

CHAPTER 3

CIVIL AND ECONOMIC RIGHTS OF TRIBALS: THE INDIAN PERSPECTIVE

An Overview

In order to understand the socio economic aspects of the indigenous and tribal peoples in India, a thorough and in depth study of the anthropological development of these people must be made. This chapter seeks to address who these people originally are starting from pre historic era to the historical records of modern researchers. The study of these people from 50,000 years ago till date should ideally provide a clear picture of these communities in existence in various parts of the country with various ethnic features. It will also make the study more effective as the study would ideally highlight the social and economic position of these people among other things. Apart from the historical development, the geographical positioning of these people contributes to a great extent towards their social and economic development. The study would also try to analyze the same in this chapter.

Aboriginals refer to the first man on land. The study should ideally address whether that man actually existed on the Indian soil and if it did, how its evolution took place in the next 50,000 years. The geographical, historical, anthropological and scientific explanations relating to tribals in India must be explored to understand who these peoples are and how they lived all these years and what rights they should have even after such revolutionary journey all through these years on this planet.

The chapter may also try to identify through this study as to why the Indian government has tried to avoid the nomenclature of indigenous and prefer the term tribe instead.

Tribal economic rights are largely dependent on the land they inhabit. However, because of the legal and policy loopholes, the tribals are gradually losing their right to land and consequently, their economic rights.

Because of pro majority policies of the government, tribals are victims of exclusion and marginalisation. The biggest loss of the tribes is their economic exclusion, which initiates with large scale displacement from ancestral lands and the resources emanating out of it. Tribal economy in India is largely dependent on various resources of the land including cultivation. The loss of rights over forests and lands destroys the very basis of their economy. Absence of accessibility of forest produce has also left the tribal women with loss of their economic activities. It was however revived with the enactment of Forest Rights Act 2006. Industrial and mining industries along with large

scale hydro projects and construction of dams have left the tribals with little choice of sustaining life and livelihood. A lot of migration of non tribals in the tribal areas have made the situation worse for the socially and deprived tribes of India.

3.1 Indian Political Division

India has a massive population of 1,210,193,422 people spread across 29 states and 7 union territories, in the census¹ that covered 640 districts, 5,767 tehsils, 7,933 towns and more than 600,000 villages. A total of 2.7 million officials visited households in 7,933 towns and 600,000 villages, classifying the population according to gender, religion, education and occupation² according to the 2011 Census report.

3.1.1 Various Political Divisions of the Country and Tribal Existence

The ethnic and political zones of India have been categorised as follows:³

1. North India
2. West India
3. East India
4. Central India
5. South India
6. Islands

Himalayan Region may be divided into three divisions⁴, i.e,

- A) Western Himalaya,
- B) Central Himalaya, and

¹ 15th Census of India, 2011.

² C. Chandramouli "Census of India 2011 – A Story of Innovations", Press Information Bureau, Government of India 23 August 2011.

³ Bhasin 1988

⁴ I. North India: (A) Western Himalaya (S. No. 1, 2) and (B) Central Himalaya (S.No. 8): (1) Jammu and Kashmir, (2) Himachal Pradesh, (3) Punjab, (4) Chandigarh (U.T.), (5) Haryana, (6) Delhi, (7) Uttar Pradesh, (8) Uttaranchal, and (9) Rajasthan II. West India: (1) Gujarat, (2) Maharashtra, (3) Goa, (4) Daman and Diu (U.T.) and (5) Dadra and Nagar Haveli (U.T.) III. East India: C) Eastern Himalaya: (S. No.1 to 8 and Darjeeling District of West Bengal) (1) Arunachal Pradesh, (2) Assam, (3) Nagaland, (4) Manipur, (5) Mizoram, (6) Tripura, (7) Meghalaya, (8) Sikkim, (9) West Bengal, (10) Bihar, (11) Jharkhand and (12) Orissa IV. Central India: (1) Madhya Pradesh (2) Chhatisgarh V. South India: (1) Karnataka, (2) Andhra Pradesh, (3) Tamil Nadu, (4) Kerala and (5) Pondicherry (U.T.). VI. Islands: (1) Lakshadweep (U.T.) and (2) Andaman and Nicobar Islands (U.T.).

C) Eastern Himalaya

There are various tribal communities living in almost all states of India and union territories. Their social and economic conditions vary according to their geographical variations and their cultural traits. The tribals are found in a great numbers in the Himalayan region where they rely upon the plantations for sustenance and inclement living conditions as a natural barrier from non tribal inhabitants. The tribal communities in these areas have successfully retained their culture and economic setup for ages. However with the advent of colonial rulers and independent India's developmental projects like construction of Dams, mining etc, the tribal economy in these regions have hit an all time low. There are instances of discontinuation of tribal culture because of large scale displacement and various other factors primarily created by non tribals.

3.1.2 Ethnic Groups and Tribal Traits

Ethnic groups⁵ in India involve Castes, Tribes⁶, Scheduled Castes and Scheduled Tribes and other Communities⁷. India has been a country of great diversity comprising of a plethora of various ethnic groups. The various ethnic groups have their own unique features and characteristics. These features have to a great extent distinguishes one from the other. A brief discussion of these groups is essential to identify the basic socio economic characteristics of these groups. The differences prevalent to these groups have been subject matter of debate as with the passage of time they have retained some of their originating features and some others features have been discontinued due to the change time brought along with it.

3.1.2.1 Caste system in India and its Origin

Caste system in India is basically an exclusive Indian phenomenon based on Hindu religion. It is a complex and diversified institution having its existence in various parts of the country with variable applicability. The term caste is from the Portuguese term 'casta' which symbolise the race or breed of a person.

Risley (1915) defines caste as follows

“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

⁵ The aggregation of biological and socio-cultural characteristics constitutes an ethnic group.

⁶ As all tribes have not been incorporated in the Schedule of the Constitution of India. It has been more of politics than of law when it comes to such incorporation.

⁷ Community is generally referred to a group of people who may have occupational, linguistic, religious or regional characteristics (Bhasin et al. 1992, 1994; Bhasin and Walter 2001); Also see Ghurye 1969; Hutton 1981.

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'.⁸ Apart from castes there are sub castes⁹ which are in existence in various parts of India.

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.¹⁰ The various castes existent in various Indian states vary in their socio economic conditions and their status may be determined on a social platform in most of the cases.

3.1.2.2 Communities in India and Tribal existence

India has more than 8.6 percent of its population in the form of Scheduled Tribes according to the Census report 2011. However, the number will increase if all the tribal communities been taken into consideration irrespective of those incorporated in the schedule to the constitution of India. A vast portion of Indian subcontinent includes a lot of aboriginal and indigenous traits. Tribal existence can be noticed in most of the states and union territories and also in extreme villages. These primitive communities are able to sustain their customary way of life mostly because of their sustainable economic system.

In the Indian censuses prior to 1931, information was collected and published for each caste or tribe separately. In the 1931 census, data for individual communities was limited to (i) Exterior Castes (ii) Primitive Castes and (iii) all other castes with the exception of (a) those whose members fall short of four thousand of the total population and (b) those for which separate figures were deemed to be unnecessary by the local government.¹¹

⁸ M. K. Bhasin, ' Genetics of Castes and Tribes of India: Indian Population Milieu', Kamla-Raj 2006 Int J Hum Genet, 6(3) (2006): 233-274 at p 253.

⁹ 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 sub-caste.

¹⁰ Supra at 7.

¹¹ Ibid

In the 1941 census, 'group totals' were tabulated for scheduled castes, tribes and AngloIndians. For selected individual tribes separate tables were furnished. By 1951 census, community distinctions based on caste were being discouraged. It was decided to enumerate population on the basis of race, caste or tribe only to the extent necessary for providing information relating to certain special groups of the people who are referred to in the Constitution of India. The Scheduled Castes and Scheduled Tribes were enumerated from 1951 census onwards. The President by a special order scheduled particular castes among Hindus and Sikhs in particular areas for special treatment that also applies to tribes irrespective of their religious persuasion. The Scheduled Castes and Scheduled Tribes have been specified by 15 Presidential Orders issued under the provisions of Articles 341 and 342 of the Constitution. They are listed in Scheduled Castes and Scheduled Tribes Orders (Amendment) Act 1976.¹²

All the groups incorporating the scheduled castes, scheduled tribes, other backward classes, Denotified Nomadic and Semi Nomadic communities, Punjabis, Bengalese,¹³ Hindus, Muslims, Sikhs,¹⁴ Tamil, Telegu¹⁵ etc have been classified under the category of community.

3.1.2.3 Traditional Occupational Groups

India has been divided on the basis of occupational groups. There are traditional guilds incorporated in the 'chatur varna' system with its various divisions. The Brahmins, Kshatriya, Vaishya and Sudra are the four groups divided on the basis of occupational differences. The Brahmins being the priest, Kshatriyas being warriors, Vaishyas being traders and land owners and Sudras the labouring caste. These stratification of occupation has a gradation incorporated in it. The manual labour manual labour is looked down upon and those dealing with swineherding, scavenging (removal of night soil) butchery are regarded as polluting.¹⁶ It shall be relevant to state in this regard that the tribal communities of India has to some extent diluted with the labour force of India due to large scale displacements and has taken up the status of the lower castes prevalent in Indian caste system.

