CHAPTER III
THE TRIBAL QUESTION AND LAND ALIENATION

The tribal mobilisation in Kerala has been inextricably interlinked with the land related issues. The land question—more specifically land alienation—is a major factor of tribal identity and sustenance. This chapter tries to place the land alienation at the root of tribal question in Kerala, which eventually led to tribal mobilisation and struggles. It seeks to examine the multi-level implications of the relevant laws and regulations in place within the larger context of India and Kerala. The chapter also briefly discusses the question of land and landlessness in reference to the efforts and recommendations made by various commissions and committees, both at the national and regional levels, after independence. More specifically, the chapter tries to trace the history of land alienation with adequate focus given to various tribal locations in Kerala.

Traditionally, the tribal communities have cultivated land and managed natural resources in accordance with their socio-economic circumstances. Land and forest, for them, are essentially collective resources to be used according to their particular needs. The judicious use of collective property resources on which they depend greatly has become an integral part of their way of life. Most tribal communities do not view land as a ‘commodity’ which can be bought or sold in markets, nor do they consider the trees, plants, animals, and fish which cohabit the land as ‘natural resources’ which yield profits or rents. On the contrary, the tribal view is that land is a “substance endowed with sacred meanings, embedded in social relations and fundamental to the definition of a people’s existence and identity” (Mathur 2009: 169). Likewise the trees, plants, animals, and fish, which inhabit the land are highly personal beings which constitute part of their social and spiritual universes. This close attachment to the land and the environment is the defining characteristic of tribal communities (Davis 1993). Similarly, a United Nations Development Programme (UNDP) report noted that indigenous people like tribes “have a special relationship” with the land. For them it is still their “source of livelihood and sustenance and the basis of their existence as communities.” “The right to own, occupy and use land collectively is inherent in the self-conception of indigenous people, and this
right is generally vested not in the individual but in the local community, the tribe or the indigenous nation” (UNDP 2004).

Over decades, the tribals had evolved an intricate convivial-custodial mode of living. However, the tribal areas were the first units of self-governing system. In most areas of the pre-colonial period, they were part of the unknown frontier of the respective states where the rule of the reign did not extend and tribals had governed themselves outside the influence of the particular ruler. The concept of private property began with the Permanent Settlement of the British in 1793 and the establishment of the Zamindari system that conferred control over vast territories including tribal territories for the purpose of revenue collection by the British (Bijoy 2003).

Elwin (1963) characterises the intimate relationship of tribal people with the forest thus: “To a vast number of the tribal people the forest is their well-loved home, their livelihood, their very existence.” “From time immemorial until comparatively recently the tribal people have enjoyed the freedom to use the forest and hunt its animals, and this has given them a conviction, which remains even today in their hearts that the forest belongs to them.” However, this state of affairs did not last forever. From about the middle of the nineteenth century, people from outside began to move into the forest, attracted by its wealth of natural resources, and the colonial government, sensing the commercial potential of forests, gradually extended its authority over them in the name of scientific management (Mathur 2009: 173). The first step along these lines came in 1855 when the colonial state issued a memorandum titled “Charter of Indian Forests,” which decisively changed the status of large areas of land including forests into government property. Then emerged the Forest Department and the passage of the Indian Forest Act of 1865, under which any land covered with trees or brushwood could be declared forest, and the government laid claim to it all. With this, common property resources became a thing of the past. That was the beginning of a series of laws passed with the aim of curtailing the traditional rights of tribal people in forests.
After independence, a new national forest policy (1952) was put in place making further restrictions on tribals. For instance, under the old policy the forest land could be released for cultivation subject to certain safeguards, and free grazing was allowed. The new policy barred cultivation and required a paid permit for grazing, which was difficult to obtain. Elwin (1963) very aptly depicts the position of the tribal people in the changed circumstances: Thus the tribal who regarded himself as the lord of the forests, was through a deliberate process turned into a subject and placed under the Forest Department. Tribal villages were no longer an essential part of the forests but were there merely on sufferance. The traditional rights of the tribals were no longer recognised as rights. In 1894 they became “rights and privileges” and in 1952 they became “rights and concessions.” Now they are regarded as “concessions” (Kulkarni 1987: 2143-148).

The President of India, acting under powers given to him in Section 339 of the Constitution of India, appointed the Scheduled Areas and Scheduled Tribes Commission in April 1960 under the chairmanship of Dhebar. The Report of the Commission analysed forest policy and its impact on tribal communities. The Commission stressed the significance of forests in the life of the tribals in providing them with all kinds of food, wild game and fish, wood for construction of houses and even income from the sale of forest produce besides fuel. It criticised the gradual extension of government authority over forests to the detriment of tribal life and economy. The Commission noted the changes in the rights of the tribal communities over forests. After considering the issue of tribal development in detail, the Commission came to the conclusion that the concept of scheduled areas may not be extended to the tribes of peninsular India. The Commission recommended a process of acculturation for taking the tribals of peninsular India along the path of modernisation. This meant changing the structure of occupation of tribals from a forest orientation to that of agriculture and animal husbandry (India, Scheduled Areas and Scheduled Tribes Commission 1960; Dyakov 1966: 12; Kulkarni 1987). In 1980 the Planning Commission constituted a National Committee on the Development of Backward Areas. The Report of the Committee on the development of tribal areas was published in June 1981. The Committee followed the view expressed by the National Commission on
Agriculture and recommended curtailment of rights of tribal communities over forest land and produce. The rights in forests could be sustained only if there was a comprehensive frame for the protection, use and development of forests in which the community and the individual must assume the responsibility for creation of new forestry wealth and its protection (India, Planning Commission 1981). In April 1980 the Ministry of Home Affairs appointed a committee to suggest guidelines to reorient forest policy to serve the tribal economy under the chairmanship of renowned anthropologist B. K. Roy Burman. The Report of the Committee, published in September 1982, emphasised the importance of forests in tribal life. Besides getting free fuel, fodder, wood for house construction, the tribals also used to earn about one-third of their income from the sale of minor forest produce (India, Ministry of Home Affairs 1982). It may be noted that both the Dhebar Commission and the Roy Burman Committee had clearly stressed the need to integrate forest policy and tribal development policy to serve the interests of both (Kulkarni 1987:2146).

However, over years, the concept of land as a commodity came into conflict with the traditional concepts of common property and with societies such as those of many tribal people throughout India, who generally do not have a documented system of land rights. The question of land use arises in this context insofar as many tribal groups - 7 per cent of the total Indian population - lived in resource-rich regions. Consequently, both the government and the private sector have a keen interest in gaining access and control over the land or its mineral wealth. In the process, depriving tribal groups of land has become the norm, as they are routinely displaced and, in most cases, not even able to claim compensation since they have no legal proof of ownership. Various studies say that over 20 million people have been displaced by large projects such as dams, railroads, etc since independence, and a majority of them have been tribals. This has happened despite the fact that special legal provisions exist to protect the land and other assets of tribal people. Driven away from their homes and with little or no resettlement assistance, they join the ranks of the landless. The government of India has presented tribal development schemes as a principal tool for poverty alleviation. However, these schemes have not taken into account the total
dependence of the tribal population on land and their lack of other productive assets.

