kurukh. Dravidian language family can also be found in Northern part of Sri Lanka, some parts of Pakistan and Bangladesh as well. In some places in Malaysia and Singapore, this language family is fairly visible.<sup>143</sup> It is often considered that Dravidian languages are native to India.<sup>144</sup> This language

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<sup>142</sup> Supra Note 94 at p 234-235.

<sup>143</sup> Barbara A. West, *Encyclopedia of the Peoples of Asia and Oceania*. 713 (Infobase Publishing New York, 2009).

<sup>144</sup> Burjor Avari, 'Ancient India: A History of the Indian Sub-Continent from C. 7000 BC to AD 1200,' Routledge Taylor

family has been considered to be present since the second century BC. It has been found that there are only two Dravidian languages, the Bhurui<sup>145</sup> and Dhangar<sup>146</sup>, which is not found in India.

Verma says: "Dravidians are again divided into two parts [groups]—Kolarians who speak a dialect called Mundari, and the Dravidians proper".

Historical texts written by various Indian and foreign historians indicates that the Aryan invasion has led to the end of Dravidian supremacy in India. The conquest<sup>147</sup> resulted to the arrest and practice of slavery over a considerable Dravidian population which was termed as 'Sudras' and the others fled to the forests and hills to protect them from the invasion. It is considered that the Dravidian communities are the forerunners of various tribes and tribal communities in India.

#### 1.6.1.2. Protoaustraloid

The term Proto-Australoid was first used by Roland Burrage Dixon, a notable social scientist in his book 'Racial History of Man' which was published in the year 1923. According to him, the Proto-Australoids' were an ancient hunter-gatherer people. They have descended from the first major wave of modern humans to leave Africa estimated by anthropologists and scientists about 50,000 years ago. These people have certain typical features which distinguishes them from the others like their dark skin, curly black hair on their long heads with broad flat noses, typical gracile body, etc.<sup>148</sup>

#### 1.6.1.3. Negritos Element<sup>149</sup>

It is generally accepted that the Negritos represent the oldest surviving type of man and it is possible that they even preceded Neanderthal man by whom, according to Griffith-Taylor, they were displaced and disposed. They are considered to be the first inhabitants of South East Asia. These people are present in the southern part of India. Some of the forest tribes found in the higher hills of the southern part of the country are quite similar to some found in certain inaccessible areas of Assam and Bengal. In Myanmar (Burma), they are also found with certain distinctive features like dwarf stature, combined with frizzy hair. It is presumed that this is because of the recent admixture of pure Negritos stock of the Andaman with blood from the main land of India or Myanmar

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&Francis Group, 2007. p 252.

<sup>145</sup> Present in Pakistan.

<sup>146</sup> Present in Nepal.

<sup>147</sup> It is believed that with the advent of the Aryans, there was a protracted struggle between the Aryans and the Dravidians, then referred to as the 'Dasyus.'

<sup>148</sup> Their long heads and broad flat noses are very much like the people of Modern day Africa.

<sup>149</sup> The Negritos are several ethnic groups who inhabit isolated parts of Southeast Asia. Their current populations include Andamanese peoples of the Andaman Islands, Semang peoples of Malaysia, the Mani of Thailand, and the Aeta, Agta, Ati, and 30 other peoples of the Philippines.

(Burma).<sup>150</sup>

Research conducted for decades reveals that the aboriginal groups found in the Great Andamanese and Jarawas have distinct genetic identity of the aboriginal populations of the Andaman Islands and other Asian and African populations. Research reports identifies that there is nuclear and mitochondrial DNA diversity in these peoples. From the said study it may be summed up that:

- (i) either the aboriginals of Andaman are one of the surviving descendents of settlers from an early migration out of Africa who remained in isolation in their habitat in Andaman Islands, or
- (ii) they are the descendents of one of the founder populations of modern humans.

