

The Construction of Criminal Tribes in India: A Colonial Conjecture

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Abstract

As early as 1793 certain tribes of Northern India were looked down with suspicion as a tribe of criminal nature. Later in 1871 the Criminal Tribes Act was passed by which some tribes were designated as 'Born Criminals' or 'Habitual Criminals'. This law was fairly broad in scope and was expanded several times through 1924 which by then covered most of the colonial state. While in its peak the law became applicable to millions of people belonging to over one hundred and twenty groups. The administration was on high alert to check the serious menace caused by the ongoing dacoity and theft to the peace-loving people of the Indian society. Primarily this notorious act was promulgated in the Northern part of India- the North-Western provinces, Oudh and Punjab to keep strict surveillance on certain ambulant tribes. In the year 1876 lower provinces of the Bengal Presidency were also brought under the jurisdiction of this act. It was also contemplated that they were addicted to committing crimes in groups and were born in to criminality. The social elites also collaborated with the colonizers as they were keen on exploiting the tribes for cheap labour. This paper will try to discuss the nature of the criminal tribes in colonial India with special reference to Bengal presidency. It will also try to analyse the serious problems faced by some of the simple nomadic tribes like Lodhas, Domes etc. of Bengal after being identified as addicted criminals.

Keywords: Conjecture, Criminal, Marginalization, Tendencies, Tribal People, Tribes.

Introduction:

There is long standing debate about who should be designated as a tribe and it is normal to have one. Tribe the modern English word originated from the medieval English term 'Tribeus', originally from the Latin vocabulary, meaning that the ancient Romans were divided into three groups. The Romans used the term tribe in the case of political divisions, while the Greeks united themselves in terms of geographical division with others. To the Irish it meant a group of people with the same name or surname.¹ With the emergence and growth of European nationalism, the term tribe began to be used to refer to a particular social and political position of a group of people belonging to a particular area and language.² The British colonial rulers started using the term tribe in India. The colonial masters used this class for their administrative needs, especially when the process of census started here in India. Since this time Indian anthropological study took off to cater the administrative needs. The anthropologists who worked in India during the colonial period were mainly British administrators who formulated, researched and took care of the tribes of India. Francis Buchanan was the pioneer to acquire knowledge about the category of the Indians. He formulated that the word tribe, in English should refer to the people of the same ethnic group, such as the royal tribe or the sub-class of the Rajput nation, the 'Chauhan tribe'.³

While defining tribe in 1901, the Census Director H.H. Risley mentioned that "*A tribe as we find in India is a collection of families or groups of families bearing a common name which as a rule does not denote any specific occupation; generally claiming common descent from a mythical or historical ancestor and occasionally from an animal, but in some parts of the country they are held together by the obligations of blood-feud than by the tradition of kinship.*"⁴ According to him the tribes in India were not essentially endogamous in nature.⁵ Dalton and Risley were keen to divide India on the basis of tribe and caste.

Historically speaking the census conducted by Bains in 1891 identified all the Indian tribes as Forest Tribes and categorized them into agricultural and pastoral castes as a sub-class. In 1901 they were coined as 'Animists', in 1911, 'Tribal animists', in 1931, 'hill and forest tribes'; the 'backward tribes' were identified as 'Scheduled Tribes' in the Indian Constitution in the 1941 Census under the 1935 Government of India Act. Until 1931, census officials placed special emphasis on religious differences. The distinction between tribe and caste became a major issue during J. H. Halton's regime who was the census director in 1931.⁶

In his essay 'The Definition of Tribe', Andre Beteille tries to show how applicable it is to the people of India by defining a tribe in general. He further went on to speak of India, saying that the matter of stratification was very complicated in the case of India. No 'tribe' in India can be isolated as such from society. In India, no tribe has a completely different political affiliation. Linguistic bond is however inseparable in India. Example may be cited of one of the largest tribal village in India which has been using Hindi for quite a long period. The same can be said about culture. He finally came to the conclusion that in the case of India, it is almost impossible to have a readymade definition of tribe, with which we can easily identify a tribe.⁷ In one of his essays 'Tribe and Peasantry', Andre Beteille mentions four eminent characteristics, in order to know a tribal society, these four characteristics are - size or measure, uniqueness or isolation, religion, way of life.⁸ While studying the case of India, using these criteria, the sociologists have come to the conclusion that there is no definite way to define Indian tribal society.⁹ During the colonial era, India was dominated by four major tribes, namely, tribes of North-West Frontier Region, Northern Region, Western Region and Central or Eastern Region.