**Land Alienation**

The concept of alienation is a complex problematic reflecting certain trends in the age of transition since the advent of modernity. Alienation is characterised by the universal extension of the transformation of everything into commodity. If man is alienated, he must be alienated from something as a result of certain causes which manifest themselves in a historical framework. In a broad sense of the term, alienation means the loss of control. Its embodiment in an alien force confronts the individuals as a hostile and potentially destructive power. The application of the concept of alienation to the problem of land alienation in tribal areas is to be understood in the light of issues like the emergence of private property, relations of the means of production i.e. land, labour and capital. The historical and theoretical connotations of the concept of alienation as propounded by Marx holds good to India as far as tribal communities and their land problem are concerned. Marx analysed the concept of alienation in his *Economic and Philosophic Manuscripts* by addressing its four principal dimensions. It includes the alienation of human beings from nature, from their own productive activity, from their species-being (as members of the human species) and from each other. He forcefully underlined that all this is not some fatality of nature but a form of self alienation (Marx 1959; Marx and Engels 1975; Meszaros 2006: 99-179).

Marx investigated both historical and systematic-structural aspects of the problematic of alienation in relation to the dual complexities of real life. The fight against alienation, in Marx's view, is a struggle for rescuing man from a state where the extension of products and needs falls into contriving and ever-calculating subservience to inhuman, refined, unnatural and imaginary appetites. This alienated state makes a mockery of man's desires to extend his powers in order to enable himself to realise human fulfilment because this increase of power amounts to the extension of the realm of the alien powers to which man is subjected. Marx further says that it is the process which facilitates the exploitation of many by a few. It is a process of relinquishment
by which people become strangers or enemies to another. It is a characteristic feature of the social relations under which the conditions of people’s life and the relations between people appear as a force which is alien and hostile to people (Marx 1959; Marx and Engels 1975). Thus, the concept of alienation, as formulated by many scholars and philosophers, can be deployed to comprehend the real-life situation of tribal population.

It may be noted that the tribal communities in India lived, by and large, in precapitalistic socio-economic formations. This is because the community ownership of land in India was not commoditised prior to the dawn of the British capital. In the later period, the British colonial interest had necessitated the transformation of the Indian society into a reproductive one. It resulted in setting up of the required infrastructure such as the establishment of massive railway lines and irrigational activities to promote the manufacturing industry. These activities under the British empire had provided considerable capital influence over the life of the plain people as well as the tribal communities in India. It is this phenomenon that started bringing in structural changes in the society in general and changes in the land relations in particular (Furer-Haimendorf 1988: 39).

As far as the tribal people of India were concerned, the land was not a commodity as it was freely available to them for cultivation and had been at their disposal for centuries. Though the tribal community was dependent on land for making their livelihood, it never used to be the means of individual private ownership of property. However, when outside forces started encroaching on their lands and environment, their activity gradually became limited to a narrower area, particularly for the purpose of cultivation. It was further accentuated and later strengthened in the early twentieth century with the emergence of settlers and initiation of the survey and land records. Thus, the juridical nature on land systems made the tribals confine their freedom to cultivate only in restricted areas (Perera 2009). As tribals had cleared off the forest tracts for cultivation purposes, they no longer became the masters of those pieces of land; rather the newly entered settlers took them over. This made them helpless objects having lost control over the products which they created (Furer-Haimendorf 1988: 30; Kulkarni 1974). The
mainstream society, however, does not fully understand the sensitive feelings of tribals towards their land. Losing the land amounts to losing a part of one’s own identity (Bhengra, Bijoy and Luithui 1998).

The land system is obviously a network of human relationships pertaining to the control and use of the land. It has been a critical factor conditioning the socio-economic and political order of the day. Land has been the major source of livelihood of the vast majority of the tribals in India and it is seen as having great importance in their life. But in an economy where private property relations dominate, concentration of land in the hands of a few would be the net result. This would create an artificial scarcity of land and thereby generating land hunger to a majority. Land at this stage would emerge as a commodity where it would also become a source of exploitation which results in the perpetuation of inequality among the people. The land question may be traced back to the periods of deprivation of tribal lands or to periods of withdrawal of their rights to exploit forests. It is generally said that the tribal people have had a craving for land. Their sensitivity in this regard is something more than a mere possessiveness since it is the only source of their livelihood (Rupavath 2009: 6).

Obviously, the land concentration, particularly in the hands of a few, results in structural inequalities which would further engulf the land disparities. The worsening of land disparities that existed in India already brought to light the extent of the land problem among the tribals. The structural changes in plain areas would invariably affect the neighbouring forest region also which holds large masses of tribal communities. These changes accelerated the capital penetration in areas such as irrigation, railway and communication, sale and purchase of lands, etc. These changes, supplemented by the changes such as the pauperisation of the Indian tribals, led to the numerous struggles led by various political forces which compelled the Indian state to adopt a policy of enactment of various land laws, and introducing land reforms (Furer-Haimendorf 1988: 32).

There is a whole history of legislations in India which were supposed to protect the rights of the tribes. As early as 1879, the Bombay Province Land
Revenue Code prohibited transfer of land from a tribal to a non-tribal without the permission of the authorities. The 1908 Chotanagpur Tenancy Act in Bihar, the 1949 Santhal Pargana Tenancy (Supplementary) Act, the 1969 Bihar Scheduled Areas Regulations, the 1955 Rajasthan Tenancy Act as amended in 1956, the 1959 Andhra Pradesh Scheduled Areas Land Transfer Regulation and Amendment of 1970, the 1960 Tripura Land Revenue Regulation Act, the 1970 Assam Land and Revenue Act, the 1975 Kerala Scheduled Tribes (Restriction of Transfer of Lands and Restoration of Alienated Lands) Act, etc were the state legislations to protect tribal land rights (Kulkarni 1974; Bijoy 2003).

Despite the restrictions on the transfer of lands from scheduled tribes in different states, a large number of tribal lands are continued to be alienated. The main reasons are loopholes in the tenancy legislation; slackness in the implementation of restrictive provisions; and various socio-economic factors (Dubey et al. 1977: 199; Kulkarni 1974). Illiteracy and fear are other critical factors that generally caused exploitation, suppression, including land alienation, displacement and marginalisation among the tribals. Absence of dignity, historically constituted social stratification and the lack of able leadership among the tribals are other major factors (Suresh & Suresh 2007: 87).