Various anthropological studies suggest that the earliest stratum of Indian populations was a long-headed, dark skinned, broad nosed people. Certain physical features of these people matches with the modern aborigines of Chota Nagpur, Central India and the primitive tribes of South India. Many represents these peoples as the ‘Adi’ people of India or the original inhabitants. Vedic<sup>151</sup> inscriptions addressed them in its hymns as ‘Dasa’<sup>152</sup> or ‘Dasyu’<sup>153</sup>. They have been commonly described as ‘Anas’ as well because of their typical facial and other physical features<sup>154</sup>. These people does not worship Vedic gods. It has been identified that these people were the first barrier to the Aryan speaking tribes when they entered India.<sup>155</sup> It was Lapicque who in the year 1920 used the term Pre-Dravidian to represent these peoples. Guha (1937) used the term ‘Proto-Australoid’ to identify the indigenous people of India. The nomenclature was created to identify the various racial affinities Indian tribes share with Australian Aboriginals.<sup>156</sup>

#### 1.6.1.4. Mongoloid Element

The Mongoloid<sup>157</sup> is the general physical type of some or all of the populations in central, eastern and southeastern part and some northeastern part of Asia. Apart from their presence in Asia they are found in the eastern part of Russia. Mongoloid also has a considerable presence in America, the Pacific Islands and the Arctic. Individuals within these populations are generally found to have certain common phenotypic traits. Some of the prominent common features are epicanthic folds, sinodonty and neoteny. In terms of population worldwide, it is the most widely distributed

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<sup>150</sup> Kashyap et al. (2003)

<sup>151</sup> Rigveda the oldest sacred texts of the Hindus

<sup>152</sup> Barbarians

<sup>153</sup> ugly, sub-human

<sup>154</sup> <sup>154</sup>. ‘a-nas’ = noseless or ‘an-as’ = without a mouth), Krishnagarba (Dark skinned), ‘Mridhravak’ (Hostile speech).

<sup>155</sup> from Transcapia

<sup>156</sup> The Papuas of New Guinea and the Australian aborigines of Oceania are often called Australoids. Perhaps Guha was inspired by this.

<sup>157</sup> Christopher Beckwith. *Empires of the Silk Road: a History of Central Eurasia from the Bronze Age to the Present*. 58-59 (Princeton University Press, Princeton and Oxford, 2009).

physical type, constituting over a third of the human species.

The term "mongoloid" was introduced by early ethnologists. The primary objective of such introduction was to describe various central and East Asian populations. It is considered to be, one of the proposed three major races<sup>158</sup> of humanity. This term was also used by certain anthropologists, scientists and sociologists in the context of criminal justice and in consequence to that the term is now considered derogatory by most anthropologists due to its association with disputed typological models of racial classification.<sup>159</sup>

In India, the presence of this race is identified in the sub Himalayan region with two major divisions:

- a. The Palaeo Mongoloids: The Palaeo Mongoloids are represented by the tribes living in Assam, Meghalaya, Mizoram, Nagaland and Manipur. and
- b. The Tibeto Mongoloids: The term came into existence with the belief that these people migrated from Tibet. These people have their presence in Sikkim and Arunachal Pradesh.

As already stated the Mongoloids are primarily noticeable in the northern and north eastern zones of the Himalayan ranges, valleys and the eastern frontiers. Regarding the Mongoloid element, Hutton is of the view, that

*“It may be said to fringe upon the area to Indo-European languages. There is very considerable overlap in the places. In all the overlapping areas the Indo-European languages are definitely intrusive and the Mongoloid element in the population is strong enough to retain its own languages. It is possible that the extension of Mongoloid physical elements has gone a good deal further than the present range of their language would suggest. One of the Mohenjodaro skulls has been identified as definitely Mongoloid and from the lowest stratum of the excavation have been recovered terracotta figurines with unmistakable Mongoloid features having the typical sloping narrow eyes of caricatures of that type.”*<sup>160</sup>

On the other hand, Eastern Bengal is strongly suggestive of mixed Mongoloid and Proto Australoid strain. Buxton suggests that the Pareoan element extends to southern India. Burma, of course, is almost completely Mongoloid and though the existence of other strains is not doubted, they are no longer easy to isolate. There are Proto-Australoid elements too. In some of the hill tribes and on the Assam side a Melanesian strain is to be expected. Mongolian features have been observed among the tribes of Central and Eastern India, the tribes occupying the States of Bihar, Orissa, Madhya Pradesh and Andhra Pradesh, in the latter state in areas adjoining Orissa and Madhya Pradesh. The

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<sup>158</sup> Caucasoid, Mongoloid, Negroid

<sup>159</sup> Keevak Michael, *Becoming Yellow: A Short History of Racial Thinking*, (Princeton University Press, Princeton, 2011).

