

ABSTRACT

The world is falling apart. People are forgetting their basic values that life teaches us all. Morality and law has parted ways, since some time now. But it was not long enough to remember when humanity reigned supreme. Let us not forget those moments, that moment of sacrifice, moments of help and chivalry that provides an unparalleled sense of happiness within us. Let us realize that third world is not a world apart and the members of these countries are also humans. Let us come out of our comfort zones and realize the truth. Let us ignore it, no more.

Some religious fanatics led by super speciality weapons, once decided to promote it. On wherever they landed and explored because of their power became their property. Power was what corrupted them. And such absolute corruption led to the birth of certain philosophy the world would never forget nor forgive. The concept of civilization started and the process of de-humanization followed. Corporations developed and with it consumerism. Suddenly the world break up to create a concept known as the third world, which are meant to serve the whims and comfort of the first world with their everything, including their life.

Darkness was so bright that sun never showed its face for centuries. World has indeed fallen apart by then.

The world decided to change and the change came at a price. The irretrievable socio economic conditions of the original and aboriginal people of the planet, which grew with the planet itself, had to pay the ultimate price. The systematic annihilation of the third world countries and their resources by the first world has left them only to die the death that follows hunger and starvation. They have been waiting for death. But their spirit and courage and their motivation to survive has led to come out of debris to generate and build great international movements which forced the world to accept the fact that they are the deprived lot and the subjects of violation. World today has a different light to show, the light which leads the way to the new world. The modern civilization and the new world need these people to be part of the whole and not someone different in the struggle to survive the ordeal the future has stored for the human civilization.

International movements of indigenous communities ultimately led its voice heard to the world through the United Nations Organization (UNO) and its various wings. The world today hear it from the voice of those who suffered and the time has come for all of us, to learn and provide the remedy they deserve for centuries.

This work critically examines the exploitation of tribes more specifically in this third world country which is also the biggest democracy of the world. The history of tribal existence, the butchery of barbaric colonial laws followed by the post independent era of colonial legal regime and the continuing oppression that which has been led by both State and non-state agencies leading to deprivation and destruction of the survival base of the tribals. In the name of development, the unethical deprivation and annihilation of the tribals from their land and forest for centuries has led to various socio-economic and legal conflicts between the tribes on one hand and the non-tribals and the state administration on the other.

This work apart from the woes of the conflicts that shed blood of the innocent people, would also make a positive analysis as to why the term indigenous has been left out and the term tribe been accepted in the Indian legal system. Another interesting analysis between castes and tribes has been made in the thesis. The veil has been removed from the political intent to protect the tribals in India. It must be understood that ILO 169 and 107 are based on completely different set of philosophies and India must adhere to ILO 169 instead of 107. All the efforts that is been taken for the tribals today is based on ILO 107 and hence would be infructuous in the years to come. The sooner the better for India to accept ILO 169. India must stand by the promises it makes before the tribal and indigenous and tribal and her tribal and indigenous communities. Time has come to work for these people and that to in the term.

Apart from the conflicts, the thesis surveys and refers to the relevant laws in the form of legislations in this regard and also proposes a host of legal reforms, both substantive and procedural in nature, to protect the tribals from losing their identity and to prevent gross violation of human rights and ultimately their indigenous existence.

The various judicial determinations outside the ambit of colonial precedents shall also be an interesting aspect to research upon. How the judiciary in the garb of judicial activism is upholding the principles of human rights will be dealt with accordingly. Various international conventions and declarations shall be analyzed as they are the creators of modern indigenous rights movement and would also be the future of these peoples.

The study should be a part of the critical legal studies and would also try to be a part of post modern jurisprudence. However bleak the situation may be for the tribals and indigenous people of the world, there is ample scope for their survival and true development in the era of human rights where human life and dignity reigns supreme.

PREFACE

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