**Evolution of Tribal Economy in Kerala**

The socio-economic evolution of the tribes of Kerala does not indicate any uniform pattern. It shows significant variations in the three erstwhile segments of Kerala - Malabar (under the British rule), Cochin and Travancore (under the Princely rule of Maharajas). The tribes of Kerala mainly lived on the eastern parts of the state, known generally as Western Ghats. Majority of them can be located in the northern part of Kerala, especially Wayanad region. The scarcity of agrestic slaves (tribals) during the eighteenth century (particularly to work in the vast stretches of paddy fields) led the non tribal landlords to bring in large numbers of tribals (especially the Paniyans and the Adiyans who later on formed 27 per cent of the tribal population in Kerala) from the forests of Karnataka and Tamil Nadu (Luiz 1962: 27; also Kunhaman 1985: 462).
The tribes in Wayanad were in a primitive state till the eighteenth century when they were enslaved by the immigrants from the plains (Logan Vol.1 2000: 703-710). Since then the tribes of the region continued to be agrestic slaves of non tribal landlords, at least for another century. However, with the emergence of plantations in Wayanad in the second half of the nineteenth century, there was a structural change in the conditions of the tribes though the system of exploitation (such as bonded labour) continued over decades. The establishment of British power, especially in Malabar, had also brought considerable changes in the traditional systems of land control and agrarian relations (Kurup 1981).

In the Attapady Valley (in Palakkad district)—the second largest tribal concentration with the Irulas, the Mudugas and the Kurumhas dominating—the situation was different. This region remained inhospitable to outsiders, at least till the 1950s, due to various reasons. However, large-scale immigrants since the mid-1950s from the south of Kerala, Karnataka and Tamil Nadu dispossessed the native tribals of their land which had long term consequences (Mathur 1977). In the Princely State of Cochin, the number of tribes was very small. They were primarily engaged in commercial extractions in forests which came under the control of the government by the end of the eighteenth century (Ananthakrishna Iyer 1909: 20). However, a few of them had taken to settled agriculture later. In the Princely State of Travancore, the situation of the tribal population was quite different, unlike Malabar and Cochin. The overall policy of conferment of peasant ownership of rights, which got momentum since the middle of the nineteenth century, included the hill tribes also (Kunhaman 1985: 467; Varghese 1970: 12). By the end of the nineteenth century, almost all hill tribes of Travancore were permanently settled as independent cultivators with inalienable land ownership. The Travancore Princely state followed a protective policy for the tribes (India, Census of India 1931, Travancore, Appendix I). The implication of this was the ban imposed on the entry of outsiders into the tribal areas. Even traders who used to sell articles to them were required to have license from the concerned forest officials. These licensed traders were not allowed to acquire title whatever to lands cultivated by the tribes. Under these rules, the tribes were also not allowed to have partnership with any outsiders and anyone found to
violate the regulations were liable to be expelled from their settlements, besides being subject to various penalties (Kunhaman 1985: 467). Over years, measure (like subsidies) were put in place to enable the tribal cultivators to realise the full potential of their agriculture. Though numerically predominant tribes became settled cultivators, others (like Malapantarans) remained the least advanced (Ibid: 468).

Land, over centuries, continued to be the heart of the tribal life in Kerala. However, the ownership of land was never a matter of dispute as long as it was a common property. When the tribals developed a particular pattern of cultivation (like slash-and-burn), each family was given a particular area by the tribal chief depending on its actual needs and ability to cultivate. Thus each family started cultivating for its own subsistence. Its rights over the land allocated for cultivation was never questioned insofar as the family continued to be part of the tribal segment. In substance, the tribe as a whole retained the ‘ownership’ right and the family within it continued to enjoy operational right. As Kunhaman noted, this type of arrangement existed without much problem as land was not a “limiting factor of production” at that stage of evolution (Ibid).

The tribal economy as such remained an “undifferentiated, homogenous community of primary producers.” However, over years, the structure of the tribal economy began to undergo changes as non tribals started interacting with them. Kunhaman pointed out that this “structural change varied spatially according to the type of socio-economic system to which the outsiders belonged as well as the policy measures followed by the rulers of the larger political systems encompassing the tribal areas (Ibid). The interaction between the tribals and non tribals eventually resulted in sowing the “seeds of a differentiated tribal economic structure” which, in turn, “affected the man-land relationship among the tribals” (Ibid). The cultivating tribals in Malabar were thus dispossessed while in Travancore, it “resulted in the replacement of the extensive by the intensive mode of agriculture.” In Cochin, however, the pattern of cultivation (slash-and-burn) did not undergo any significant change for long. In short, the historical process of differentiation caused the division of the tribals into ‘landed’ and ‘landless.’ Thus the
question of ‘landlessness’ emerged as a critical issue though its nature and intensity varied from one region to another (Ibid).

According to official statistics, by 1976-78 nearly 30 per cent of the tribal households remained landless (Kerala, Bureau of Economics and Statistics 1979). This was the lowest among the tribal households in the south (especially in the erstwhile Princely States of Travancore and Cochin) and the highest in the districts of Kannur, Kozhikode, Malappuram and Palakkad (in the erstwhile Malabar area). The spatial variation in the proportion of landless households was due to many reasons. According to Kunhaman, the dominant tribes in the districts of Thiruvananthapuram, Kottayam and Idukki (such as the Kanikkars, the Malayarayans and the Muthuvans) were the first to emerge as settled agriculturalists in the state. This made them “capable of adjustments in the emergent market situation as independent producers on an equal footing with the migrant non tribal farmers.” What strengthened their desire for individual land ownership was the continued market involvement which, in fact, had brought about changes in the nature, pattern and intensity of cultivation (Kunhaman 1985: 468).

**TABLE-I**

LANDLESS TRIBAL HOUSEHOLDS IN KERALA 1976-78 (Percentage Distribution)

<table>
<thead>
<tr>
<th>State/District</th>
<th>Proportion in Each District of Landless Households to Total Tribal Households</th>
</tr>
</thead>
<tbody>
<tr>
<td>State</td>
<td>29.62</td>
</tr>
<tr>
<td>Thiruvananthapuram</td>
<td>0.47</td>
</tr>
<tr>
<td>Kottayam</td>
<td>5.37</td>
</tr>
<tr>
<td>Idukki</td>
<td>10.03</td>
</tr>
<tr>
<td>Palakkad</td>
<td>20.30</td>
</tr>
<tr>
<td>Malappuram</td>
<td>20.01</td>
</tr>
<tr>
<td>Kozhikode</td>
<td>40.25</td>
</tr>
<tr>
<td>Kannur</td>
<td>52.39</td>
</tr>
</tbody>
</table>

Source: (Kerala, Bureau of Economics and Statistics 1979)

However, in the districts of Kannur and Kozhikode, the Paniyans—the largest single tribal community in the state—and Adiyans, who together constitute 27 per cent of the total tribal population of Kerala, were agricrestic slaves and had
not owned any land for centuries. The figures available in the late 1970s show that 57 per cent of the Paniyan and 61 per cent of the Adiyan tribes were landless and they remained as landless field labourers (Kerala, Bureau of Economics and Statistics 1979: 124-131). However, the Kurichians and the Kurumans, who were traditionally landholding tribes, were to undergo the process of dispossession of their lands since the middle of the nineteenth century with “the expansion of a land market in the forest regions of the two districts” (Kunhaman 1985: 469). In Malappuram district, 25 per cent of the total tribal households remained landless who were basically agrestic serfs of the landlord class. The proportion of landless tribal households was the lowest in Palakkad, among all the northern districts. This was due to the fact that the migration of non tribals into the Attapady area began only in the 1950s (Kerala, Bureau of Economics and Statistics 1979). However, in less than a period of 25 years, 20 per cent of the tribals in Palakkad became landless (Kunhaman 1985: 469).