The Criminal Tribes Act of 1871:

The Criminal Tribes Act (Act xxvii of 1871) was circulated 'to provide for the registration, surveillance and control of certain tribes' who had remained unadopted to colonial rule for long. The Criminal Tribes Act (henceforth expressed as CTA) entrusted the local governments with the power to define any community or tribe or any part of a tribe, gang or class, indulging in a systematic commission of non-bailable offences as a 'criminal tribe'.¹⁰ During the discussion leading to the enactment of the CTA of 1871, few officials expressed concern about identifying all members of a particular tribe or caste as criminals. Most of them however appeared to accept the judgement that 'with these tribes' crime is hereditary', or at least 'habitual'.¹¹ These views were in accordance with prevailing criminological theories. While the notion of 'born criminal', associated with the work of Cesare Lombroso had not been systematically expounded as yet, the idea that criminals were biologically active was not an uncommon one in the nineteenth century.¹² Certainly, the existence of habitual offenders or 'a separate criminal class', whether due to physical inheritance or social conditions, was a part of the nineteenth century understanding about criminal identity.¹³

In 1937, the Criminal Tribes Enquiry Committee headed by V.N. Tiwari, appointed by the Government of United Provinces, pointed out that inaccurate methods have been shadowed through many centuries in relationship with the Criminal Tribes. This Committee not only recommended revoking of the Act but also encouraged some welfare measures for these tribes. The Committee appointed by the Government of India in 1949, made a careful assessment of the problems, related to the criminal tribes and after making a comprehensive tour of the places where these tribes lived, recommended

abrogating of the Act. The Act had been repealed in 1952. But the stain of criminality attached to the members of the tribe has persisted. They were ostracised, insulted, attacked and even ruthlessly murdered over the years by putting forward the tag of dangerous tribes. Being victims of the stigma of criminality their community suffers as a whole for the prohibited deeds in case committed by one of their members or even when the deed was not committed by any one of them.¹⁴

By the late nineteenth century, thanks to the colonial understanding that the Indian communities were divided as either castes or tribes. The tribes were conceptually and regionally quarantined from the mainstream of the population. They were projected as a 'wild' and 'savage' demographic mass manning an impenetrable landscape like the forest.¹⁵ Dr. Francis Buchanan was appointed by the Governor General-in-Council to undertake an ethnographic survey to enquire into the condition and religion of the inhabitants of Bengal. Since then officers like Dalton, Risley, Thurston and Grigson have prepared valuable handbooks and monographs on the tribes and castes of India. L.P. Vidyarthi describes this phase of Anthropological Studies in India as formative period to be followed by the constructive and analytical periods.

The Criminal Tribes Act No. XXVII. of 1871 provides that when any tribe, gang or class of persons, is addicted to the systematic commission of non-bailable offences, it may be declared by the Local Government, with the permission of the Governor General in Council, to be a criminal tribe.¹⁶ But before this can be done, the Local Government is required to satisfy the Governor General in Council that the tribe ought to be declared criminal, and that the means by which it is proposed that such tribe shall earn its living. If the tribe has no fixed place of residence, it may be settled in some place to be prescribed by the Local Government, or in a reformatory settlement; and under section 18 of the law rules may be made by the local government, with previous consent of the Governor General in Council, for the registration of the members of the tribe and their proper surveillance and restraint by the Magistrate of the District and local police.¹⁷

According to the Government of the North- Western Provinces, the Act provides for two methods of treating criminal tribes- one was a system of prevention under which the members of the tribes were prevented by registration and the roll- call from leaving their homes or predatory excursions, the other was a system of repression by which they were removed from their homes to a compulsory place of residence and forced to support themselves there by such employment.¹⁸ The compulsory residence of the tribe in a reformatory colony was not intended. All that was intended was to compel the tribe, by a system of registration and roll- calls, not to wander without permission, and to pursue heartily the occupation which they nominally follow.¹⁹ The records of the local government further noted that-