3.1.3 Marriage

The concept of marriage is dependent on the concept of private ownership of resources and the concept of inheritance. Tribal groups and communities generally live a life of seclusion from other communities. The concept of private property was not known to them and they believe in

¹² Ibid

¹³ On the basis of Region

¹⁴ On the basis of Religion

¹⁵ On the basis of language

¹⁶ Supra at 7

community resources. The advent of private property and ownership brought with it the evil of inheritance as one wants to enjoy his property even after his death. This may be achieved while the said resources are used by his or her own heirs. This led to the concept of inheritance, which is the process of depriving of the community of one's own properties to the exclusive enjoyment and ownership of the heirs.

It was difficult to really identify who the heirs are as women in the community were able to have free sexual relationship with more than one man. To determine the paternity of a child born in the community, the concept of marriage evolved. The process of restricting women to only one man to identify the paternity of the child born is the ultimate objective of marriage.

In India tribes live in small groups and marriage is usually exclusive in such group itself. However, marriage with other groups is not new in historical past. The reason behind the marriage within the same group or close knit social circle is the sharing of similar likes and dislikes. Marriage patterns may be considered from the three aspects: the field of selection, the party to selection, and the criteria of selection. The restrictions posed among some tribes and communities in the field of selection are preferential and obligatory marriage.¹⁷

Till the industrial revolution in Indian society, the Hindus have both endogamous and exogamous rules limiting the selection of their spouse. The Hindu society is divided into a number of endogamous caste groups each of which is further divided into endogamous groups based in terms of locality. This multiplicity of groups thus restricts the choice of mate within a boundary. Caste exercises a great influence on the social life of a man. The breach of caste endogamy was a punishable offence till recently. People were excommunicated by caste panchayat.¹⁸ As stated above the industrialization opened the door for choosing profession and widened the scope of social intercourse. The growth of inter caste and inter religious marriage became a regular affair. However, this led to a lot of confusion and indifference amongst many. In order to validate and regularise the social position arising out of these marriages new laws were formulated. The Special Marriage Act, 1954 followed by the Hindu Marriage Act, 1955 brought in several revolutionary changes in the Indian social and legal system.

The post World War 2 developed a change from *lassiez faire* to welfare state and India witnessed a plethora of welfare legislation in this period of time. Various legislations were incorporated to regulate the marital relationship amongst various communities of India with exceptions created to safeguard tribal marriages. The concept of cross cousin marriages amongst the tribal population in

¹⁷ Ibid at p 259

¹⁸ Ibid

various part of the country has been allowed to continue as local custom but marriage between uncle and niece has been prohibited.

During Vedic period the favoured marriage pattern was monogamy. Instances of polygynous¹⁹ and polyandrous²⁰ marriages were also present in this age. This form of union was once practised by the people of the Cis-Himalayan tract in Northern India and among some tribes of the Pre-Dravidian or Dravidian groups in South India. Though polygyny was allowed by the Hindu ideal of marriage it was resorted to only when no male child was born to the first wife within the first few years of marriage.²¹

The tribes in India has their own and unique system of marriage and has to a great extent been influenced by the various practices of the non tribals specially after the industrial revolution. The process further was alleviated by large scale displacement and mixing in various semi urban and urban areas of the country.

3.1.4 Inbreeding in Indian Society and Tribal Dilution

In India each of the endogamous castes, tribes and religious communities has distinct and well-defined cultural norms, which include varied marriage customs/practices. Generally speaking, most of the Indian communities follow endogamy, but marriage within relatives is not permissible up till the seventh generation. However, a few groups prefer marriages between related individuals like cross-cousins²², parallel cousins, uncle-niece²³ etc. The types of preferential marriages vary across the country and different communities.²⁴ Instances of consanguineous²⁵ marriages are also practices in various parts of India including the tribal areas of India. One of the prominent reasons behind this is the economic unity and occupational preference of the community concerned. Other reasons²⁶ for this type of marriage may be summed up as under:

- (a) To keep the cultivable land in larger pieces for growing food crops,

¹⁹ Polygyny is that form of union in which a man has more than one wife at a time (e.g., two wives being two sisters).

²⁰ Polyandry is a form of union in which a woman has more than one husband at a time, or in which brothers share a wife or wives in common.

²¹ Supra at 7 p 260

²² Instances of cross cousin and parallel cousins are seen in Muslims of Northern India.

²³ Instances of cross cousin and parallel cousins are seen in Hindus of Southern India.

²⁴ Ibid

²⁵ Marriage between two individuals who have at least one traceable common ancestor is said to be consanguineous marriage. Further more, the offspring of such marriages are inbred.

²⁶ Bhasin and Nag (1994)

- (b) The parental domination in arranging the marriage,
- (c) The mutual knowledge of families,
- (d) The relatives are better suited for economic and other reasons, to fit into the Hindu joint family system etc.

But with the passage of time the concept of consanguineous marriages have decreased. Education, industrialization and urbanisation have contributed to such decrease with certain exceptions in some tribal areas of India.

3.1.5 Religious Groups and Tribal Religion in India

Religion has played from time immemorial a great role in the unification of human habitat in various part of the globe. India has been the home of various religious groups for centuries including various religious practices of the tribes and tribal communities for ages.

3.1.5.1 Hinduism and Tribals

It has been construed by a number of experts that a lot of Hindu religious practices has its origin in various tribal rituals and practices. Hinduism has developed gradually out of the synthesis of sacrificial cults brought into India by the Aryan invaders around 1500 B.C. with religion of various indigenous people.²⁷ Taking the various aspects of nature and believing the existence of God therein has been the benchmark of tribal religious practices. This trend has been followed in various mythological interpretations exclusive to Hindu religion. The distribution of Hinduism is widespread, throughout the length and the breadth of the country. Almost the entire country with the exception of the extreme North in North Western corner and the North Eastern corner shows that Hindus form over 80 per cent of the total population.²⁸

Apart from Hindus, Muslims, Christians, Sikhs, Buddhists and Jains, Jews are present in adequate numbers in India. A total number of 183 other religions are there present in the country²⁹ under the head 'Other Religions and Persuasions'. A lot of tribal religious practices can be found within this category of religious practice. Most of these tribal religions have a common denominator, their attachment with nature. The tribals have a close affinity and attachment with nature and this can be noticed in their religious practiced and rituals that have been followed for centuries. Tribal religions can be seen concentrated on certain fears of destructive activities by nature for non compliance.

²⁷ Supra note at 7. p 263

²⁸ Ibid

²⁹ Census of India, 1981

3.1.5.2 Islam and Tribals

Islam began in Arabia in the beginning of the 7th century. The founder of this religion was Prophet Muhammad who was born in 570 A.D. in a distinguished family of Mecca. After Prophet Muhammad's death (A.D. 632) the leadership passed to Calipus or Khalifas who were both religious and political heads. Arabs spread Islam from the Atlantic to Sind within eighty years of Prophet's death.³⁰

Muslims are divided into two major religious, endogamous sect—Shia and Sunni and several other minor groups *inter alia* Bohra, Momins, Domon, Moplahic and Khoja. Though Islam proclaimed the idea of equality, but in India it has been characterized by caste. The true Muslims are divided into four large families—Saiyad, Shaikh, Pathan and Moghul. Though they are referred as castes in India, they are neither castes nor tribes but are merely names given to groups of tribes supposed to be of similar blood.³¹ The Muslims invaded India and in the process converted a large number of Indian including tribals and non tribals into Islam. Today, many of these converts preserve their ancestral religious and customary traits that they used to practice.

3.1.5.3 Influence of Christianity on Tribals of India

Colonial invasions brought with it Christianity in the First Century AD by St. Thomas. The Catholic Church of Edessa confirmed the visit of St. Thomas at least twice to India to promote Christianity in India. This spreading of Christianity was seen amongst the tribals and tribal communities who found a lot of redress of their regular ailments and distress in the Christian Missionaries. A large scale conversion succeeded in rural and tribal belts of the country. Even today, this religion is found in great number in the Southern and North eastern regions of the country. Many tribal states like Nagaland, Meghalaya and Mizoram has predominant Christian population. Again about 60 percent of the country's Christian population is concentrated in Kerala, Tamil Nadu and Andhra Pradesh.

Thus it may be seen that the country has a vast Christian population amongst whom a lot of them are tribal communities. These communities are not only limited in certain coastal areas of the country but with the passage of time the religion flourished across the country. The church flourished even in remote parts of the country reflecting a large scale conversion to Christianity amongst the tribal people and more popularly to the lower caste of Hindu communities.