TABLE-II: DISTRIBUTION OF LAND PER TRIBAL HOUSEHOLD-1975-76 (DISTRICT-WISE)

<table>
<thead>
<tr>
<th>State/District</th>
<th>Average Area Possessed Per Tribal Household (in acres)</th>
<th>Average Area Cultivated Per Tribal Household (in acres)</th>
<th>Proportion of Cultivated to Total Area Possessed (Per cent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Thiruvananthapuram</td>
<td>3.0</td>
<td>2.3</td>
<td>75.7</td>
</tr>
<tr>
<td>Kottayam</td>
<td>2.2</td>
<td>1.9</td>
<td>88.0</td>
</tr>
<tr>
<td>Idukki</td>
<td>3.8</td>
<td>3.0</td>
<td>79.1</td>
</tr>
<tr>
<td>Palakkad</td>
<td>3.0</td>
<td>0.7</td>
<td>24.3</td>
</tr>
<tr>
<td>Malappuram</td>
<td>0.9</td>
<td>0.4</td>
<td>47.8</td>
</tr>
<tr>
<td>Kozhikode</td>
<td>1.5</td>
<td>0.8</td>
<td>49.3</td>
</tr>
<tr>
<td>Kannur</td>
<td>1.7</td>
<td>0.6</td>
<td>32.4</td>
</tr>
<tr>
<td>State</td>
<td>2.3</td>
<td>1.1</td>
<td>51.3</td>
</tr>
</tbody>
</table>

Source: (Kerala, Bureau of Economics and Statistics 1979)

Of the total area of tribal land alienated in Kerala during 1966-74, 44 per cent was in Palakkad (Kerala, Bureau of Economics and Statistics 1979). Pointing out that the incidence of land mortgage was the highest in Palakkad, Kunhaman noted that the same mechanism of land alienation that was in
operation in Wayanad for over a century was in place in the Attapady region too (Kunhaman 1985: 469). Thus, over years, two broad categories of tribals emerged in Kerala—the landed and landless. There was also a structural change in the community of trials also. Before the advent of settlers, the tribal workforce relied on agriculture as “self-cultivators.” Later on, the displacement of tribal cultivators from their lands caused a major segment of them being reduced to the status of agricultural labourers. The share of agricultural labourers among the tribal workers grew from 43 per cent in 1961 to 63 per cent in 1971 and further to 72 per cent in 1976 (Kerala, Bureau of Economics and Statistics 1979).

Land Reform Measures in Kerala

The land reform Bill of 1957 was a watershed in the history of Kerala. Even before the formation of the State of Kerala, there were efforts to bring about land reforms; the Restriction on Possession and Ownership of Lands Bill, 1954 being an instance. After the formation of the State of Kerala, the first major achievement was the Kerala Agrarian Relations Bill, 1957. It was envisaged in the Bill to confer fixity of tenure on all tenants and fixation of fair rent. The proposed legislation fixed 15 acres of double crop nilam (paddy field) or its equivalent as the ceiling area of a family consisting of five members. The ceiling limit of an unmarried adult was fixed as seven and half acres. However, plantations were exempted from ceiling provision. The surplus land would be distributed among the landless agricultural labourers. But there was considerable opposition to bring about the legislation. Meanwhile, in July 1959, the President of India took over the administration of the state under Article 356 of the Constitution of India. Later, the President returned the Agrarian Relations Bill for modifications (Kerala 2012; Nair 1999: 125-126). The bill was, however, passed with changes on 15 October 1960. The Act was the first legislation which took into consideration the broad principles of land reforms as laid down in the Five Year Plans. But several provisions of the Act were struck down by the courts. So a fresh legislation was introduced and passed as the Kerala Land Reforms Act of 1963. The Act gave fixity of tenure to tenants, giving at the same time a limited right of resumption to landlords. It prescribed uniform rates of rent. There was also provision for the imposition of ceiling on holdings. Through an amendment in the Land Reforms Act of
1963 the government reduced the limit of ceiling and took away many of its exemptions. Landlordism was legally abolished in Kerala with effect from 1 January 1970. The cultivation of tenants became owners of their holdings subject to the ceiling provision and payment of purchasing price. The landless householders were the main beneficiary of land reforms in Kerala. Distribution and redistribution of land ownership rights were confined to the bottom subdivision and fragmentation forced the owners of small holdings to sell their land that too indirectly led the consolidation and concentration of ownership rights at the top. The Act provided for imposition of ceiling on holdings. Certain kinds of lands are exempted from ceiling limit. They included plantations, private forests etc. Lands principally cultivated with tea, coffee, cocoa, rubber, cardamom or cinnamon came under plantation (Kerala 2012).

The ceiling provisions in the Land Reforms Act did not generate expected surplus land for distribution. It may be noted that in 1959, the estimated surplus land was about 7, 20,000 hectares. But the extent of land orders for surrender was only 67000 hectares in 1988. The several landowners with large tracts of land above the ceiling successfully manipulated ceiling provisions by creating fake tenancies. The exemption given to plantations had led to a large scale conversion of land into plantations. The tribals engaged in shifting cultivation under oral tenancies were given no protection. But the encroachment of their land by non-tribals and the legislation of such encroachments uprooted the tribals and led to deforestation (Nair 1999: 128). The impact of the land reforms in Kerala cannot be neglected. The reforms swept away many of the old practices connected with landlordism. It enabled the tenant farmers to become owners of the land they cultivated. It also enabled the farmers to relieve themselves from age-old customs and bondage. The emancipated farmer, fully conscious of his rights, became a free citizen in the real sense of the term. In the political front the land reforms had changed the power structure of villages. Yet, the question remained of how to place the control of land in the hands of actual tillers and to ensure that it stays with them (Nair 1999: 129).
Many, however, argued that the land reform legislation has not achieved social justice and growth to the Dalit/tribal communities in Kerala. Winning land rights for tenants (primarily Ezhavas, Syrian Christians and Muslims) and higher wages for agricultural labourers (primarily Pulays and Cheramans) was the goal. And Dalit/Tribals did not consider this to be the real meaning of social justice. Dalits have argued that Kerala has not achieved true land reform for them (Omvedt 2006: 202-205).

In sum, though the land reforms legalisation abolished the system of tenancy and landlordism and brought fixity of tenure on all tenant and prohibited eviction of all kinds of tenants from their holdings, the tribal communities in general had no advantage. Most of the tribals engaged in shifting cultivation under oral tenancies were given no protection. The intrusion into their land by non tribals and the legitimisation of such encroachments displaced the tribals. This actually happened in the post-land reform period (Bijoy and Raman 2003: 1976). The significance of their sustainable subsistence economy in the midst of a profit oriented economy was unfortunately not recognised in the mainstream political discourse.