<sup>160</sup> Pujja Mondal, “Classification of Indian Races – Essay”, available at <http://www.yourarticlelibrary.com/sociology/classification-of-indian-races-essay/4007/> (Accessed on December 15, 2015)

list includes almost important Mundari speaking (Munda Group of Austro-Asiatic Family) tribes like the Munda, Santal, Ho, Juang, Saora, Gadaba etc. and number of Central Indian Dravidian speaking tribes like the Maria, Muria, Kondh, Oraon etc. The occasional presence of Mongolian features among the central and eastern Indian tribal groups foetalized derivative's of Australian types as suggested by Rakshit (1965).

#### 1.6.1.5. Caucasoid

Caucasian race (also Caucasoid<sup>161</sup> or Europid) has historically been used to describe the physical or biological type of some or all of the populations of Europe, North Africa, the Horn of Africa, Western Asia, Central Asia, and South Asia.<sup>162</sup> The term was used in biological anthropology for many people from these regions, without regard necessarily to skin tone.<sup>163</sup> First introduced in early racial science and anthropometry, the taxonomy has historically been used to denote one of the three proposed major races (Caucasoid, Mongoloid, Negroid) of humankind.<sup>164</sup> Although its validity and utility are disputed by many anthropologists, Caucasoid as a biological classification remains in use,<sup>165</sup> particularly within the field of forensic anthropology.

A detailed study of the various tribal traits present in India has been made in chapter 3 of this thesis.

#### 1.6.2. Major Language Families in India.

Again the Indian tribals belong to all the major language families.

The languages spoken by the people of India belong to the following four language families:

1. The Austro-Asiatic Language Family (Nishada),
2. The Tibeto-Chinese Language Family (Kirata),
3. The Dravidian Language Family (Dravida), and
4. The Indo-European Language Family (Aryan).
5. Andamanese.

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<sup>161</sup> Supra Note 103 at p 115

<sup>162</sup> Carleton Stevens Coon, *The Races of Europe*, pp. 400–401 (The Macmillan Company, New York, 1939).

This third racial zone stretches from Spain across the Straits of Gibraltar to Morocco, and thence along the southern Mediterranean shores into Arabia, East Africa, Mesopotamia, and the Persian highlands; and across Afghanistan into India[...] The Mediterranean racial zone stretches unbroken from Spain across the Straits of Gibraltar to Morocco, and thence eastward to India[...] A branch of it extends far southward on both sides of the Red Sea into southern Arabia, the Ethiopian highlands, and the Horn of Africa.

<sup>163</sup> Grolier Incorporated, *Encyclopedia Americana*, Volume 6, (Grolier Incorporated, 2001), p.85

<sup>164</sup> Robert Pickering, *The Use of Forensic Anthropology*, 82 (CRC Press. 2009) available at [https://en.wikipedia.org/wiki/Caucasian\\_race](https://en.wikipedia.org/wiki/Caucasian_race) (Accessed on December 15, 2015)

<sup>165</sup> Diana B. Smay and George J. Armelagos,

"Galileo Wept: A Critical Assessment of the Use of Race in Forensic Anthropology", 9 *Transforming Anthropology*, 22 (2000)

### 1.6.2.1. Austro Asiatic

The Austroasiatic languages, in recent classifications synonymous with Mon–Khmer,<sup>166</sup> are large language family of continental Southeast Asia, also scattered throughout India, Bangladesh and the southern border of China. The name Austroasiatic comes from the Latin words for "south" and "Asia", hence "South Asia". Of these languages, only Khmer, Vietnamese, and Mon have a long-established recorded history. Vietnamese in Vietnam and Khmer in Cambodia have been designated an official status. The rest of the languages are spoken by minority groups. Ethnologue identifies 168 Austroasiatic languages. These form thirteen established families (plus perhaps Shompen, which is poorly attested, as a fourteenth), which have traditionally been grouped into two, as Mon–Khmer and Munda. However, one recent classification posits three groups (Munda, Nuclear Mon-Khmer and Khasi-Khmuic)<sup>167</sup> while another has abandoned Mon–Khmer as a taxon altogether, making it synonymous with the larger family.<sup>168</sup>

### 1.6.2.2 . Tibeto-Burman

The Tibeto-Burman language family is very popular and has been followed by a huge population in and around Tibet and Burma. More than four hundred varieties of this family can be found in practice in these areas. The renowned Anthropologist Van Driem suggests that the Sino-Tibetan family should be replaced by the taxonomy of Tibeto-Burman than the existing practice. Pai-lang, is considered to be the oldest attested Tibeto-Burman language of the 3rd century.