³⁰ Supra note 7

³¹ Blunt 1931: p. 189

3.1.5.4 Buddhism and Tribes in the Northeast

Kshatriya Prince Siddhartha founded the religion as a revolt against the Vedic religion or Brahmanism in the 6th century BC. Buddhism is further divided into two sects:

- (i) Hinayan (The Small Vehicle)³² and
- (ii) Mahayanas (The Great Vehicle)³³

Taking the country as a whole the largest number of Buddhists is found in Maharashtra. It is well known that the neo-Buddhist movement during the decade 1951-61 saw a large scale adoption of Buddhism particularly by the Scheduled Castes population in Maharashtra, though this tempo was not maintained in 1961-71; in fact the growth rate recorded appears to be less than even the natural growth rate. It is possible that certain converts from Scheduled Castes to Buddhism preferred to return their religion as "Hindu" finding that as Buddhists they were not entitled to certain concessions available to Scheduled Castes. In North Eastern states the Buddhists account for 28.71 per cent in Sikkim, 13.69 in Arunachal Pradesh and 8.19 per cent in Mizoram.³⁴

3.1.5.5 Other Religious Aspects of Tribals

i. Jainism:

The sect that grew against Brahmanism along with Buddhism was Jainism. It was founded by another Kshatriya Prince Vardhaman. This religion emphasises on the act of good deeds. They are further divided into two sub sects

- a) Svetambara - clothed in white
- b) Digambara - clothed in atmosphere, because their Munis wear no clothes.

Mostly Jains are found in Gujarat, Rajasthan, Maharashtra, Madhya Pradesh, Karnataka and the Union Territory of Delhi. Jains are mostly urban dwellers and only a few of their followers reside in semi urban and rural areas. Only a handful of tribals are seen to be followers of Jainism.

- ii. Parsis³⁵: Some Iranian belonging to an endogamous group migrated to India and started their permanent settlement in West India. They were Zoroastrian fire worshippers, and came to India about 8th century A.D. to escape from forcible conversion to Islam. They show high frequency of inbreeding as well. Some of the tribal population in the North

³² Old followers of the old religion who believed in Buddha as a Guru or the Great Master.

³³ They raised Buddha to the position of a saviour god.

³⁴ Supra Note 7 at p 264

³⁵ as their name suggests from Fars (Persia)

Indian states have been influenced by them and instances of conversion has been there but too few in numbers.

3.1.6 Linguistic Groups in India and Tribal Languages

Language is the mode of conduct between two individuals and also with the family to the outside world. It is an entity of social significance. Tribal groups in India have a high degree of diversity in their languages and dialect. At times there has been co existence o two or more languages which reflects the co ordination between two or more communities in furtherance of social and economic correlations. There has been a long history of heterogeneous ethnic groups drawn from the neighbouring regions of Asia.

Development of a specific language initiates from a specific condition and place of isolation nd from there it develops to various other parts of nearing territory with which the said community develops various social and economic relationships. Language also signifies the various elements present and practices in the society. It explains the social identity of the region it has developed.

India has 179 languages and 544 dialects³⁶. Of these languages 116 are small tribal speeches of the Tibeto-Chinese family; these are found only in the northern and north-eastern fringes of India and are present among less than 1per cent of the entire population of the country.³⁷ Nearly two dozen more are likewise insignificant speeches of other language groups; or they are languages not truly belonging to India³⁸. There were 187 languages spoken by different sections of our society³⁹. As many as 94 of these 187 languages are spoken by less than 10,000 persons each and that 23 languages together account for 97 per cent of the total population of the country.⁴⁰ Out of these 23 languages, 15⁴¹ besides English have been specified in the Eighth Schedule of the Constitution of India. It shall be relevant in this regard to note that because of cultural insignificance, the Eighth Schedule does not recognize any of the languages belonging to the Austro-Asiatic and Tibeto Chinese families. But a majority of tribal communities of these regions vastly uses these languages. Hindi and English have been given the status of official language of the country. A study of these groups has been provided in chapter one of this research. However, a greater analysis of these families and groups are vitally important to understand the true origin of these communities and

³⁶ Grierson (1903-1928)

³⁷ Supra note 7 at p 270.

³⁸ Census Centenary Monograph No.10, 1972; Gazetteer of India 1973

³⁹ According to the 1961 Census of India.

⁴⁰ Supra note 7. At p 265.

⁴¹These are Assamese, Bengali, Gujarati, Hindi, Kannada, Kashmiri, Malayalam, Marathi, Oriya, Punjabi, Sanskrit, Sindhi, Tamil, Telugu and Urdu.

what lies behind their dreams and aspirations. These aspirations categorically formulate the socio economic and other practices which in turn become the law of the clan or the community with the passage of time. Thus in order to understand the true nature of social and economic rights of these people a broad analysis with a brief study of them becomes relevant.

3.1.6.1 Classification of Indian Languages

India has almost all the languages and dialects of 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).

According to the Gazetteer of India 1965,

“It is not known how and when these language families moved into India. Before their advent, there was the language of the Negroid peoples, who pioneered into India from Africa along the Asian coastline probably before the 6th millennium B.C. But on the mainland of India nothing has remained of their language, the original Negroid peoples having been killed or absorbed by subsequent immigrants”

Irrespective of their sequence of creation the fact remains that all these three groups were in India when the Aryans came.⁴²

It was reported that Indian sub-continent had experienced massive gene flow from at least two Neolithic episodes of migrations.⁴³ Firstly about 10-15 thousand years ago, when agriculture developed in the fertile crescent region, a part of an eastward wave of human migration entered India and brought Dravidian languages⁴⁴ mainly, Elamo-Dravidian languages⁴⁵, which may have originated in the Elam province (Zagros Mountains, South western Iran) and are confined to south eastern India and to some isolated groups in Pakistan and northern India. The next was the arrival of pastoral nomads from the central Asian steppes to the Iranian plateau about 4000 years before present, brought with it the Indo-European language family which eventually replaced Dravidian languages from most of Pakistan and northern India, perhaps by an elite-dominance process.⁴⁶ Out

⁴² Renfrew (1987, 1989) and Cavalli-Sforza et al.

⁴³ Ibid.

⁴⁴ Renfrew 1989

⁴⁵ Ruhlen 1991

⁴⁶ Renfrew 1987, 1989, 1996, Cavalli-Sforza et al. 1988; Quintana-Murci et al. 2001

of these language families, the Aryan family is numerically and culturally the most important in India. According to 1961 Census of India over 73.3 per cent of the Indian people spoke languages belonging to the Aryan family. Dravidian came next representing 24.47 per cent. There are only 1.5 per cent for the Austric languages and still less for the Tibeto-Chinese languages (0.73 per cent).⁴⁷

1. The Austro-Asiatic Language Family (Nishada)

According to Gazetteer of India 1965,

“Between the Austrics and Dravidians, the former possibly represent the earlier group. According to some scholars, the Austrics had their origin in Indo-China and South China; they spread east into India and south into Malaya, and then passed into the islands beyond. Another view, which is more recent is that the Austrics are a very old off-shoot of the Mediterranean people who came into India from the west, probably even before the Dravidians. Austric speech influenced Dravidian and Aryan. In the plains, Austric has been very largely suppressed by Dravidian and Aryan, but Austric languages survive in the less easily accessible hills and forests of Central and Eastern India. On the Himalayan slopes, Austric languages have deeply modified the Tibeto-Chinese dialects— these took over some Austric features. In Assam, one Austric language survived among the Khasis, who are largely Mongoloid in race but Austric in speech”

This family is again classified into two sub groups, viz.,

- (i) Mon-Khmer Branch (Mon-Khmer Group): this group is again divided into two sub groups, viz.,
 1. Khasi group of languages of Assam, and
 2. Nicobarese of the Nicobar Islands.

(ii) Munda Branch (Munda Group).

Munda Branch is represented by the speakers belonging to the Central and Eastern regions of India. This includes the people inhabiting mostly the hills and jungles of Bihar, Chota Nagpur, Orissa and Central India.⁴⁸ There are many speeches of this Austro Asiatic language group.⁴⁹

⁴⁷ Supra note 7.

⁴⁸ Ibid at p 266.

⁴⁹ The names of the speeches in the branch are: 1. Kherwari 2. Santali 3. Mundari 4. Bhumij 5. Birhor 6. Koda/Kora 7. Ho 8. Turi 9. Asuri 10. Agaria 11. Birjia/- Brigia/Binjhia 12. Korwa 13. Korku 14. Kharia 15. Juang 16. Savara 17. Gadaba and Munda - unspecified

It must be referred that the Mundari speakers are mostly concentrated in the tribal districts of Santal Parganas, Mayurbhanj, Ranchi, East Nimar, Betul and Baudh Khondmals.