*"The Bowreeahs were professedly agriculturists, and can live by agriculture. Those who were settled, some years ago, on the Bidowlee estate have ample scope for their energies in cultivation, and the rest of the tribe, residing in different villages of the Moozuffernuggur District, have their ancestral fields. The belief of the District authorities was that they do not confine themselves to this means of livelihood, but add to it by plundering excursions made to the distant places. The object of placing them under the Act is to institute a register and a weekly roll- call, by which their wandering may be stopped and they may be forced to confine themselves to the legitimate profession of agriculture."*²⁰

From this it would appear that the Local Government was satisfied that the Bowreeahs, restricted to agriculture, are able to earn their living. They cannot be said to have "no fixed place of residence" but they were given to wandering from their villages annually on predatory excursions, and it was only to prevent these excursions, and not to be remove the members of the tribe to some compulsory place of residence, and to make them support themselves there, that the local Government desires to put Act XXVII. of 1871 in force against them to the extent above mentioned.²¹

In a letter from C. A. Elliott, Secretary, to the Govt. of the N.W. Provinces to H.L. Dampier, Esq. Offg. Secy. to the Govt. of India it was mentioned that "I am to submit that the Act provides for two methods of treating criminal tribes- that one is a system prevention, under which the members of the

tribe are prevented, by registration and roll- call, from leaving their homes on predatory excursions; the other is a system of repression by which they are removed from their homes to compulsory place of residence, and forced to support themselves there by such employment as the Government provides for them. His honor apprehends from the words of your letter marginally quoted, that the proposal of this Government was understood to be that the proposal of this Government was understood to be that the latter or compulsory, system should be introduced."²²

It may also be noted that no registered person was permitted to leave the boundaries of the village in which he was supposed to reside without having obtained the pass prescribed by these rules. Every landlord, agent of the landlord, and chaukidar of the village in which a registered person was ordered to reside was supposed give immediate information to the nearest police station or before the nearest Magistrate to complain of an offence committed against himself or organist any of the members of his family or in respect of his property.²³ Such people were assumed to give notice of his intended departure to the landlord or chaukidar of the village and shall proceed directly to the office of the nearest Magistrate or to the nearest police station.²⁴

CTA and its Impact on Lower Provinces of Bengal:

CTA was introduced in the lower provinces of Bengal in 1876.²⁵ Certain tribes in the province of Bengal lived by the profession of theft and their social condition was much distressed. They were considered as a threat to the civilized community and were totally intolerant for the administration.²⁶ The two particular tribes viz. Mugheya Domes of Bihar and Bedyas of Eastern and Central Bengal were considered as dangerous. The former caused severe nuisance to the civilized inhabitants. The Bedyas though not so dangerous were professional thieves and the administration was well aware of their criminal activities.²⁷

The Bill which was promulgated in the north western provinces in 1871 now became necessary for Bengal.²⁸ Since it worked very well in the North Western provinces, it was the need of the hour to be activated in the province of Bengal. For taming the tribes, it was essential for the Government of Bengal to introduce this bill. The Bill entrusted the lieutenant governor of Bengal to do all that was desirable for controlling the predatory tribes.²⁹ The lieutenant Governor described the tribes to be nomadic and criminal in nature. He tried to establish similarity between the tribes of the north western provinces and those of Bengal. Surveillance was the key word which was required on the part of the British Administration to check the criminal activities throughout India.

The honourable Raja Narendra Krishna supported the bill and put certain positive vibes regarding the bill.³⁰ He questions about the residence of the criminal tribes who were to be kept in strict Surveillance. He opined that the Zamindars were to be held responsible for allowing the criminal tribes to carry on with their mischievous activities. He also maintained that the Zamindars were liable to be punished under section 22 of the act on falling to give the information to the police officer about the particulars of these mischievous tribes.³¹ Raja also maintains that if this section were applied to the absentee Zamindars of these provinces it would be a measure out raising the principals of equity and justice and would be liable to abuse I its operation. He thus wanted the Zamindars to be more cautious regarding their subjects specially those belonging to the criminal tribes. He also maintains that the criminal tribes should not be allowed to recite permanently in a particular spot where they committed crimes in their own way. As a result, the landlords tried their best to subdue the criminals in their own locality, not only to eradicate crime but also to remain in the good book of the administration.