### 1.6.2.3. Dravidian

Dravidian languages are a language family spoken mainly in southern India and in parts of eastern and central India. This is also common in northeastern Sri Lanka, Pakistan, Nepal, Bangladesh, Malaysia and Singapore. The Dravidian languages with the most speakers are Telugu, Tamil, Malayalam, and Kannada. There are also small groups of Dravidian-speaking scheduled tribes, who live beyond the mainstream communities, such as the Kurukh and Gond tribes<sup>169</sup> It is often considered that Dravidian languages

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<sup>166</sup> Bradley (2012) notes, MK in the wider sense including the Munda languages of eastern South Asia is also known as Austroasiatic.

<sup>167</sup> Diffloth 2005

<sup>168</sup> Sidwell 2009

<sup>169</sup> Supra Note 99.

are native to India.<sup>170</sup> Epigraphically the Dravidian languages have been attested since the 2nd century BC. Only two Dravidian languages are exclusively spoken outside India, Brahui in Pakistan and Dhangar, a dialect of Kurukh, in Nepal.

#### 1.6.2.4.Indo-Aryan

Indo-Aryan or Indic peoples are an ethno-linguistic group referring to the wide collection of peoples united as native speakers of the Indo-Aryan branch of the Indo-Iranian language family, and is in turn a member of the larger Indo-European language family. Today, there are over one billion native speakers of Indo-Aryan languages, most of them native to South Asia, where they form the majority. The Indo-European family has two language branches known as Eastern Hindi and Chattisgarhi respectively. They are found in India amongst the Baiga people.

#### 1.6.2.5.Andamanese

The Andamanese languages are the indigenous languages of the Andaman Islands, spoken by the Andamanese Negritos. There are two clear families of Andamanese languages, Great Andamanese and Ongan, as well as Sentinelese, which is unknown and therefore at present unclassifiable.<sup>171</sup>

#### A Sum Up

This chapter identifies and surveys thorough the various interpretations and definitions of the term tribes and finds out the various dimensions of the term tribe. In order to do so, the researcher has underwent various sources to find out these interpretations made by various researchers both in the national and international front. Various researchers have identified various aspects or features of these people.

The features emanated out of these interpretations have been verified to be at par with the features laid down by the United Nations Organization (UNO) in its interpretation of indigenous and tribal peoples.

The study also identifies the reason why the term indigenous has not been used in the Indian context. The study also reveals the various invasions made by various invaders in India and how these

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<sup>170</sup> Burjor Avari, *Ancient India: A History of the Indian Sub-Continent from C. 7000 BC to AD 1200*, (Routledge, London, 2007)

<sup>171</sup> Blevins Juliette "A Long Lost Sister of Proto-Austronesian? Proto-Ongan, Mother of Jarawa and Onge of the Andaman Islands" 46 (1), *Oceanic Linguistics*, 154–198, (2007).

people had been adversely affected.

The study also reveals the reason behind the current geographical location chosen by the tribes to carry on their livelihood.

The study finds out the logical reasons for the overlapping areas of confusion to identify who a tribe is.

The study specifically identifies the politics involved in declaring a person or category as tribal. Sad to say, the position of tribals in India is more of politics than of law.

Assimilation of tribals with other non tribals has not been an easy affair. The researcher was astonished to identify the plethora of conflicts between the tribals and non tribals and also the tribals and the government in the study made in this chapter.

The study makes it clear that tribes and castes are not the same even when there are overlapping areas. Caste system is purely a matter integrated with the Hindu religion. Tribals have been converted to various religious affiliations including the Hinduism, Christianity and Islam.

The study also reveals that even when Buddhists and Jains are Hindus and are guided by the Hindu personal law, they are clearly different as they developed and gained popularity because of their anti Hindu principles. It is pertinent to state that there are many tribal in India who has been converted to Buddhism.

Irrespective of assimilation with various other religions, tribals tend to carry on their own distinct features much different from other non tribal communities.

Majority of these people who have been approached by non tribals have been subjected to various acts of atrocities and intolerance.

The researcher after analyzing these features and characteristics identifies the crisis created by the absence of a proper definition of the term in the legal parlance which is absent till date.