2. The Tibeto-Chinese Language Family (Kirata)

According to the Gazetteer of India, 1965

“The original Sino-Tibetan speakers appear to have become characterized with their basic language at least 4000 years before Christ in the area to the west of China, between the sources of the Yangtze and the Hwang Rivers. There they developed a language which ultimately became the source of Chinese, Tibetan, Burmese and possibly also Thai, though the genetic connection of Thai with the Sino-Tibetan family is now being questioned. The Tibeto-Burman speaking Mongoloids with yellow complexion came to be known among the Vedic Aryans as the Kiratas. The Kirata influence in the amalgam of Aryo-Dravido-Austriac culture, which is Indian culture or Hindu culture, was not very farreaching. The role of the Sino-Tibetan languages and their present position also are not very significant”

The speakers of this family of language belongs to the Tibeto Chinese and are of Mongoloid origin. They have entered the territory of India much before the Indo-Aryan speakers. The language can be notices in the extreme north eastern places of Baltistan to the southern portions of Assam. There are two sub families of this language family, viz.,

I. Siamese-Chinese Sub-Family and, II. Tibeto-Burman Sub-Family.

I. Siamese-Chinese Sub-Family: It includes the Tai Group of languages which is distinct from Tibeto-Burman, and is represented only by one language i.e. Khamti.

II. Tibeto-Burman Sub-Family: The second sub-family of Tibeto-Chinese Family is divided into three branches—

(a) Tibeto-Himalayan Branch;

(b) North-Assam Branch; and

(c) Assam-Burmese Branch.

(a) Tibeto-Himalayan Branch: This branch consists of the following groups:

(i) Bhotia Group (Tibetan Group)

Bhotia Group (Tibetan Group): This group is represented by a number of important numerically strong speeches within Indian borders, namely: Ladakhi, Lahuli, Sikkim Bhotia, Balti and a

number of small communities combined under the common name of Bhotia. This group includes the following languages:

1. Tibetan
2. Balti
3. Ladakhi
4. Lahauli
5. Spiti
6. Jad
7. Sherpa
8. Sikkim Bhotia
9. Bhutani
10. Kagate and Bhotia-Unspecified.

(ii) Himalayan Group (Pronominalized/ Non-pronominalized Himalayan Groups):

This group of speeches is spoken along the tracts to the south of the Himalayas from Himachal Pradesh in the west to the western borders of Bhutan in the east. These are further split into pronominalized and non-pronominalized groups of speeches. The pronominalized group of speeches has given evidence of Austro-Asiatic traits remaining in some of their member speeches. This group includes the following speeches:

1. Lahauli of Chamba
2. Kanashi
3. Kanauri
4. Jangali
5. Dhimal
6. Limbu
7. Khambu
8. Rai

9. Gurung
10. Tamang
11. Sunwar
12. Mangari
13. Newari
14. Lepcha
15. Kami
16. Toto.

(b) North-Assam Branch: A significant group of languages the Tibeto-Burman sub-family occupies the north-eastern frontier and may be named as 'North-East Frontier Group'.⁵⁰ North-East Frontier Group: This group consists of a number of following languages:

1. Aka/Hrusso
2. Dalfa
3. Abor/Adi
4. Miri
5. Mishmi

(c) Assam-Burmese Branch: This branch of Tibeto-Burman sub-family consists of the following groups:

- (i) Bodo Group (Bara or Bodo Group);
- (ii) Naga Group;
- (iii) Kachin Group
- (iv) Kuki-Chin Group;
- (v) Burma Group

(i) Bodo Group (Bara or Bodo Group): This group includes the following languages:

⁵⁰ Supra note 7 at p 268

1. Bodo/Boro
2. Lalung
3. Dimasa
4. Garo
5. Koch
6. Rabha
7. Tripuri
8. Deori
9. Mikir.

(ii) Naga Group: This group consists of the following languages:

1. Angami
2. Sema
3. Rengma
4. Khezha
5. Ao
6. Lotha
7. Tableng
8. Chang-Naga
9. Kacha Naga
10. Zemi Naga
11. Kabui
12. Khoirao
13. Mao
14. Maram

15. Tangkhul
16. Maring
17. Konyak
18. Pochury
19. Phom
20. Yimchungre
21. Khiemnungam
22. Nocte
23. Wancho
24. Makware
25. Tangsa and Naga-Unspecified.

(iii) Kachin Group: This group includes the two languages:

1. Kawri
2. Singpho.

(iv) Kuki-Chin Group: It consists of the following speeches:

1. Manipuri/Meithei
2. Thodo
3. Ralte
4. Paite
5. Tlangtlang
6. Pawi
7. Lakher
8. Lushai/Mizo
9. Rangkhoh

10. Halam
11. Langrong
12. Aimol
13. Chiru
14. Kom
15. Hmar
16. Lamgang
17. Chote
18. Purum
19. Anal
20. Gangte
21. Vaiphei
22. Khami
23. Khawathlang
24. Simte and KukiUnspecified and Chin-Unspecified.

(v) Burma Group: This group includes the following speeches:

- Mru
- Arkanese

The languages and the dialects belonging to the Sino-Tibetan family are spoken by tribal groups of north-east and of the Himalayan and sub-Himalayan regions of the North and NorthWest.⁵¹ The speeches of the Tibeto-Himalayan branch are spoken in Ladakh and parts of Himachal Pradesh and Sikkim.⁵² The Assam-Burmese Branch is concentrated in the states of North-east India along the

⁵¹ Ibid.

⁵² Ibid.

Indo-Burmese border. Among these, Naga dialects are spoken in Nagaland; Lushai is concentrated in Mizo Hills, Garo in Garo Hills and Meithei in Manipur.⁵³

2. The Dravidian Language Family (Dravida)

According to the Gazetteer of India 1965,

“The Dravidians are said to have come from Asia Minor and the Eastern Mediterranean. They were a Mediterranean people, of the same stock as the peoples of Asia Minor and Crete, and the Pre-Hellenic people of Greece (The Aegean). The Dravidians of India were thus originally a branch of the same people as the Pre-Hellenic people of Greece and Asia Minor. The exact affiliation of Dravidian with the language of the Eastern Mediterranean has not yet been settled. But some common lexical elements are noticeable. Certain religious notions and ideas as well as cults and practices among the Dravidian people of India have strong West Asian and Mediterranean affinities. The city civilization of Sind and Punjab and other parts of India appears to be Dravidian, and therefore connected with West Asia. The Dravidian languages are now found in solid blocks in the Deccan and in South India, where they have their separate existence in spite of strong inroads upon them by the Aryan speech. There is an Austric element in the Dravidian languages, just as there is a strong Dravidiancum-Austric substratum in the Aryan speeches of India.”

The language families have been broadly grouped geographically and the relative position of particular language is discussed with reference to its situation in three broad group areas.

They are listed below:

(i) South Dravidian Group:

It consists of the speeches:

1. Tamil
2. Malayalam
3. Kannada
4. Coorgi/Kodagu
5. Tulu
6. Toda
7. Kota
8. Telugu.

(ii) Central Dravidian Group:

It includes 1. Kui 2. Kolami 3. Gondi 4. Parji 5. Koya 6. Khond/ Kondh 7. Konda.

(iii) North Dravidian Group:

It includes: 1. Kurukh/Oraon and 2. Malto.

⁵³ Ibid.

(iv) Unspecified Dravidian Tongues: A few (6742) persons belong to unspecified Dravidian Tongues, which are

1. Dravidian, 2. Madrasi, 3. Ladhadi and 4. Bharia.

Languages of the Dravidian family are concentrated in the plateau region and the adjoining coastal plains. Telugu is spoken in Andhra, Tamil in Tamil Nadu, and Kannada in Karnataka and Malayalam in Kerala. The speeches of the Dravidian family are also spoken by a large number of tribal groups living in the eastern and the north-eastern parts of the peninsular plateau. These groups include the Gonds of Madhya Pradesh, Central India and the Oraons of Chota Nagpur Plateau.⁵⁴

2. The Indo-European Language Family (Aryan)

According to the Gazetteer of India 1965,

“The Aryan speeches of India, beginning from Vedic Sanskrit, their oldest form, have been the great intellectual and cultural heritage of India. They form our mental and spiritual link with the European world, on the genetic side; and with the world of South-East Asia and East Asia, on the cultural side, through Buddhism and Brahmanism. The modern Indo-Aryan languages of India are near or distant cousins of the Indo European languages outside India, like Persian, Armenian, Russian and other Slav languages; Greek, Italian, French, Spanish and other Latin languages; German, English, Norwegian and other Teutonic languages; and Welsh and Irish among Celtic languages. The Indo-European speech family is today the most important in the world. With the exception of the various languages within the orbit of Chinese (the so-called dialects of Chinese or Han), Japanese, Indonesian or Malay, and Arabic, all the main languages of the world, and the most important culturally, are Indo-European. And all these languages are descended from a common source-speech, the “Primitive Indo-European”, which flourished about 5000 years ago”

In India this great language family is represented by its sub-family of languages, which covers the widest area of the country and is spoken by the largest proportion of the Indian population.