Mr. Inglis pointed out that he should vote against the amendment proposed Raja Narendra Krishna, as he was certain that if the owners and occupiers of land in villages where a criminal tribe or class that had been brought under the Act resided, were relieved from the duties imposed on them by section 21, it would be impossible for the Local Government to carry out the purposes for which the act was about to be extended to Bengal. Section 21 required the village headmen, the village chaukidars, and the owners and occupiers of land in villages where a criminal tribe may have been directed to

reside by the Local Government, to give certain information regarding them to the Police.³² In the amendment passed, it was mentioned that the only persons then remaining responsible for giving this information would be the village headmen and the village chaukidars. In the North- Western provinces the term 'village headmen' meant, the village lambardars from whom engagements for the payment of the Government revenue has been taken as representatives of the village community. These men held a recognized position in their villages and exercised considerable influence over the co- shares, the tenants, and all other residents in the estate, and were perhaps the best men to whom the police could look to for the information wanted about these criminals' tribes. There were, however, no such men in Bengal, and consequently, the only persons who be bound to assist the police in the manner prescribed by section 21, would be the village chaukidars.³³

The duty of assisting the police by giving information regarding the commission of crimes was imposed on the landholders of Bengal, shortly after the permanent settlement, when the police powers they had previously exercised were taken from them, and the police in the mofussil were placed directly under the charge of the district officers. Section 2 of Regulation VI provided that-

*"All zemindars, talookdars and other proprietors of land whether malgoozary or lakheraj, all sadder farmers and under renters of land of every description, all dependent talookdars, all naibs nad other local agents, all native offenders employed in the collection of the revenues and rents of lands on the part of Government or of the court of wards, are hereby declared especially accountable for the early and punctual communication ro the Magistrates and Police darogahs, either publicly or secretly, as the informants may judge proper, of all intelligence which they may obtain respecting the resort to any place within the limits of the estate or farm held or managed by them, of any person or persons of the different classes of people ordinarily known by the appellation of dacoits, cozauks, thugs or buddeeks, or of any other description of robbers."*³⁴

Under section 4 of Regulation III, 1812, it was mentioned that

*"With the view of affording to the Magistrates more early and punctual information of public offenders committed within the limits of their respective jurisdiction, all zemindars, talookdars, and other proprietors of lands, whether malgoozary or lakheraj, all sudder farmers and under-renters of land of every description, all dependent talookdars, all naibs and other local agents, all native officers employed in the collection of the revenue and rents of lands on the part of Government or of the Court of Wards, are hereby declared especially accountable for the early and punctual communication to the Magistrates or Police darogahs, of all information which they may obtain respecting the commission of robberies, and likewise regarding the offence of breaking into houses, tents, or bonts, or other places of habitation, perpetrated within the limits of the estate or farm held or manage by them."*³⁵

Criminal Tribes and Their Nature:

Some of the designated criminal tribes and their nature of criminal activities in colonial India are described below:

Bedyas: They were notified as one of the Criminal Tribes in West Bengal and also in Punjab, Vindhya Pradesh and part of the Uttar Pradesh where they are called Berias.³⁶ Risley in his book "The Tribe and Castes of Bengal" describes Bedyas as a generic name of a number of vagrant Gipsy-like groups, such as Babajiva, Bazigar, Kabutri, Mal, Mir Sikar etc.³⁷ The notes sent by the West Bengal Government state "they are reported to be the descendants of the Pundaries of the province of Bombay and Madras. They themselves claim to have come from Gujarat but have no idea as to where it is situated."³⁸ In the Uttar Pradesh they are mostly found in the district of Etawah. The Berias of Central India differ in many respects from those of Bengal. Some of them say that some generations ago, two brothers resided in the Bharatpur territory. One brother was named Sans Mull while the other Mullanur. The descendants of Sans Mull are the Sansis while those of Mullanur are the Berias or Kolhatis. Russel and Hira Lal in their "Tribes and Castes of the Central Provinces in India" state

that the Beria women were professional prostitutes and the men keep concubines drawn from any fairly respectable caste.³⁹ "For a bride from the caste itself a sum of Rs. 100 is usually demanded and the same had to be paid by a Beria man who takes a wife from the Nat or Kanjar Castes. When a match is proposed, they ask the expectant bridegroom how many thefts he has committed without detection and if his performance has been inadequate, they refused to give him the girl on the ground that he will be unable to support a wife."⁴⁰ In Bengal they had no fixed tribal occupation and take up many forms of manual labour. They are reported to be specialists in burglary but do not resort to violence which committing crime. In the Uttar Pradesh, it is stated that generally these men commit crimes while the women took to prostitution, but now it is mostly on the prostitution of their women that the Berias depend for their living. Most of them have also now settled down. They are classed as a Scheduled Caste in West Bengal as well as in the Uttar Pradesh.