**Land Alienation and Discontents**

The plantation economy, which has been exempted from land reform measures, tended to ruin the forests of Kerala in many ways. It basically served the economic interests of global capital and, subsequently, Indian capital (Raman 1997: 524-44). The implementation of development projects, including social forestry and eco-tourism, further undermined the tribal habitat. The concept of social forestry was originally conceived by the government in response to the accelerating deforestation in India. Its objectives included assisting rural communities and landless people in meeting their needs for fodder, fuel wood, small timber, and minor produce through community planned and managed tree plantations and nurseries. However, the social forestry projects came under criticism for failing to adequately involve local communities and rural poor, supposedly the main beneficiaries of the projects. Instead, the projects catered to urban and commercial interests through the widespread promotion of fast-growing tree species for pulp and paper manufacture, rayon production, urban fuel-wood
supply, and other commercial uses. Such plantations were even encouraged on private farm lands, community lands, and wastelands. The net result of this activity was to further reduce the access of the poor (especially the tribals) to fodder, fuel wood, and other forest products. Meanwhile, monoculture plantation of tree species, and in some cases the widespread plantation of water-consuming trees like eucalyptus, a pulpwood species and the World Bank’s favourite monoculture—for use in the very profitable paper and pulp sector—resulted in the degradation of soils and a falling water table. Further, these trees were not able to meet the fodder and fuel-wood need of the local forest dwellers/dependents (Sethi 2006: 82).

Hydroelectric projects and dams such as those in Idukki, Chimmini and Karapuzha caused displacement and eventually landlessness. Similarly, wildlife sanctuaries and national parks (such as the Periyar and Wayanad sanctuaries) also led to tribal dislocation as a result of heavy tourist traffic. In Karapuzha, land acquisition started in 1977 which eventually led to the emergence of 306 landless families. As lands were taken over, 200 families became homeless. Meanwhile, the government had spent a considerable amount of money in Wayanad and Attapady in the name of development during the 1980s and early 1990s. Yet, of the 36,000 tribal families in Wayanad, 16,000 did not have their own house and 7,800 families still did not have any land (Bhengra, Bijoy and Luithui 1998:24-26).

An environmental study conducted during this time noted significant changes in Attapady. There was a substantial reduction in the forest area from 406 square kilometres to 164 square kilometres. While, in 1971, no area was shown as barren, by now 233.8 square kilometres was identified under this classification. The area under scrub was just 28.53 square kilometres in 1971, but it has risen to 152.8 square kilometres over years. The study observed that the major problem encountered in the valley was scarcity of water for drinking and for food production. It noted: The condition of local inhabitants especially the tribals was highly deplorable. After 1962, several programmes were launched and implemented by the Government to improve the economic conditions of the tribals. But it hardly benefitted them. Rather, it
added to their dependence on governmental agencies. The per capita income specifically indicated that they were living below the poverty line (Ibid).

It was also noted that the suicide rate among the tribals was increasing. In the Rural Landless Employment Guarantee Programme in Attapady, the money earmarked for afforestation, soil conservation and water preservation was diverted for the construction of roads. The programme stipulated that the work should be carried out by the government to generate employment of tribals, but instead the work was handed over to the contractors with the support of the officials (Cheria, Narayanan, Bijoy and Edwin 1997). This amounted to denying tribal employment, and thereby perpetuating corruption at different levels.

There are other incidences of tribals being continuously betrayed. Wayanad region has a large number of projects for the development of the most marginalised tribals. For instance, the 526.35 acres Cheengeri Tribal Project was launched in 1957 by the government to rehabilitate about 100 tribal bonded labour families who were to be given 5 acres per family within five years. The number had since grown to 250 families. Of the 526.35 acres, 182 acres were given to the Agriculture Department of which 100 acres had been turned into a coffee plantation under the pretext of educating tribals. Besides this, 60.25 acres were encroached upon by about 150 non tribals. From 1957 to 1995, Rs 5,700,000 have been spent on this project (Cheria, Narayanan, Bijoy and Edwin 1997). After 1978, the tribals had been demanding title for the lands that they were to get under the project. On 1 March 1994 a symbolic march was started to Cheengeri stating that self-restoration would begin on 26 January 1995. The scheduled caste and scheduled tribe department issued an order on 3 January 1995 assuring title to the land held by tribals. However, only 270.95 acres would go to the tribals, 182 acres to the Agriculture Department, and 10.25 acres for various government offices. Title deeds were also to be given to 147 non tribals. Tribal organisations at this stage were demanding an equal distribution or 5 acres per family as per the original decision (Bhengra, Bijoy and Luithui 1998:24-26).
As the traditional livelihood engagements in the tribal hamlets got disrupted, the complex traditional relationships amongst the various tribal communities, in their respective geographical locales, have been broken down (Bijoy and Raman 2003). When the livelihood resources of the original inhabitants were taken over by the state and the settlers, conflicts were bound to occur with the migrant population, both the earlier migrants as well as the newer ones. Some studies say that even sexual exploitation was so intense that the issue of 'unwedded mothers' became a critical problem (Bhengra, Bijoy and Luithui 1998:24-26).

It has been pointed out that successive governments in Kerala since 1957 failed to find a solution to the problem of tribal land alienation. The Constitution of India itself called upon legislative or executive measures for ensuring distributive justice through the rule of law. Distributive justice (Article 46) implies the elimination of economic inequalities and setting right the injustice resulting from dealings or transactions between unequals in society. Likewise, Article 39(b) enjoins upon the state to frame its policy towards securing the ownership and control of the material resources of the community and so distributed as best to serve the common good. Specifically, Article 244 Clause (1 Schedule V makes it mandatory for the state to ensure total prohibition of transfer of immovable property to any person other than to a tribe, for peace and proven good management of a tribal area and to protect possession, right, title and interests of the tribals. The provisions under Schedule V of this clause are not only applicable to the administration and control of areas notified by the President of India as 'scheduled areas' but also to those notified as 'scheduled tribes in any state'(Bijoy and Raman 2003). This should be realised by suitable legislations as well as by declaration of tribal majority areas as 'scheduled area' with provisions for certain degree of self-governance since the enactment of the Panchayat Raj (Extension to the Scheduled Areas) Act (PESA) 1996.

PESA is innovative because it legally recognised the capacity of tribal communities to strengthen their own systems of self-governance or create new legal spaces and institutions that can not only reverse centuries of external cultural and political onslaught but can also create the opportunities
to control their own destinies. The Gram Sabha of the village becomes the focal institution, endowed with significant powers. For instance, under Section 4(d) of PESA: "every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution." Many, however, argue that the institution of Gram Sabha is non-existent in most tribal areas and that the law does not recognise the socio-economic changes that have taken place in tribal society in the past two centuries. They argue that modernity, the external market, representative democracy and centuries of exploitation have transformed tribal communities to the point where a recovery of a cohesive community could well turn out to be a romantic invocation with no basis in reality (India, Planning Commission n.d).