I. Aryan Sub-Family:

The Aryan sub-family is further divided into three branches—(a) Iranian Branch

(b) Dardic (or Pisacha) Branch, and

⁵⁴ Ibid. at p 269

(c) Indo-Aryan Branch.

(a) Iranian Branch: It is represented by languages like Persian, Pashto and Balochi considered of foreign origin.

(b) Dardic (or Pisasha) Branch: It is represented by following groups of languages: (i) Kafir Group : Wai Ala (ii) Khowar Group: Khowar (iii) Dard Group: 1. Dardi 2. Shina 3. Kashmiri 4. Kohistani. Speakers of Kafir and Khowar groups do not come within the Indian boundaries.

(c) Indo-Aryan Branch: The coverage of the language of the Indo-Aryan Branch being much too wide, it will perhaps be convenient to restrict the brief description of the main languages and dialects of the branch through enumeration of broad groups of languages classified in their proper circles with reference to common characteristics and socio-linguistic tendencies, often not found in the other groups.⁵⁵ The Indo-Aryan Branch can be divided into two sub-branches as follows: 1. Outer Sub-Branch and

2. Mediate Sub-Branch/Inner Sub-Branch

1. Outer Sub-Branch: This consists of the following (i) North-Western Group: This includes 1. Lahnda or Western Punjabi Dialects and 2. Sindhi. (ii) Southern Group: This group includes 1. Marathi; 2. Konkani. (iii) Eastern Group: This includes 1. Oriya; 2. Bihari with sub-groups- Bhojpuri, Maghi/ Magadhi, Maithili; 3. Bengali; 4. Assamese.

2. Mediate Sub-Branch/Inner Sub-Branch: This includes the groups—(i) Mediate Group/ Central Group and, (ii) Pahari Group. (i) Mediate Group/Central Group: This includes—1. Hindi; 2. Hindustani; 3. Urdu; 4. Punjabi; 5. Gujarati; 6. Bhili; 7. Khandeshi; 8. Rajasthani. (ii) Pahari Group: It is divided into—1. Eastern Pahari; 2. Central Pahari; and 3. Western Pahari Grierson adopted name ‘Pahari Group’ in the Indo-Aryan speeches spread along the Himalayan region from Bhadrawah in the west to Nepal in the east.

(1) Eastern Pahari: It consists of Nepali. (2) Central Pahari: It includes 1. Kumauni, 2. Garhwali. (3) Western Pahari: It includes 1. Jaunsari; 2. Sirmauri; 3. Baghati; 4. Kiunthali; 5. Handuri; 6. Siraji; 7. Soracholi; 8. Bashahri; 9. Siraji-InnerSiraji; 10. Sodochi; 11. Kului; 12. Mandi; 13. Mandeali; 14. Suketi; 15. Chameali; 16. Bharmauri/ Gaddi; 17. Churahi; 18. Pangwali; 19. Bhalesi; 20. Padari; 21. Pahari-Unspecified. The unspecified Indo-Aryan tongues, Old Middle-Indo-Aryan languages and Mother Tongue with unspecified family affiliation are listed below:

II. Unspecified Indo-Aryan Tongues: 1. Mahasu Pahari; 2. Tharu; 3. Kewati

⁵⁵ Ibid. at p 269

III Old Middle-Indo-Aryan Languages: 1. Ardhamagadhi; 2. Pali; 3. Prakrit; 4. Sanskrit

IV. Mother Tongue with Unspecified Family Affiliation:

1. Kisan;

2. English

Languages of the Indo-Aryan family are concentrated in the plains of India.⁵⁶ The domain of Indo-Aryan languages, however, extends over the peninsular plateau also, reaching as far as the Konkan coast.⁵⁷ The central part of this region has Hindi as the principal language. It is spoken by the majority of people in India. Hindi is spoken in Uttar Pradesh, Madhya Pradesh, Bihar, Rajasthan, Haryana, Himachal Pradesh and the Union Territory of Delhi. Urdu is closely akin to Hindi and is widely distributed in this belt.⁵⁸ The speeches belonging to the north-western groups, such as Sindhi is mainly concentrated in Western India. Marathi is the most important language of the southern group of the Indo-Aryan family. The languages of the eastern group, such as Oriya, Bengali and Assamese are spoken in the Eastern India.⁵⁹ The languages of the central group are confined to Punjab, Rajasthan and Gujarat. The Himalayan and the sub-Himalayan areas are inhabited by the speakers of the various forms of Pahari speeches.⁶⁰

3.1.6.2 Linguistic Regions

The various languages and dialects formulate the basis of linguistic regions of India. It is however unfortunate to state that the tribal languages do not fit in this scheme of linguistic regions as the tribal groups are generally concentrated in areas like enclaves in central, eastern and north eastern parts of the country. This regional mosaic of the tribal languages is complex and does not tend itself to a simplified scheme of regions.⁶¹ The tribal languages are so distributed that either they have their own small clusters or they overlap the regions of major languages.⁶² In the north-east, however, the tribal speeches such as those of minor groups in Arunachal have almost knife-edged boundaries of their own.⁶³

⁵⁶ Ibid at p 270

⁵⁷ ibid

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Ibid. at p 270

⁶¹ Ibid

⁶² Ibid.

⁶³ ibid

The twelve linguistic regions identified are as follows:

1. Kashmiri, 2. Punjabi, 3. Hindi/Urdu, 4. Bengali, 5. Assamese, 6. Oriya, 7. Gujarati, 8. Marathi, 9. Kannada, 10. Telugu, 11. Tamil and 12. Malayalam.

These linguistic regions generally correspond with the states of Indian Union. But the state boundaries do not always correspond with the linguistic boundaries. In fact the linguistic boundary in itself is not a line, it is one of transition over which one language gradually loses its dominance and gives way to the other.⁶⁴

3.1.7 Languages Specified in Schedule VIII to the Constitution of India

The Schedule VIII recognizes fifteen languages in India; there are 95.37 per cent speakers of these languages in the total Indian population (Part 'A'). The remaining 4.63 per cent is accounted for by others (Part 'B'). The identifiable mother tongues at all India level have been grouped under the relevant language (s) (Census of India 1971) as given below: Part 'A' 1. Assamese 2. Bengali: Chakma; Haijong/Hajong; Malpaharia; Rajbansi 3. Gujarati: Saurashtra 4. Hindi: Awadhi, Baghelkhandi, Bagri/Rajasthani; Banjari; Bhadrawahi; Bharmauri/ Gaddi; Bhojpuri; Braj Bhasha; Budelkhandi; Chambeali; Chattisgarhi; Churahi; Dhundhari; Garhwali; Gojri; Harauti; Haryanvi; Hindustani; Jaipuri; Jaunsari; Kangri; Khairari; Kortha/ Khatta; Kulvi; Kumauni; Kurmali; Thar; Lamani/ Lambadi; Lodhi; Madhesi; Magadhi/Maghi; Maithili, Malvi; Mandeali; Marwari; Mewari; Mewati; Nagpuria Nimadi; Pahari (It is a combination of various speeches spoken over long stretches of areas, where the speakers preferred to give a general name as Pahari); Panchpargania; Pawari/Powari; Rajasthani; Sadan/Sadri; Sirmauri; Sondwari; Surgujia. 5. Kannada: Badaga 6. Kashmiri: Kishtwari, Siraji 7. Malayalam: Yerava 8. Marathi: Karami 9. Oriya: Bhatra, Relli 10. Punjabi: Bagri, Bilaspuri/Kahluri 11. Sanskrit 12. Sindhi: Kachchhi 13. Tamil: Kaikadi; Yerukala/Yerukula 14. Telugu: Vadari 15. Urdu Part 'B' Adi: Adi Gallong/Gallong; Adi Minyong/Minyong Angami: Chakra/Chokri Bhili/Bhilodi Barel; Bhilai; Chodhari; Dhodia; Gamti/Gavit; Garasia; Kokna/Kokni/Kukna; Mawchi; Paradhi; Pawri; Tadavi; Vasava; Varli; Wagdi Bodo/Boro: Kachari; Mech Gondi: Dorli; Maria; Muria Khandeshi: Ahirani; Dangi; Gujarati-Khandeshi Khasi: Pnar/Synteng; War Konda: Kodo Korku: Muwasi Lahnda: Multani, PUNCHHI Munda: Kol Naga: Zeliang Nissi/Dafla: Apatani; Bangni; Nishang; Tagin Paril: Dhurwa Santali: Karmali; Mahili Tripuri: Jamatia; Reang .⁶⁵

Irrespective of these languages prevailing in Indian constitution, many dialects can be seen to be practices in the territory of India especially amongst the tribals.

⁶⁴ Ibid.