Bhars: These castes of people were notified as a Criminal Tribes in West Bengal, and Banaras and other four districts in Uttar Pradesh.⁴¹ They are chiefly found in Uttar Pradesh, West Bengal and Bihar. The Bhars of Gorakhpur claimed to be the descendants of an early Kshatriya king named Bhardwaj. Sir C. Elliott wrote "*The scene before us I'm Oudh at the fall of the historic curtain is an uninhabited forest country and a large colony of Surajbhansis occupying Ajudiya as their capital when the curtain rises again we find Ajuddhia destroyed, the Surajvanshis utterly banished and a large extent of country ruled over by aborigines called cheros in the far east, Bhars in the centre and Rajputs in the West. The great revolution seems to be satisfactorily explained by the conjecture that the Bhars, Cheros etc., were the aborigines whom the Aryans had driven to the hills and who swarming down from thence not long after the beginning of our era overwhelmed the Aryan Civilization even in Ajudhya itself drove the Sarajbhansis under Nanaksen to emigrate into distant Gujarat and spread over all to the plain between Himalayas and that spur of the Vindya range which passes through the South of Mirzapur.*"⁴²

In the Uttar Pradesh, they called themselves Rajbhars. They were good agriculturists and masons by professions. They had a strong panchayat and they agitated for the removal of their caste from the list of Scheduled Castes. In the past they were burglars and field thieves and they were known to combine for road robbery and dacoity. In the Uttar Pradesh, as per the present administrative reports that they are living a peaceful life and the incidence of crime among them is almost nil.

In West Bengal, they came to work as mill hands and are found in and around Calcutta and also in the colliery areas in Burdwan.⁴³ They commit theft, burglary robbery and dacoity and their criminality extends to many districts of West Bengal.

Dhekarus: They were blacksmiths and generally resided in Birbhum (West Bengal) and Manbhum (Bihar). Some of them used to earn their livelihood as labourers, cultivators and snake charmers. The members of this tribe who are convicted are notified as a Criminal Tribe in West Bengal but the whole tribe is notified as a Criminal Tribe in Santal Parganas of Bihar.⁴⁴ The men used to commit thefts and burglaries while the women were skilful pickpockets and pilferers. Thus, they were designated as perfect criminals.

Doms: (Magahiyas, Oriyas, Audiniyas and Bansfores): They were mostly found in Uttar Pradesh, West Bengal, Bihar, Orissa, Madras and other states. In Uttar Pradesh the Doms were mostly found in the Terai of the Himalayas, in Gorakhpur, Basti, Banaras and other eastern districts. Mr. Crook described them as a low Dravidian caste scattered throughout the North Western Provinces and Oudh.⁴⁵ They were sometimes called Jallad meaning 'executioner'. It was considered as a degraded and out-caste tribe. Some of them claim to have been from Uttar Pradesh owes their name to *Dom rajah* whose capital and fortress were on this spot.⁴⁶

The Magahiya Doms which happens to be a sub-caste of the Doms seems to have taken their name from the ancient kingdom of Magadha or South Bihar. They however maintained that their name means vagrant from the Hindi 'mag'.⁴⁷ They were nomadic, very poor, quarrelsome and dirty. They were like lower grade nomads like the Sansyas or Haburas. Magahiya Doms were notified as a

Criminal Tribe in Bihar while only the convicted members are notified in the West Bengal.

In Uttar Pradesh where also where they were notified as a Criminal Tribe, they are now setting down in different profession, most of them being employed as scavengers. The criminal instinct in them is said to be dying away. In West Bengal, Magahiya Doms are found almost all over the State employed as scavengers and sweepers. Some however still of them commit thefts, burglary and robbery.