Though the Act was to be operational soon, no tribal area in Kerala has been notified as a scheduled area. However, even the state governments that have no scheduled area are constitutionally bound to enact suitable legislation to protect land rights. It may be noted that way back in 1960 the Dhebar Commission, the Scheduled Areas and Schedule Tribes Commission appointed under Article 339 of the Constitution, recommended that all tribal land alienated after 1950 be restored to the original tribal owners, but no effort has been made to implement it. Neither did the land reforms in Kerala bring any change to the life of tribals who lost more of their occupancy rights to the settlers who had now become their 'tenants' (Bijoy and Raman 2003). Moreover, the tribals who had already been displaced from their lands were scattered far and wide consequent upon the decision to exempt plantations and religious institutions from ceiling provisions. Though the Kerala Private Forest (Vesting and Assignment) Act of 1971 (Kerala, Department of Forest and Wild Life 1971) had identified nearly 23,000 hectares to be distributed to the landless tribals, nothing was done to restore the lands. In April 1975, a meeting of the state ministers passed a resolution that legislation for prevention of land alienation must be made urgently. A time period of six months was put in place. It specifically underlined the inevitability of legislative measures for the prevention of land alienation and restoration of alienated land. The resolution further stated that an urgent programme for effectively implementing these laws within two years must be put in place in
each state setting targets for each year, which should be periodically reviewed (Bijoy and Raman 2003).

Following this, the Kerala Assembly unanimously passed the Kerala Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Act, 1975 on 14 November 1975 as Act 31 of 1975 after procuring the mandatory assent from the president of India. The 1975 Act provided for the restriction of the transfer of lands by members of scheduled tribes in Kerala and for the restoration of possession of lands alienated by such members. It extended to the whole of the state of Kerala. Explaining the term ‘Scheduled Tribe’ which means any of the scheduled tribes in relation to the State as specified in the Constitution (Scheduled Tribes) Order, 1950, the Act revealed the penalties of any person who on or after the commencement of this Act would procure transfer of any immovable property in contravention of the provisions of section 4, shall be punishable with rigorous imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both. The Act also made a provision for a competent authority, with reference to any land, means the District Collector of the district in which the land is situated or any other officer appointed by the Government to be the competent authority for the purposes of this Act for the area in which that land is situated. It also included a Revenue Divisional Officer, with reference to any land, means the Revenue Divisional Officer having jurisdiction over the area in which that land is situated or any other officer appointed by the Government to perform the functions of the Revenue Divisional Officer under this Act, in the area in which that land is situated. Restriction on transfer was clearly mentioned in the Act that notwithstanding anything to the contrary contained in any other law, or in any contract custom or usage, or in any judgment, decree or order of any court, any transfer effected by a member of a Scheduled Tribe, of immovable property possessed, enjoyed or owned by him, on or after the commencement of this Act to a person other than a member of a Scheduled Tribe, without the previous consent in writing of the competent authority, shall be invalid. Besides, certain transfers to be invalid that notwithstanding anything to the contrary contained in any other law for the time being in force, or in any contract, custom or usage, or in any judgment, decree or order
of any court, any transfer of immovable property possessed, enjoyed or owned by a member of a Scheduled Tribe to a person other than a member of a Scheduled Tribe, effected on or after the 1st day of January 1960, and before the commencement of this Act shall be deemed to be invalid (Kerala, Law Department 1975).

The KST Act 1975 was later included in the Ninth Schedule of the Constitution to ensure that it would not be challenged in any court of law. But it was only after a decade in 1986 that the rules operationalising the Act was put in place (Cheria, Narayanan, Bijoy and Edwin 1997; Bijoy 1999; Sreekumar and Parayil 2002; Raman 2002). Under this, all transactions of tribal lands during the period 1960 to 1982 were to be held invalid and the lands restored to the original owners who would be required to pay a sum equal to the total of the amount received, if any, as consideration for the transaction and the amount spent by the occupier of the land before the commencement of the act, as compensation. The government would give loan to the beneficiary, which was to be repaid in 20 years. Transfer of lands from tribal to non-tribals was also forbidden from 1982. The KST Act, 1975 and other similar acts in other states were made in accordance with the constitutional obligations. However, the Act did not have any impact on the ground level situation, and despite the restriction, the transfer of lands continued as it were before. Statistics showed that the number of landless families alone grew from 3,549 in 1976 to 22,491 in 2001 albeit the ban on land transfer - a seven fold increase (Bijoy and Raman 2003).

It was obvious that successive governments did nothing to enforce the implementation of the Acts and regulations in hand. By April 1991, the total number of applications for land restoration was 8,754 laying claim to a total of 9,909.4522 hectares. The number had since increased to 8,879. Of these, the maximum number of applications were from the districts of Palakkad (2,523) mainly from the Attapady region and Wayanad (2,229) from the Nilgiri hill region though applications were filed in from almost all the districts of Kerala. 463 applications were disposed and an area of 544.5602 hectares was restored leaving 8,291 applications for 9364.8920 hectares. Of these, over 3,000 applications were rejected for want of adequate ‘documented’ or
'recorded' proof of ownership of land by tribals. That left with a mere 7,640 acres to be claimed by 4,524 applicants. Their lack of knowledge of the concept of ownership, along with unsympathetic and prejudiced administrative system that played down the traditional rights of the tribals, contributed to a situation where the tribals were left with no valid proof of ownership or enjoyment (Janu 2004: 32; Janu 2010). The government was also reluctant to reinstate even the small tracts of land that the tribals could make records available for. However, instances of restoration, did occur intermittently (Bijoy and Raman 2003).

It may be noted that the rules under the KST Act, 1975 were framed and notified in the gazette only on 20 October 1986, after a span of nearly 11 years. Finally, in 1986 the government brought the Act into force with retrospective effect from 1 January 1982 and also framed the required rules. During this time, around 8,500 applications seeking land restoration were received from tribals. But no action was taken, thereby reducing the Act to a travesty. This further encouraged the non tribal migrants to continue occupying tribal lands (Swamy 2011).

In the years after the enactment of the KST Act 1975, the socio-political situation in Kerala had changed considerably. There was not much political pressure to pacify and take the tribals away from radical politics who were active earlier when the Act was passed. The major political parties had also started making inroads into the tribal areas under the organisational control of the non tribal settlers. The state policies of containment and the fast growing market for cash crops under the plantation economy tended to undercut the potential of militant movements. During this time, the tribals had become a numerical minority in their native hamlets. For instance, the tribals who constituted 63 per cent of the population in 1961 in Attapady had been reduced to 39 per cent by 1991. This was also the time when the government as well as the mainstream political parties made a volte face, from support of the Act to a general opposition to it. The U-turn came with a new-found argument that the Act itself was unfair to the non-tribal settlers who had invested their money and energy for the development of the area and that the implementation of the Act at this time would trigger conflict.
between the tribals and non tribals. However, the prejudiced mindset of the politically conscious, largely middle class masses of Kerala has done nothing to ameliorate the tribal predicament (Bijoy and Raman 2003).