⁶⁵ Ibid at p 271

3.2 Natural Regions of India and Socio Economic Position of Tribals

The socio economic condition of tribals and adivasis largely depends on the natural factors responsible to regulate their habitat and functioning. Various rights in respect of these natural elements are needed for the existence of the right to life and livelihood as guaranteed by the Constitution of India. A study of the natural regions of the country will establish the actual position of tribals amongst all other communities present in this huge country. Tribals and adivasis largely depend upon the geographical location they live in and have developed their way of life and profession in furtherance of these factors. These professions are so unique that they tend to exist only amongst these communities in the entire world and only to a few existing people of these tribal communities. These peoples also had special intellectual property rights which are mostly customary based and not of the Indian legal setup on various subject matter including medicinal values of various trees, plants, crops and fruits of the geographic region they live in. The concept of preservation of resources is alien to tribals and they vastly depend upon the regular consumption system. Thus any disruption in the enjoyment of these natural environment and resources may prove fatal to the existence of such primitive practices. Large scale displacement of tribals from their habitat has been the benchmark of the last century and this has led to a lot of extinction of tribal knowhow and indigenous practices. There has been a complete end to many tribal practices in India which once has been the symbol of economic and social prosperity of these people. Certain laws have been incorporated in the Indian legal system of late to preserve these areas and the conservation and management of these areas have been vested upon the tribas but a long gap after displacement has made the process of revival of tribal existence in certain areas irretrievable. The damage has already been done in most of the cases. The international obligation of the country has virtually forces the government to secure a lot of socio economic rights of the indigenous communities of India. In this backdrop the existing natural regions of the country plays the pivotal role in understanding the possibilities of revival of tribal economic and social system that has once been the identity of these tribal communities.

i. Natural regions

Natural regions of the country can broadly be classified into:

1. The Himalayan Mountain Complex
2. The Indus-Ganga-Brahmaputra Plain
3. The Peninsular Plateau and
4. The Islands

These natural regions have some broad similarities such as relief, geomorphologic, history, drainage, climate, soil, natural vegetation and wild life. Tribal economy is vastly dependant on these factors. The tribes who are dependent on agriculture are dependent not on the irrigational facilities available in the remote areas they live in but the rainfall upon which their cultivation is solely dependent.

ii. Climatological Factors and Climatic Regions of India

The various climatological factors are rainfall, humidity and temperature. There are various natural regions in India which varied upon these factors. These climatic factors along with the soil type determines the nature of cultivation and along with that the type of economic and social condition these areas fall belonging to these varied natural regions.

Tribals live in almost all the climatic regions in India. Their economic conditions also depends upon the place they live in. Thus the tribals in India can be seen in all the economic stratification of the country.

A climatic region generally possesses a broad uniformity in climatic conditions produced by combined effects of climatic factors. India can be divided into the following climatic regions after Köppen's method, based on the monthly values of temperature and precipitation: (1) Tropical Savannah Type, (2) Monsoon Type with Short Dry Season, (3) Monsoon Type with Dry Season in High Sun Period, (4) Semiarid and Steppe Climate, (5) Hot Desert Type, (6) Monsoon Type with Dry Winters, (7) Cold Humid Winters Type with Shorter Summer, and (8) Polar Type.⁶⁶

3.3. Historical Analysis and Racial Classification in India

3.3.1 Pre historic and Historical analysis of India and Tribal Development

A systematic study of the pre historical and historical development of human habitants in India will serve the purpose of understanding the indigenous peoples and their existence in various part of India. The tribals throughout this phase have developed their culture and social norms and all these are visible in their modern day existence. The tribal population in India has been affected in various ways throughout the pre historic and historic period by a number of natural and manmade phenomenons. These factors along with their development shall help to identify the economic conditions of these communities and how much they are a part of sustained economic order.

⁶⁶ Ibid at p 252

India has witnessed throughout its past the existence of human beings in both historical and pre historical age. Evidence in the forms of tools discovered from excavations has a scientific explanation as to Indian human civilization in these ages.

Prehistoric age generally denotes a period of around 5,00,000 years ago. Discovery of stone tools in Indian Palaeolithic and caves have given a fair amount of certainty as to the existence of human in India in that age. A detailed diagram is annexed to identify the sites of discovery of these evidences. This explains that the indigenous population how so ever small it may be were not dependant on agriculture. Neither they had any domesticated animals nor they were enjoying a life non nomadic with human settlements. Evidence however shows that these inhabitants generally used caves etc temporarily to avoid natural calamities and seasonal distress. These communities were nomadic and semi nomadic in nature and had their sole reliability on natural produce and other animals to feed upon. Thus hunting and gathering communities⁶⁷ were present in this age. It shall be relevant in this point of time that in many parts of India today the tribals and adivasis still continues their nomadic and semi nomadic features where they depends upon the forest produce for their sustenance. The socio economic condition of those men and these of this century have a few things in common as well.

The concentration of these habitats was mostly by the side of major river valleys in India. The majority of discovery of these Stone Age tools are made in these locations.

Epiglacial phase (10,000 to 50,000 B.C.) following the end of Pleistocene to some extent made a coincidence with the transitional Mesolithic cultural dispersal in India. During this phase there has been a noticeable inclination towards natural resources like water bodies, resources within such water bodies, birds fruits and plant produces. One of the presumable reasons for this change is the reduction in the availability of big game to feed the growing community of human habitats in various parts of India is the marked climatic change. These communities actually increased in numbers dramatically as they left their nomadic behaviour and relied more upon static natural resources. Thus concentration of human habitat was progressive by the rivers of India. This phase witness the start of a new culture and socio-economic system departing the ancient habit of food gathering to food producing.

However their numbers are estimated to be in hundreds which is incidentally the number of certain primitive tribes in existence in India today. However, with the advent of non tribals in recent centuries, the tribals of India have fled to remotest areas of hills and forest and followed their

⁶⁷ Piggot, 1952

ancient practice of food gathering and to some extent wherever possible food producing communities.

A study of the genetics of Indians suggests that

“Both western and eastern Eurasian-specific mtDNA haplo types can be found in India together with strictly Indian-specific ones. However, in India the structure of the haplo groups shared either with western or eastern Eurasian populations is profoundly different. This indicates a local independent development over a very long time period. Minor overlaps with lineages in other Eurasian populations clearly demonstrate that recent immigrations have had very little impact on the innate structure of the maternal gene pool of Indians. Despite the variations found within India, these populations stem from a limited number of founder lineages. These lineages were most likely introduced to the Indian subcontinent during the Middle Palaeolithic, before the peopling of Europe and perhaps the Old World in general. Our demographic analysis reveals at least two major expansion phases that have influenced the wide assortment of the Indian mtDNA lineages. The more recent phase, which according to our estimation started around 20,000-30,000 years ago, seems to correspond to the transition from the Middle to the Upper Palaeolithic. The first expansion phase may reflect a demographic burst immediately after the initial peopling of India around 50-60 thousand years ago. This wave of expansion brought forward also those maternal lineages that can rightfully claim the name of “Eurasian Eves”⁶⁸

A similar study was conducted where DNA profiling was conducted on various ethnic groups of India. Members of different culture, linguist and geographical background participated in this research work. It was observed that Indian populations were founded by a small number of females, possibly arriving on one of the early waves of out-of-Africa migration of modern humans; ethnic differentiation occurred subsequently through demographic expansion and geographic dispersal. Further they have found that South-east Asia was peopled by two waves of migration, one originating in India and the other originating in Southern China.⁶⁹

Neolithic Age is approximately dated from 6000 to 4000 B.C. In India, various communities started to developed the use of non metallic implements. Instances of domesticating animals were also notices during this phase in India. But the most fascinating of all the changes this period brings up is the advent of agriculture. A detailed figure is annexed hereto to reflect the sites where agriculture flourished in India. This knowhow has been the natural process of development in India or it being

⁶⁸ Kivisild et al. 2000 at p. 150

⁶⁹ Roychoudhury et al. 2000

applied in these areas by people from outside is another subject of debate. The indigenous agricultural system is still found in some areas in India today amongst the tribals and adivasis.

Neolithic age witnessed the development of community habitat in forms of small villages and townships. India too witnessed the growth of human habitat and the formation of communities residing together in a more systematic manner. Various use of pottery was found in this era. However, it must be stated in this regard that there has no scientific proof that India made uniform step by step progress in various places of the country as the age characterise. There are various places in India which remained static even in this dynamic era as has been the case of various tribal and indigenous communities being far off the river valleys. At this point of time, there is a bifurcation of development zones based on geographical and climatic factors. This bifurcation subsequently leads to the permanent division of economic and social conditions of tribals in India.