In Bihar Magahiya Doms who were active criminals were reported to be committing dacoities in addition to thefts, burglary and robbery. They were said to be active in Gaya, Shahabad and Saran. The active criminals from Bansfore Dome Tribe in Bihar are reported to be desperate and dangerous criminals, who insisted in robberies and burglaries.⁴⁸ Audiniya Doms and Oriya Doms were notified as a Criminal Tribe in Madras State. They are weavers, labourers and scavengers. In Madras, they were reported in police records as cattle- lifters, petty thieves and some of them earned fame as burglars.

In Orissa, there were two classes of doms viz. Oriya and Audiniya Doms both of which are notified as a Criminal Tribe. Both these sub- sections are settled and are not nomadic. They visit weekly market places on pretext of potty trade but in fact they are their meeting places. Two favourite crimes of the active criminals of those sections is reported to be cattle theft but sometimes they tried their hands in extortion, burglary and dacoity also. In the Uttar Pradesh, Bihar, Orissa and West Bengal they are classified as a Scheduled Caste.

Karwal Nats: Karwal Nats were notified as a Criminal Tribe in West Bengal and in Bihar. In the Uttar Pradesh they were known as Karwals only and they were designated as a criminal tribe. They claimed that their ancestors lived in the Uttar Pradesh and also in Bihar.⁴⁹ The tribe has a large number of sub-castes. In the Uttar Pradesh some of the members are reported to follow their original calling and lead the life of hunters, some work as labourers while others have taken to cultivation but on a small scale. The vast majority of them are nomadic and wander about in the Uttar Pradesh and Bihar. In 1905 large gangs of Karwals were found to be committing robberies and dacoities in the eastern districts of the Uttar Pradesh where stern laws were instituted against them resulting in a Karwal exodus to Bengal.⁵⁰

The ostensible means of livelihood of the wandering Karwal Nats in West Bengal was begging. They however indulged in dacoity, robbery, burglary and theft. Theft of goats is a very favourite form of crime with them. They were reported to be one of the most dangerous criminals' classes in West Bengal.

Lodhas or Lodahs: They were notified as a criminal tribe in the Singhbhum district in Bihar and those who are convicted are notified in West Bengal. Lodhas are also notified as a criminal tribe in the districts of Mainpuri and Fatepur in the Uttar Pradesh. In Bihar their number were less and said to have come to Singhbhum from the adjoining district of Midnapore in Bengal.⁵¹ They were also found in Hooghly and in the tea gardens of Assam, where they were looked upon as good labourers. They generally committed theft of cattle and occasional stray burglaries in Bihar. In West Bengal, however they were active criminals and reported to be committing more serious crimes such as dacoities and to be using utmost violence, if opposed, when committing such crimes.⁵² In West Bengal they were classified as a Scheduled Caste.

Conclusion:

The worst of all the atrocities that the British rulers left behind was the illegal Tribes Act of 1871. This act was an attempt by the British rulers to geographically relocate and hold up a group of tribes that they had labelled as criminals by birth. This paper has attempted to sketch the social structure of a group of tribes and emphasizes why some of those tribes were portrayed in the Act as criminal in nature. The historians contend that CTA served as a project to colonise lower-class communities. The wondering groups, which included the chronic offenders, remained suspicious whenever there was an intensification in criminal activities in British India. The primary objective of the British

government's official policy was to rule over the aforementioned group of tribes with a firm grip rather than to comprehend their conditions and determine the true causes of crime that was not attributed to them. It is reprehensible that entire tribal groups were treated as guilty by birth in some parts of British India. As a result, an unconstitutional and illegal administrative policy was adopted towards these groups. Additionally, it would be worthwhile to add in this context that Sociologists and Historians have investigated a number of justifications for the passage of the Criminal Tribes Act in 1871. These justifications were to some extent biased and future research is required for a firm analysis.

In fine it can be stated that this essay delved into the significant causes for the coming of the Criminal Tribes Act. The act has been perfectly used by the colonial masters for controlling the vast tribal population and assigning most of the tribes as criminal one. This essay further tried to look into the aspects of the marginalization as well as taming of criminal tribes by the indigenous elites as well as the colonial masters. Some of the criminal tribes of colonial India have also been described in details. Thus, the construction of the criminal tribes by the colonizers was a result for serving their purpose of total control over the tribal population in the subcontinent.

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