Meanwhile, litigations emerged in courts for legal remedies. A major effort for the restoration of alienated lands began with a public interest litigation filed in the High Court of Kerala by Nalla Thampi Thera, an ardent fighter and supporter of the tribal issue, in 1988 to force the operation of the 1975 Act. The High Court issued a writ of mandamus on 15 October 1993. But the government remained silent. The Kerala High Court, however, gave the state government six months to dispose off applications of restoration pending with it. The government in their affidavit said that it could not implement the Act as there was organised resistance from the non tribal settlers. In this background, the High Court issued yet another direction to the effect that then properties covered by orders of restoration against which no appeals were pending and in which no compensation was payable be delivered by the Revenue Divisional Officers to the tribals within six weeks of that order. The United Democratic Front (UDF) government, then in power made an attempt to amend the Act by an Ordinance in early 1996. It was widely seen as “completely unjust because it made legal all transactions of tribal land” up to January 1986. The government suffered a major setback when the Governor of Kerala refused to sign the Ordinance (Swamy 2011).

The Left Democratic Front (LDF) government led by E.K. Nayanar, which had come to power during this time, passed an ordinance similar to the previous one, but it was again rejected by the Governor. In August 1996, the LDF government filed an affidavit with the High Court admitting its inability to implement the 1975 Act due to ‘organised resistance’ from the powerful non tribal settlers. But the court issued a final directive rejecting the state government’s position, demanding implementation of the Act within six weeks i.e. before 30 September 1996. Faced with this time limit the government passed the Kerala Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Amendment Bill, 1996 to escape contempt of court proceedings (Bijoy and Raman 2003; Swamy 2011).
The amendment was generally seen as unfair, betraying the tribal cause. For example, in Attapady, under the KST Act, claims were already in place for the restoration of more than 10,000 acres of alienated land, but the authorities had ordered restoration of only 3,336.16 acres in 1,147 applications with 600 applications still kept pending. Actual restoration, however, did not take place. With the amendment in hand, the government would have had to deal with only 29 cases of alienation involving just 41 acres. K R Gowri, the then minister for agriculture, who alone spoke against the amendment described the amendment as the “most reactionary bill ever introduced since the formation of the state assembly” (Bijoy and Raman 2003). The President of India K. R. Narayanan, however, turned down the bill on the ground that the State Assembly was not empowered to amend an act that fell within the Ninth Schedule of the Constitution, besides considering the contentious provisions it included.

In order to avoid further contempt of court, the Kerala Restriction on Transfer by and Restoration of Lands to Scheduled Tribes Bill, 1999 was hurried up through the State Assembly (Kerala, Law Department 1999; Krishna Iyer 2003) and thereby encroachments of upto two hectares of land were to be condoned. It gave a message that the alienated lands could never be restored. In addition, land of up to one acre was to be given to the landless tribals in the districts they resided in, within a period of two years. The government estimated that there were about 11,000 such families. By deploying a new set of beneficiaries, the state government apparently sought to break up the tribals between the beneficiaries of the 1975 Act (who stood to lose by the 1999 Act) and the new set of beneficiaries under the 1999 Act, thus making matters worse. In addition, the bill had now been customised to take it out of the President's authority and pushed it into the domain of the state subjects as one dealing with 'agricultural lands' (Bijoy and Raman 2003).

The tribals were thus caught in the legal tussle with hardly had any material assistance in hand (Krishna Iyer 2003). This pushed them towards mass starvation deaths. It was reported that more than 30 adivasis died in the 1990s alone (Bijoy and Raman 2003). This was the beginning of tribal mobilisation at various levels. Meanwhile, on 7 October 1999, the state government
commenced distribution of about 225 acres of land to the 76 tribal families and another nearly 1,200 acres to nearly 400 tribal families in the Attapady region of Palakkad district. These were said to be “surplus lands, barren, inhospitable and uncultivable.” On 11 October the High Court issued an interim stay to the operation of Sections V and VI of the 1999 Act, which permitted alternate land to be given instead of restoration of alienated lands (Ibid).

Later a Division Bench of the Kerala High Court struck down as “unconstitutional, sub- sections 1 and 2 of Section 5 and Sections 6 and 22 of the Kerala Restrictions on Transfer by and Restoration of Lands to Scheduled Tribes Act, 1999. The Bench made the declaration while allowing two writs filed by the Kochi-based Niyamavedi and the People's Union for Civil Liberties, Kerala State committee. Under Section 5, any land transfer by Scheduled Tribes to non-tribals on or after 1 January 1960 shall be deemed to be invalid. The provision further says that the Act shall deem to have come into force on 24 January 1986. Section 5 (1) says that nothing in Section 5 shall render invalid any transfer of land possessed, enjoyed and owned by a member of the Scheduled Tribes to a person other than a member of the Scheduled Tribes in cases where the extent of land did not exceed two hectares. According to Section 5(2), the transferees would be entitled to retain in his possession the transferred land to an extent of two hectares if the land was being used for agriculture purposes. In fact, Section 6 provided for allotment of one acre to a tribal who had applied for restoration of alienated land under the old Act Kerala Scheduled Tribes (Restriction of Transfer and Restoration of Alienated Land) Act 1975 and not got it, and the transferee (non-tribal) had become eligible to retain the land in view of Section 5(1) of the new Act. Section 22 of the Act stipulated that the orders passed under the 1975 Act so far as they were not inconsistent with the provisions of the 1999 Act shall continue to be in force until and unless they were superseded by anything done under the 1999 Act (The Hindu, 25 August 2000).

The High Court, while declaring the provisions unconstitutional, directed the government and the authorities under the 1975 Act to implement the orders for restoration of the alienated land passed by the authorities. The government and the authorities under the new Act of 1999 had been
restrained from enforcing the provisions of the struck down sections. The Court observed that the 1999 Act was not aimed at protecting the tribals but protecting the transferees (non tribals). The court pointed out that it was very clear from the figures given by the Advocate General which indicated that only less than 10 per cent of the applicants for restoration of alienated lands under the 1975 Act would be entitled to any relief at all and that too, none of them would be entitled to the full relief they would otherwise be entitled to in terms of the main provisions of the 1999 Act. The Court said that though the legislature had the legislative competence to enact the 1999 Act, since what had been done was something different from the avowed objective sought to be achieved by the Act, and sections 5(1), 5(2), and 6 “must be held as colourable” ones. Declaring that the provisions were violative of Article 14 and discriminatory, the High Court pointed out that protection under the 1999 Act had been extended to a tribal who had lost more land than a tribal who had lost small extent of land (Ibid).

V.R. Krishna Iyer wrote that the “moral foundation of the 1975 Act is the retaking of the alienated land for re-settlement, but the intervening period of development in which the settlers had, with blood and toil, added to the value of the land and created a new homeland became a reality which could not be wished away.” The “obvious source of land for resettling the tribals was, therefore, “retaking a reasonable slice from the settlers from the plains.” Krishna Iyer said that “exceptions may have to be made to exclude from resumption church buildings, schools, essential community centres and the like.” However, “where there has been expansionist encroachment” of the tribal land, “there is clear justification for evicting the occupants.” He noted that there would be resistance, especially because “the occupying community is politically powerful.” Krishna Iyer further said that the “state’s inexcusable delay” in implementing the 1975 Act and “the legislative and litigative strategies” to undo the 1975 Act proved “beyond reasonable doubt the culpable operations of the settlers” (Krishna Iyer 2003).