The ability to control production and storage of life's essentials encouraged the growth of larger permanent settlements and these in turn led to technical innovation, division of labour, the formation of social classes and ultimately the superimposition of a system of administrative controls. Biologically such developments meant an increase in the demographic dimensions of a limited number of populations (gene pools) these possessing the knowledge of food production—at the expense of other who retained the earlier type of natural economy and who could not expand numerically beyond the limits set by nature.⁷⁰

As urban centres developed, they attracted a large number of traders, artisans and labourers from ever-increasing distances, a process accentuated during the metal age with the emergence and expansion of Empires and commencement of the historic period about 3000 B.C. After the first population explosion Asia remained, for a millennium or more, the most favoured quarters and thus by the end of this period, Indus valley developed a comparable neolithic nexus.⁷¹

Around 4000 to 3000 B.C. India witnessed the advent of the use of metals at the far end of the Neolithic age. India apparently derived much of its Neolithic as well as its Metal age civilization from two sources—one along the Makran Coast and Baluchistan in the west, the other from southeast Asia by way of the Arakan coast and Assam.⁷²

⁷⁰ Bowles (1977)

⁷¹ Bhasin (2006)

⁷² (Fairservis 1971)

The knowledge of the first source is documented from numerous sites in the arid regions along the foothill rim of the Indus valley, the second is still largely covered with dense vegetation and is only beginning to be understood.⁷³

One of the remarkable instances of existence of indigenous peoples in this era was the existence of the civilization of Harappa and Mohenjodaro. The Indus Valley Civilization extended from the river basin at the foothills of Himalaya and the Gangatic watershed to coastal Gujarat. It also had an estuarine dock at Lothal and an outpost at Thane⁷⁴. Some of the distinctive features of this civilization are uniform assemblages of tools, unique methods of water supply, drainage, hypocaust system for heating grand central bath. Apart for these sophisticated and unique settlement features, some remarkable individual achievements like ceramic techniques, the systems of weights and measures are seen. There has been differentiation between the citadel and slave quarters as well. All these features ultimately identifies and points out the existence of a complex society with social stratification and a uniform administrative mechanism. About the origin of the Harappan Civilization practically nothing definite is known. Different versions are put forward-right from Sumerian or a Semitic origin, to the Dravidian and Mundari are often mentioned. Even origins from Baluchistan and Iranian uplands were suggested⁷⁵.

At about 3000 B.C. Baluchistan which as less arid than now was inhabited by small groups of people from the Iranian uplands. These migrants brought with them the knowledge of agriculture and the organisation of small self-sufficient village communities. In the course of about 500 years, after they had settled in Baluchistan, they migrated in big or small group into the Indus valley.⁷⁶ But the sudden emergence of the urban civilization still baffles the interpreters of Harappan cultures. Some believe that urban civilization was superimposed on the people suddenly by strangers coming from outside at some time in the middle of the 3rd millennium B.C. It is quite impossible to say when Harappan civilization grew up'. The civilization is unique in a sense that it was almost a fully classified state as early as 3000 B.C. It is said that it may well have been evolved by the natives of the soil and foreign settlers induced new ideas which Harappans absorbed and evolved into a

⁷³ (Bowles 1977)

⁷⁴ A place near Mumbai.

⁷⁵ Excavations at Harappa were resumed in 1986 under the direction of Dr. George F. Dales of the University of California, Berkeley, and are countinuing each year at that site. Some 100 skeletons have been removed from site (Mature Harappan cemetery of R-37) by Drs. Nancy C. Lovell, John R. Lukacs, Brain E. Hemphill and Kenneth A.R. Kennedy.

⁷⁶ Sastri and Srinivasachari (1980)

distinct mature culture. The Indus Valley Civilization has spread from its southern bases to the Himalayan foothills, up the valley of Kashmir, around 1800 B.C.⁷⁷

The Chalcolithic period is dated roughly from 4000 to 3000 B.C. this is the next culture according to chronological order. This nomenclature came from the fact that the main tool types representing this culture were made of copper along with stone. A detailed diagrammatical representation has been given of the sites in India where evidence of various aspects are excavated of this age.⁷⁸

However no detailed evidence can actually show that there is any Bronze Age in India. However, there are various Bronze artefacts excavated at various sites. Historians argued that these might have been migrated into India.

It is proved that the valley of Kashmir was known earlier to the settled people and mesolithic artefacts have been found. Excavations in Kashmir also give evidence of earlier proto-urban settlements. Apart from the above, Kashmir also yielded earlier palaeolithic artefacts which are more allied to those of North India, so it might be conjectured that the builders of Burzahom (Kashmir) crossed the Hindukush by 2000 B.C. or thereabouts.⁷⁹

For the rest of Greater India - the scenario is as follows during the ancient age. About the Ganges Basin, the Deccan and the Peninsular and coastal south is far less known but it is assumed that nothing like the civilization developments had taken place at comparable levels of antiquity. It was not until after the entry of the Aryans that the urban civilization extended into the middle Ganges and parts of the Deccan synchronised with the entry of Aryans.⁸⁰

The so-called Chalcolithic, Pre-Harappan and Harappan periods in the Indus valley, Gujarat and western Maharashtra are generally contemporary with the so-called Neolithic of the Deccan and Eastern India. Towards the end of the stone tool phase, the first evidence of agricultural settlement appeared in Baluchistan in the northwest. This culture spread across the northwest corner of the country during the next 2000 years, giving rise eventually to the highly developed Indus Civilization, which came to an abrupt end around 1750 B.C. Whether directly related or not, the decline of the Indus civilization coincided with the movement into India from the Iranian plateau and the Caucasus of Aryan peoples speaking an Indo-European language.⁸¹

⁷⁷ Bhasin 2006 at p 240

⁷⁸ (for the sites see Fig. 3),

⁷⁹ Bhasin.

⁸⁰ Ibid.

⁸¹ Ibid at Pp 240-241.

3.3.2 Historical Analysis of India and Tribal Development.

The historical period starts from 4000 B.C. onwards for 2000 years. This phase has been marked by various penetrations of alien peoples of alien lands in the territory of India. The said movement of foreigners may be summed up in seriatim:

1. The Greek invasion
2. The invasion of Sakas
3. Invasion of Pahlavas
4. The Kushan invasion
5. Huns invasion
6. The influx of the Jews and Parsis
7. Invasion of the Arabian Muslims
8. Invasion of the Persian Muslims
9. Turk invasion and
10. The Afghan invasion of India
11. The Mughal invasion
12. The European invasion
 - a. Portuguese
 - b. Dutch
 - c. French
 - d. British

Amongst the worst sufferers among all these invasions have been the indigenous inhabitants of India. The adivasis have been victims of these invasions and were literally running to various remotest corners of the country to save themselves and their family. The tribals' choice of these extreme areas in India for habitat was thus not a matter of choice but a matter of compulsion. Amongst all the invasions, the British colonial movement has witnessed the most adverse effects on these communities not only in India but also across the world. The British policy of drainage of wealth went to such an extent; even the remotest areas were not spared. Thus the systematic socio economic conditions of tribals have been damaged permanently. The tribals who were mostly dependant on the natural resources were deprived of their sacred places by the influx of non tribals. Their resistance didn't suffice to ward off the upcoming annihilation of Indian indigenous population, along with the extinction of a large number of floral and faunal species. There has been uninterrupted and systematic cutting of trees of immense value for the sake of so called development. Indian tribals lost a so much of land and natural resources in the 200 years of British colonialism that they have not in the last 2000 years. The tribals have been declared the enemy of

the forests. They have been barred to use the forest resources. Such great was the atrocity upon these people that millions of these poor and unarmed people have to leave their land which they have been enjoying for ages, and join the labour force of the country which is mostly unorganized. History witnessed the death of multiple ethnic systems prevalent in this country. With that comes the death of the culture, knowhow, and human rights. It is not the number game that matters, as India has witnessed gradual increase⁸² in tribal population, but the death of their rich socio economic system which is the essence of tribal culture and social system.

3.3.2.1 Racial Classification and the Position of Tribals in India.

There are two theories to determine the origin of man and major human races.

1. The mono centric theory and
2. The polycentric theory

The mono centric theory as the name suggests considers modern man to have evolved in a single region and when human groups spread geographically and started to reside in various definite territories, the various racial types evolved.⁸³ Darwin was one of the advocates of this theory as he ventured to predict more than a century ago that one day it would be found that man had originated in Africa.

On the other hand, the polycentric theory claims that modern man evolved in several regions relatively independent of one another and that the people peoples developed at different rates.⁸⁴ This theory claims that the modern man evolved from the 'oldest' and 'old' people in each region and that this gave rise to the formation of major races.

Position in India:

A list of various classification has been made by various authors, Indian and foreign and all tend to have some sense. However, the racial migration in India as has been discussed and reported by Guha and others eminent scholars.

1. Negrito Element

Negritos generally represents the oldest surviving type of man and it has been argued that they may have preceded the Neanderthal man. It is presumed that it is by the Neanderthals displaced and

⁸² 9.6% of the Total Population. Census Report 2011

⁸³ Henri Victor Vallois and G Oliver of France and other scientists of various countries advocating this theory.

⁸⁴ Franz Weidenrich, U.S.A.

disposed the Negritos.⁸⁵ The Negritos may be safely stated to be the first inhabitants of South East Asia. Negritos traces are noticed in some of the forest tribes of the higher hills of the south of India and similar traces can be noticed in various inaccessible areas of Bengal, Assam and Burma. The various physical features of these people resemble the Negritos. For instance, the dwarf stature of these people and its combination with their frizzy hair. It is presumed that this actually took place because of the recent admixture of pure Negritos stock of the Andaman with blood from the main land of India. If Negritos was the earliest inhabitants of Southern Asia, they must have been displaced or supplanted by the Proto-Australoid.⁸⁶ A study of the aboriginal groups (Great Andamanese and Jarawas) of Andaman and Nicobar Islands observed that the distinct genetic identity of the aboriginal populations of the Andaman Islands and other Asian and African populations deciphered by nuclear and mitochondrial DNA diversity suggest 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.⁸⁷

2. Proto-Australoid Element

The earliest stratum of Indian populations was a long-headed, dark skinned, broad nosed people. Their physical features are closely akin to modern aborigines of Chota Nagpur, Central India and the primitive tribes of South India.⁸⁸ They are original inhabitants, the so called 'Adi-basis' of India. In the hymns of Rig-Veda the oldest sacred texts of the Hindus, they are mainly addressed as 'Dasa' (Barbarians) or 'Dasyu' (ugly, sub-human) described as 'Anas' ('a-nas' = nose less or 'anas' = without a mouth), Krishnagarba (Dark skinned), 'Mridhravak' (Hostile speech) not worshipping Vedic gods with whom Aryan speaking tribes fought during their advent into India from Transcapia. They have been classified by various authors and so far there has been no agreement on this.⁸⁹ The term Pre-Dravidian⁹⁰ or 'Australoid-Veddaic' as Ruggeri named it⁹¹, while Chanda (1916) favoured the term 'Nishada'. v. Eickstedt used the term Weddid for those having closer affinity with the Veddas of Ceylon. While trying to find out the physical affinities of the Nal race, have described Tamils and the Veddas as descendants of the original Proto-Australoid and Proto-

⁸⁵ Griffith-Taylor,

⁸⁶ Supra note 7 at p. 246

⁸⁷ Kashyap et al. (2003)

⁸⁸ Supra note 7 at p 249

⁸⁹ Ibid

⁹⁰ Lapicque (1920) was probably responsible for this name.

⁹¹ (Chakladar 1921)

Negroid blend.⁹² They have also found the Proto-Australoid type occurring among the Mohenjodaro skeletal remains. Hutton (1933) used the term Proto-Australoid exclusively in his census reports. He even put Veddas under Proto-Australoid.

The term Proto-Australoid owes its origin to Dixon (1923). Hooton (1930) introduced changes in Dixon's terminology and replaced term Proto-Australoid as Pseudo-Australoid while he similarly renamed Proto-Negroid as Pseudo-Negroid. The Papuas of New Guinea and the Australian aborigines of Oceania are often called Australoid. Guha (1937) used the term 'Proto-Australoid' to designate the indigenous people of India presumed to have racial affinities with Australian Aborigines. It was observed in the morphological traits that there seems to be a regular gradation, the shortest and smallest being the Indian tribes, then come Veddas of Ceylon (Sri Lanka) and lastly the Australians. The Indian tribes retaining the more basic characters and the two extra Indian groups having developed some of the features in a more marked manner. The most appropriate term to apply to them therefore is Proto-Australoid which shows best the genetic relationships between the three. Sarkar (1954) pointed that so long the Australoid is regarded as one of the basic stems of mankind and its prototype is unknown, the use of the term Proto-Australoid seems to be unjustified. Sanghvi (1976) compared allelic variability observed among tribal populations in India and Australia to study the postulated ancestral relations between Indian and Australian Aboriginal people. He concluded that the search for appropriate weights for individual alleles to be considered in genetic distance analysis of problems for racial origins has not so far been rewarding. Simmons (1976) reported on the basis of the blood group genetic data, presently available, that the Veddoids, and other aboriginal peoples of South India relate most closely to the Indian populations, and neither they nor the Vedddhas relate in any obvious blood groups genetic makeup to the distant Ainu, or to the even more distant Australian Aborigines. Kirk (1976) reported his investigations 15 years ago as he was searching for specific markers which might link Australian Aborigines with the Vedddahs of Ceylon and the "Veddoid" populations of South India and stated that so far no specific markers common to any of these sets of populations have been found. By contrast, the Vedddahs of Ceylon do have some genetic markers in common with groups of Southeast Asia, particularly TF CHI and the abnormal haemoglobin HB*E. The 'Veddoids' of South India, however, have neither of these markers that possess the abnormal haemoglobin HB*S and having no transferring variants in the populations which he studied. It is only in the north east of India that transferrin allele TF*CHI is found while HB*E is not uncommon among tribal populations such as Oraons, Konda Reddis and Koya Dora. Roychoudhury (1984) studied genetic relations between Indian Tribes (Toda, Irula, Kurumba of South India); Vedddah of Sri Lanka with the Aborigines of Malay, New

⁹² Sewell and Guha (1929)

Guinea and Australia by genetic distance analysis and found the tribes of South India and Sri Lanka genetically closer to each other than to the Aborigines of Southeast Asia and Oceania. He concluded that despite their morphological similarity there is no genetic evidence to suggest that the Indian tribes and Australian Aborigines are biologically related. Pietrusewsky (1990) reported from the craniofacial variation that Australians represent a biologically distinct population, sharing ancestral ties with Melanesians but not with the recent populations of Asia and the rest of the Pacific. The latter represent a second major population complex.⁹³

3. Mongoloid Element

The Mongoloids are present in the northern and north eastern zones of the Himalayan ranges, valleys and eastern frontiers. It is an interesting fact that one of the Mohenjo-Daro skulls as well as a terracotta figurine has been identified as definitely Mongoloid with features like the typical sloping narrow eyes of caricatures. On the other hand, Eastern Bengal is strongly suggestive of mixed Mongoloid and Proto-Australoid strain. Buxton suggests that the Paleoean 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.⁹⁴

Various tribes in central and eastern India especially in states like Bihar, Orissa, Madhya Pradesh and Andhra Pradesh, in the latter state in areas adjoining Orissa and Madhya Pradesh have distinct Mongolian features. The list includes almost important Mundari⁹⁵ speaking 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.⁹⁶

In India, the Australoid (Pre-Dravidian) racial element is predominant among scheduled tribes and also the scheduled castes. It must be noted that the scheduled caste populations are have admixture with Caucasoids (Aryan and/or Dravidian) in varying degrees which is not the case in respect of the tribes. As discussed and mentioned earlier, Mongoloid racial element, is also predominant among tribal populations of Eastern Western and Central Himalayan regions.

Apart from this, some more populations with different racial elements entered India and were assimilated into the local people. The Australoid (Pre-Dravidian) are supposed to be the original

⁹³ Supra note 7 at Pp 249-250.

⁹⁴ Ibid at p 250

⁹⁵ Munda Group of Austro-Asiatic Family

⁹⁶ 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). (Bhasin 2006)

inhabitants of India, while the rest are considered to have come in successive waves of immigration of known and sometimes unknown antiquity.⁹⁷

A Sum Up

This is an era of dreams. Today dreams are created, propagated, distributed and sold. Some call it the era of consumerism. Some says the era of globalization and industrialization. In furtherance of the development of mankind towards the aforesaid goal, the world has seen great suffering, conflicts and overwhelming violation of human rights at a large scale. Tribals and indigenous peoples represent those males, females, children, and elderly people working in various vulnerable areas to carry on with their basic needs of life mostly bereft of the aspirations the Constitution of India aspires to achieve in Article 21. Broadly speaking, this is that category of human civilization for which laws are made but not honored. Those, who are never at par with that of the others. They are in fact been cornered to such an extent that they are in the verge of extinction, if not population wise but culturally to say the least. It is not thousands but millions whose life has been compromised to a great extent.

Social and economic rights arise out of a number of variables that varies from one sect to another, one clan to the other. A basic anthropological analysis can ultimately bring out the origin of the said distinctive clan and tribe and their aspiration in life. Such aspirations bring out the goals they want to achieve. This leads to the creation of certain inalienable rights that these communities must enjoy and the state must protect and continue to provide. It must be understood that social and economic aspirations are the outcome of the historical and cultural heritage of the society a person resides in. The geographical and environmental conditions are directly linked with the economic aspects of the member of the society. Thus the chapter analyzes the anthropological and other allied aspects that are inalienable to the people belonging to tribal and indigenous communities. These aspects form the basis of the socio economic aspirations of the people concerned. These aspirations are the basis of rights they think they deserve for proper functioning of their life. Their culture, education, habitat all depends upon their anthropological background. The social and economic aspirations of the tribals in India largely depend upon their historical development, geographical positioning and certain other factors. It is these factors that contribute towards the process of law making for these communities. Even the Constitution of India acknowledges these factors and certain aspirations have been considered to the part of the mother law of the country. The following chapter makes an elaborate study of those provisions along with other enactments providing key to the socio economic rights of tribals in India.

⁹⁷ Supra note 7 at Pp 251-252