The tribal communities always maintained that their demand was nothing short of ownership to land. They considered land as the only means towards an enduring solution to their long-standing problem. However, in the
prevailing scenario, this demand for land by such sections would automatically invite the worst kind of state repression as they lacked the support of the mainstream political parties. Hence in the absence of any response to democratic and peaceful struggles, the landless tribals tried to respond by ‘encroaching’ and ‘occupying’ into a chosen land. What contributed to such a situation was the general indifference “towards the exploitation and abuse of the landless poor and their struggle for survival on an everyday basis” (Sreerekha 2010).

During 1999-2001, the State of Kerala witnessed several cases of starvation deaths from the tribal communities (in places like Wayanad) who were already grappling with acute poverty and impoverishment. Earlier, problems like sexual assault or rape of tribal women, bonded labour, etc were reported from the tribal hamlets. The decade of 1990s witnessed a sudden upsurge in the exploitation of the tribals both in their traditional habitats and in their new struggle sites. It was in response to such mounting problems that the tribals in many parts of the state began to articulate their interests and started mobilising. The emergence of the Adivasi Gothra Maha Sabha (AGMS) under the leadership of C K Janu must be viewed in this context. Already the tribal groups had launched a land assertion movement in the mid-nineties in parts of the Wayanad region and other places (Bijoy and Raman 2003; Seethi 2003).

On 30 August 2001, the AGMS along with others under ‘Adivasi Dalit Samara Samiti’ (ADSS) embarked on a struggle setting up tents and organised a 48-day sit-in-dharna in front of the state secretariat demanding an immediate end to starvation deaths among the tribals and resettlement for all the landless tribals across the state. The struggle ended up in October 2001 with the state government signing an agreement promising one to five acres of land to landless tribal families, among others (Janu 2004: 59-61; Sreerekha 2010). The agreement said that the state government shall demand the Union government to declare selected areas for land distribution purposes as ‘scheduled areas’; take steps to protect the land and culture of tribals in the state by taking the initiative to make new laws for the same; and considering the increasing number of landless adivasis from Wayanad district, with the permission of the central government, the state government will take the
initiative to find land and ensure a time-bound distribution of the same. As regards the existing land acquisition issues, the decision based on the 1999 Amendment Act would depend on the final verdict on the implementation of the same by the Supreme Court (Bijoy and Raman 2003; Seethi 2003).

The land promised to grant through this agreement was expected to be dispersed by January 2002. However, though some steps were taken during the year, the government, by and large, dishonoured the crucial points of the agreement. This prompted the tribals under the AGMS to launch a land assertion movement in February 2003 in Muthanga in the Wayanad district. During the same time, another land assertion movement was unleashed in Aralam farm by landless tribals entering into the farmland and organising a gothra pooja to start cultivation. But the events that took place at Muthanga in 2003 prompted the tribals to put a halt to the movement at Aralam. The atrocities and firing that unfolded at Muthanga had drawn the nation-wide attention to the tribal land struggle in Kerala. It was apparently a militant phase of the tribal land struggle. However, the state atrocities against the tribals in the post-Muthanga phase hardly have parallels in the history of Kerala. Tribal women, men and children were physically and sexually tortured; and hundreds went missing. Many tribal activists including the AGMS leaders like C. K. Janu, M. Geethanandan and others were arrested, jailed and tortured. Following the Muthanga struggle, several cases were registered against tribal activists and they were being used to undermine the tribal movement (Janu 2010; Sreerekha 2010; Seethi 2003).

While the tribal mobilisation was underway, the state government filed a special leave petition in the Supreme Court. Thereafter, the government continued to argue, whenever the question of land acquisition and restoration of land was raised, that its further action would depend on the final judgement by the Supreme Court. But to the disappointment of the tribal community, the Supreme Court in its verdict on 21 July 2009 rejected the stay orders. The Supreme Court admitted the appeals filed by the state government, and upheld the constitutional validity of the 1999 Act, and therefore upheld the repeal of the 1975 Act. The Supreme Court also upheld the classification between ‘agricultural’ and ‘non-agricultural’ land in the 1999
Act valid. It may be noted that the court acknowledged that all forest areas comprise of ‘agricultural land’ (Adivasi.ozg.in-Tribal India 2009; Sreerekha 2010).

The Supreme Court categorically held that the state had no competence to enact legislation in relation to non agriculture land. While enacting the 1999 Act, the State could not have disadvantaged the persons who held non-agriculture land, having enacted the 1975 Act, and thus could not have repealed a portion thereof. Writing the judgment, Justice Sinha said:

The 1999 Act, if given a holistic view, is more beneficial to the members of the Scheduled Tribes than the 1975 Act. If the State contemplated a legislative policy for grant of more benefits to a vast section of people, taking care of not only restoration of land but also those who have not transferred any land at all or otherwise landless, the statute by no stretch of imagination can be treated to be an arbitrary and an unreasonable one...Furthermore, we have noticed that the members of the Scheduled Tribes are educated and we can safely presume that most of them are serving various institutions. We are satisfied that the Legislature of Kerala kept in view the necessity of protecting the interest of the small landholders who were in possession and enjoyment of property which had belonged to the tribal community and at the same time ensured that the tribal people are not thrown out of their land and rendered homeless (Adivasi.ozg.in-Tribal India 2009).

The Supreme Court Bench said that keeping in view the promises made by the 1999 Act, it was obligatory on the part of the State to provide the land meant for the members of the Scheduled Tribes. If they did not have sufficient land, they would have to take recourse to the acquisition proceedings, but it was clear that the State would fulfill its legislative promise failing which the persons aggrieved would be entitled to take recourse to such remedies which were available to them in law (Ibid).

The implication of the Supreme Court judgment is quite evident: while enacting the 1999 Act, the state could not have deprived the persons who held non-agricultural land and as far as the compensation to the owners of non-agricultural land was concerned, the 1975 Act would continue to be applied. It stated that only those laws which were in derogation of the
provisions of the 1999 Act would stand repealed. As far as giving land to the landless was concerned, according to the judgment, the state must allot them land fit for agricultural purpose and such a process should be undertaken and completed as expeditiously as possible, preferably within a period of six months from date (Sreerekha 2010).

In the emerging scenario, the legislature and the judiciary proclaimed that the question of restoration of alienated land has become redundant insofar as the tribal community has eventually agreed for ‘alternate land’ and therefore attempt has been underway to show that ‘alternate land’ is the only solution to the land question of tribals. However, it has been quite obvious that the state machinery and the major political forces in the state were hand in glove to undercut any move to restore the alienated land that eventually forced the tribals to accept ‘alternate land’ as a strategic move. It is against this backdrop of the history of land alienation, marginalisation and the betrayal of the tribal cause that the following chapter tries to analyse the emergence of identity politics and mobilisation among the tribals in Kerala.